

Prepared by and return to:  
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**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR FLAGLER POINT**

**THIS DECLARATION**, is made this 16<sup>th</sup> day of April, 2020, by **Flagler REI, LLC**, a Florida limited liability company, hereinafter referred to as "Developer," who recites and provides:

**RECITALS:**

A. Developer is the owner of certain land located in Duval County, Florida, being all of that real property known as Flagler Point as shown on plat thereof recorded in Plat Book 74, Pages 194-197 of the current public records of Duval County, Florida, hereinafter referred to as "Flagler Point" or the "Property", being more particularly described on Exhibit "A" attached hereto and incorporated herein. Developer desires to maintain the integrity and character of the development plan of the Property and to assure high quality standards for the enjoyment of the Property.

B. Developer intends to develop the Property for the purpose of constructing fee simple townhome units thereon, which dwellings will share certain Common Property (as hereinafter defined), and which will be occupied and maintained as a residential development for the mutual, reciprocal and common advantage of all Owners (as hereinafter defined) and occupants thereof, who shall own and occupy the Property, subject to the provisions of this Declaration and all other rules and regulations applicable to the Property.

C. Developer desires to provide for the preservation and enhancement of the Property, and for the maintenance of the Property and the improvements thereon, Developer desires to subject the Property to the covenants, restrictions, easements, charges and liens of this Declaration, each, and all of which is and are for the benefit of the Property and each Owner of a portion thereof.

D. Developer desires to provide for the efficient management of the Property, in connection therewith Developer deems it desirable to create a not-for-profit corporation with the power and duty to administer and enforce the protective covenants, conditions, restrictions, easements and limitations hereinafter set forth, including, without limitation, the maintenance and administration of the Common Property and collection and disbursement of the Assessments hereinafter created. To this end, Developer has created or will create the **FLAGLER POINT HOMEOWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Association"), whose membership shall include the Owners of all or any part of the Property.

**DECLARATION**

NOW, THEREFORE, Developer hereby declares that the Property shall be held, sold, occupied and conveyed subject to the following easements, restrictions, covenants, liens and conditions, which are for the purpose of protecting the value and desirability of and shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof and Developer.

**ARTICLE I**

**DEFINITIONS**

**Section 1.1** **Defined Terms.** The following definitions shall apply wherever these capitalized terms appear in this Declaration:

- (a) "ARB" means the Architectural Review Board of the Association.
- (b) "Articles" means the Articles of Incorporation for the Association, as amended from time to time.
- (c) "Assessment" means and includes all types of charges to which a Lot is subject, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, and Lot Assessments (as hereinafter defined).
- (d) "Association" means the FLAGLER POINT HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns, which is responsible for the management and operation of the Property.
- (e) "Board of Directors" means the Board of Directors of the Association.
- (f) "Building" shall mean and refer to the structure comprised of a group of townhome dwellings which are attached to each other and share common walls, roofs, etc.
- (g) "Bylaws" means the Bylaws of the Association as amended from time to time.
- (h) "Common Property" means (a) any and all real and personal property, including, without limitation, easements and other interests therein, and the facilities and improvements located thereon now or hereafter owned by the Association for the common use and enjoyment of the Owners, and (b) any area within the Property which the Association is obligated to maintain, notwithstanding that it may not own the underlying fee simple title to such areas. The Common Property is not dedicated for use by the general public. The Common Property shall specifically include, without limitation, sign and landscape easements (including, but not limited to, those shown on the plat of the Property), entry features (including easement, sign, landscaping, lighting, any perimeter fencing or walls, all landscaping not located within a Lot, any gates, the Stormwater Management System (defined below), as shown on the Plat of the Property. Notwithstanding anything to the contrary herein, the Common Property shall not include any Lots.
- (i) "Common Roads" means the roads in the Property which provide ingress and egress to each Lot, residence, or any part of the Property. The Common Roads, and shall consist of Jareth Drive,

Ludo Road, and Wallaby Way along with any walkways, sidewalks or other similar improvements in the right of way. The Common Roads shall be dedicated to Duval County, Florida.

(i) "County" means Duval County, Florida.

(k) "Declaration" means this Declaration of Easements, Covenants, Conditions and Restrictions, as it may hereinafter be amended and supplemented from time to time.

**(l)** "Developer" means Flagler REI, LLC, a Florida limited liability company, its successors, successors-in-title or assigns, taking title to any portion of the Property for the purpose of development and/or sale and designated as Developer in a recorded instrument by the then holder of the rights of Developer hereunder. No such transfer or assignment shall be effective unless it is in a written instrument signed by Developer and the applicable assignee and recorded in the current public records of Duval County, Florida. Reference in this Declaration to Flagler REI, LLC, as the Developer under this Declaration is not intended and shall not be construed to impose upon Flagler REI, LLC any obligations, legal or otherwise, for the acts or omissions of third parties who purchase Lots within the Property from Flagler REI, LLC, and develop and resell the same. Developer may also be an Owner for so long as Developer shall be the record Owner of any Lot. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Property. In the event of such a partial assignment, the assignee shall not be deemed the Developer but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a nonexclusive basis. Notwithstanding the foregoing or anything herein to the contrary, in the event that any person or entity obtains title to all of the property owned by Developer as a result of foreclosure or deed in lieu thereof, such person or entity may elect to become the Developer as a result of foreclosure or deed in lieu thereof, such person or entity may elect to become the Developer by written election recorded in the public records of the County, and regardless of the exercise of such election, such person or entity may appoint the Developer or assign any rights of Developer to any other party which acquires title to all or any portion of the Property by written appointment recorded in the public records of the County. In any event, any subsequent Developer shall not be liable for any actions, defaults, or obligations incurred by any previous Developer, except as may be expressly assumed by the subsequent Developer.

**(m)** "Initial Improvements" means the initial, original construction of Residences, and related improvements (i.e. roadways, water sewer utilities and common property) and initial landscaping upon the Lots constructed by Developer or those builders specified by Developer.

**(n)** "Lot" means any plot of land intended as a site for a Residence and shown upon any duly recorded subdivision plat of the Property. References herein to "Lot" shall also include the Residence and all improvements thereon, unless specifically set forth to the contrary. In the event that Developer conveys a Lot together with all or part of an adjacent Lot (such combination of Lots being hereinafter referred to as a "Reconfigured Lot") to one Owner who constructs only one single family dwelling unit thereon, such reconfigured Lot shall be deemed to be a "Lot" and subject to one Assessment and entitled to one vote and except as specifically set forth herein all references to the "Lot" means and include "Reconfigured Lots". Provided, however, if such a combined Reconfigured Lot is subsequently developed with an additional Residence it shall be deemed to constitute two Lots and be entitled to two (2) votes and be liable for payment of two Assessments.

**(o)** "Master Association" mean the FLAGLER CENTER OWNER'S ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns.

**(p)** "Member" means a person entitled to membership in the Association, as provided in this Declaration.

**(q)** "Mortgage" means any bona fide first mortgage encumbering a Lot as security for the repayment of a debt obligation.

(r) "Mortgagee" means any bank, savings and loan association or other recognized institutional lender, any insurer or guarantor of Mortgages (including without limitation, the Veteran's Administration or the Federal Housing Administration) or holder of Mortgages in the secondary market holding a Mortgage now or hereafter placed upon the Lot, including Developer.

(s) "Occupant" means any guest or invitee of Owner.

(t) "Owner" means the record Owner, whether one or more persons or entities, of the fee simple title to any Lot, including the buyer under a contract for deed. Owners shall not include those having such interest merely as security for the payment or repayment of a debt obligation.

(u) "Property" means that certain real property described as such in the Recitals above.

(v) "Residences" means any individual townhome building constructed on each Lot, or any extension of said structure, including garages, driveways, porches, etc.

(w) "Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**ARTICLE II**

**MUTUALITY, BENEFITS AND BURDENS**

**Section 2.1** **Mutuality.** This Declaration and the covenants, restrictions and agreements contained herein are made for the mutual and reciprocal benefit of each Lot or parcel contained within the Property. This Declaration is intended to create mutual obligations upon each Lot and parcel within the Property in favor of each and every other Lot and parcel within the Property, to create reciprocal rights between all of the Owners and to create privity of contract and an estate between the grantees of each and every Lot and parcel within the Property and their successors, heirs and assigns.

**Section 2.2** **Owner's Benefits and Burdens.** Each Owner shall by taking title to any Lot agree to abide by all terms, provisions, agreements, covenants, restrictions and conditions contained in this Declaration and shall be entitled to the benefits and burdens contained therein.

**ARTICLE III**

**ASSOCIATION**

**Section 3.1** Members. Every Owner shall be a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from the title to each Lot, and shall be transferred automatically by conveyance of the title to any Lot, whereupon the membership of the previous Owner shall automatically terminate. Persons or entities which have an interest in any Lot merely as security for the performance of an obligation shall not be Members of the Association, and in such case the beneficial Owner shall retain the membership in the Association.

**Section 3.2** Voting Rights. The Association shall have two classes of voting membership.

(a) Class A. Class A Members shall be all Owners, with the exception of Developer, while Developer is a Class B Member. Class A Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot. Notwithstanding the foregoing, if title to any Lot is held by a husband and wife, either spouse may cast the vote for such Lot unless and until a written voting authorization is filed with the Association. When title to a Lot is in a corporation, partnership, association, trust or other entity (with exception of Developer) such entity shall be subject to applicable rules and regulations for such entities contained in the Articles and Bylaws. Provided however, if an Owner owns a Reconfigured Lot, for so long as such Reconfigured Lot contains only one single family Residence, the Owners thereof shall have only one vote in Association matters.

