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FIVE MINUTE RECORDING

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

PABLO CREEK RESERVE

THIS DOCUMENT PREPARED BY:

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FOR
PABLO CREEK RESERVE

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DECLARATION
OF
COVENANTS AND RESTRICTIONS
FOR
PABLO CREEK RESERVE, LLC

THIS DECLARATION is made this 2nd day of NOVEMBER, 2004, by PABLO CREEK RESERVE, LLC, a Florida limited liability company (the "Developer"), and by PABLO CREEK RESERVE HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit (the "Association") which declare that the real property owned by the Developer and the Association, respectively, which is described on Exhibits "A" and "B" attached hereto and made a part hereof, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property, as such term is defined by Section 2.8 hereof, and shall be binding upon the Developer, the Association and all parties having or acquiring any right, title or interest in the Property or any part thereof.

ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION

Section 1.1 **Mutuality**. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

ARTICLE II
DEFINITIONS

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association**. The Pablo Creek Reserve Homeowners Association, Inc., a Florida corporation not-for-profit. This is the Declaration to which the Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Association make reference.

Section 2.2 **Board**. The Board of Directors of the Association.

Section 2.3 **Common Area**. All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which

is owned by the Developer, or by the Association, and which the Developer has designated for the common use of the Owners by reference thereto in this Section 2.5, or by recording a Supplementary Declaration, pursuant to the terms of Section 4.3 hereof. The Common Area initially designated by the Developer shall consist of the real property (and interests therein) more particularly described on Exhibit C attached hereto and made a part hereof together with all improvements constructed therein by Developer, but not owned or maintained by a public or private utility company.

Section 2.4 **Developer.** Pablo Creek Reserve, LLC and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to Pablo Creek Reserve, LLC as the Developer of the Property is not intended and shall not be construed, to impose upon Pablo Creek Reserve, LLC any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from Pablo Creek Reserve, LLC and develop and resell the same.

Section 2.5 **Limited Common Area.** The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the paved road surface (as it may exist from time to time) and between the rear Lot line and the nearest shore line of any lake contiguous to or within forty (40) feet of the Lot, within the area bounded by the extension of the side Lot lines, together with any portion of the Property contiguous to a Lot which, as a result of the natural configuration of the Property, is primarily of benefit to such Lot. Any question concerning the boundary of a limited common area shall be determined by the Board of Directors of the Association.

Section 2.6 **Lot.** Each platted lot located within the Property which is designated by the Developer by recorded covenant or deed restriction, for single family residential use. No Lot shall include any portion of the Common Area owned in fee simple by the Association.

Section 2.7 **Owner.** The record owner or owners of any Lot or Building Site.

Section 2.8 **Property or Pablo Creek Reserve.** The real property described on the attached Exhibit A and Exhibit B and such additions and deletions thereto as may be made in accordance with the provisions of Sections 3.2 and 3.3 of this Declaration.

Section 2.9 **Residential Dwelling Unit.** Any improved portion of the Property located within a Lot and intended for use as a residential dwelling.

Section 2.10 **Surface Water or Stormwater Management System.** A system which is designed and constructed or implemented within the Property 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, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, F.A.C. or regulations of similar

import. For purposes of this Declaration, the Surface Water or Stormwater Management System shall be deemed to be a part of the Common Area.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 3.1 **No Implied Extension of Covenants.** Each Owner of any improvements constructed on any Lot, by becoming an Owner, shall be deemed to have agreed that (a) the Property described on Exhibit A and such additional property as may be annexed pursuant to Section 3.2 hereof shall be the only Property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting, or requiring the Developer to subject any other property now or hereafter owned by the Developer to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 3.2 hereof.

Section 3.2 **Additional Lands.** Developer may, but shall not be obligated to, subject additional land to this Declaration (or to the assessment provisions of this Declaration) from time to time provided only that (a) any additional land subjected to this Declaration (or its assessment provisions) shall be contiguous to the Property then subject to this Declaration (for purposes of this Section 3.2, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous), and (b) the Owners of property within additional lands made subject to this Declaration (or its assessment provisions) shall be and become subject to this Declaration (or its assessment provisions), and shall be responsible for their pro rata share of common expenses for which assessments may be levied pursuant to the terms of Article VI of this Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of Duval County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer reserves the right to supplement this Declaration to add land to the scheme of this Declaration (or its assessment provisions) pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.

Section 3.3 **Withdrawal of Lands.** With the consent and joinder of Owners holding a majority of the votes in the Association, the Developer may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property from the terms and effect of this Declaration. Upon the Developer's request, the consent and joinder of each and every Owner to such withdrawal shall not be unreasonably withheld. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of Duval County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn.

ARTICLE IV
COMMON AREA RIGHTS

Section 4.1 **Conveyance of Common Area**. Developer agrees that all of the Common Area owned by Developer shall be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record, on or before the date which is one hundred twenty (120) days after the Developer shall no longer own any Lot, and the Association shall accept such conveyance or assignment. Upon the recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds.

Section 4.2 **Owners' Easement of Enjoyment**. Each Owner shall have a nonexclusive, perpetual right and easement of enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to, and shall pass with, the title to the land of such Owner, subject to the following:

(a) The right of the owner of the Common Area, with the consent of the Developer (if different from such owner) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility;

(b) All provisions of this Declaration, any plat of all or any parts of the Property, and all applicable governmental restrictions;

(c) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;

(d) The right of the Association to charge reasonable admission charges for the use of specific portions of the Common Area by Owners and other parties;

(e) The rights of the Developer under Section 4.3 to add to or withdraw land from the Common Area;

(f) Easements, restrictions, agreements and other matters of record.

The foregoing easement of enjoyment in favor of the Owners shall not be construed to create or imply any other easements or rights not expressly created by this Declaration, it being the intent hereof to limit the Owners' rights of use of specific portions of the Common Area to only the intended purposes of such portions of the Common Area. For example, the creation of each Owner's right to drain such Owner's property into the portions of the Common Area included within the Surface Water or Stormwater Management System, does not create any right of access by any Owner to such portions of the Common Area over any other Owner's property or other privately owned portions of the Property.

Section 4.3 **Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area**. Notwithstanding anything to the contrary contained in this Declaration, the Developer shall have the right, in its sole discretion, to designate

land, easements, use rights and personal property owned by the Developer as Common Area, provided only that such land shall be located within the Property or contiguous to the Property (for purposes of this Section 4.3, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous). For so long as the Developer shall own any Lot, the Developer may, at any time, withdraw, or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect any Lot or materially and adversely affect access, visibility, or drainage to or from any Lot, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Lot which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of Duval County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.5 hereof, or subsequently designated as such by the Developer pursuant to Section 2.5 hereof and this Section 4.3, even if the Developer consents or acquiesces to the use of such land by the Owners. In the event any land, easements, use rights, or personal property owned by the Association shall be withdrawn from the Common Area pursuant to this Section 4.3, upon the Developer's written request, the Association shall promptly execute and deliver to the Developer any and all deeds, bills of sale, assignments or other conveyance documents as may be necessary or appropriate to effectuate the withdrawal of such Common Area.

