

Record and Return To:
Gary B. Davenport
Gary B. Davenport, P.A.
P.O. Box 1012
Flagler Beach, FL 32136

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
SWEETWATER

ARTICLE VI

- | | |
|-------------|---|
| Section 6.1 | Architectural Review and Approval |
| Section 6.2 | Architectural Review Board |
| Section 6.3 | Powers and Duties of the ARB |
| Section 6.4 | Compensation of ARB |
| Section 6.5 | Review of Initial Construction by Developer |
| Section 6.6 | Firewise Community Standards |
| Section 6.7 | Variance |
| Section 6.8 | Limited Liability |

ARTICLE VII

- | | |
|-------------|---|
| Section 7.1 | Creation of the Lien and Personal Obligation of Assessments |
| Section 7.2 | Purpose of Assessments |
| Section 7.3 | Calculation and Collection of Assessments |
| Section 7.4 | Effect of Non-Payment of Assessment: Lien, Personal Obligation, and Remedies of Developer |
| Section 7.5 | Subordination of Lien to Mortgages |
| Section 7.6 | Developer's Assessments |

ARTICLE VIII

- | | |
|-------------|----------------------|
| Section 8.1 | Exterior Maintenance |
| Section 8.2 | Assessment of Costs |
| Section 8.3 | Access |

ARTICLE IX

- | | |
|-------------|--------------------|
| Section 9.1 | Water System |
| Section 9.2 | Sewage System |
| Section 9.3 | Garbage Collection |
| Section 9.4 | Utility Service |

ARTICLE X

USE RESTRICTIONS AND RIGHTS AND EASEMENTS RESERVED BY DEVELOPER

- | | |
|--------------|--------------------------|
| Section 10.1 | Residential Use |
| Section 10.2 | Living Area |
| Section 10.3 | No Detached Buildings |
| Section 10.4 | Setbacks |
| Section 10.5 | Landscaping |
| Section 10.6 | Motor Vehicles and Boats |
| Section 10.7 | Nuisances |
| Section 10.8 | Antenna |

- Section 10.9 Insurance and Casualty Damages
- Section 10.10 Artificial Vegetation
- Section 10.11 Signs
- Section 10.12 Lighting
- Section 10.13 Animals
- Section 10.14 Maintenance of Lots
- Section 10.15 Fences
- Section 10.16 Maintenance of Driveways
- Section 10.17 Swale Maintenance
- Section 10.18 Compliance with Laws
- Section 10.19 Vegetative Natural Buffer

ARTICLE XI RIGHTS, LICENSES AND EASEMENTS RESERVED BY DEVELOPER

- Section 11.1 Easement for Ingress, Egress, Utilities and Drainage
- Section 11.2 Drainage Flow
- Section 11.3 Future Easements
- Section 11.4 Cable Television or Radio
- Section 11.5 Easements for Maintenance Purposes
- Section 11.6 Developer Rights Re: Temporary Structures, Etc.
- Section 11.7 Platting and Additional Restrictions
- Section 11.8 Developer's Right to maintain a Model, Sales or Construction Facility

ARTICLE XII GENERAL PROVISIONS

- Section 12.1 Remedies for Violations
- Section 12.2 Severability
- Section 12.3 Additional Restrictions
- Section 12.4 Titles
- Section 12.5 Termination or Amendment
- Section 12.6 Conflict or Ambiguity in Documents
- Section 12.7 Usage
- Section 12.8 Effective Date
- Section 12.9 Disclaimers as to Water Bodies

Exhibit A - Property

Exhibit B - Articles of Incorporation

Exhibit C - Bylaws

**DECLARATION
OF
COVENANTS AND RESTRICTIONS
FOR SWEETWATER**

THIS DECLARATION is made this _____ day of _____, 2007, by SWEETWATER ESTATES PARTNERS, LLC, a Florida limited liability company (the "Developer"), which declares that the real property described on Exhibit A attached hereto and made a part hereof (the "Property"), which is owned by the Developer, 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 and shall be binding upon the Developer 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 Sweetwater Homeowners Association of Flagler, 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. Copies of the Articles and Bylaws are attached as Exhibits B and C, respectively.

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, that is owned by the Developer, or by the Association, and that the Developer has initially designated for the common use of the Owners and as shown on the Plat and designated for common use, or by recording a Supplementary Declaration, pursuant to the terms of Section 5.3 hereof.

Section 2.4 **Developer.** Sweetwater Estates Partners, 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 Sweetwater Estates Partners, LLC as the Developer of the Property is not intended and shall not be construed, to impose upon Sweetwater Estates Partners, LLC any obligations, legal or otherwise, for the acts or omissions of third parties who purchase Lots or Parcels within the Property from Sweetwater Estates Partners, LLC and develop and resell the same.

Section 2.5 **Lot.** Any platted Lot or any other parcel of real property (including any and all structures thereon) located within the Property, on which one or more residential dwellings have been or could be constructed.

Section 2.6 **Owner.** The record owner or owners of any Lot.

Section 2.7 **Property or Subdivision.** The real property described on the attached Exhibit A.

Section 2.8 **Surface Water or Storm Water Management System.** 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, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges.

ARTICLE III **THE ASSOCIATION**

Section 3.1 **Purpose and Powers of the Association.** The general nature, objects and purposes of the Association are:

A. To promote matters of common interest and concern of the Owners of property within Sweetwater.

B. To own, maintain, repair and replace the Common Area, including without limitation the street lights, landscaping, structures, and other improvements located thereon, for which the obligation to maintain and repair has been delegated to and accepted by the Association.

C. To levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the Common Areas and for the costs of maintenance and operation of the surface water or storm water management system.