(b) Class B. The Class B Member shall be Developer and shall be entitled to thirty-three (33) votes for each Lot owned or intended to be a part of this Association. The Class B Membership shall cease and be converted to Class A Membership upon the earlier of the following events:

- (i) Ten (10) years after the recording of this Declaration; or
- (ii) Such earlier date as Developer, in its sole discretion, may determine; or
- (iii) Upon the occurrence of any of the events listed in Section 720.307 Florida Statutes (a) through (f); and
- (iv) Despite anything contained herein, the provisions of current Section 720.307 (1) and (2) Florida Statutes shall control with regard to the election of Board Members.

**ARTICLE IV**

**COMMON PROPERTY AND EASEMENTS**

**Section 4.1** Common Property.

(a) Title. Developer, or the owner of the property with the consent of Developer, may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be Common Property to be used and maintained by the Association for the benefit of its members. So long as Developer owns any Property primarily for development and/or sale or owns any additional property that can be annexed to the

Declaration as provided herein, Developer may, upon written notice to the Association, require the Association to reconvey to Developer all or any portion of the Common Property, improved or unimproved, at no charge to Developer, without a vote of the members of the Association, if all or any portion of the Common Property is: (a) found by Developer to have been conveyed in error; (b) needed by Developer to make adjustments in property boundary lines; or (c) needed by Developer due to changes in the overall scheme of development for the Property.

The Association hereby constitutes and appoints Developer as its agent and attorney-in-fact to accept on behalf of the Association any such conveyance to the Association, to reconvey any such property on behalf of the Association and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any such conveyance to or reconveyance from the Association. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. Developer, or such owner of the property with the approval of Developer, shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether such property has been made available for the use of Owners. Developer, or the owner of the property with the approval of Developer, may reserve, by lease, license, easement or otherwise, such rights of use and enjoyment in and to all or any portion of the property so conveyed as Developer may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Property. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Developer, or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the real estate records.

**(b) Easement of Enjoyment.** Subject to the limitations provided in this Declaration, all Owners, their guests and their invitees and the Association are hereby granted a nonexclusive right and perpetual easement of enjoyment in and to the Common Property which easements are appurtenant and shall pass with the title to every Lot. All Owners, their guests, invitees, agents, employees, emergency service providers, police, fire, delivery services, U.S. Mail carriers, employees of utility companies who are authorized by the Developer, the Association and any other persons who may be authorized by the Developer or, the Association shall have a perpetual but non-exclusive right of egress and ingress over the paved portions of the Property designated as roadways. However, all such easements shall be subject to the following:

- (1) The right of the Association to take such steps reasonably necessary to protect the Common Property against foreclosure.
- (2) Any right of Developer, the Association to grant easements and rights of way, as may be deemed appropriate for the proper development and maintenance of the Property, including, without limitation, Developer's right to reserve an easement for itself, its successors and assigns for ingress, egress, maintenance and to provide utilities over all Common Property and including but not limited to easements designated on any plat.
- (3) The rights of the Owners of the Common Property, upon the consent of the Developer and 2/3 vote of the total votes of the Association, to dedicate, convey or transfer all or any part of the Common Property and to mortgage same.

- (4) All provisions of this Declaration, the Articles of Incorporation of the Association, the By-Laws of the Association and any plat of any part of the Property.
- (5) The rules and regulations governing the use and enjoyment of the Common Property adopted by the Association or the Developer.
- (6) All easements and restrictions of record affecting any part of the Common Property.
- (7) Any rights reserved to the Developer or Association, as applicable, to add or withdraw land from the Common Property.

**(c) Maintenance.**

(1) Association Maintenance. The Association shall maintain and keep in good repair the Common Property, which maintenance shall include, without limitation, the maintenance, repair and replacement of all landscaping and improvements situated thereon.

The Association shall also maintain (whether or not constituting Common Property) the following: (a) all entry features and entry area landscaping serving the Property, including, without limitation, any signage, entry features or entry area landscaping and any irrigation and/or lighting system provided to such entry features, regardless of whether the same are located on Common Property or public right-of-way; (b) exterior lighting serving the Property; provided, however, each Owner of a Lot shall be responsible for the maintenance, repair and replacement of any exterior lighting attached to, exclusively serving or located on the residential dwelling on such Lot; (c) landscaping in the community, provided that neither the Association nor the Developer shall be deemed the guarantor of landscaping; (d) any sidewalks, street medians, islands, and street lights located within the public right-of-ways, to the extent the same are not maintained by a governmental entity or other third party; (e) all storm water drainage facilities serving the Property, including, without limitation, any stormwater detention/retention pond(s) located in the community; provided, however, each Owner of a Lot, and not the Association, shall be responsible for the maintenance, repair and replacement of all storm water drainage facilities which exclusively serve such Lot; (f) the centralized mailbox area(s) and the mailboxes located thereon; (g) all pipes, wires, conduits, utility lines, plumbing and water and sanitary sewer pipes or facilities that serve more than one Lot or any portion of the Common Property, if and to the extent the same are not maintained on an ongoing basis by a governmental entity; (h) the exterior painting on the Buildings, including the outside of exterior doors, patios and balconies, when deemed necessary in the sole and absolute discretion of the Board of Directors; (i) the roof decking and shingles or other roof covering and roof surface materials on the Buildings; and (j) a termite bond on each Building and such repairs and treatments as may be necessary to maintain such termite bonds.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs associated therewith, not paid for by insurance, shall be assessed against the Lot of such Owner as a special or individual assessment.

The cost of landscaping shall be a part of the Annual Assessments. The Association may levy and collect assessments from each Residence within the Building to pay for the painting expenses and roof repairs. Notwithstanding, the Association shall maintain reserves for the purpose of repainting the exterior



of Buildings and maintaining, repairing and replacing the roofs, collectively, but may adopt special or individual assessments if the cost exceeds the amount maintained in reserves. Maintenance of the Common Property shall be conducted in such a manner as to be in accord with any and all permits issued by any applicable governmental agencies, to include but not limited to such permits issued by the United States Army Corps of Engineers, ("ACOE"), Florida Department of Environmental Protection, ("FDEP"), St. Johns River Water Management District, ("SJRWMD"), the County and in accordance with all regulations, rules, statutes, requirements, pronouncements of governmental agencies having jurisdiction over the Storm Water Management System. The Board of Directors of the Association shall oversee all maintenance and the expense for maintenance shall be a common expense to be assessed to the Owners pursuant to this Declaration.

In the event any personal property of an Owner or Occupant, including, but not limited to, any satellite dish, grill or patio furniture, is stored, placed or affixed to a deck, patio, balcony, the exterior of a residential dwelling, or such other areas the Association is responsible for maintaining pursuant to this Section, the Association shall have the right, but not the obligation, in the Board's sole discretion, to remove and reinstall such personal property in order to perform its maintenance responsibilities hereunder, and any and all costs associated with the removal and reinstallation of such property may be assessed against the Lot of such Owner or Occupant as a specific assessment. Additionally, in the event the Association incurs additional maintenance costs as a result of any personal property of an Owner or Occupant being stored, placed or affixed to any areas the Association is obligated to maintain, the Association shall have the right to specifically assess such additional maintenance costs against the Lot of such Owner or Occupant. In the event damage or destruction of any such personal property occurs during the performance of any maintenance, repair or replacement hereunder, the Association, and the officers, directors, agents or employees thereof, shall not be liable for such damage or destruction.

(2) Maintenance by the Lot Owner. Except for maintenance performed on or to a Lot by the Association pursuant to Section 4.1(c)(1) above, if any, all maintenance of and repair and replacement to the Lot and all structures and other improvements located thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent this Declaration. Such maintenance obligation shall include, without limitation, the following: (i) prompt removal of all litter, trash, refuse, and waste; (ii) keeping improvements and exterior lighting in good repair and working order; (iii) keeping driveways and walkways in good repair; (iv) complying with all governmental health and police requirements; (v) maintaining grading and storm water drainage as originally established on the Lot; (vi) repairing exterior damage to improvements; (vii) all maintenance, repair and replacement to the residential dwelling located on the Lot, to the extent not maintained by the Association pursuant to Section 4.1(c)(1) above; (viii) maintaining, repairing and replacing all storm water drainage facilities, including, all pipes, wires and conduits relating thereto, which exclusively serve the Lot; and (ix) maintaining, repairing and replacing all pipes, lines, wires and conduits, including, without limitation, plumbing, electric and sanitary sewer systems, which exclusively serve the Lot.

(d) Restrictions on Access. The Developer and, the Association shall have the right to deny access to the Property to any person, who is believed to be a nuisance, likely to create or assist in the creation of any nuisance or disturbance. The Developer and, the Association shall have the right but shall not be obligated to control traffic on any roadway within the Property and shall be entitled to exclude any vehicular traffic or vehicle that the Developer or, the Association believes may create a nuisance or create a danger to the authorized users of such roadways. The Developer or, the Association shall have the right to control parking on any roadway on the Property and shall be entitled to remove any fence, wall, hedge, bush, plant, tree or any other structure which the Developer or, the Association believes obscures the vision of motorists

utilizing the roadways on the Property. Determination as to whether to exercise any right hereunder shall be at the sole discretion of the Developer or the Association and further, the rights reserved hereunder shall not be considered to be an obligation of the Developer or the Association. Upon dedication to the public, the terms contained in this paragraph shall be of no further effect.

**(e) Changes to Roadways.** The Developer, its successors, assigns shall be entitled to dedicate to the public use any roadway on the Property, so long as any applicable governmental entity shall consent all or any part of the roadways on the Property and shall have the right to alter, relocate or terminate any roadway or easement without the consent or joinder of any party. The provisions of this paragraph notwithstanding, no Lot may be denied access to a street or highway as a result of any change to a roadway.