Section 4.4 **Maintenance of Common Area and Compliance with Applicable Permits.** The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Area and any improvements and landscaping (except utilities owned and maintained by public or private utility companies providing water, sewer, electrical, fire protection, cable television, telephone, or similar utilities to the Property, or any portion thereof) situated on the Common Area, if any. The Association shall maintain all lakes, drainage areas, drainage easements, and control structures, and shall preserve and protect all designated conservation areas and littoral zones located within, adjacent, or in near proximity to the Property, in accordance with all permit requirements and conditions contained in applicable dredge fill, consumptive use, surface water permits, or any other applicable permits issued by the United States Army Corps of Engineers ("ACOE"), Florida Department of Environmental Protection ("FDEP"), St. Johns River Water Management District ("SJRWMD"), and Duval County, Florida and all statutes, rules, regulations and requirements pertaining to surface water management, drainage and water quality promulgated by the SJRWMD, the FDEP, and all other local, state and federal authorities having jurisdiction. The Association shall maintain those portions of the Common Area designated by applicable permit as conservation tracts, stormwater management tracts or similar designations, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction. The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance of other surface water, or stormwater management capabilities as permitted by the SJRWMD. The Association shall be responsible for such maintenance and operation. Any

repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by the SJRWMD. All maintenance obligations of the Association shall be performed as ordered by the Board of Directors of the Association, and all or any portion of the cost of such maintenance incurred by the Association pursuant to this Section 4.4, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 4.5 **Easement for Maintenance, Access and Drainage Purposes.** The Developer hereby grants to the Association and its successors, assigns, agents, and contractors, an easement in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of maintaining the Common Area, including the Surface Water or Storm Water Management System, or other portions of Property to be maintained by Association, in accordance with the requirements of this Declaration. 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 reasonable times and in a reasonable manner, to operate, maintain or repair the Surface Water or Stormwater Management System as required by the SJRWMD 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 prior written approval of the SJRWMD. The easement granted hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, or enjoyment of any improved portion of the Property. Further, in the event that any portion of the Property shall be damaged or altered in any way as the result of the exercise of the easement rights granted hereby, such portions of the Property shall be immediately restored to the condition that existed immediately prior to such damage or alteration by the party exercising such rights.

ARTICLE V **ARCHITECTURAL CONTROL**

Section 5.1 **Architectural Review and Approval.** No landscaping, improvement or structure of any kind, including without limitation, any building, fence, wall, pool, spa, ornamental statute, flag pole, play structure, satellite dish, screen enclosure, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Lot or Building Site, or upon the Common Area, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same have been submitted to, and approved in writing by the Developer or the Developer's designee. All plans and specifications shall be evaluated as to visual and acoustical privacy and as to the harmony of external design and location in relation to surrounding structures, topography, existing trees and other natural vegetation and as to specific conformance with Architectural Criteria, as such term is hereafter defined, which may be imposed from time to time by the Developer. All plans and specifications submitted for review shall be evaluated for total effect and may be disapproved by the Developer solely for aesthetic reasons, in the Developer's sole discretion. No approval of plans and specifications for improvements constructed upon any Lot shall be construed to establish precedent or otherwise

obligate the Developer to approve applications involving similar designs proposed for other Lots. It shall be the burden of each Owner to supply two (2) sets of completed plans and specifications to the Developer and no plan or specification shall be deemed approved unless a written approval is granted by the Developer to the Owner submitting same. The Developer shall approve or disapprove plans and specifications properly submitted within thirty (30) days of each submission. Any change or modification to an approved plan shall not be deemed approved unless a written approval is granted by the Developer to the Owner submitting same.

Section 5.2 **Review Procedures.** The Developer shall have the following rights with respect to architectural review and approval conducted in accordance with this Article V:

(a) To promulgate, amend, eliminate or replace architectural criteria applicable to architectural review to be conducted by the Developer which shall be applicable to all or any portions of the Property (the "Architectural Criteria"). Any amendment of the Architectural Criteria shall be consistent with the provisions of this Declaration. Notice of any amendment to the Architectural Criteria, which shall include a verbatim copy of such amendment, shall be delivered to each member of the Association. The delivery to each member of the Association of notice and a copy of any amendment to the Architectural Criteria shall not, however, constitute a condition precedent to the effectiveness or validity of such amendment. It shall not be necessary for the Architectural Criteria, or any amendment thereto, to be recorded.

(b) To require submission of two (2) complete sets of all plans and specifications for any improvement or structure of any kind requiring review and approval pursuant to this Article V. The Developer may also require submission of samples of building materials proposed for use on any Lot, and may require tree surveys to show the effect of the proposed improvements on existing tree cover, and such additional information as reasonably may be necessary for the Developer to completely evaluate the proposed structure or improvement in accordance with this Declaration and applicable Architectural Criteria.

(c) To approve or disapprove in accordance with the provisions of this Article V, any improvements or structures of any kind, or any change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot, and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon.

(d) To adopt a schedule of reasonable fees for processing requests for architectural approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the Developer.

(e) To require each Owner to deposit a reasonable sum (the "Construction Deposit") with the Association to secure such Owner's compliance with the terms of this Declaration and all plans and specifications approved in accordance with this Article V.

(f) To assign to the Association, all or any portion of Developer's rights of architectural review as reserved by this Article V.

Section 5.3 **Variance.** The Developer may authorize variances from compliance with any architectural provisions of this Declaration or applicable Architectural Criteria when circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by an authorized representative of the Developer and no such variance shall be deemed approved or otherwise implied unless and until such written evidence shall have been delivered to the applicable Owner. 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 matters for which the variance is 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 or Building Site and particular provisions of this Declaration or applicable Architectural Criteria covered by the variance, nor shall it effect in any way an Owner's obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

Section 5.4 **Assignment.** The Developer reserves the right to assign its reserved rights under this Article V, in whole or in part, to the Association, who upon such assignment shall automatically assume all of the Developer's obligations under this Article V with respect to the rights assigned. Upon such assignment, the Association shall be authorized to form an Architectural Review Board ("ARB"), who shall serve at the pleasure of the Association's Board of Directors. The ARB shall thereafter be authorized to exercise all rights of architectural control that are assigned by the Developer to the Association and authorized by this Article V.

