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**DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
BARTRAM DOWNS UNIT THREE**

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**DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
BARTRAM DOWNS UNIT THREE**

**THIS DECLARATION** is made this 10<sup>th</sup> day of February, 2005, by **NORTHFORK CHEROKEE COMPANY**, a Florida corporation (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 of Covenants and Restrictions (the "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 BENEFITS AND OBLIGATIONS**

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 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 agrees to all 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 **Architectural Guidelines.** The governing document which establishes architectural standards and guidelines for improvements and modifications to Lots, including but not limited to, landscaping and objects or structures on Lots. A copy of the Architectural Guidelines shall be provided to each Owner upon taking title to the Lot, and by this reference are incorporated herein.

Section 2.2 **Association.** The Bartram Downs Unit Three 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. Copies of the Articles and the Bylaws are attached as Exhibits "B" and "C" respectively.

Section 2.3 **Board.** The Board of Directors of the Association.

Section 2.4 **Building Envelope.** The portion of each Lot depicted on the PRD Master Development Plan or on any plat of any portion of the Property recorded in the public records of St. Johns County, Florida, as being usable for a residential dwelling.

Section 2.5 **Common Area.** “Common Area” shall mean and refer to all property and any interest therein (including the improvements thereto), if any, owned by the Association or shown on the PRD Master Development Plan or as depicted on any plat of any portion of the Property or any property annexed thereto as common areas or any easements granted to the Association, which are for the common use and enjoyment of the Owners. The Developer may hereafter convey portions of the Property to the Association to constitute additional Common Areas but shall have no obligation to do so.

Section 2.6 **Developer.** The Developer is Northfork Cherokee Company, a Florida corporation, and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign, in its sole discretion, 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 Northfork Cherokee Company as the Developer of the Property is not intended and shall not be construed, to impose upon Northfork Cherokee Company any obligations, legal or otherwise, for the acts or omissions of third parties who purchase Lots or parcels within the Property from Northfork Cherokee Company and develop and resell the same.

Section 2.7 **Development Area.** That portion of the Property depicted on the PRD Master Development Plan or as depicted on any plat of any portion of the Property recorded in the public records of St. Johns County, Florida as “Development Area”.

Section 2.8 **Limited Common Area.** The Limited Common Area 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 twenty feet (20’) 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 2.9 **Lot.** Any platted Lot or any other parcel of real property located within the Property, on which one residential dwelling has been or could be constructed, which includes the Building Envelope and that portion of the Reserve Area conveyed to each individual Owner.

Section 2.10 **Owner.** The record owner or owners of any Lot.

Section 2.11 **Property or Subdivision.** The real property described on Exhibit “A” and such additions and deletions thereto as may be made in accordance with the provisions of Section 3.2 and 3.3 of this Declaration.

Section 2.12 **PRD.** Planned Rural Development Ordinance as recorded in PUD Ordinance Book R, Pages 1212 through 1225 and Ordinance Book 33, Pages 711 through 725 of the public records of St. Johns County, Florida, as enacted by the Board of the County Commissioners of St. Johns County, Florida, as the same may be amended from time to time.

Section 2.13 **PRD Master Development Plan.** The master land use plan attached to and made part of the PRD. As the PRD Master Development Plan is a conceptual plan, if there is any conflict between the designations shown on the PRD Master Development Plan and any plat of any portion of the Property, the plat shall control.

Section 2.14 **Reserve Area.** The portion of each Lot depicted on the PRD Master Development Plan or on any plat of any portion of the Property recorded in the public records of St. Johns County, Florida, as being used for any accessory purposes, more particularly specified in Section 10.2 hereinafter. The Reserve Area surrounds the front, side and rear portions of each Building Envelope, but does not include the Building Envelope.

Section 2.15 **Stormwater System Lakes.** Those certain lakes located on portions of the Property that make up the Surface Water or Stormwater Management System, as shown on the PRD Master Development Plan.

Section 2.16 **Subdivision Roads.** The main roads of the Subdivision as shown on the PRD Master Development Plan as “Friar Tuck Lane”, “Vicki Towers Lane”, and Towers Ranch Lane.