**(f) Liability.** Owners, Occupants and their guests shall use the Common Property, all areas maintained by the Association and all portions of the Property not contained within a Lot at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and Occupants shall have an affirmative duty and responsibility to inspect the Common Property and all portions of the Property not contained within a Lot for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, Developer and their respective officers, directors, employees, representatives and agents shall not be held liable for: (a) personal injury to any person occurring on the Common Property; (b) loss or damage to personal belongings used or stored on the Common Property or on any other portion of the Property; or (c) loss or damage, by theft or otherwise, of any other property of such Owner or Occupant.

#### **Section 4.2 Easements.**

**(a) Blanket Easement.** Developer reserves for itself, its successors and assigns, and the Association a nonexclusive, perpetual, alienable blanket easement for the benefit of the Property upon, across, over, through, and under any Roadway, right of way and the Common Property for ingress, egress, installation, replacement, repair, use and maintenance of all utility and service lines and service systems, utility poles or equipment, public and private, in or on any Building, including, but not limited to, water, sewer, drainage, irrigation systems, telephones, electricity, gas (propane or natural) television cable or communication lines and systems, and police powers and services, firefighting services, supplied by the local, state and federal governments. This easement shall in no way affect any other recorded easements on the Property.

**(b) Lot Easement.** Developer reserves for itself, its successors and assigns and the Association a perpetual, nonexclusive easement over, under and across a seven and one half foot (7.5') and ten foot (10') strip at the front and rear of each Lot, and a five foot (5') strip at the side of each Lot for the installation, repair and maintenance of all utilities, including without limitation water, sewer, electrical, cable, telephone, drainage, and irrigation lines.

**(c) Cable Easements.** Developer reserves for itself, its successors and assigns, and grants to the Association and its designees, a perpetual, exclusive easement for the installation, maintenance, and supply of radio and television cable over, under and across the rights of way and easement areas on any recorded plat of the Property. If the Association elects to enter into a "bulk rate contract" for cable television, cable television service shall be supplied to each Lot and each Owner shall be required to pay all costs in connection therewith.

**(d) Right to Future Easements.** Developer shall be entitled to place further easements and

restrictions on any Lot, Roadway, right of way and the Common Property while Developer owns any portion thereof, such additional or future easements shall not unreasonably interfere with the use and enjoyment of a Lot, Roadway, right of way or the Common Property, further, such additional or future easement shall not have significant detrimental effect on any improvements constructed thereon.

**(e) Easement for the Purpose of Maintenance.** The Developer, the Association, their successors or assigns shall have an easement on and over any Lot or the Common Property as may be necessary to maintain the Common Property, the Roadways, right of way, the Storm Water Management System, JEA easements or such other property which the Developer or Association is required to maintain.

**(f) Easement for Facilitation of Construction.** The Developer reserves the right to itself, its successors and assigns to construct model homes, temporary sales offices, temporary construction offices, temporary storage facilities for construction materials on Developer's property as may be normally utilized in the construction and sale of homes in sub-divisions substantially similar to that being constructed on the Property. Further, Developer or any other builder owning a Lot shall be entitled to such access as may be reasonably necessary in order to construct improvements on any Lot owned by such Developer or builder.

**(g) Developer's Rights.** Developer, its successors and assigns, shall have the unrestricted right, without approval or joinder of any other person or entity: (i) to designate the use of, alienate, release, or otherwise assign the easements shown in any plat of the Property or described herein; (ii) to plat or replat all or any part of the Property owned by Developer; and (iii) to widen or extend any right-of-way shown on any plat of the Property or convert a Lot to use as a right-of-way, provided that Developer owns the lands affected by such changes. The Owners of Lots subject to easements shown on any plat of the Property shall acquire no right, title, or interest in any of the cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over, or under the easement area. The Owners of Lots subject to any easements shall not construct any improvements on the easement areas, alter the drainage flow of surface water, or landscape such areas with hedges, trees, or other landscape items that might interfere with the exercise of the easement rights. Any Owner who constructs any improvements or landscaping on such easement areas shall remove the improvements or landscape items upon written request of the Developer, the Association or the grantee of the easement. Developer and the Association shall have the right but not the obligation to take any reasonable action necessary to correct any condition which alters or affects the drainage flow of surface water.

**(h) Development Edge Landscape Buffer on Flagler Center Blvd. Buffers and Open Space.** The Developer or the Association, their successors or assigns shall have an easement on and over any Lot or the Common Property as may be necessary to maintain the landscape buffer running along Flagler Center Boulevard and in other areas of the Property. The Association shall maintain, repair, or replace the landscaping which is installed by the Developer in the Landscape Buffer, as necessary.

**(i) Development Edge.** The Developer or the Association, their successors or assigns shall have an easement on and over any Lot or the Common Property as may be necessary to maintain Tracts "A", "B", "C", "D", "E", and "F" inclusive and running along the perimeter and in other areas of the property. The Association shall maintain, repair, and replace the landscaping, which is installed by the Developer in Tracts "D" and "E" and all property common areas.

**(j) Blanket Easement over Townhome Lots for Maintenance, Repair and Replacement by the Association and over Townhome Lots for Landscape Maintenance by the Association.** The

Association is granted a perpetual non-exclusive easement for ingress and egress, at all times, over and across the Townhome Lots for the Association to fulfill its obligations as set forth in this Declaration; provided however, that if the Association is ever dissolved then all maintenance, repair and replacement obligations relating to the Townhome Lots shall be the responsibility and financial obligation of the Owners of each such Townhome Lot and the Townhome Units located on each Townhome Lot.

**Section 4.3 Plat Easements and Dedications.** The Developer has granted to JEA easements and dedicated certain property as indicated on the Plat, attached hereto as **Exhibit "A"**.

**Section 4.4 Tracts Retained by Developer & Assigns.** Ownership and responsibility for maintenance of Tracts "A", "B", "C", "E", and "F" as indicated on the Plat, attached hereto as **Exhibit "A"** are dedicated to the Association.

**Section 4.5 Easement for Utilities on Town Home Lots.** Developer reserves for itself, its duly authorized agents, successors and assigns, a perpetual non-exclusive blanket easement throughout the Townhome Lots, under all structures and through all structures to (i) install utilities and associated infrastructure including without limitation, water, sewer, telephone, electric, gas, irrigation, cable and other systems for sending and receiving data and/or other electronic signals, security and mounting of meters on walls of any structure (ii) repair, maintenance, replacement, inspection, meter reading or other similar functions (iii) the right to allow any utility provider access for any of the purposes outlined herein. The easement referenced in this paragraph shall or may include, but not be limited to, easements across, through, or under any of the Townhome Lots to provide electrical lines or sewer lines which may begin at a point of service to the outermost portion of a Townhome Lot and run through, under or across other Townhome Lots to provide service to other townhomes built on other Townhome Lots which are adjacent to the referenced townhomes, such that one bank of electrical, water, or sewer meters may be placed on an exterior wall of one of the townhomes to serve all other connected townhomes. All work connected with the installation, repair, maintenance, replacement or inspection shall be performed in such a manner as to minimize, to the extent reasonably practicable, the interference with the use and enjoyment of the property burdened by the easement. Upon completion of any work, the person exercising the easement shall restore the property, to the extent reasonably practicable, to the condition existing prior to the work. The easements hereunder shall not include the right to enter into any structure on any of the Townhome Lots, nor shall it unreasonable interfere with the use of any of the property, except in an emergency.

**Section 4.6 Additional Easements.** The Developer and its assigns shall have the authority to enter into any additional easements necessary or beneficial to facilitate the provision of utilities and services to the Property.

**Section 4.7 Party Walls.** Each wall which is built as a part of the original construction of the Residence and Buildings upon the properties and placed on the subdividing line between the Lots, including the shared roof, shall constitute a "Party Wall" and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 4.8 Sharing of Repair and Maintenance.** The cost of repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

**Section 4.9 Destruction by Fire of Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty and it is not covered by insurance, any Owner who has used the wall may restore it; and, if the

other Owners thereafter make use of the wall, they shall contribute equally to the cost of the restoration.

**Section 4.10 Weatherproofing.** Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the cost of furnishing the necessary protection against such elements.

**Section 4.11 Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 4.12 Easement for Encroachment.** There shall be reciprocal perpetual easements of encroachment between each adjacent Lot due to the unintentional placement, settling, or shifting of Party Walls constructed, reconstructed, or altered thereon to a distance of five feet (5') as measured from any part on the common boundary along a line perpendicular of such boundary at such point.

**Section 4.13 Easement for Lateral Support.** There shall be reciprocal perpetual easements of lateral support between each adjacent Lot upon the structural components, including the party wall for lateral support of each Residence. No owner shall demolish, modify, or interfere with a party wall so as to diminish or in any way alter the lateral support which such party wall affords any Residence.

## **ARTICLE V**

### **THE STORM WATER MANAGEMENT SYSTEM**

**Section 5.1 Duties of Association.** The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system(s), all infrastructure, recreation facilities, entrance features, landscaping, perimeter fencing, and buffering located on the Property. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

**Section 5.2 Covenant for Maintenance Assessments for the Association.** Each Lot shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures, drainage easements and for such other expenses as allowed by law.

**Section 5.3 Easement for Access and Drainage.** The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns

River Water Management District and the Association.

**Section 5.4 Enforcement.** The St. Johns River Water Management District, and the Association shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**Section 5.5 Swale Maintenance.** The Developer has constructed a Drainage Swale upon all or some of the Lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lots from time to time. Each Owner of such Lots, including builders, shall be responsible for the maintenance, operation and repair of the swales on the Lot. Maintenance, operation and repair shall mean the exercise of practices such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) on which the Drainage Swale is located. Should any Owner fail to maintain the swale located on his or her Lot, the Association or the shall have the right but not the obligation to enter onto such Owner's Lot and perform the necessary maintenance and the expense for such maintenance shall be charged to the Owner. If the maintenance is performed by the Association, then such expense upon being charged to the Owner's account and shall collectible pursuant to Section 7.1 and 7.6 and shall specifically be subject to imposition of a lien pursuant to 7.6(a).