Section 5.5 **Limited Liability.** In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer as contemplated by this Article V, the Developer, the ARB and the Association shall not be liable to any Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld by the Developer, the ARB or the Association.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 6.1 **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of a Lot within the Property hereby covenants, and by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association any annual and special assessments established and levied pursuant to the terms of this Declaration. All such assessments, together with interest thereon from the due date at the highest lawful rate and costs of collection thereof (including reasonable attorneys' fees), shall be a charge and continuing lien upon each Lot against which each such assessment is made, and shall also be the personal obligation of the Owner. No Owner may avoid liability for the assessments by waiver of rights to use, or by non-use of, the Common Areas or by abandonment.

Section 6.2 **Purpose of Assessments.**

(a) The annual assessments levied by the Association against all Owners shall be used for the purposes of management and accounting fees, taxes, insurance, and utility charges relating to the Common Area, to fund the obligations of the Association set forth in Section 4.4 hereof, and for all other purposes reasonably contemplated by this Declaration, the Articles, the Bylaws, or any cost sharing or similar agreement to which the Association is or may become a party. Assessments 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, and drainage easements. Further, such annual assessments may be levied to fund reasonable reserves for deferred maintenance of, or non-recurring expenses related to, the Common Area including, without limitation, the Surface Water or Stormwater Management System. The maintenance responsibilities of the Association payable through assessment of the Owners shall specifically include, but not be limited to, the perpetual maintenance of all retention ponds, drainage swales, and all other drainage and stormwater management structures and improvements. Assessments collected by the Association to fund reserves shall be separately accounted for, it being the requirement of this Declaration that such funds shall be used exclusively for deferred maintenance of, or non-recurring expenses related to, the Common Area including the Surface Water or Stormwater Management System.

(b) The Board of Directors may levy special assessments for any purpose relating to permissible or required activities of the Association pursuant to this Declaration, the Articles, or any cost sharing or similar agreement to which the Association is or may become a party. Special assessments shall be allocated among the Owners as provided in Section 6.3 hereof.

Section 6.3 **Calculation and Collection of Assessments.** Annual assessments shall be established by the Board of Directors based upon an annual budget. Each Owner's pro rata share of the total annual assessment or any special assessment shall be based upon the following calculations:

(a) Owners of Lots shall pay a pro rata share of annual and special assessments based upon assessment equivalents allocated among the Owners as provided in subparagraph (b) hereof (the "Assessment Equivalents"). Except as hereafter provided, the annual assessment amount allocated to each Assessment Equivalent is hereby established to be, and shall not exceed, Two Thousand Seven Hundred Dollars (\$2,700.00) per Assessment Equivalent. From and after December 31, 2004, such amount may be decreased, or increased by an amount not to exceed ten percent (10%) of the prior annual assessment amount per Assessment Equivalent, such annual increases to be cumulative and self-operative. Further, by a vote of not less than three-fifths of the members of the Board of Directors, the foregoing assessment amount per Assessment Equivalent may be increased above the ten percent (10%) limitation set forth in this Section 6.3. The total amount of each special assessment shall be divided by the total Assessment Equivalents attributable to Property as of the date of authorization of such special assessment by the Board of Directors.

(b) The share of the total annual assessment and any special assessments imposed by the Board of Directors pursuant to this Declaration shall be allocated among the

Owners on the basis of one (1) Assessment Equivalent per Lot, provided however, if any Lots shall be combined, the Owner of such Lots shall pay annual and special assessments on the basis of one (1) Assessment Equivalent for each Residential Dwelling Unit located on such combined Lots.

(c) The assessment obligations of each Owner other than the Developer shall commence upon the conveyance of a Lot to such Owner. Annual assessments shall be collectable in advance on a periodic basis as established by the Board of Directors from time to time. Special assessments shall be collectable in advance in the manner established by the Board of Directors at the time such special assessments are authorized.

Section 6.4 **Area Assessments.** The Board of Directors may establish and levy annual and special assessments to fund specific services authorized by the Board from time to time, including without limitation the cost of security and landscaping services, which shall benefit only specific Lots (the "Area Assessments"). The Area Assessments shall be levied against only those Lots that receive the benefit of such services and shall be allocated among only the Owners of such Lots in the manner determined by the Board of Directors. The identity of the Lots that are deemed to receive the benefit of the Area Assessments authorized by this Section 6.4 shall be determined by the Board in its sole discretion. Without limiting the generality of the foregoing, the Board may establish a standard landscaping charge which shall be assessed to those Owners who shall request the Association to perform landscaping services on their Lots. Such charge shall include the actual cost to the Association of providing such landscaping services, together with an additional reasonable charge for the Association's administration of such landscaping services.

Section 6.5 **Effect of Non-Payment of Assessment: Lien, Personal Obligation, and Remedies of Association.** The lien of the Association shall be effective from and after recording in the public records of Duval County, Florida, a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount and the due date. Such claim of lien shall include assessments which are due and payable when the claim of lien is recorded as well as assessments which may accrue thereafter, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record, and the affected Owner shall pay the cost of such satisfaction. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the due date at the highest lawful rate, and the Association may at any time thereafter bring an action to enforce the lien authorized hereby by appropriate foreclosure proceedings and/or a suit on the personal obligation against the Owner. In the event the Association shall fail to bring such an action for collection of such delinquent assessment within thirty (30) days following receipt of written notice from any Owner demanding that such proceedings be commenced, such Owner shall be authorized to institute such proceedings. There shall be added to the amount of such delinquent assessment the costs of collection incurred by the Association, or such Owner, which shall specifically include without limitation reasonable attorneys' fees for trial and appeal. Upon receipt of a written request therefor from any Owner, the Association shall provide such Owner with a written statement of all assessments and other charges due or to become due from such Owner to the Association, which shall be binding on the Association through the date indicated on the Association's written statement.

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Section 6.6 **Subordination of Lien to Mortgages**. The lien of the assessments provided for by this Declaration shall be subordinate to the lien of any bona fide mortgage which is perfected by recording prior to the recording of the claim of lien for any such unpaid assessments. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the Lot by deed in lieu of foreclosure, pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure of such mortgage. The total amount of assessment which remains unpaid as a result of a mortgagee obtaining title to the Lot shall be added to the total budget for Common Expenses and shall be paid by all Owners including the mortgagee on a pro rata basis. No sale or other transfer shall relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments. A written statement of the Association that the lien is subordinate to a mortgage, shall be dispositive of any question of subordination.