D. To cooperate with other associations responsible for administration of adjacent or contiguous properties in matters of common interest to the Association and such other associations and to contribute to such common maintenance interests whether within or without the Property.

E. To provide, purchase, acquire, replace, improve, maintain, operate and repair such buildings, structures, landscaping, paving, and equipment, and to provide such other services for the benefit of the members of the Association, as the Board of Directors in its discretion determines necessary, appropriate, and/or convenient.

F. To operate without profit for the sole and exclusive benefit of its Members.

G. To perform all of the functions contemplated for the Association and undertaken by the Board of Directors pursuant to the terms and conditions of the Declaration. The Association shall levy and collect assessments against the members of the Association for the costs of

Section 3.2 **Membership.** Each Owner, including the Developer (at all times so long as it owns any part of the Property), shall be a member of the Association, provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot.

Section 3.3 **Classes and Voting.** The Association shall have two classes of membership:

(a) **Class A Members.** The Class A Members shall be all Owners, with the exception of the Developer, who shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members of the Association. However, the vote for any such Lot shall be exercised as the Owner's thereof shall determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) **Class B Members.** The Class B Member shall be the Developer who shall be entitled to six (6) votes for each Lot owned by the Developer. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class A Membership equals the total votes outstanding in the Class B Membership;

(ii) December 31, 2012;

(iii) Three (3) months after ninety percent (90%) of the Lots in all phases have been conveyed to members of the Association other than the Developer; or

(iv) Such earlier date as the Developer may choose to terminate the Class B Membership upon notice to the Association.

ARTICLE IV
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 4.1 Existing Property. The land that initially is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration consists of the Property.

Section 4.2 Additional Property:

4.2.1 By Developer. Developer shall have the right, but not the obligation, from time to time in its sole discretion, to annex to the Property and to include within this Declaration, any additional property with no further consent of owners or mortgagees.

4.2.2 By Association. The Association may annex additional property which it owns or which others own, to the Property with the approval of two thirds (2/3) of the vote of the Board of Directors and with the consent of the owners of the property to be annexed.

Section 4.3 Supplemental Declaration. Any such additions authorized by this Section shall be made by the filing of record of one or more supplemental declarations. With respect to the additional property annexed by the Developer, the supplemental declaration need only be executed by the Developer; in the case of additional property to be annexed by the Association, the supplemental declaration shall be executed by the President of the Association and the owner of the land to be subjected, if not the Association, and shall state that such annexation is in accordance with the resolution passed by the Association in accordance with the terms of this Declaration. A supplemental declaration shall contain a statement that the real property that is the subject of the supplemental declaration constitutes additional property which is to become a part of the Property subject to this Declaration. In addition, the supplemental declaration may contain additional covenants and restrictions provided that such covenants and restrictions are consistent with those contained herein. Supplemental declarations may permit attached housing, zero lot line housing, condominium units or other styles of dwellings permitted by the applicable zoning and a separate declaration with respect thereto may also be recorded. Such supplemental declaration shall become effective upon being recorded in the public records of the County.

Section 4.4 Effect of Annexation. In the event that any additional property is annexed to the Property pursuant to the provisions of this Article upon recording of the supplemental declaration, (a) such additional property shall be considered within the definition of the term Property for all purposes of this Declaration, and (b) all voting of each class of membership of the Association and all voting by the Owners hereunder shall be aggregated, it being intended that (i) any voting requirements need not be fulfilled separately for the additional property, and (ii) any Class B Member shall at all times have a majority of the votes of the Association until converted to Class A membership as described in Article II. Owners, upon recordation of any supplemental declaration, shall also have a right and non-exclusive use and enjoyment in and to the Common Property within the additional property so annexed and any obligation to contribute to the cost of improvement, operation and maintenance of such Common

Property within the annexed land. Provided however, until a supplemental declaration is recorded subjecting any portion of the additional property to the Declaration, the fact that such additional property is described on Exhibit A shall not constitute and shall in no way be deemed or construed to be a defect or encumbrance on the title of the additional property.

Section 4.5 Withdrawal. The Developer may, at any time in its sole discretion, determine to withdraw property from this Declaration by recording in the public records a Declaration of Withdrawal of the Property which shall be consented to by the owner of the Property and its mortgagee, if any, if such Property is not owned by the Developer. Subsequent to the termination of the Developer's ownership of any property subject to the Declaration, the Association may withdraw property in the manner stated herein with the consent of the owner and any mortgagee, if the owner is not the Association.

ARTICLE V COMMON AREA RIGHTS

Section 5.1 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, before the date that is ninety (90) days following the conveyance of the last Lot owned by the Developer to any party. 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 5.2 Owners' Easement of Enjoyment. Each Owner shall have a 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; provided however, the Common Area may not be mortgaged or conveyed free and clear of the provisions of this Declaration without the approval of Members holding two-thirds (2/3) of the total votes that are allocated to the Association's members;

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

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

(d) The rights of the Developer under Section 5.3 to add to or withdraw land from the Common Area;

(e) 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.