## **ARTICLE VI**

### **UTILITIES**

**Section 6.1 Water System.** The central water supply system provided for the Property shall be used as the sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Owner shall pay water meter charges established or approved by the supplier thereof and shall maintain and repair all portions of such water lines located within the boundaries of such Owner's Lot. No individual water supply system or well for consumptive purposes shall be permitted on any Lot without the prior written consent of the Developer or the Association.

**Section 6.2 Sewage System.** The central sewage system provided for the Property, which shall be used as the sole sewage system for each Lot. No septic tank or drain field shall be allowed on the Property. Each Owner shall maintain and repair all portions of such sewer improvements and lines located within the boundaries of his Lot and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal service (including the initial hook-up) made by the operator thereof. No sewage shall be discharged onto the open ground or into any lake, pond, park, ravine, drainage ditch, canal or roadway.

**Section 6.3 Trash Collection.** All trash, garbage, refuse and rubbish shall be collected by persons, parties or entities approved by the Association. The Owners shall be responsible for paying all fees associated with collection of trash, garbage, refuse and rubbish.

**Section 6.4 Arrangement for Utility Service.** The Owners shall be responsible for making any and all arrangements for the provision of utility service to his or her Lot.

## **ARTICLE VII**

### **COVENANTS FOR MAINTENANCE ASSESSMENTS**

**Section 7.1 Annual Assessments.** For each Lot within the Property, Developer covenants, and each Owner, by acceptance of a deed or other conveyance, agrees to pay Annual Assessments levied by the Association and Master Association for the improvement, maintenance and operation of any Common Property owned by the Association, the management and administration of the Association, and the furnishing of services as set forth in this Declaration, at a level sufficient to meet the Association's obligations, including contingencies and reserves. The Board of Directors shall set the date or dates such Annual Assessments shall become due and provide for collection of Assessments to be payable annually or in monthly, quarterly or semi-annual installments; provided, however, that upon default in the payment of any one or more installments, the entire balance of such Annual Assessment may be accelerated, at the option of the Board of Directors, and be declared due and payable in full. The Assessments shall be based on an annual budget with an equal amount due for each Lot. Each Owner shall directly pay to the Association any Assessments owed to the Master Association and the Association will in turn pay all Assessments owed to the Master Association. Owners understand and acknowledge that the Association does not set the amount of dues owed to the Master Association.

**Section 7.2 Special Assessments.** In addition to the Annual Assessments, the Association may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four (4) succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided any such Special Assessment shall have the consent of Owners holding two thirds of the votes, other than Developer, voting in person or by proxy at a regular meeting or special meeting called for that purpose at which a quorum of each class of membership is present. Special Assessments shall be collectible in advance in any manner established by the Board of Directors.

**Section 7.3 Emergency Assessments.** The Association may also levy an Emergency Assessment at any time by a majority vote of the Board of Directors, for the purpose of defraying, in whole or in part, the cost of any extraordinary or emergency matters, as determined by the Board of Directors in its sole discretion, that affect all the Common Property or Members of the Association, including, after depletion of any applicable reserves of this Article, any unexpected expenditures not provided by the Budget or unanticipated increases in the amounts budgeted. Any such Emergency Assessment shall be due and payable at the time and in the manner specified by the Board of Directors.

**Section 7.4 Lot Assessments.** In addition to the Annual and Special Assessments authorized above, the Board of Directors, by majority vote, may from time to time levy a Lot Assessment against a particular Lot and the Owner thereof for the purpose of defraying, in whole or in part, the cost of any repair, maintenance or restoration as provided in this Declaration; any construction, reconstruction, repair or replacement of a capital improvement upon or serving the specific Lot, including any additional special services to such Lot, the cost of which is not included in the Annual Assessment; or to reimburse the Association for any costs it incurs as a result of the Owner's failure to comply with this Declaration or any damage to the Common Property.

**Section 7.5 Commencement of Annual Assessments.**

(a) **Date of Commencement.** The Annual Assessments provided for herein shall commence with respect to each Lot on the date of conveyance of the Lot to an Owner, other than Developer and Builder. As used herein, the term "Builder" shall mean Dream Finders Homes LLC, a Florida limited liability company, or any of its affiliates and subsidiaries. During the initial year of ownership, each Owner shall be responsible for the pro rata share of the Annual Assessments charged to each Lot prorated to the day of closing on a per diem basis. Any other Assessments shall be paid in full without proration. Notwithstanding anything contained herein, Builder shall not be exempt from any dues owed to the Master Association. During the initial year of ownership of each Lot, Builder shall be responsible for the pro rata share of the Master Association Annual Assessments charged to each Lot prorated from the day of closing on a per diem basis.

(b) **Capital Contribution.** In addition, at the closing and transfer of title of each Lot to the first Owner, other than Developer or the Builder, such Owner shall make a working capital contribution to the Association in the sum of Zero Dollars (\$0.00) per Lot. These contributions to the Association shall be used for the purpose of defraying the initial and nonrecurring capital expenses of the Association, and to provide initial working capital for the Association.

**Section 7.6 Nonpayment of Assessments and Remedies.**

(a) **Creation of Lien.** All Assessments shall be, together with any late fees, interest and costs of collection when delinquent, including reasonable attorney's fees (together, the "Assessment Charge"), a charge and continuing lien upon each Lot subject to this Declaration. This lien provided for in this Section shall be perfected by the filing of a notice of lien in the public records of the County, in favor of the Association.

(b) **Owner's Acceptance.** The Assessment Charge is also the personal obligation of the person or entity which was the Owner of such Lot at the time when the Assessment was levied and of each subsequent Owner. Each Owner of a Lot, by acceptance of a deed or other transfer document, whether or not it shall be so expressed in such deed or transfer document, is deemed to covenant and agree to pay to the Association the Assessment Charge established or described in this Article. The Association shall have the right and power to bring all actions against such Owner personally for the collection of such Assessment Charge as a debt and to enforce the aforesaid by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such Owner is deemed to have granted to the Association a power of sale in connection with such lien. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of his Lot or by waiving the right to use Common Property nor shall non-use of the Common Property relieve an Owner of his liability for the Assessment Charge.

(c) **Late Fees, Interest.** Any Assessments not paid within ten (10) days after the due date shall be subject to a late fee as determined from time to time by the Board of Directors and may, upon resolution of the Board of Directors, bear interest at a percentage rate determined by the Board of Directors.

(d) **Remedies.** The Association may bring an action at law against the Owner or Owners personally obligated to pay such Assessment Charge or foreclose the lien against the Lot upon which the Assessment Charge is made in the manner provided below. The Association, acting on behalf of the



Owners, shall have the power to bid for an interest in any Lot at such foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Board of Directors, by majority vote, shall have the right to assess fines pursuant to statutory guidelines and procedures set forth in Section 720.305 Florida Statutes and may suspend the voting rights and the right to the use of the Common Property by an Owner for any period during which any Assessment against his Lot that is more than ninety (90) days past due remains unpaid. Fines may exceed One Thousand and No/100 Dollars (\$1,000.00) and any fine in excess of \$1,000.00 may result in a lien being recorded and foreclosed against a Lot.

(e) **Subordination of Lien to Mortgages.** The lien of the Assessment Charge shall be inferior and subordinate to the lien of any Mortgage, but only to the extent of the Mortgage balance outstanding as of the date the notice of an Assessment Charge is first recorded against the Lot, plus interest and reasonable costs of collection accruing thereafter. The sale or transfer of any Lot shall not affect the Assessment Charge. No sale or transfer shall relieve the transferee of such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor the Owner responsible for such payments from such Owner's personal liability as provided herein.

**Section 7.7 Certificate of Payment.** The Treasurer of the Association or the management company authorized by the Board of Directors, upon demand of any Owner liable for an Assessment, shall furnish to such Owner a certificate in writing setting forth whether such Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge for the services involved in preparing such certificate may be assessed by the Association or Management Company as applicable.

**Section 7.8 Assessments on Developer Property.** The Developer shall not be required to pay any Assessments or Special Assessments and shall not be subject to any lien for such assessments during the Development Period. During the Development Period the Developer shall pay the actual operating expenses incurred by the Association, excluding major repairs, replacements, reserves and deferred maintenance which cannot be paid by application of Assessments collected from the Owners other than the Developer. The "Development Period" shall be defined as the period of time beginning with conveyance of the first Lot to an Owner other than the Developer and Builder and ending on the later to occur of the date that the Developer notifies the Association that it will no longer pay for the shortfall between Assessments collected and the total operating expenses of the Association or the date that the Class B Membership ceases to exist and converts to Class A Membership. At that time, the Developer shall pay Assessments on Lots owned by the Developer and at that time, the Developer shall no longer be required to pay the unfunded actual expenses of the Association.

## **ARTICLE VIII**

### **ARCHITECTURAL CONTROL**

**Section 8.1 Architectural Review Board.** The Association shall establish an ARB which shall consist of either three (3) or five (5) members. Members of the ARB do not have to be members of the Association. For so long as Developer owns any Lot (and irrespective of whether the Class B Membership has terminated), Developer shall have the sole right to appoint the members of the ARB. Thereafter, the members of the ARB shall be appointed by the Board of Directors, or, if the Board of Directors fails to so appoint an ARB, then the Board of Directors shall constitute the ARB. Any vacancies on the ARB shall be filled by appointment by the Board of Directors. A quorum shall be established by the presence of a majority of the ARB members at any ARB meeting and a majority vote by those ARB members present at an ARB

meeting shall constitute the action of the ARB.