Section 6.7 **Developer's Assessments**. Notwithstanding any provision of this Declaration to the contrary, during the Development Period (as defined below) the Lots and other portions of the Property owned by the Developer shall not be subject to any annual or special assessments levied by the Association or to any lien for such assessments. During the Development Period, and in lieu of payment of any assessments to the Association, the Developer shall pay the balance of the actual operating expenses of the Association (excluding the cost of funding deferred maintenance and reserve accounts) remaining after the levying of and payment of assessments due from Owners other than the Developer pursuant to assessments levied by the Board pursuant to this Declaration (the "Operating Deficits"). The Developer shall be obligated to fund such Operating Deficits only as the expenses are actually incurred by the Association during the Development Period. The Development Period shall begin upon the conveyance of the first Lot in the Property to an Owner other than the Developer and shall continue until the first to occur of (i) the date that the Developer shall no longer have the right to appoint a majority of the Board; or (ii) the date that the Developer shall notify the Association that it will no longer pay for Operating Deficits of the Association. Upon termination of the Developer's agreement to pay Operating Deficits, the Developer shall become obligated to pay assessments on Lots owned by it within the Property on the same basis as other Owners. In no event shall the Developer be obligated to pay for Operating Deficits of the Association after the Developer no longer owns any Lots within the Property.

Section 6.8 **Capitalization of the Association**. In addition to the assessments to be paid pursuant to the provisions of this Article VI, upon acquisition of record title to a Lot from the Developer or any other party, each Owner acquiring such Lot shall contribute to the capital of the Association in an amount equal to up to one-sixth (1/6) of the annual per Lot assessment levied by the Association pursuant to Section 6.2, as determined by the Board. This amount shall be collected at the closing of the purchase and sale of applicable Lot and shall be disbursed to the Association.

ARTICLE VII **UTILITY PROVISIONS**

Section 7.1 **Water System**. The central water supply system provided for the service of the Property shall be used as sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located within the Property. Each Owner shall pay

water meter charges of the supplier thereof and shall maintain and repair all portions of the water lines which are located within, or which serve, the portions of the Property owned by such Owners. No individual potable water supply system or well for consumptive purposes shall be permitted on any Lot without the prior written consent of the Association.

Section 7.2 **Sewage System**. The central sewage system provided for the service of the Property shall be used as the sole sewage system for all buildings and improvements located within the Property. Each Owner shall maintain and repair all portions of the sewer lines located within, or which serve, the portions of the Property owned by such Owner, and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal services made by the operator thereof. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed within the Property.

Section 7.3 **Solid Waste Recycling**. Each Owner shall participate in any available solid waste recycling program instituted by the Developer, Duval County, Florida, or the solid waste collection provider. Solid waste collection receptacle pads constructed within the Property shall be designed so as to include space for recycling bins compatible with the applicable recycling program collection equipment.

Section 7.4 **Utility Services**. It shall be the responsibility of each Owner to make direct arrangements with the suppliers of electricity, water, sewer, and any other utility services for service to the portions of the Property owned by such Owner.

ARTICLE VIII
USE RESTRICTIONS AND RIGHTS AND EASEMENTS
RESERVED BY DEVELOPER

Section 8.1 **Residential Use**. The Lots subject to this Declaration may be used for residential dwellings and for no other purpose except that one or more Lots may be used for model homes during the development and sale of Lots within the Property or other properties. No business or commercial building may be erected on any Lot and no business may be conducted on any part thereof. No Lot shall be divided, subdivided or reduced in size without the prior written consent of the Developer. Assessments for common expenses attributable to any Lot which may be subdivided pursuant to this Section 8.1 shall be reallocated by the Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer.

Section 8.2 **Lot Coverage and Living Area**. The total ground area to be occupied by residential buildings and structures to be constructed upon the Property shall not exceed those percentages as shall be established by the Architectural Criteria. Each detached single family residence constructed upon a Lot shall contain a minimum number of square feet of heated and air conditioned living area as prescribed by such Architectural Criteria.

Section 8.3 **No Detached Buildings**. No garages, tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on

any Lot without the prior written consent of the Developer.

Section 8.4 **Setbacks.** Front, rear and side building setbacks for all dwellings and related structures shall be as established by the Architectural Criteria.

Section 8.5 **Easement Areas.** No dwelling shall be erected within any easement area shown on any plat of all or any portion of the Property.

Section 8.6 **Measurement of Setbacks.** All setbacks shall be measured from the exterior wall of the dwelling to the applicable Lot or parcel boundary.

Section 8.7 **Landscaping.** Landscaping shall be installed on each Lot in accordance with the requirements of the Architectural Criteria.

Section 8.8 **Motor Vehicles and Boats.** No boats, recreation vehicles or other motor vehicles, except four wheel passenger automobiles, shall be placed, parked or stored upon any Lot, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a building, or otherwise screened, so as to be totally isolated from public view. Commercial vehicles shall not be parked within the Property within public view on a regular basis. Construction trailers may be parked only with the prior written consent of the Developer and in an area designated by the Developer. Notwithstanding any provision of this Section 8.8 to the contrary, the Board of Directors shall have the authority to grant permission for the temporary parking of recreational vehicles on a case by case basis, provided that in no event shall any recreational vehicle be parked on any Lot for more than seven (7) consecutive days.

Section 8.9 **Nuisances.** Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to any party. 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. If a dispute or question arises as to what may be or become a nuisance, the issue shall be submitted to the Association's Board of Directors, whose decision shall be dispositive of such dispute or question. No immoral, improper or unlawful use shall be made of any portion of the Property and all valid laws, zoning ordinances and regulations of governmental agencies having jurisdiction thereof shall be complied with.

Section 8.10 **Antenna.** The installation of all aerials, antennae or satellite dishes shall be subject to the approval of the Developer in accordance with Architectural Criteria imposed by the Developer or the Association from time to time.

Section 8.11 **Lakes.** Only the Developer and the Association shall have the right to pump or otherwise remove any water from any lake adjacent to or near to the Subdivision for the purpose of irrigation or other use, or to place any refuse in such lake or lakes. The Developer and the Association shall have the sole and absolute right (but no obligation) to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. No gas or diesel driven boat shall be permitted to be operated on any lake. Lots which now or may hereafter be adjacent to or include a portion of a lake (the "lake parcels") shall be maintained so that such grass, planting or other lateral support

to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Association. Further, all shoreline vegetation, including cattails and the like, shall be maintained and controlled by the Owner of any lake parcel pursuant to the requirements of Section 8.18 hereof. If the Owner of any lake parcel fails to maintain the embankment or shoreline vegetation as part of its landscape maintenance obligations in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such lake parcel to perform such maintenance work which may be reasonably required, all at the expense of the Owner of such lake parcel pursuant to the provisions of Article IX of this Declaration. Title to any lake parcel shall not include ownership of any riparian rights associated therewith. No docks, bulkheads or other structures shall be constructed on such embankments unless and until same shall have been approved by the Developer. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with use of the surface waters of any lake adjacent to or nearby the Subdivision. The Association shall have the right to deny such use to any person who in the opinion of the Association may create or participate in the disturbance or nuisance on any part of the surface waters of any such lake. The use of the surface waters of any such lake shall be subject to rights granted to other persons pursuant to the rules and regulations of the Association.