Section 5.3 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 5.3, 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 any 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 Flagler 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 2.3 hereof, or subsequently designated as such by the Developer pursuant to Section 2.3 hereof and this Section 5.3, 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 5.3, 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 5.4 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, landscaping, and street lights (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, swales, 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 any applicable permits issued by Flagler County, Florida. The Association shall maintain those portions of the Common Area designated by applicable permit as conservation tracts, stormwater management tracts or similar designations, including, but not limited to retention areas, drainage structures and drainage easements, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction. 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 this Declaration which relate to the maintenance, operation and repair

of the surface water or stormwater management system. 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 5.4, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 5.5 Easement for Maintenance 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 Surface Water or Storm Water 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 Storm Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water or Storm Water 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 Storm Water Management System. No person shall alter the drainage flow of the Surface Water or Storm Water Management System, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District. The easement granted hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, and 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 VI **ARCHITECTURAL CONTROL**

Section 6.1 Architectural Review and Approval. No landscaping, improvement or structure of any kind, including without limitation, any building, fence, wall, screen enclosure, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Lot, 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 Association. 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 which may be imposed from time to time by the Developer or the Association. It shall be the burden of each Owner to supply two (2) sets of completed plans and specifications to the Architectural Review Board ("ARB") and no plan or specification shall be deemed approved unless a written approval is granted by the ARB to the Owner submitting same. The ARB 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 ARB to the Owner submitting same.

Section 6.2 Architectural Review Board. The architectural review and control functions of the Association shall be administered and performed by the ARB, which shall consist of three (3) or five (5) members who need not be members of the Association. The Board of Directors of the Association shall have the right to appoint all of the members of the ARB. A majority of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. Any vacancy occurring on the ARB because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors.

Section 6.3 Powers and Duties of the ARB. The ARB shall have the following powers and duties:

(a) To recommend amendments to the architectural criteria to the Board at such time as the Board shall have the right to adopt or amend architectural criteria for the Property. For so long as the Developer shall be entitled to elect or appoint a majority of the members of the Board, only the Developer shall have the right to promulgate, amend, eliminate, or replace architectural criteria applicable to architectural review to be conducted by the Association. At such time as members of the Association shall elect a majority of the members of the Board, such architectural criteria shall be promulgated, amended, eliminated, or replaced by the Board. 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 to the ARB of two (2) complete sets of all plans and specifications for any improvement or structure of any kind requiring review and approval of the ARB pursuant to this Article VI. The ARB 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 ARB 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 VI, any improvements or structures of any kind (other than Initial Construction), 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. All decisions of the ARB may, but need not be evidenced by a certificate in recordable form executed under seal by the President or any Vice President of the Association. Any party aggrieved by a decision of the ARB shall have the right to make a written request to the Board, within thirty (30) days of such decision, for a review thereof. The determination of the Board upon review of any such decision shall be dispositive.

(d) To adopt a schedule of reasonable fees for processing requests for ARB 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 ARB.

Section 6.4 **Compensation of ARB.** The Board may, at its option, pay reasonable compensation to any or all members of the ARB.

Section 6.5 **Review of Initial Construction by Developer.** No Initial Construction shall be commenced upon any Lot unless and until the plans, specifications and location of the same have been submitted to, and approved by, the Developer in writing. All plans and specifications shall be evaluated as to visual and acoustical privacy, as to harmony of external design and location in relation to surrounding structures, if any, topography, existing trees and other natural vegetation, and as to consistency with this Declaration and architectural criteria made applicable to Initial Construction by the Developer from time to time.

Section 6.6 **Firewise Community Standards.** Sweetwater is intended to be a Firewise Community. Firewise Community Standards shall be incorporated into the Communities Architectural Criteria.

Section 6.7 **Variance.** The Developer and the ARB may authorize variances from compliance with any architectural provisions 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 or ARB, as applicable. If such a variance was 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 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 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 6.8 **Limited Liability.** In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer, the ARB, or the Association as contemplated by this Article VI, neither the Developer, the ARB, nor the Association shall be liable to an 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 VII **COVENANTS FOR MAINTENANCE ASSESSMENTS**

Section 7.1 **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 assessments, and any special assessments established and collected as hereinafter provided. 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 each 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 7.2 Purpose of Assessments.

7.2.1 The annual assessments levied by the Association shall be used for the purposes of management and accounting fees, taxes, insurance, and utility charges relating to the Common Area, including the costs of maintenance, to fund the obligations of the Association set forth in Section 5.4 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 system including, but not limited to work in 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. 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 relating to, the Common Area.

7.2.2 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 the Bylaws. Any funds collected pursuant to such a special assessment shall be used solely for the purpose or purposes identified by the Board of Directors at the time such special assessment is levied.

Section 7.3 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 which shall be allocated among the Owners as provided in subparagraph (b) of this Section 7.3. Except as hereafter provided, the annual assessment amount allocated to each Lot is hereby established to be, and shall not exceed, \$500.00 per Lot. From and after December 31, 2005, such amount may be decreased, or increased by an amount not to exceed ten percent (10%) of the prior annual assessment amount per Lot, 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 Lot may be increased above the ten percent (10%) limitation set forth in this Section 7.3.

(b) All annual and special assessments shall be established at a uniform rate

per Lot.

(c) The assessment obligations of each Owner other than the Developer shall commence upon the recordation of this Declaration in the current public records of Flagler County, Florida. Annual assessments shall be collectable in advance on a periodic basis established by the Board of Directors from time to time, which periodic basis shall not be less frequent than annually. Special assessments shall be collectible in advance in the manner established by the Board of Directors at the time such special assessments are authorized.

Section 7.4 Effect of Non-Payment of Assessment; Lien, Personal Obligation, and Remedies of Developer. The lien of the Association shall be effective from and after recording in the public records of Flagler 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 herein 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 a 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.

Section 7.5 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 affected 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. No sale or other transfer shall release 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 7.6 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, the Developer shall pay the balance of the actual operating expenses of the Association (excluding costs of major repairs, deferred maintenance, replacements and reserves) remaining after the levying of and payment of assessments due from Owners other than the

Developer pursuant to assessments levied by the Board of Directors pursuant to this Declaration. The Developer shall be obligated to fund such balance 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 (i) the Developer shall notify the Association that it will no longer pay for operating deficits of the Association; or (ii) the Class B Membership shall cease and be converted to Class A Membership. 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.