**Section 8.2**     **ARB Authority & Duties.** The ARB shall have the following authority:

1) In order to assist in making the Property a community of high standards and aesthetic beauty, the ARB shall be charged with making a recommendation to the Board of Directors to approve or disapprove all proposed construction and improvements to any Lot and any alteration, addition, change or modification thereto, other than initial construction constructed, erected, or placed upon any part of the Property. Such architectural control may include all architectural aspects of any such improvement including, without limitation, size, height, site planning, setbacks, exterior design, materials, colors, open space, landscaping, and aesthetic criteria. Plans and Specifications, including landscaping and driveways for the Initial Improvements on any Lot shall be submitted to the Developer for approval. No construction, modification, alteration or improvement of any nature whatsoever, shall be undertaken on any Lot, unless and until the Developer or the ARB, as the case may be, has approved in writing the Plans and Specifications.

2) The ARB shall be authorized to require two (2) sets of plans and specifications for any proposed improvements, hereinafter "Proposed Improvements" which are to be reviewed by the ARB. Additionally, the ARB may require submission of samples of building materials and any other information necessary to allow a complete assessment or evaluation of any proposed construction or improvements.

3) The ARB shall be authorized to set up a fee schedule charging reasonable fees for the processing and evaluation of submissions to the ARB. The fees are to be paid to the Association along with the submission to the ARB.

4) The ARB shall have the authority to recommend amendments to the architectural criteria to the Developer or the Board of Directors. Upon adoption of any such amendment, a complete copy of such amendment shall be provided to each member of the Association.

The architectural criteria and any amendments thereto shall not be recorded in the public record and failure to provide a copy of same or an amendment to same shall not be a condition precedent to the effectiveness or validity of the architectural criteria or an amendment thereto.

**Section 8.3**     **Variance.** The ARB and Developer, as applicable, may authorize variance from compliance with any of the architectural provisions of this Declaration, when circumstances such as topography, natural obstructions, hardships or aesthetic or environmental consideration require the same. Such a variance shall be evidenced by a document signed by at least a majority of the members of the ARB for a Proposed Improvement or by Developer for Initial Improvements, as applicable. If such a variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and the particular provisions of this Declaration covered by the variance, nor shall it affect in any way the Owners' obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances, and set back lines or requirements imposed by any governmental or municipal authority. Any variance given pursuant to this paragraph shall be given in recordable fashion and recorded in the public records of the County.

**Section 8.4**     **Enforcement.** The Board of Directors shall have the authority and standing on behalf of

the Association to enforce, in courts of competent jurisdiction, the decisions of the ARB.

**Section 8.5** **Remedy for Violations.** In the event any Proposed Improvement is constructed without first obtaining the approval of the ARB or Developer, as applicable, or is not constructed in strict compliance with any approval given or deemed given by the ARB or Developer, as applicable, or the provisions of this Article are otherwise violated, the Board of Directors shall have the specific right to injunctive relief to require the Owner to stop, remove, and alter any improvements in order to comply with the requirements hereof, or the Board of Directors may pursue any other remedy available to it. In connection with this enforcement section, the Board of Directors or Developer shall have the right to enter into any Lot or Residence and make any inspection necessary to determine that the provisions of this Declaration have been complied with. The failure of the ARB, the Board of Directors or Developer to object to any Proposed Improvement prior to its completion shall not constitute a waiver of the right of the Association or the Developer to enforce this Article. The foregoing rights shall be in addition to any other remedy set forth herein for violations of this Declaration.

**Section 8.6** **Reservation of Rights to Release Restrictions.** In each instance where a structure has been erected, or construction thereof has substantially advanced, in such manner that some portion of the structure encroaches on any Lot line, setback line, or easement area, Developer reserves for itself, its successors, assigns and designees, the right to release such Lot from the encroachment and to grant an exception to permit the encroachment without the consent or joinder of any person, irrespective of who owns the burdened Lot or easement areas, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially or adversely affect the value of the adjacent Lot and the overall appearance of the Property. This reserved right shall automatically pass to the Association when Developer no longer owns any portion of the Property. Upon granting of an exception to an Owner, the exception shall be binding upon all subsequent Owners of the affected Lots and shall be recorded in the public records of the County.

**Section 8.7** **No Liability.** Notwithstanding anything contained herein to the contrary, the ARB and Developer shall merely have the right, but not the obligation, to exercise architectural control, and shall not be liable to any Owner, its successors, assigns, personal representatives, or heirs, due to the exercise or non-exercise of such control or the approval or disapproval of any Proposed Improvement. Furthermore, the approval of any plans and specifications or any Proposed Improvements shall not be deemed to be a determination or warranty that such plans and specifications or Proposed Improvements are complete, do not contain defects, or in fact meet any standards, guidelines, or criteria of the ARB or Developer, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and neither the ARB, the Association, nor Developer shall be liable for any defect or deficiency in such plans and specifications or Proposed Improvements, or any injury to persons or property resulting therefrom.

**Section 8.8** **Compensation.** The Board of Directors shall have the authority to pay reasonable compensation to the members of the ARB.

**Section 8.9** **Initial Construction.** All proposed initial construction shall be submitted to the Developer in writing. Submissions shall be in made as provided in Section 8.2(b). The proposed construction shall be evaluated giving due consideration to the overall development scheme and the architectural criteria. Developer shall have the right to approve or disapprove such proposed construction in its sole discretion.

**Section 8.10 Exclusive Authority.** The ultimate, sole and exclusive right to approve or disapprove proposed construction shall belong to the Developer and/ or the Association.

**ARTICLE IX**

**USE OF PROPERTY**

**Section 9.1 Protective Covenants.** In order to keep the Property a desirable place to live for all Owners, the following protective covenants are made a part of this Declaration. Without limiting any of the provisions or requirements of Article VIII, the specific references to the ARB approval set forth in this article or elsewhere in this Declaration shall not be construed as a limitation of the requirements of this article.

**(a) Lot Resubdivision.** No Lot shall be further subdivided, replatted or separated into smaller Lots by any Owner. Provided however, this restriction shall not prohibit corrective deeds or similar corrective instruments. Developer shall have the right to modify subdivision plats of the property if all Owners of Lots which are included within the portion of the plat so modified consent to such modification, which consent shall not be unreasonably withheld or delayed.

**(b) Residential Use.** Each Lot shall be used, improved and devoted exclusively to single family residential use, and for no commercial purpose. No time-share ownership of Lots is permitted without Developer's approval. Nothing herein shall be deemed to prevent the Owner from leasing a Residence, subject to all of the provisions of the Declaration, Articles, and Bylaws nor from preventing Developer from converting the use of a Lot to be used as a road for ingress and egress from an adjacent Lot. Any and all Residential Leases shall not be less than one (1) year in term. The foregoing restriction shall not operate to prevent Developer or its designees from using one or more Residences for a model home or sales center during the development and sale of the Property. No other business or commercial use may be made of any part of the Property. Provided, however, an occupant of a Residence who maintains a personal or professional library, keeps personal or professional books or accounts, conducts personal business (provided that such use does not involve customers, clients, employees, licenses or invitees regularly visiting the Residence), or makes professional telephone calls or correspondence in or from a Residence is engaging in a residential use and shall not be deemed to be in violation of this Section by reason thereof.

**(c) Nuisances; Other Improper Use.** No nuisance shall be permitted to exist on any Lot or Common Property so as to be detrimental to any other Lot in the vicinity thereof or to its occupants, or to the Common Property. Any activity on a Lot which interferes with television, cable, or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. No immoral, offensive, or unlawful use shall be made of the Property or any part thereof. All laws, zoning ordinances, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property. If a dispute or question arises as to what may be or become a nuisance, the issue shall be determined by the Board of Directors.

**(d) Work Hours.** All work done by contractors, subcontractors and domestic workers must be done during daylight hours.

**(e) Access.** Owners shall allow the Board of Directors or the agents and employees of the

Association to enter any Lot for the purpose of maintenance, inspection, repair, replacement of the improvements within the Lot, or in case of emergency, for any lawful purpose, or to determine compliance with this Declaration.

**(f) Pets.** No animals, livestock or poultry of any kind shall be raised bred or kept on any Lot, except that dogs, cats or other household pets in reasonable numbers may be kept provided they are not kept, bred or maintained for any commercial use and do not create safety, health or nuisance problems. The Association further reserves the right, but not the obligation, to demand that an Owner permanently remove from property all pets which create disturbances or annoyances that constitute nuisances in the sole discretion of the Board of Directors.

**(g) Signs.** No sign, advertisement or notice of any type or nature whatsoever including, without limitation, "For Sale" and "For Lease" signs, shall be erected or displayed upon any Lot, Residence, Common Property or in any window, unless express prior written approval of the size, shape, content, appearance and location has been obtained from the Board of Directors and the ARB, which approval may be arbitrarily withheld, except standard 18" x 24" typical painted real estate signs shall be allowed without prior approval. Notwithstanding the foregoing, Developer, and those persons or entities specifically designated by Developer, shall be permitted to post and display advertising signs on the Property for the marketing, sale or rental of Lots.

**(h) Parking.** All vehicles shall be parked and stored within the garages or paved driveways on a Lot. The number of vehicles parked in a driveway may not exceed the number of garage doors for that home (i.e., 1 Car Garage Door = 1 Car parked in Driveway, 2 Car Garage Door = Maximum 2 Cars parked in Driveway, and 3 Car Garage Door = Maximum 3 Cars parked in Driveway). No boats or recreational vehicles may be stored or parked within the Property unless surrounded completely such that they cannot be seen. Only automobiles bearing current license and registration tags, as required pursuant to state law, shall be permitted to be parked on any of the Property except wholly within a garage. All parking within the Property shall be in accordance with rules and regulations adopted by the Association. No parking is allowed on the street rights-of-way, park areas, or other Common Property.