Section 8.12 **Insurance and Casualty Damages.** Each Owner shall be required to obtain and maintain in force and effect a policy of fire and other casualty insurance with coverage adequate to cover the full replacement cost of the dwelling and other improvements located on the Owner's Lot. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, the Owner shall commence reconstruction of the improvements within six (6) months from date of casualty and shall repair or rebuild such damaged or destroyed improvements in a good workmanlike manner, within a reasonable time not to exceed one year and in accordance with the provisions of this Declaration. The improvements shall be reconstructed in accordance with the original plans and specifications including color scheme, placement on Lot and materials. All debris must be removed immediately and the Lot shall be restored to an orderly condition within a reasonable time not to exceed sixty (60) days from the date of such damage or destruction.

Section 8.13 **Trees.** No tree or shrub, the trunk of which exceeds six (6) inches in diameter one (1) foot above the ground, shall be cut down, destroyed or removed from a Lot without the prior express written consent of the Developer.

Section 8.14 **Artificial Vegetation.** No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the Developer.

Section 8.15 **Signs.** No sign of any kind shall be displayed to the public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the Developer.

Section 8.16 **Lighting.** No lighting shall be permitted which alters the residential character of the Subdivision.

Section 8.17 **Animals**. Dogs shall be kept under control by each Owner at all times and leashed when outside the boundaries of the Owner's Lot. Animals shall be kept for the pleasure of Owners only and not for any commercial or breeding use or purposes. If, in the discretion of the Board, any animal shall become dangerous or an annoyance or nuisance to other Owners, or destructive of wildlife or property, such animal may not thereafter be kept on a Lot. Further, in the event any group of animals shall collectively become dangerous or an annoyance or nuisance to other Owners, or destructive to wildlife or property, the Board shall have the right to require the applicable Owner to reduce the number of animals kept on the Lot, or to take such other remedial action as the Board shall specify.

Section 8.18 **Maintenance of Lots and Limited Common Areas**. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot or Limited Common Area, and no refuse pile or unsightly objects shall be allowed to be placed or allowed to remain anywhere within a Lot or Limited Common Area. All Lots and all portions of the Property and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake edge maintenance, all in a manner with such frequency as is consistent with good property management. In order to implement effective control, the Association, its agents and assigns, shall have the right to enter upon any Lot for the purpose of mowing, pruning, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Board distracts from the overall beauty and safety of the property in accordance with the provisions of Article IX hereof.

Section 8.19 **Fences**. Except as approved by the Developer pursuant to Article V hereof no fence, wall or other barrier shall be constructed upon any Lot or any other portion of the Property.

Section 8.20 **Maintenance of Driveways**. Each Lot Owner shall be responsible for maintenance of the driveway serving his Lot.

Section 8.21 **Compliance with Laws**. All Owners and other occupants of the Property shall at all times comply with all zoning, environmental, land use, marketing and consumer protection ordinances, statutes and regulations applicable to the Property or to any improvements constructed thereon, as well as all governmental rules, regulations, statutes and ordinances applicable to each Owner in connection with operation of improvements located within the Property. Without limiting the generality of the foregoing, no approval granted pursuant to the provisions of this Declaration shall excuse any Owner from complying with any and all applicable zoning or land use laws.

Section 8.22 **Platting and Additional Restrictions**. The Developer shall be entitled at any time, and from time to time, to plat or replat all or any part of the Property, and to file any covenants and restrictions, or amendments to this Declaration, with respect to any portion or portions of the Property owned by the Developer, without the consent or joinder of any other party.

Section 8.23 **Reservation of Right to Release Restrictions.** If a building or other improvement has been or is proposed to be erected within the Property in such a manner as to constitute a violation of, variance from, or encroachment into, the covenants and restrictions set forth in, or easements granted or reserved by, this Declaration, the Developer shall have the right to waive or release the violation, variance or encroachment without the consent or joinder of any person so long as the Developer, in the exercise of its sole discretion, determines in good faith that such waiver or release will not materially and adversely affect the health and safety of Owners, the value of adjacent portions of the Property, and the overall appearance of the Property.

Section 8.24 **Easements for Ingress, Egress, Utilities and Drainage.** The Developer reserves for itself, its successors, assigns and designees, a right-of-way and perpetual, nonexclusive easement for ingress and egress and to construct, maintain and use utilities, electric, telephone and street lighting poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ways and structures, or other public conveniences or utilities, on, in and over, (i) any portion of the Common Area; and (ii) any area designated as an easement, private street or right-of-way area on any plat of all or any portion of the Property.

Section 8.25 **Drainage Flow.** Drainage flow shall not be obstructed or diverted from drainage easements. The Developer or the Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to be necessary to maintain reasonable aesthetic standards relative to the Property and surrounding properties. These easements include the right to cut any trees, bushes or shrubbery, make any grading of the land, or to take any other reasonable action necessary to install utilities and to maintain reasonable aesthetic standards, but shall not include the right to disturb any permanent improvements erected upon a Lot which are not located within the specific easement area designated on the plat or otherwise reserved in this Declaration. All Lots shall at all times be graded so as to comply with the Neighborhood Grading Plan approved by the City of Jacksonville, Florida and all permits issued by the St. Johns River Water Management District.

Section 8.26 **Future Easements.** Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any portions of the Property owned by Developer. In addition, Developer hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Area so long as Developer shall own any portion of the Property. The easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Area.

Section 8.27 **Cable Television, Radio or Other Communication Lines.** The Developer reserves for itself, and its successors and assigns, a perpetual, exclusive easement for the installation, maintenance and operation of cables for the transmission of cable television, radio, or other electronic communications of any form, on, in, and over (i) any area designated as an easement, private street, or right of way on any plat of all or any portion of the Property, and (ii) any portion of the Common Area. All cables located within the Property shall be installed and maintained underground. For purposes of this Section 8.27, the term "cables" shall include without limitation, all wire, coaxial, fiber optic, or other cable types intended for the transmission of electronic communications.

Section 8.28 **Easements for Maintenance Purposes.** The Developer reserves for itself, the Association, and their respective agents, employees, successors or assigns, easements, in, on, over and upon each Lot and the Common Area as may be reasonably necessary for the purpose of preserving, maintaining or improving roadways, landscaped areas, wetland areas, lakes, ponds, hammocks, wildlife preserves or other Common Areas, the maintenance of which may be required to be performed by the Developer or the Association.