ARTICLE VIII EXTERIOR MAINTENANCE ASSESSMENT

Section 8.1 **Exterior Maintenance.** The Association may provide maintenance upon any Lot 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 fifteen (15) 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 8.2 **Assessments of Costs.** The cost of any maintenance undertaken by the Association under the provisions of Section 8.1 shall be assessed against each Lot upon which such maintenance is performed or, in the 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 VII of this Declaration. 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 Sections 7.3 and 7.4, and shall be subordinate to mortgage liens to the extent provided by Section 7.5.

Section 8.3 **Access.** For the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after the notice to the Owner provided under Section 8.1, 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 IX UTILITY PROVISIONS

Section 9.1 **Water System.** Each Owner shall, at the Owner's sole expense, provide for the construction of a fresh-water well for consumptive purposes ("Well") on such Owner's Lot. Such Well 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 Lot.

Section 9.2 **Sewage System.** Each Owner shall, at the Owner's sole expense, provide for the construction of an individual sewage disposal system ("Septic Tank System") on such Owner's Lot. All Septic Tank Systems shall be designed, located, and constructed in strict accordance with all requirements, standards, and recommendations of all state and local authorities having jurisdiction. Prior approval of all Septic Tank Systems shall be obtained from all such authorities and from the ARB. If a Septic Tank System requires a raised drain field or absorption field, the raised area must be landscaped by incorporating a slope of no steeper than a four to one horizontal to vertical ratio, or a landscaped retaining wall approved by the ARB. 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 9.3 **Garbage Collection.** Each Owner shall pay when due the periodic charges or rate for garbage collection services made by the party or company providing the same.

Section 9.4 **Utility Service.** It shall be the responsibility of the Owner or occupant of each Lot to make direct arrangements with the suppliers of electricity and any other utility services for service to such Lot. Each Lot owner will be required to make proper application for electrical service to include a site plan showing the location of the house as may be required by the utility provider.

ARTICLE X **USE RESTRICTIONS**

Section 10.1 **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. Home based business are permitted as long as they are in accordance with Flagler County, Florida Ordinances and do not reasonably adversely impact the quiet enjoyment or aesthetics of other Owners or their tenants, guests, or family members. No business or commercial building may be erected on any Lot. 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 10.1 shall be reallocated by the Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer.

Section 10.2 **Living Area.** Each detached single-family residence constructed upon a Lot shall contain a minimum of two thousand (2000) square feet of heated and air-conditioned living area.

Section 10.3 **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 except as permitted by all applicable ordinances, rules, and regulations established by Flagler County, Florida, and as approved by the ARB.

Section 10.4 Setbacks. The building setback requirements for all structures constructed within the Subdivision shall be as established by the ARB and local Ordinance.

10.4.1 Easement Areas. No dwelling or other permanent structure shall be erected within any easement area or required buffers shown on any plat of all or any portion of the Property or within any easement reserved by Section 11.1 of this Declaration.

10.4.2 Measurement of Setbacks. All setbacks shall be measured from the exterior wall of the dwelling to the applicable Lot or parcel boundary. Air conditioning units may be located in setbacks if permitted by the applicable zoning ordinances.

Section 10.5 Landscaping. Landscaping shall be installed on each Lot as stated hereafter.

10.5.1 Except for landscaping installed by the Developer, a landscaping plan for each Lot appurtenant thereto must be submitted to and approved by the Developer at the time of Initial Construction of a residence on such Lot. Maximum utilization of existing trees and shrubs, and natural landscaping techniques shall be encouraged. Sodding with Bahia, St. Augustine or Bermuda grass varieties only will be required as set forth in the architectural criteria established pursuant to Article VI hereof.

10.5.2 Subsequent to approval by the Developer of landscaping plans submitted pursuant to Section 10.5.1 above, the Owner shall be obligated to complete the landscaping of his Lot in accordance with such plans and Section 10.5.1 above, within thirty (30) days following the issuance of a Certificate of Occupancy or similar final approval for the residence constructed on the Lot by the Building Department of Flagler County, Florida, or other governmental authority having jurisdiction. In the event the landscaping is not completed as provided herein, the Association shall have the right to enter the Lot and complete said landscaping in accordance with the approved plans, in the same manner as exterior maintenance may be performed by the Association pursuant to Article VIII of this Declaration. The Association shall be entitled to a lien against the Lot in an amount equal to one hundred ten percent (110%) of the cost to complete landscaping on such Lot and/or Common Area, which sum may be collected as provided in Article VII hereof.

Section 10.6 Motor Vehicles and Boats. No recreation vehicles or other motor vehicles, boats and trailers of all types, except four wheel passenger automobiles and pick-up trucks, 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.

Section 10.7 Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to any party, including, but not limited to sight, sound, smell or increase in traffic. 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 10.8 Antenna. The installation of all aerials, antennae or satellite dishes shall be permitted subject to the approval of the ARB in accordance with architectural criteria imposed by the Developer or the Association from time to time and in accordance with all applicable rules and regulations of the Federal Communications Commission or other governmental authorities having jurisdiction.

Section 10.9 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 10.10 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 ARB.

Section 10.11 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 Association; provided however, directional signage to be used during the construction of homes within the Property shall be solely subject to the approval of the Developer.

Section 10.12 Lighting. No lighting shall be permitted which alters the residential character of the Subdivision.