**(i) Visibility at Street Intersections.** No obstruction to visibility at intersections shall be permitted. The ARB and Developer shall have the right to adopt additional restrictions concerning the height and type of trees and shrubs within any of the Lots.

**(j) Clotheslines.** No clotheslines or other clothes-drying facility shall be permitted on the Common Property or other portions of the Property where it would be visible from any Common Property or other portions of the Property where it would be visible from any Common Road or any other Lot.

**(k) Garbage and Trash Containers.** All garbage and trash containers must be placed and maintained in accordance with rules and regulations adopted by the County. No garbage or trash shall be placed elsewhere and no portion of the Property shall be used for dumping refuse. All garbage and trash containers shall be kept within an enclosed area in a location approved by the ARB.

**(l) Window Air Conditioners and Antenna.** No window air conditioning unit, satellite dishes, or antenna shall be installed in or at any Residence without the prior approval of the ARB or the Developer. Further, any antennas, satellite dishes or other similar devices approved by the ARB or the Developer shall comply with any applicable governmental laws, statutes or regulations.

**(m) Temporary Structures.** No structure of a temporary character, including, without limitation, any trailer, tent, shack, barn, shed, or other outbuilding, shall be permitted on any Lot at any time, except temporary structures maintained for the purpose of construction and marketing of the Lots.

**(n) Hazardous Materials.** No hazardous or toxic materials or pollutants shall be maintained, stored, discharged, released, or disposed of in or under the Property except in strict compliance with applicable statutes, rules and regulations. Fuel or gas storage tanks or other flammable, combustible, or explosive fluids, materials, or substances for ordinary household use may be stored or used in the Property only in strict compliance with manufacturers' directions and applicable safety laws and codes, and shall be stored in containers specifically designed for such purposes.

**(o) Removal of Trees.** In order to preserve the environment and migratory bird populations, no trees which remain on a Lot at the time of completion of the Initial Construction thereon shall be felled, removed, or cut down unless such tree represents a hazard to the Residence or other improvements on the Lot, or to persons occupying or utilizing the Property, without the consent and approval of the ARB, the obtaining of any and all governmental approvals as may be required by governmental authorities having jurisdiction over the Property.

**(p) Garages and Detached Structures.** Garage doors shall be kept closed except when automobiles are entering or leaving the garage. No garage shall at any time be used as a residence or converted to become part of a Residence, except if another garage is constructed in compliance with the provisions hereof. Provided, however, a garage may be used by Developer as a sales office during the marketing of the Property. There shall be no detached buildings constructed on any Lot without the prior consent of the Developer.

**(q) Soliciting.** No soliciting will be allowed at any time within the Property.

**(r) Fences, Lighting and Mailboxes.** No fences shall be allowed except as approved by the Developer or the ARB. All mailboxes shall be approved by the Developer or the ARB. No lighting shall be allowed which alters the residential nature of the Property.

**(s) Sidewalks.** Any Owner of a Lot developing a Residence on such Lot shall construct any sidewalk on or in front of such Lot, in accordance with the subdivision construction plans submitted to and approved by the County. Such sidewalk shall be completed prior to the issuance of a certificate of occupancy for such Lot.

**(t) Exterior Maintenance.**

(i) The exterior of all residences shall be maintained such that all residences have a clean, well cared for appearance.

(ii) The Lots shall be maintained in a neat, clean, orderly and attractive manner. Weeds and underbrush shall be removed and all grass plants, trees, bushes, flower beds and other similar landscaping shall be mowed, edged, pruned and maintained so as to maintain the overall beauty of the Property. No trash, garbage, rubbish or refuse shall accumulate on any Lot.

(iii) Any driveways, sidewalks and other similar paved surfaces on any Lot shall be

maintained in an appropriate manner.

(iv) Should the Board of Directors in its sole discretion deem that any condition on any Lot exists which detracts from the appearance of the Property or causes a safety risk, the Board of Directors, its agents, employees or contractors shall have the right to enter upon any Lot for the purpose of correcting any such deficiency or condition and shall be entitled to assess the cost to the Owner. The costs of such maintenance shall be assessed against such Lot and this assessment shall not be considered to be a part of the annual or special assessments. The costs of this maintenance shall be a lien against the Lot and shall be payable along with any interest, attorney fees and costs of collection as provided in Article VII.

**(u) Wetlands and Jurisdictional Land.** This Declaration is subject to the rights of the State of Florida and other governmental entities having jurisdiction over portions of the Property which may be considered wetlands, and every Owner shall obtain any permit necessary prior to undertaking any dredging, filling, improving, landscaping or removal of plant life existing on his Lot. A conservation easement shall be emplaced over all lands waterward of any jurisdictional wetlands line as established on the plat as Wetland and Jurisdictional Tract "A", "B", "C", and "F" ("Conservation Area"). No Owner shall conduct any clearing, filling, improving, landscaping, or removal of plant life within any conservation easement area without the prior written permission of the County, State of Florida, the SJRWMD, ACOE and all other applicable governmental entities, and the ARB. OWNERS WHO OWN A LOT ADJACENT TO ANY WETLANDS OR CONSERVATION AREA ESTABLISHED BY THE SJRWMD OR THE ACOE OR ESTABLISHED IN ANY OTHER MANNER, SHALL, BY ACCEPTING CONVEYANCE OF SUCH LOT BE DEEMED TO HAVE AGREED TO MAINTAIN SUCH WETLANDS OR CONSERVATION AREAS IN ACCORDANCE WITH ANY SUCH PERMITS OR REQUIREMENTS. SUCH OWNERS SHALL INDEMNIFY AND HOLD HARMLESS, THE DEVELOPER AND THE ASSOCIATION, FROM ANY AND ALL COSTS, TO INCLUDE BUT NOT LIMITED TO ATTORNEY FEES AND COSTS, FINES AND ALL OTHER SANCTIONS. NO PERSON SHALL ALTER ANY PART OF ANY WETLANDS OR CONSERVATION AREA AND SHALL NOT TAKE ANY ACTIONS WHICH WILL AFFECT THE DRAINAGE FLOW OF ANY SURFACE WATER. OWNERS SHALL INSURE THAT ALL SJRWMD AND ACOE PERMITS ARE ADHERED TO. THE ASSOCIATION SHALL HAVE THE RIGHT TO BRING ANY APPROPRIATE LEGAL ACTION AGAINST ANY OWNER WHO VIOLATES ANY SUCH SJRWMD OR ACOE PERMIT.

**Section 9.2 Amendments and Modifications of Rules.** The Board of Directors may from time to time adopt and amend rules and regulations governing the details of the operation, use, maintenance and control of the Residences, Lots, Common Property, and any facilities or services made available to the Owners. A copy of the rules and regulations adopted from time to time as herein provided shall be available to each Owner.

**Section 9.3 Compliance.**

**(a) Owner's Responsibility.** It shall be the responsibility of all Owners, family members of Owners, and their authorized guests and tenants to conform with and abide by the rules and regulations in regard to the use of the Residences, Lots and Common Property which may be adopted in writing from time to time by the Board of Directors or the ARB, and to see that all persons using the Owner's Lot(s) do likewise.

**(b) Violation.** Upon violation of any of the rules or regulations adopted as herein provided, or upon violation of any of the provisions of this Declaration by an Owner, or his family, tenants, or guests, the Association may levy fines as provided in Section 720.305 Florida Statutes and as determined by the Board of Directors. To enforce the rules and regulations and the provisions of this Declaration, the Association, or any Owner may bring an action for specific performance, declaratory decree or injunction, and the successful prevailing party may recover its costs and attorneys' fees in such suit

**Section 9.4 Personal Services.** Employees of the Association shall not be required to attend to any personal matters or business of Owners, nor shall they be permitted to leave the Property on any private business of Owners. The uses and functions of such employees shall be governed by the Board of Directors of the Association. In the event personal services are provided to Owners by any of the employees of the Association, the Association will not assume any responsibility or be liable for, in any manner, the quality of such services or work provided, nor do they warrant such services or work. In addition, the Association shall not be liable for any injury to persons or damage to property resulting from any act or omission by those performing such personal work or services for Owners.

## **ARTICLE X**

### **INSURANCE**

#### **Section 10.1 Types of Coverage.**

**(a) Insurance of Common Property.** The Board of Directors shall obtain liability insurance on any Common Property (including the Common Roads) owned by the Association and, if additional Common Property with significant insurable improvements are added to the Property, the Board of Directors may obtain casualty insurance and increase the amounts of liability insurance, all as is consistent with prudent business judgment, including the following:

(i) Hazard insurance on the Common Property and any improvements constructed thereon, with extended coverage, vandalism, malicious mischief and windstorm endorsements in an amount not less than that necessary to comply with the coinsurance percentage stipulated in the policy, and in any event not less than 80% of the insurable value (based upon replacement cost) of the improvements constructed on the Common Property.

(ii) Public liability insurance in such limits as the Board of Directors may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Property or adjoining the Property. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board of Directors or other Owners. The Board of Directors shall review such limits once a year.

**(b) Insurance on Lots.** It shall be the responsibility of each Owner to obtain, at his own expense, liability insurance with respect to the ownership and use of his Lot, including his Residence, and the Association shall not be responsible for obtaining such insurance or have any liability whatsoever in connection therewith. It shall be the responsibility of each Owner to obtain and maintain fire insurance and insurance against the perils customarily covered by an extended coverage endorsement in an amount equal



to not less than the full replacement cost of the Residence and shall submit evidence of such insurance coverage together with evidence of payment of the most recent premium therefor to the Association, upon request. Hazard insurance on the Common Property and any improvements constructed thereon, with extended coverage, vandalism, malicious mischief and windstorm endorsements in an amount not less than that necessary to comply with the coinsurance percentage stipulated in the policy, and in any event not less than 80% of the insurable value (based upon replacement cost) of the improvements constructed on the Common Property..