Section 8.29 **Mailboxes.** A mailbox shall be constructed on each Lot in compliance with the applicable Architectural Criteria, and such mailbox shall constitute the sole location for the delivery of mail to the occupants of such Lot.

Section 8.30 **Subdivision Development Activities of Developer.** During the time that Developer shall be engaged in the construction of roadways, utilities and other infrastructure within the Property, Developer reserves the right to enter upon each Lot for the purpose of clearing trees and vegetation, and the excavation and filling of areas (including permitted jurisdictional wetlands) that in the judgment of the Developer need to be cleared and filled for the installation of utilities, proper grading of right-of-way areas, or for aesthetic reasons. All areas to be disturbed on any Lot shall be filled with suitable fill material to an elevation equal to or higher than the existing grade. All work performed by the Developer or its contractors on all Lots pursuant to this Section 8.30 shall be performed in accordance with all applicable construction and environmental permits. The Developer shall indemnify, defend and hold harmless each Owner from and against any and all claims, liability or damages arising in connection with any clearing or filling activities conducted by the Developer on each such Owner's lot.

ARTICLE IX **EXTERIOR MAINTENANCE ASSESSMENT**

Section 9.1 **Exterior Maintenance.** The Association may provide maintenance upon any Lot or Limited Common Area requiring same, when necessary in the opinion of the Association's Board of Directors to preserve the beauty, quality, or value of any or all portions of the Property. Such maintenance shall include but not be limited to painting, roof repair and replacement, repair of gutters, downspouts, and exterior building surfaces, and yard clean-up and yard maintenance. Each affected Owner shall have seven (7) days within which to perform the required maintenance after being notified in writing by the Association that such maintenance is necessary before the Association undertakes the maintenance.

Section 9.2 **Assessments of Costs.** The cost of any maintenance undertaken by the Association under the provisions of Section 9.1 shall be assessed against each Lot upon which such maintenance is performed or, in opinion of the Board, benefiting from same. Exterior maintenance assessments shall not be considered a part of the annual or special assessments imposed upon the Property pursuant to Article VI hereof. Any exterior maintenance assessment shall be a lien upon each Lot assessed and the personal obligation of the Owner of each such Lot and shall become due and payable in all respects, together with interest, attorneys fees, and costs of collection, as provided for in Article VI, and shall be subordinate to mortgage liens to the extent provided by Article VI.

Section 9.3 **Access**. For the purpose of performing the maintenance authorized by this Article IX, the Association, through its duly authorized agents or employees, shall have the right, after the notice to the Owner provided under Section 9.1, to enter upon any Lot at reasonable hours on any day except Sunday. In the case of emergency repairs, access will be permitted at any time with only such notice as under the circumstances is practically affordable.

ARTICLE X **NOTICE OF PERMIT REQUIREMENTS**

Section 10.1 **Jurisdictional Areas and Permits**. THE PROPERTY HAS BEEN OR WILL BE DEVELOPED IN ACCORDANCE WITH REQUIREMENTS OF PERMIT NUMBER 4-031-89608-1 (THE "PERMIT"). THE PERMIT IS OR WILL BE OWNED BY THE ASSOCIATION AND THE ASSOCIATION HAS THE OBLIGATION TO ASSURE THAT ALL TERMS AND CONDITIONS THEREOF ARE ENFORCED. THE ASSOCIATION SHALL HAVE THE RIGHT TO BRING AN ACTION, AT LAW OR IN EQUITY, AGAINST ANY OWNER VIOLATING ANY PROVISION OF THE PERMIT. THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT 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.

FURTHER, ANY OWNER OWNING A LOT WHICH CONTAINS OR IS ADJACENT TO JURISDICTIONAL WETLANDS OR CONSERVATION AREAS AS ESTABLISHED BY THE ACOE OR SJRWMD OR BY ANY APPLICABLE CONSERVATION EASEMENT SHALL BY ACCEPTANCE OF TITLE TO THE LOT, BE DEEMED TO HAVE ASSUMED THE OBLIGATION TO COMPLY WITH THE REQUIREMENTS OF THE PERMIT AS THE SAME RELATE TO SUCH OWNER'S LOT AND SHALL AGREE TO MAINTAIN SUCH JURISDICTIONAL WETLANDS AND CONSERVATION AREAS IN THE CONDITION REQUIRED UNDER THE PERMIT. IN THE EVENT THAT AN OWNER VIOLATES THE TERMS AND CONDITIONS OF THE PERMIT AND FOR ANY REASON THE DEVELOPER OR THE ASSOCIATION IS CITED THEREFORE, THE OWNER AGREES TO INDEMNIFY AND HOLD THE DEVELOPER AND THE ASSOCIATION HARMLESS FROM ALL COSTS ARISING IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION ALL COST AND ATTORNEYS' FEES, AS WELL AS ALL COSTS OF CURING SUCH VIOLATION. NO PERSON SHALL ALTER THE DRAINAGE FLOW OF THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM OR ANY PORTION OF THE JURISDICTIONAL WETLANDS OR CONSERVATION AREAS, INCLUDING WITHOUT LIMITATION, ANY BUFFER AREAS, SWALES, TREATMENT BERMS OR SWALES, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SJRWMD OR ACOE, AS APPLICABLE.

Section 10.2 **Adjacent Aircraft Runway**. Owners are hereby notified that a privately owned runway used for the take off and landing of the adjacent landowner's private aircraft is located immediately west of Pablo Creek Reserve. Prior to the closing of the sale of any Lot within the Property, the prospective purchaser shall be provided a disclosure by the Seller of such Lot,

which shall be substantially in the form of the disclosure attached hereto and made a part hereof as Exhibit E. This airport facility currently has no operational restrictions on time of day, frequency of take-offs and landings, or type of landowner's private aircraft constituting legal usage of the runway.

ARTICLE XI
RIGHTS AND EASEMENTS GRANTED BY DEVELOPER

Section 11.1 **Easement for Ingress and Egress**. All Owners and their guests, invitees, agents and employees, and all delivery, pickup and fire protection services, police, and other authorities of the law, United States mail carriers, representatives of the utilities authorized by the Association to serve the Property, holders of mortgage liens on any portion of the Property and such other persons as the Developer or the Association may designate from time to time, shall have and are hereby granted the non-exclusive and perpetual right of vehicular and pedestrian ingress and egress over and across all paved areas located within the real property more particularly described on Exhibit D attached hereto and made a part hereof (the "Roadways"). To the extent that additional lands are made subject to this Declaration pursuant to Section 3.2 hereof, the easement granted hereby may be expanded to include additional roadways by specific reference thereto contained in one or more Supplementary Declarations referenced in Section 3.2 hereof.