Section 10.13 Animals. All animals shall be kept under control by each Owner at all times and leashed or otherwise under the Owner's control when outside the boundaries of the Owner's Lot. Breeding of pigs, hogs, chickens, and any other animals that the Developer or its assigns deem, in their sole and absolute discretion, to be a nuisance or a hazard is strictly prohibited. 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 10.14 Maintenance of Lots. After construction of improvements on a Lot has commenced, no refuse pile or unsightly objects maintained on the Property shall be visible from the road, and any refuse pile or unsightly object shall be completely screened so as to be isolated from public view. All such Lots 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 and 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 VIII hereof and the Owner shall be responsible for the reasonable costs of Lot maintenance in accordance with the provisions of Article VIII. During construction of the dwelling or other improvements, the Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot.

Section 10.15 Fences. Except as approved by the Developer as part of Initial Construction, fences, walls or other barriers must be approved by the ARB prior to construction upon any Lot or any other portion of the Property. If approved by the ARB, all fences, walls or other barriers erected in the rear portion of the Lot behind the primary residential structure shall be located a minimum of five feet (5') inside all Lot lines. Any and all fences or barriers constructed in conservation areas may require advance approval or permits, including, at a minimum, a Noticed General Permit, from the St. Johns River Water Management District. The placement of fences within wetlands may require, at a minimum, a Noticed General Permit (40C-400.437 F.A.C.) from the St. Johns River Water Management District.

Section 10.16 Maintenance of Driveways. Each Lot Owner shall be responsible for maintenance of the driveway, including culvert and mitered end sections, serving his Lot. Any repair or replacement of the driveway shall not impede the flow of water in the culvert.

Section 10.17 Swale Maintenance. The Developer has constructed a Drainage Swale upon each Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time. Each Owner, including builders, will 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, within all the swales to provide drainage, water storage, conveyance or other storm water 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 of the Lot upon which the Drainage Swale is located.

Section 10.18 Compliance with Laws. All Owners and other occupants of the Property shall at all times comply with the terms of all environmental, land use, marketing and consumer

protection ordinances, statutes, regulations, and permits applicable to the Property or to any improvements constructed thereon.

Section 10.19 Vegetative Natural Buffer.

10.19.1 There shall be set aside a permanent vegetative natural buffer (the "Buffer") twenty-five (25) feet wide, which is included within the Conservation Easements as shown on the Plat. This buffer extends across Lots one (1) through twenty nine (29). The Buffer is part of the surface water management system permitted by the St. Johns River Water Management District. The purpose of the Buffer is to detain and treat storm water prior to drainage off site; therefore, the area must be maintained with a dense vegetative cover. Filling and the placement of impervious surfaces are prohibited within the Buffer. No alteration of the Buffer shall be authorized without the prior written authorization of the SJRWMD. Any damage to the Buffer whether caused by natural or human-induced phenomena, shall be repaired, and the Buffer returned to its former condition as soon as possible by the Association.

10.19.2 Notwithstanding the provisions of any easement or similar instrument to the contrary, the Buffer shall remain in a natural state. Further, the removal of nuisance plant species that are listed on the noxious plant species list maintained by the FDEP including without limitation Brazilian pepper, and the planting of appropriate upland native species shall be permitted within the Buffer with the prior written permission or approval from the St. Johns River Water Management District. In the event that such removal of nuisance plant species shall occur within the Buffer or adjoining wetland areas, only native obligate or facultative wetland species listed in Chapter 62-340, Florida Administrative Code shall be planted in wetland areas, and only native upland species (those plants not listed in Chapter 62-340, Florida Administrative Code) shall be planted in the Buffer. Replacement of native species shall occur within thirty (30) days of removal of nuisance plant species. In all cases where such replacement plantings occur, a plant coverage ratio of not less than eighty percent (80%) shall be maintained. No removal of nuisance plant species, and no replanting shall occur within the Buffer or any adjoining wetland area, without the prior written approval of the Association. The Association shall consult with an appropriate registered professional prior to allowing the removal or planting of any species within the Buffer or adjoining wetlands, it being the intent of this Declaration that the natural function of the Buffer and such wetlands be maintained or enhanced where reasonably possible.

ARTICLE XI
RIGHTS, LICENSES AND EASEMENTS RESERVED BY DEVELOPER

Section 11.1 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 erect, 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, cable television and radio equipment or other public conveniences or utilities, on, in and over, (i) any portion of the Common Area; (ii) any portion of the Surface Water or Stormwater Management Systems; (iii)

any area designated as an easement, private street or right-of-way area on any plat of all or any portion of the Property; and (iv) a strip of land within each Lot five (5) feet in width along the front, rear and sides of each Lot.

Section 11.2 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 reserved in this Declaration. Except as provided herein, existing drainage shall not be altered so as to divert the flow of water onto an adjacent Lot or into sanitary sewer lines.

Section 11.3 Future Easements. Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any Lots within 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 11.4 Cable Television or Radio. Developer reserves for itself, and its successors and assigns, an exclusive easement for the installation, maintenance and supply of radio and television cables within the rights of way and easement areas depicted upon any plat of any portion of the Property or within any easement reserved by this Declaration.

Section 11.5 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 areas, the maintenance of which may be required to be performed by the Developer or the Association.

Section 11.6 Developer Rights Re: Temporary Structures, Etc. Developer reserves the right for itself, its successors, assigns, nominees and grantees, to erect and maintain such temporary dwellings, model houses and/or other structures upon Lots owned by the Developer, which it may deem advisable for development purposes and to do all acts reasonably necessary in connection with the construction and sale of improvements located on the Lots within the Subdivision. Nothing contained in this Declaration shall be construed to restrict the foregoing rights of Developer.

Section 11.7 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 owned by it, and

to file any covenants and restrictions, or amendments to this Declaration, with respect to any undeveloped portion or portions of the Property owned by the Developer.