**(c) Group Insurance.** Nothing set forth herein shall prevent the Association, upon majority vote of the Class A Members and the assent of the Class B Member, if any, from obtaining a group or master insurance policy, and if so approved and obtained, the Association shall charge the premium for the individual Lots as a Lot Assessment. All policies of insurance obtained by Owners or the Association which cover the Residences and Lots shall contain (i) waivers of subrogation, (ii) waivers of any reduction of pro rata liability of the insurer as a result of any insurance carried by any other Owner, (iii) waivers of invalidity arising from any acts of the insured, and (iv) provisions that such policies may not be canceled or substantially modified without ten (10) days prior written notice of all insured.

**(c) Director and Officer Liability Insurance.** The Board of Directors may obtain as a matter of common expense, payable from the Annual Assessments, liability insurance against personal loss for actions taken by members of the Board of Directors and Officers of the Association in the performance of their duties. Such insurance shall be of the type and amount determined by the Board of Directors, in its discretion.

**(d) Other Coverage.** The Board of Directors shall obtain and maintain worker's compensation insurance, if and to the extent necessary to meet the requirements of law, and such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Owners. The Board of Directors may from time to time increase or decrease the types and amounts of insurance coverage as may be necessary or convenient to comply with requirement of Mortgagees or based upon the cost and availability of such coverage.

## **Section 10.2 Repair and Reconstruction After Fire or Other Casualty.**

**(a) Common Property.** In the event of damage to or destruction of all or any of the improvements on any Common Property owned by the Association, as a result of fire or other casualty, the Association may in its discretion arrange for repair and restoration of such damaged improvements substantially in accordance with the plans and specifications under which the improvements were originally constructed, or any modification thereof approved by the Board of Directors and the ARB. The Board of Directors shall proceed towards reconstruction of such improvements as quickly as practicable under the circumstances and shall obtain funds for such reconstruction from the insurance proceeds and any Special Assessments that may be necessary after exhaustion of reserves for the repair and replacement of such improvements.

**(b) Residences.** Any Owner whose Residence is destroyed or damaged by fire or other casualty shall immediately proceed to build and restore his Residence to the conditions existing immediately prior to such damage or destruction, unless other plans are approved in accordance with the provisions of Article VIII and Article IX above. Provided, however, if the damage is so extensive that the Owner determines not to rebuild the Residence, the Owner may remove all remaining improvements and debris and sod the Lot. In such event, all landscaping obligations on the part of Owner shall remain in

effect.

**ARTICLE XI**

**ASSOCIATION LIABILITY**

**Section 11.1 Disclaimer of Liability.** Notwithstanding anything contained herein, in the Articles, or the Bylaws of the Association, or any other document governing or binding the Association (jointly referred to herein as "Association Documents"), the provisions hereof shall not be construed to mean that the Developer or the Association shall be liable or responsible for in any manner as a guarantor or insurer of, the health, safety nor welfare of any Owner, occupant or user of any portion of the Property, including, without limitation, Owners, residents, their families, guests, invitees, agents, servants, contractors or subcontractors, nor for any property of such persons.

**Section 11.2 Specific Provisions.** Without limiting the generality of the foregoing:

1) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern and regulate the use of the Property have been written and are to be interpreted and enforced for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof.

2) Neither Developer nor the Association is empowered nor have they been created to act as an entity which enforces or insures compliance with the laws of the United States of America, State of Florida, County, or any other jurisdiction, or prevents tortious or criminal activities.

3) The provision of the Association Documents setting forth the uses of Assessments which may relate to health, safety, and welfare shall be attributed and implied only as limitations on the usage of such funds and not as creating an obligation of the Association or Developer to protect the health, safety or welfare of any persons.

**Section 11.3 Owner Covenant.** Each Owner, his heirs, successors and assigns (by virtue of his acceptance of title of his Lot) and each other person or entity having an interest in or a lien upon or making use of, any portion of the Property (by virtue of accepting such interest or lien making use thereof) shall be bound by this Article and shall be deemed to automatically waive all rights, claims, demands, and causes of action against the Association or Developer arising from or connected with any manner for which the liability of the Association or Developer has been limited in this Article.

**Section 11.4 Release as to use of Surface Water or Stormwater Systems.** The Developer nor the Association shall have any liability whatsoever to Owners, guests, tenants, or invitees related to the use or access of or to the surface water or Storm Water Management System areas, including but not limited to any personal injury, loss or damage accruing therefrom. Each Owner, for itself and its guests, tenants or invitees, hereby and by acceptance of a Deed to, or use of, any Lot releases Developer and the Association from any liability in connection with any usage of the surface water or Storm Water Management System.

NEITHER THE DEVELOPER THE ASSOCIATION, OR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER

QUALITY OR LEVEL IN ANY LAKE, POND, RETENTION AREA, CANAL, CREEK, OAKS AREA, STREAM OR OTHER WATER BODY WITHIN OR ADJACENT TO THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR ENTITY AS REFERRED TO HEREIN. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID AREAS SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES CONTAINED WITHIN OR ADJACENT TO THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST AND OR NOT IN ANY MANNER WARRANT AGAINST ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

ALL PERSONS ARE HEREBY NOTIFIED THAT LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF THE PROPERTY MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT WITHIN THE PROPERTY, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES OR LAKE BOTTOMS.

## ARTICLE XII

### GENERAL PROVISIONS

**Section 12.1** **Duration.** This Declaration, as amended and supplemented from time to time, shall run with and bind the Property and shall inure to the benefit of and be binding upon Developer, the Association, the Owners, and their respective legal representatives, heirs, successors or assigns, for a term of thirty (30) years from the date this Declaration is recorded in the public records of the County, after which time all of said provisions shall be extended automatically for successive periods of ten (10) years each unless an instrument or instruments signed by the then Owners of seventy five percent (75%) of the Lots subject to this Declaration agreeing to terminate all of said provisions as of a specified date. Unless this Declaration is terminated as provided above, the Association shall rerecord this Declaration or other notice of its terms at intervals necessary under Florida law to preserve its effect.

**Section 12.2** **Condemnation.** In the event all or part of the Common Property or the Common Roads shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The board of Directors shall have the right to act on behalf of the Association with respect to the negotiation and litigation of the taking or condemnation affecting such Property. The Owners holding seventy five percent (75%) of the votes may agree to distribute the proceeds of any condemnation or taking by eminent domain, and if the owners shall not so agree, such proceeds shall be added to the funds of the Association.

**Section 12.3 Notices.** Any notice required to be sent to the Owner of any Lot under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, or hand delivered to the Lot and to the last known address of the person who appears as Owner of such Lot on the records of the Association at the time of such mailing, if different.

**Section 12.4 Enforcement.**

(a) In addition to the enforcement provisions previously set forth in this Declaration, the provisions of this Declaration may be enforced by any Owner, the Association, or by Developer (as long as it owns any interest in the Property) against any person, firm, corporation, trust, or other entity which violates or attempts to violate any of the covenants or restrictions hereof, by prosecuting any proceeding at law or in equity for the recovery of damages, injunctive relief or any other applicable remedy, for the purpose of preventing or enjoining all or any such violations or attempted violations, or for the enforcement of any lien created by this Declaration. The CDD, SJRWMD and ACOE shall have the right to enforce by prosecuting any proceeding at law or in equity for the recovery of damages, for enforcement or for an injunction with regard to any provisions contained herein which involve the maintenance, repair or reconstruction of the Surface Water or Storm Water Management System, wetlands or conservation areas.

(b) In addition to all other remedies, the Board of Directors shall have the authority, in its sole discretion, to impose a fine or fines upon any Owner for failure of the Owner, his family, guests or invitees, tenants, or occupants, to comply with the covenants, restrictions, rules, and regulations contained in this Declaration, the Articles, or the Bylaws, provided the following procedures are adhered to:

- (i) The Association shall notify the Owner or occupant of the infraction(s).
- (ii) Such Owner or occupant shall be given notice and opportunity to be heard by a Fine Committee pursuant to Section 720.305 Florida Statutes.
- (iii) Upon recommendation of the Fine Committee, the Board of Directors may impose fines against the applicable Lot of up to Fifty Dollars (\$50.00) per incident, per day. The maximum permitted fine may be increased from time to time by the Board of Directors, as it in its discretion may deem necessary or convenient. The total amount of fines may exceed One Thousand and No/100 Dollars, (\$1,000.00).
- (iv) Each incident which is grounds for a fine shall be the basis for a separate fine. In case of continuing violations, each continuation after notice is given shall be deemed a separate incident.
- (v) Fines shall be paid within thirty (30) days after the receipt of notice of their imposition.
- (vi) All monies received from fines shall be allocated as directed by the Board of Directors.
- (vii) The imposition of a fine shall not be an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association may otherwise be entitled, including without limitation the right to impose a Lot Assessment; however, any fine paid by Owner or occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner or occupant.

The remedies contained in this Section 12.4 shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Developer, the Association, or any Owner, or their

respective successors or assigns, to enforce any covenant, restriction, obligation, right, power, privilege, authority, or reservation herein contained, however long continued, shall not be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior or subsequent thereto.