Section 11.2 **Rights to Restrict Access**. Notwithstanding the provisions of this Declaration to the contrary, the Developer and the Association shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Developer or the Board, may create or participate in a disturbance or nuisance on any part of the Property or on any land owned by the Developer which is adjacent to or near the Property. The Developer and the Association shall have the right, but no obligation, from time to time to control and regulate all types of traffic on the Roadways referenced in this Article XI including the right to prohibit use of the Roadways by traffic or vehicles (including and without limitation, motorcycles and "go carts") which in the sole opinion of the Developer or the Board would or might result in damage to the Roadways or pavement or other improvements, or create a nuisance for the residents, and the right, but no obligation, to control and prohibit parking on all or any part of such Roadways. The Developer and the Association shall have the right, but no obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree or other things natural or artificial, placed on or located on any portion of the Property, if the location of the same will in the sole judgment and opinion of the Developer or the Board, obstruct the vision of a motorist upon any of the Roadways referenced in this Article XI. In the event and to the extent that the Roadways or easements over and across the Roadways for ingress and egress shall be dedicated to or otherwise acquired by the public, the preceding provisions of this Section 11.2 thereafter shall be of no further force or effect.

Section 11.3 **Rights of Developer to Alter Roadways**. Developer and its successors and assigns shall have the sole and absolute right at any time, with the consent of the Duval County, Florida or the governing body of any municipality or other governmental body or agency then having jurisdiction over the Property, to dedicate to the public all or any part of the Roadways and all or any part of the easements reserved herein or on any plat of any portion of the Property. In addition, Developer shall have the right to redesignate, relocate or terminate any of the easement areas described in Sections 11.1 and 11.2 without the consent or joinder of any party so long as no

Lot is denied reasonable access to a public dedicated street or highway by such redesignation, relocation or closure.

ARTICLE XII
GENERAL PROVISIONS

Section 12.1 **Developer's Reserved Rights re: Easements.** Notwithstanding any provision of this Declaration to the contrary, the Developer shall have the right to specifically define or amend the boundaries or extent of any easement, license, or use right reserved or granted pursuant to the terms hereof. At any time, the Developer shall have the right to execute and record an instrument which shall specifically define or amend the boundary and extent of any such easement, license or use right, or the Developer may specifically define or amend such boundaries by the designation thereof on one or more recorded plats of portions of the Property. The Developer's determination of the boundary and extent of any easement, license or use right reserved or granted pursuant to this Declaration in accordance with this Section 12.1, shall be dispositive for all purposes; provided nothing contained in this Section 12.1 shall authorize the Developer to take any action that would have a material and adverse affect on any improved portion of the Property.

Section 12.2 **Remedies for Violations.** If any Owner or other person shall violate or attempt to violate any of the covenants or restrictions herein set forth, it shall be lawful for the Association, the Developer, or any Owner (i) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant; or (ii) to maintain any proceeding against those so violating or attempting to violate any such covenant for the purpose of preventing or enjoining all or any such violations, including mandatory injunctions requiring compliance with the provisions of this Declaration. The ACOE and the SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System and/or jurisdictional wetlands or conservation areas subject to the control of the ACOE or SJRWMD. In the event litigation shall be brought by any party to enforce any provisions of this Declaration, the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party or parties, reasonable attorneys fees for pre-trial preparation, trial, and appellate proceedings. The remedies in this section shall be construed as cumulative of all other remedies now or hereafter provided or made available elsewhere in this Declaration, or by law.

Section 12.3 **Severability.** Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 12.4 **Additional Restrictions.** No Owner, without the prior written consent of the Developer, may impose any additional covenants or restrictions on any part of the Property, but the Developer may include in any contract or deed hereafter made and covering all or any part of the Property, any additional covenants or restrictions applicable to the Property so covered which are not inconsistent with and which do not lower standards established by this Declaration.

Section 12.5 **Titles.** The addition of titles to the various sections of this Declaration are

for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change, or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 12.6 **Termination or Amendment**. The covenants, restrictions, easements and other matters set forth herein shall run with the title to the Property and be binding upon each Owner, the Developer, the Association, and their respective successors and assigns for a period of fifty (50) years, and shall be automatically renewed for successive ten (10) year periods unless terminated as herein provided. The Owners holding two-thirds (2/3) or more of the total votes of the Association may alter, amend or terminate these covenants provided, however, that so long as the Developer owns any land within the Property, no such termination or amendment shall be effective without the written consent and joinder of the Developer. Further, until such time as the Developer shall not own any lands subject to this Declaration, the Developer shall have the unilateral right to amend this Declaration without the consent or joinder of any other party in any manner which does not materially and adversely affect the value of any Lot located within the Property. Any amendment to this Declaration which alters any provision relating to the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including the water management portion of the Common Areas, must have the prior written approval of the SJRWMD. Any amendment to this Declaration which amends the responsibilities or obligations of the parties with respect to the ACOE Permit, must have prior written approval of ACOE. This Declaration may not be terminated unless adequate provision for transferring perpetual maintenance responsibility for the Surface Water or Stormwater Management System obligation to the then Owners of the Lots is made, and said transfer obligation is permitted under the then existing requirements of the SJRWMD or its successors and the County or any other governmental body that may have authority over such transfer. In the event that the Association is dissolved, prior to such dissolution, all responsibility relating to the Surface Water or Stormwater Management System and the Permits must be assigned to and accepted by an entity approved by the ACOE and SJRWMD. Any amendment to this Declaration shall be executed by the Association and Developer, if applicable, and shall be recorded in the current public records of Duval County, Florida.

Section 12.7 **Conflict or Ambiguity in Documents**. To the extent of any conflict, ambiguity, or inconsistency between this Declaration, the Articles, or the Bylaws, the terms of this Declaration shall control both the Articles and Bylaws.

Section 12.8 **Usage**. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 12.9 **Effective Date**. This Declaration shall become effective upon its recordation in the public records of Duval County, Florida.

Section 12.10 **Disclaimers as to Water Bodies**. NEITHER THE DEVELOPER, THE ASSOCIATION, NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR

RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY ADJACENT TO OR WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES 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 ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS, POISONOUS SNAKES, AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES AND NATURAL AREAS WITHIN 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 DO 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 OR OTHER PORTION OF THE PROPERTY, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ANY AND ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION, OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES, OR LAKE BOTTOMS LOCATED THEREIN.

Section 12.11 Disclaimer of Liability of Association. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(A) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

(B) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, ANY LOCAL GOVERNMENT, AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(C) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DEVELOPER AND ALL PARTIES RELATED THERETO, ALL OF WHICH SHALL BE FULLY PROTECTED HEREBY.

IN WITNESS WHEREOF, the Developer and the Association have caused this instrument to be executed under seal this 2nd day of November, 2004.