Section 11.8 Developer's Right to Maintain a Model, Sales or Construction Facility. For as long as there remains any unsold Lots within the Property, Developer shall have the right to maintain a model, sales or construction facility on the Property, or any portion thereof, including all such signage that Developer may deem necessary or convenient.

ARTICLE XII GENERAL PROVISIONS

Section 12.1 Remedies for Violations.

12.1.1 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. 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 nonprevailing party or parties, reasonable attorney's fees and costs 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.

12.1.2 In addition to all other remedies, and to the maximum extent allowed by law, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, lessees, invitees or employees, to comply with any covenant or restriction herein contained, or rule of the Association, provided the following procedures are adhered to:

(a) For a first violation, the Association shall warn the Owner of the alleged infraction in writing.

(b) For a subsequent violation, the Association shall provide the Owner with a notice of its intent to impose a fine for such violation. Included in the notice shall be the date and time of a meeting of a committee appointed by the Board of Directors (the "Rules Enforcement Committee") at which time the Owner shall present argument as to why a fine should not be imposed. At least fourteen (14) days prior notice of such meeting shall be given.

(c) At the meeting, the alleged infractions shall be presented to the Rules Enforcement Committee, after which the Committee shall receive evidence and hear argument as to why a fine should not be imposed. A written decision of the Rules Enforcement Committee shall be submitted to the Owner not later than thirty (30) days after the Board of Directors meeting. At the meeting, the Owner shall have the right to be

represented by counsel and to cross-examine witnesses.

(d) The Rules Enforcement Committee, by majority vote, may impose a fine not to exceed the maximum amount allowed by law from time to time.

(e) Fines shall be paid not later than five (5) days after notice of the imposition or assessment thereof.

(f) The payment of fines shall be secured by one or more liens encumbering the Lot or Lots owned by the offending Owner. Such fines and liens may be collected and enforced in the same manner as regular and special assessments are collected and enforced pursuant to Article VII hereof.

(g) All monies received from fines shall be allocated as directed by the Board of Directors.

(h) The imposition of fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association or any Owner may be otherwise legally entitled; provided, however, any fine paid by an offending Owner shall be deducted from or offset against any damages which may be otherwise recoverable from such Owner.

(i) The Rules Enforcement Committee shall be comprised of not less than three (3) members who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. No member of the Rules Enforcement Committee shall participate in the review of any infraction in which such member is alleged to have participated.

Section 12.2 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 12.3 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 12.4 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 12.5 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, notwithstanding any provision in this Declaration, the Owners may not amend this Declaration in any way that affects the Developer's reserved rights under Article XI without the Developer's consent and joinder to such amendment. Any amendment to this Declaration which alter any provision relating to the Surface Water or Storm Water Management System beyond maintenance in its original condition, including the water management portions of the Common areas, must have the prior approval of the St. Johns River Water Management District. 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. 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 Flagler County, Florida.

Section 12.6 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 12.7 Usage. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 12.8 Effective Date. This Declaration shall become effective upon its recordation in the public records of Flagler County, Florida.

Section 12.9 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 OR WETLAND AREA 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 LAKES, RETENTION PONDS AND OTHER WATER BODIES HAVE 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 LAKES, RETENTION PONDS AND/OR OTHER WATER BODIES BANKS, SLOPES, OR BOTTOMS LOCATED THEREIN.

Signatures on the following page

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed under seal this 23rd day of May, 2007.

Signed, sealed and delivered
in the presence of:

Sally H. Wilcott
Sally H. Wilcott
(Print Name)
Patricia C. Tucci
Patricia C. Tucci
(Print Name)

STATE OF FLORIDA)
)
COUNTY OF FLAGLER)

The foregoing instrument was acknowledged before me this 23rd day of May, 2007, by John W. Horan, Manager/Member of SWEETWATER ESTATES PARTNERS, LLC, a Florida limited liability company, on behalf of the company.



Sally H. Wilcott
Commission # DD375895
Expires February 16, 2009
Bonded Title Felt - Insurance, Inc. 800-940-7019

**SWEETWATER ESTATES
PARTNERS, LLC**, a Florida limited
liability company

By:

John W. Horan
Its: Manager/Member

Address: 300 S Central Avenue
Suite 105
Flagler Beach, Florida 32136

Sally H. Wilcott
NOTARY PUBLIC, State of
Florida at Large
Commission # _____
My Commission Expires:
Personally Known _____
or Produced I.D. _____
(Type of Identification Produced)

Sweetwater Estates Homeowners' Association of Flagler, Inc., a Florida corporation not for profit, hereby agrees to accept all of the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Declaration and Exhibits attached hereto.

IN WITNESS WHEREOF, the above described corporation, a Florida corporation not for profit, has caused these presents to be signed in its name by its President and its corporate seal affixed, this 23rd day of MAY, 2007.

Signed in the presence of:

Sally H. Wilcott

Patricia C. Trujillo

**SWEETWATER ESTATES HOMEOWNERS'
ASSOCIATION OF FLAGLER, INC.**

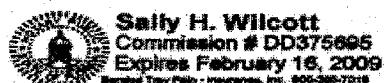
By:

John W. Horan
(Corporate Seal)

STATE OF FLORIDA |
COUNTY OF FLAGLER |

The foregoing instrument was acknowledged before me on the 23rd day of MAY, 2007, by JOHN W. HORAN as President of Sweetwater Estates Homeowners' Association of Flagler, Inc., a Florida corporation not for profit, on behalf of and as the act and deed of the corporation. He is personally known to me and did not take an oath.