**Section 12.5 Interpretation.** Unless the context expressly requires otherwise, the use of the singular includes the plural and vice versa; the use of all genders; the use of the terms "including" or "include" is without limitation; and the use of the terms "will", "must", and "should" shall have the same effect as the use of the term "shall", wherever any time period is expressed in days, if such time period ends on a Saturday, Sunday, or legal holiday, it shall be extended to the next succeeding calendar day that is not a Saturday, Sunday or legal holiday. The terms "Lot" and "Property" mean all or any portion applicable to the context, and include all improvements, fixtures, trees, vegetation, and other property from time to time situated thereon, and the benefit of all appurtenant easements. The terms of this Declaration shall be liberally construed in favor of the party seeking to enforce its provisions to effectuate their purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a uniform and consistent plan for the development and enjoyment thereof. Headings and other textual divisions are for convenience only and are not to be used to interpret, construe, apply, or enforce any substantive provisions. The provisions of this subparagraph apply also to the interpretation, construction, application, and enforcement of all the Association Documents.

**Section 12.6 Invalidity.** The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability or affect of the balance of the Declaration, which shall remain in full force and effect.

**Section 12.7 Amendment.** This Declaration may be amended at any time by an instrument signed by the President or Vice President and Secretary or Assistant Secretary of the Association, certifying that such amendment has been adopted by Owners holding two thirds (2/3) of the voting interests in the Association, either in person or by proxy at a duly called meeting, or by written consent without meeting in a manner permitted by law by Owners holding two thirds (2/3) of the votes in the Association, which amendment shall become effective upon its filing in the public records of the County; provided, however, that:

(a) As long as Developer is an Owner of any Lot, no amendment shall become effective without the written consent of Developer.

(b) Developer specifically reserves the absolute and unconditional right so long as it owns any of the Property to amend this Declaration without the consent or joinder of any party (i) to conform to the requirements of any holder of a mortgage or (ii) to conform to the requirements of title insurance companies, (iii) to conform to the requirements of any governmental entity having control over or jurisdiction over the Property, (iv) to clarify the provisions hereof, or (v) in such other manner as developer deems necessary and convenient.

(c) Any amendment to this Declaration which alters the Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Property, must have prior approval of the SJRWMD.

**Section 12.8 Rights of Mortgagees.** All Mortgagees shall have the following rights:

(a) During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect current copies of the Association Documents and the books, records and financial statements of the Association.

(b) Upon written request to the Secretary of the Association, to receive copies of the annual financial statements for the immediately preceding fiscal year of the Association, provided, however, the Association may make a reasonable, uniform charge to defray its costs incurred in providing such copies.

(c) To designate a representative to attend all meetings of the Members of the Association who shall be entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting, but in no event shall be entitled to vote thereon.

(d) By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable, uniform annual fee established from time to time by the Association to defray its costs, to receive: (i) any notice that is required to be given to the Class A Members under any provision of the Association Documents; (ii) written notice of any condemnation or casualty loss affecting a material portion of the Property or any Lot encumbered by its Mortgage; (iii) any sixty (60) day delinquency in the payment of Assessment Charges imposed upon any Lot encumbered by its Mortgage; (iv) the lapse, cancellation, or material modification of any insurance coverage or fidelity bond maintained by the Association; and (v) any proposed action requiring the consent of a specified percentage of Mortgagees.

**Section 12.9 Legal Fees and Costs.** The prevailing party in any dispute arising out of the subject matter of this Declaration or its subsequent performance shall be entitled to reimbursement of its costs and attorney's fees, whether incurred before or at trial, on appeal, in bankruptcy, in post-judgment collection, or in any dispute resolution proceeding, and whether or not a lawsuit is commenced.

**Section 12.10 Action Without Meeting.** Any action required to be taken hereunder by vote or assent of the Members may be taken in the absence of a meeting by obtaining the written approval of the requisite percentage of all of the votes in the Association. Any action so approved shall have the same effect as though taken at a meeting of the Members, and such approval shall be duly filed in the minute book of the Association.

**Section 12.11 Law to Govern.** This Declaration shall be construed in accordance with the laws of the State of Florida.

**Section 12.12 Conflict and Enforcement.** If in the event these deed restrictions conflict with any existing County Building Code Ordinance and/or jurisdictional obligation, the more restrictive of the two shall apply.

**Section 12.13 Additional Restrictions.** No Owner shall impose any additional covenant, condition or restriction on any Lot or any part of the Property without the prior written consent of the Developer. The provisions of this Section 12.13 shall not preclude the Developer from including in any deed, agreement or contract additional covenants, conditions and restrictions.

**Section 12.14 Existing Property.** The Property which initially is and shall be held, transferred, sold, conveyed, encumbered, and occupied subject to this Declaration consists of that land described in the Recitals above and as further attached hereto on **Exhibit "A"**, which is by reference incorporated herein.

**Section 12.15 Fertilizer Restrictions.** FERTILIZER SHALL NOT BE APPLIED WITHIN TEN (10) FEET OF ANY POND, STREAM, WATER COURSE, LAKE, CANAL, OR WETLAND AS DEFINED BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (CHAPTER 62-340 FLORIDA ADMINISTRATIVE CODE) OR FROM THE TOP OF A SEAWALL. IF MORE STRINGENT STATE OR LOCAL GOVERNMENT REGULATIONS APPLY, THIS PROVISION DOES NOT RELIEVE THE REQUIREMENT TO ADHERE TO THE MORE STRINGENT REGULATIONS. NEWLY PLANTED TURF, SOD, GRASS OR OTHER PLANTS MAY BE FERTILIZED IN THIS ZONE ONLY FOR THE FIRST SIXTY (60) DAY ESTABLISHMENT PERIOD.

**Section 12.16 Annexation by Developer.** As the owner thereof or, if not the owner, with the consent of the owner thereof, Developer shall have the unilateral right, privilege, and option from time to time to subject additional property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the land records a Supplementary Declaration describing the property being subjected. Any annexation shall be effective upon the filing for record of such Supplementary Declaration unless a later effective date is provided therein. Inclusion of property on Developer's land plan shall not obligate the Developer to subject such property to the Declaration, nor shall exclusion of property from the initial land plan bar Developer from subjecting such property to the Declaration. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as the rights of existing Owners are not adversely affected, the Developer may unilaterally amend this Declaration to reflect the different character of any such annexed real property. If any land is not subjected to this Declaration, Developer's reserved rights shall not impose any obligation on Developer to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Developer or any subsequent owner thereof, regardless of whether such uses are consistent with the covenants and restrictions imposed herein.

**Section 12.16 Withdrawal of Property.** Developer shall have the right to amend the Declaration to remove any portion of the Property then owned by Developer or the Association from the coverage of this Declaration and the jurisdiction of the Association, to the extent originally included in error or as a result of any changes whatsoever in the plans for the community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the community. Any withdrawal shall be accomplished by the filing for record of an amendment to this Declaration which describes the property to be removed and is executed by the Developer and the Owner(s) of the property being removed if not the Developer. Any withdrawal shall be effective upon filing for record of such amendment in the land records, unless a later effective date is provided therein. Such amendment shall be executed by the Developer and the Owner(s) of the property being removed and shall not require the vote or consent of any other Person.

IN WITNESS WHEREOF, the Developer has executed this Declaration of Easements, Covenants, Conditions and Restrictions for Flagler Point as of the date set forth above.

Signed, sealed and delivered in the presence of:

FLAGLER REI, LLC, a Florida limited liability company

By: Blake REM, LLC, a Florida limited Liability company, its manager

Margaret Early  
First Witness  
Margaret Early  
Print Name

By: [Signature]  
Name: Sheri Hammond  
Title: Chief Financial Officer

[Signature]  
Second Witness  
Khairi Marischuk  
Print Name

STATE OF GEORGIA  
COUNTY OF FULTON

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of April, 2020 by Sheri Hammond, the <sup>Chief</sup> ~~financial officer~~ of **FLAGLER REI, LLC**, a Florida limited liability company, on behalf of the company,  who is personally known to me or  who has produced a driver's license as identification and who did/did not take an oath.

[Signature]  
Notary Public, State of Georgia  
Name: Mary Manasra

My Commission Expires June 25, 2021  
My Commission Number is: W-00327027





**EXHIBIT A**

Plat

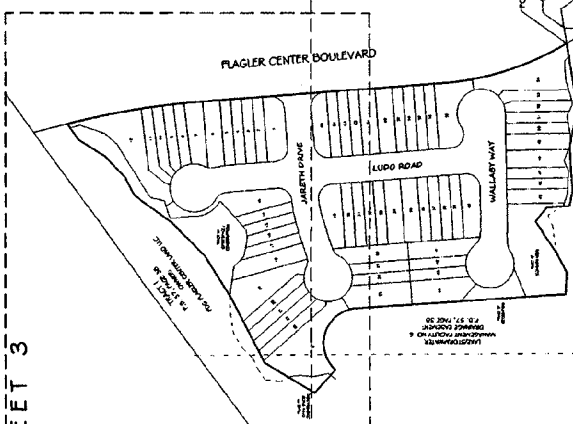
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PLAT BOOK 31 PAGE 05  
SHEET 2 OF 4 SHEETS

FLAGLER POINT  
A SEPARATE PORTION OF TRACT 1 AS DEPICTED ON FLAGLER CENTER, RECORDED IN PLAT BOOK 57, PAGES 3A, 30A THROUGH 30D, OF THE CURRENT PUBLIC RECORDS OF CITY OF JACKSONVILLE, DUVAL COUNTY, FLORIDA.

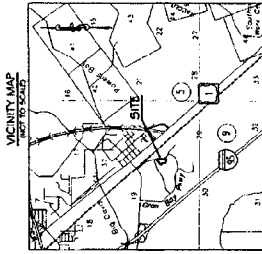
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**KEY SHEET**

GRAPHIC SCALE  
1 inch = 50' ft.

PREPARED BY  
AEC SURVEYING, INC.  
315 S.W. JACKSON ST.  
JACKSONVILLE, FL 32202  
TEL: 904.251.1110  
FAX: 904.251.1111



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