Signed, sealed and delivered, in the presence of:

Tina E Downs
TINA E DOWNS
(Print Name)

PABLO CREEK RESERVE, LLC, a Florida limited liability company

By: Pablo Road Development, LLC, a Florida limited liability company, as Managing Member

By: Roger M. O'Steen
Roger O'Steen, President

Lauren L. Owens
Lauren L. Owens
(Print Name)

(CORPORATE SEAL)

STATE OF FLORIDA }
COUNTY OF Duval } SS

The foregoing instrument was acknowledged before me this 2nd day of November 2004, by Roger O'Steen, the President of Pablo Road Development, LLC, a Florida limited liability company, as Managing Member of **PABLO CREEK RESERVE, LLC**, a Florida limited liability company, on behalf of the company.

Lauren L. Owens
Print: Lauren L. Owens
NOTARY PUBLIC
State of Florida at Large
Commission #

My Commission Expires Lauren L. Owens
Personally Known Commission # DD359213
or Produced I.D. Expires November 3, 2008
[check one of the above]
Type of Identification Produced



OR2312PG1791

Signed, sealed and delivered

PABLO CREEK RESERVE HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit

in the presence of:

Tina E Downs

TINA E DOWNS
(Print Name)

Lauren Owens

Lauren Owens
(Print Name)

By:

Gregory J Barbour

Gregory J Barbour, President

(CORPORATE SEAL)

STATE OF FLORIDA }
COUNTY OF Duval } SS

The foregoing instrument was acknowledged before me this 2nd day of November 2004, by Gregory J. Barbour, the President of **PABLO CREEK RESERVE HOMEOWNERS ASSOCIATION, INC.**, a Florida corporation not-for-profit, on behalf of the corporation.

Lauren Owens

Print: Lauren Owens
NOTARY PUBLIC

State of Florida at Large

Commission #

My Commission Expires

Personally Know

or Produced I.D.

[check one of the above]

Type of Identification Produced



OR2312PG1792

EXHIBIT A

Legal Description of the Property Owned by Developer

Pablo Creek Reserve Phase One, according to the plat thereof recorded in Plat Book 57, pages 49, 49A through 49Q of the public records of Duval County, Florida.

OR2312PG1793

EXHIBIT B**Legal Description of the Property Owned by the Association****Roadway and Pond Tract, St. Johns County**

A portion of the Heirs of Joseph Peavett Grants, Sections 38 and 53, all lying in Township 3 South, Range 29 East, St. Johns County, Florida, and being more particularly described as follows:

For a Point of Reference, commence at a point on the Westerly line of said Range 29 East at a corner common to Duval County and said St. Johns County, said point also being on the Southerly Terminus of San Pablo Road, a 200 foot right of way as now established; thence South $00^{\circ}38'16''$ East, departing the Northerly line of said St. Johns County and along said Westerly line and along a line common to said Duval and St. Johns Counties, a distance of 458.48 feet to the Point of Beginning.

From said Point of Beginning, thence South $23^{\circ}31'43''$ East, departing said Westerly line, 295.65 feet; thence South $00^{\circ}38'16''$ East, 2422.28 feet; thence South $89^{\circ}21'44''$ West, 115.00 feet to a point lying on said Westerly line, said point also lying on the Westerly line of said St. Johns County; thence North $00^{\circ}38'16''$ West, along said Westerly lines, 2694.64 feet to the Point of Beginning.

Said lands thus described containing 6.75 acres, more or less.

OR2312PG1794

EXHIBIT C

Common Area

Tracts A, B, C, D, E, F, G, H, I, J, L, M, N, O, P, Q, R, S, T, U, and V, Pablo Creek Parkway, Chandler Bend Drive, Commissioners Drive, Tallulah Lake Court, and Reserve Circle as depicted on the plat of Pablo Creek Reserve Phase One according to the plat thereof recorded in Plat Book 57, pages 49, 49A, through 49Q of the public records of Duval County, Florida.

Together with the following described real property:

Roadway and Pond Tract, St. Johns County

A portion of the Heirs of Joseph Peavett Grants, Sections 38 and 53, all lying in Township 3 South, Range 29 East, St. Johns County, Florida, and being more particularly described as follows:

For a Point of Reference, commence at a point on the Westerly line of said Range 29 East at a corner common to Duval County and said St. Johns County, said point also being on the Southerly Terminus of San Pablo Road, a 200 foot right of way as now established; thence South $00^{\circ}38'16''$ East, departing the Northerly line of said St. Johns County and along said Westerly line and along a line common to said Duval and St. Johns Counties, a distance of 458.48 feet to the Point of Beginning.

From said Point of Beginning, thence South $23^{\circ}31'43''$ East, departing said Westerly line, 295.65 feet; thence South $00^{\circ}38'16''$ East, 2422.28 feet; thence South $89^{\circ}21'44''$ West, 115.00 feet to a point lying on said Westerly line, said point also lying on the Westerly line of said St. Johns County; thence North $00^{\circ}38'16''$ West, along said Westerly lines, 2694.64 feet to the Point of Beginning.

Said lands thus described containing 6.75 acres, more or less.

EXHIBIT D

Roadways

Pablo Creek Parkway, Chandler Bend Drive, Commissioners Drive, Tallulah Lake Court, and Reserve Circle as depicted on the plat of Pablo Creek Reserve Phase One according to the plat thereof recorded in Plat Book 57, pages 49, 49A, through 49Q of the public records of Duval County, Florida.

OR2312PG1796

EXHIBIT E

Adjacent Private Runway Disclosure

**PABLO CREEK RESERVE
ADJACENT PRIVATE RUNWAY DISCLOSURE**

This is to notify you of an existing privately owned runway located immediately west of Pablo Creek Reserve. This runway is used for the take off and landing of the adjacent landowner's private aircraft. This airport facility currently has no operational restrictions on time of day, frequency of take-offs and landings or type of landowner's private aircraft constituting legal usage of the runway. Purchasers of land within Pablo Creek Reserve are being notified of this adjacent airstrip upon execution of their purchase and sale agreements.

In addition, the Developer has committed to install a visual barrier along the community's western property line adjacent to the existing runway to block the view of the runway from the adjacent residential homes. This visual barrier will consist of an eight-foot high masonry wall system constructed of masonry block or other alternative masonry structural wall systems. The Developer has committed to construct this barrier prior to the completion of the development of the lots immediately adjacent to the western boundary.

By signing below, purchaser acknowledges receipt of this disclosure.

Purchaser's Signature
Print Name: _____

Purchaser's Signature
Print Name: _____

Return to:

Date: _____

Lot/Phase

[Insert name and address of seller]

Street Address