Sally H. Wilcott
Notary Public
(Seal)



CONSENT AND JOINDER OF MORTGAGEE

CypressCoquina Bank ("Mortgagee") is the holder of that certain Real Estate Mortgage ("Mortgage") recorded in Official Records Book 1325, page 1880 of the public records of Flagler County, Florida. Mortgagor joins in the foregoing Declaration of Covenants and Restrictions for Sweetwater to which this Consent is attached ("Declaration") to evidence its consent and joinder to the provisions of this Declaration and its agreement that its security interest as evidenced by the Mortgage shall be subordinated thereto.

Signed, sealed and
delivered in the presence of

CYPRESSCOQUINA BANK

By: Patricia Vitulli
Its: Senior Vice President

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 24 day of MAY,
2007, by PATRICK KELLY, the Senior Vice Pres. of CYPRESSCOQUINA
BANK, a National Bank, on behalf of the Bank. He/She is personally known to me or has
produced _____ as identification.

Patricia S. Vitulli
NOTARY PUBLIC

(SEAL)



Patricia S. Vitulli
Commission #DD299691
Expires: Mar 11, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

EXHIBIT A

PROPERTY

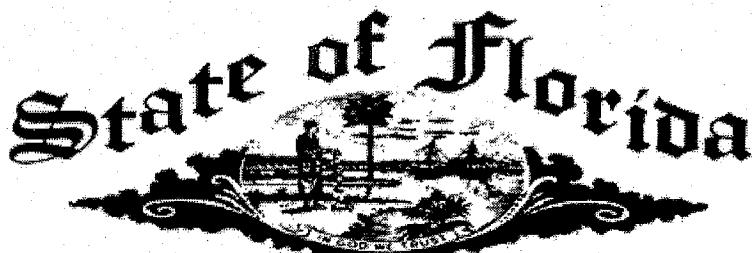
PHASE 1 DESCRIPTION

PART OF SECTIONS 16 AND 21, TOWNSHIP 13 SOUTH RANGE 30 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SECTION 21, THENCE S01°38'33"E ALONG THE EAST LINE OF SECTION 21 A DISTANCE OF 2912.85 FEET; THENCE S89°25'01"W A DISTANCE OF 1908.32 FEET; THENCE N43°02'28"W A DISTANCE OF 325.77 FEET; THENCE S46°57'32"W A DISTANCE OF 54.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORtherly; THENCE ALONG SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 156°53'45", A RADIUS OF 54.00 FEET, A CHORD BEARING OF N54°35'36"W, FOR AN ARC LENGTH OF 147.87 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE WESTerly; THENCE ALONG SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 66°53'45", A RADIUS OF 25.00 FEET, A CHORD BEARING OF N09°35'36"W, FOR AN ARC LENGTH OF 29.19 FEET TO THE POINT OF TANGENCY THEREOF; THENCE N43°02'28"W A DISTANCE OF 383.83 FEET; THENCE S89°23'07"W A DISTANCE OF 2875.28 FEET TO A POINT ON THE WEST LINE OF SECTION 21 AFORESAID; THENCE N00°36'53"W ALONG SAID WEST LINE A DISTANCE OF 1717.85 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF COUNTY ROAD 304; THENCE N42°11'27"E ALONG THE SOUTHERLY RIGHT OF WAY A DISTANCE OF 1365.65 FEET; THENCE N41°47'50"E CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY A DISTANCE OF 586.99 FEET; THENCE S01°32'00"E DEPARTING SAID RIGHT OF WAY A DISTANCE OF 750.18 FEET TO A POINT ON THE NORTH LINE OF SECTION 21 AFORESAID; THENCE S89°41'58"E ALONG SAID NORTH LINE A DISTANCE OF 1333.37 FEET; THENCE S89°38'19"E CONTINUING ALONG SAID NORTH LINE A DISTANCE OF 2671.02 TO THE POINT OF BEGINNING. CONTAINING 323.11 ACRES MORE OR LESS.

EXHIBIT B

ARTICLES OF INCORPORATION



Department of State

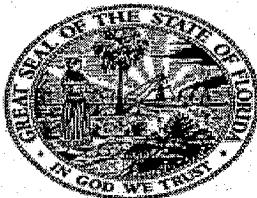
I certify the attached is a true and correct copy of the Articles of Incorporation of SWEETWATER HOMEOWNERS ASSOCIATION OF FLAGLER, INC., a Florida corporation, filed on March 15, 2007, as shown by the records of this office.

The document number of this corporation is N07000002768.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Sixteenth day of March, 2007

A handwritten signature in black ink, appearing to read "Kurt S. Browning".

Kurt S. Browning
Secretary of State



CR2E022 (01-07)

**ARTICLES OF INCORPORATION
OF
SWEETWATER HOMEOWNERS ASSOCIATION OF FLAGLER, INC.
(a corporation not-for-profit)**

2007 MAR 15 PM 2743
ASSOC. REC'D.

I. NAME AND DEFINITIONS.

The name of this corporation shall be Sweetwater Homeowners Association of Flagler, Inc. All defined terms contained in these Articles shall have the same meanings as such terms are defined by the Declaration of Covenants and Restrictions for Sweetwater to be recorded in the public records of Flagler Beach, Florida (the "Declaration").

II. EXISTENCE AND DURATION.

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Florida Secretary of State in Tallahassee, Florida. The Association shall exist in perpetuity.

III. PRINCIPAL OFFICE AND MAILING ADDRESS.

The location of the corporation's principal office and its mailing address shall be 300 South Central Avenue, Suite 105, Flagler Beach, Florida 32136, or at such other place as may be established by resolution of the Association's Board of Directors from time to time.

IV. PURPOSES.

The general nature, objects and purposes of the Association are:

A. To promote matters of common interest and concern of the Owners of property within Sweetwater.

B. To own, maintain, repair and replace the Common Area, including without limitation the street lights, landscaping, structures, and other improvements located thereon, for which the obligation to maintain and repair has been delegated to and accepted by the Association.

C. To levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the Common Areas and for the costs of maintenance and operation of the surface water or storm water management system.

D. To cooperate with other associations responsible for administration of adjacent or contiguous properties in matters of common interest to the Association and such other associations and to contribute to such common maintenance interests whether within or without the Property.

E. To provide, purchase, acquire, replace, improve, maintain, operate and repair such buildings, structures, landscaping, paving, and equipment, and to provide such other services for the benefit of the members of the Association, as the Board of Directors in its discretion determines necessary, appropriate, and/or convenient.

F. To operate without profit for the sole and exclusive benefit of its Members.

G. To perform all of the functions contemplated for the Association and undertaken by the Board of Directors pursuant to the terms and conditions of the Declaration.

V. GENERAL POWERS.

The general powers that the Association shall have are as follows:

A. To hold funds solely and exclusively for the benefit of the Members for purposes set forth in these Articles of Incorporation.

B. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

C. To delegate power or powers where such is deemed in the interest of the Association.

D. To purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of real or personal property, to enter into, make, perform or carry out contracts of every kind with any person, firm, corporation or association; to do any and all acts necessary or expedient for carrying on any and all of the activities and pursuing any and all of the objects and purposes set forth in the Declaration and these Articles of Incorporation and not forbidden by the laws of the State of Florida.

E. To fix assessments to be levied against all or any portion of the Property to defray expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors to enter into agreements with other property owner's associations or maintenance entities for the collection of such assessments. The foregoing shall include the power to levy and collect adequate assessments against the Members for the costs of maintenance and operation of the Surface Water or Stormwater Management System. Such assessments shall be used for the maintenance and repair of the Surface Water or Stormwater Management System, including but not limited to, work within drainage structures and drainage easements.

F. To charge recipients for services rendered by the Association and the users of the Association property where such is deemed appropriate by the Board of Directors of the Association and permitted by the Declaration.

G. To pay taxes and other charges, if any, on or against property owned, accepted, or maintained by the Association.

H. To borrow money and, from time to time, to make, accept, endorse, execute and issue debentures, promissory notes or other obligations of the Association for monies

borrowed, or in payment for property acquired, or for any of the other purposes of the Association, and to secure the payment of such obligations by mortgage, pledge, or other instrument of trust, or by lien upon, assignment of or agreement in regard to all or any part of the property rights or privileges of the Association wherever situated.

I. The powers of the Declaration include the establishment and enforcement of the payment of charges or assessments contained therein (including the assessment and collection of assessments adequate to defray the costs of maintenance and operation of the surface water and stormwater management system), the operation, maintenance and management of the surface water and stormwater management systems in the Committed Property and Common Areas in a manner consistent with St. Johns River Water Management District Permit No. , requirements and applicable District rules, and to assist in the enforcement of the restrictions and covenants contained therein which relate to the surface water or stormwater management system, and the power to contract for the management of the Association and engagement in such other lawful activities as may be to the mutual benefit of the Members and their property. The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the surface water or stormwater management system.

The Association shall operate, maintain and manage the surface water management system in a manner consistent with the St. Johns River Water Management District permit requirements and applicable District rules, and shall assist in the enforcement of the Declaration of the Covenants and Restrictions which relate to the Surface Water or Storm Water Management System.

I. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

J. To merge with any other association which may perform similar functions located within the same general vicinity of the Property.

K. In general, to have all powers conferred upon a corporation by the laws of the State of Florida, except as prohibited herein and by the terms and conditions set forth in the Declaration.

VI. MEMBERS.

The Members ("Members") shall consist of the Developer, and all other Owners of Lots located within the Property. Membership in the Association is appurtenant to, and inseparable from, ownership of a Lot.

VII. VOTING AND ASSESSMENTS.

A. The Association shall have two classes of voting membership as follows:

1. Class A Membership. The Class A Members shall be all Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Lot owned.

2. Class B Membership. The Class B Member shall be the Developer who shall be entitled to six (6) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class A Membership equals the total votes in the Class B Membership;

(ii) On December 31, 2012;

(iii) Three (3) months after ninety percent (90%) of the Lots have been conveyed to members of the Association other than the Developer; or

(iv) Such earlier date as the Developer may choose to terminate the Class B Membership upon notice to the Association.

B. When one or more persons or entities holds an interest or interests in any Lot or other portion of the Property, all such persons shall be Members, and the vote(s) for such portions of the Property shall be exercised as they among themselves shall determine. The votes for any Lot, or other portion of the Property cannot be divided for any issue and must be voted as a whole, except where otherwise required under the provisions of these Articles, the Declaration, or by law. The affirmative vote of a majority of the votes allocated to the Members cast at any meeting of the Members duly called at which a quorum is present, or cast by written ballot by a quorum of the membership, shall be binding upon the Members and the Association.

C. The Association will obtain funds with which to operate by assessment of its Members in accordance with the provisions of the Declaration, as supplemented by the provisions of the Articles and Bylaws of the Association relating thereto.

VIII. BOARD OF DIRECTORS.

A. The affairs of the Association shall be managed by a Board of Directors consisting of three (3) Directors. Directors need not be members of the Association and need not be residents of the State of Florida. For so long as the Class B Membership shall exist, the Developer shall have the right to appoint all of the Directors. Following termination of the Class B Membership, Directors shall be elected as herein provided.

B. Elections shall be by plurality vote. At the first annual election of the Board of Directors, the terms of office of the elected Director receiving the highest number of votes shall be established at two (2) years. The other Directors shall be elected for terms of one (1) year each. Thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time; and the term of each Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are