Section 2.17 **Surface Water or Stormwater Management System.** A system which is designed and constructed or implemented within or serving 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. For purposes of this Declaration, the Surface Water or Stormwater Management Systems shall be deemed to be 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 and each tenant of any improvements constructed on any Lot, by becoming an Owner or tenant,



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, 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 responsible for their pro-rata share of common expenses for which assessments may be levied pursuant to the terms of Article VII of the Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of St. Johns 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.** The Developer may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property owned by it from the terms and effect of this Declaration. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn.

#### **ARTICLE IV** **THE ASSOCIATION**

Section 4.1 **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 4.2 **Classes and Voting.** The Association shall have two (2) 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 one (1) vote, plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. The Class B Membership shall cease and be converted to Class A Membership on the date which is three (3) months following the date that ninety percent (90%) of the Lots have been conveyed to Owners other than the Developer.

#### **ARTICLE V** **COMMON AREA RIGHTS**

Section 5.1 **Conveyance of Common Area.** At such time as the Developer shall determine in its sole discretion, all of the Common Area owned by the Developer shall be conveyed or assigned to the Association, and the Association shall accept such conveyance or assignment.

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;

(b) All provisions of this Declaration, any plat of all or any portion of the Property, governmental restrictions, including the provisions of the PRD or any environmental permit;

(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 or to withdraw land from the Common Area;

(e) Easements, restrictions, agreements and other matters of record as of the date of recordation of this Declaration or contained in this Declaration; and

(f) Conservation easements or similar restrictions to which the Common Area, or portions thereof, may be subjected by the Developer or the Association after the date of this Declaration.

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, 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 St. Johns 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 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.** The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas and the road surfaces, landscaping, improvements and other structures (except utilities owned and maintained by public or private utility companies providing electrical, fire protection, cable television, telephone, or similar utilities to the Property, or any portion thereof) situated on the Common Areas, if any. 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 or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District ("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 5.4, shall be a common expenses of the Association to be collected and paid in the manner prescribed by this Declaration. Any repair or reconstruction of the Surface

Water or Stormwater Management System shall be as permitted, or if modified, as approved by the SJRWMD.

Section 5.5 **Easement for Access, Drainage and Maintenance Purposes.** The Developer hereby grants to the Association and its successors, assigns, agents, and contractors, a non-exclusive perpetual easement in, on over and upon those portions of the Property as may be reasonably necessary for the purpose of maintaining the Common Area, or other portions of the Property to be maintained by the Association, in accordance with the requirements of this Declaration. 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. The Association shall also have a perpetual non-exclusive easement over all areas of the Surface Water or Stormwater Management System for access to operate, maintain or repair such system. By this easement, the Association shall have the right to enter upon any portion of the any Lot which is a part of the Surface Water or Stormwater Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water or Stormwater Management System as required by the SJRWMD permit. Additionally, the Association shall have a perpetual, non-exclusive easement for drainage over the entire Surface Water or Stormwater Management System.

## **ARTICLE VI** **ARCHITECTURAL CONTROL**

Section 6.1 **Preservation of Beauty.** In order to preserve the beauty and aesthetic design of the Property and to promote the value of its Development, the Property is hereby made subject to the following restrictions in this Article VI, and every Owner agrees to be bound hereby.

Section 6.2 **Architectural Review Committees.** The Construction of improvements on the Property shall be approved and supervised by one of two (2) architectural review boards:

(a) The New Construction Committee ("NCC") is charged with the review of all plans for the initial construction of improvements upon a Lot. The NCC shall be appointed by the Developer. The NCC shall review and approve all such initial construction, whether performed by Developer, a builder to whom Developer has conveyed one or more Lots, or an Owner.

(b) The Modifications Committee ("MC") is charged with the review of all plans for any addition, removal, change or modification of the improvements upon a Lot. The MC shall be appointed by Developer.

(c) The NCC shall review and approve all initial construction of improvements and their appurtenances from the start of construction (the foregoing is hereinafter referred to as "New Construction"). Thereafter, any modifications to the New Construction, including, without limitation, the construction of any building, fence, wall, sign, paving, grading, parking and building addition, screen enclosure, sewer, drain, well enclosure, irrigation system, landscaping modification, solar energy system, satellite dish, disposal system, landscaping or landscaping device or object, exterior lighting scheme, fountain, swimming pool, Jacuzzi, awning, shelter and gates (hereinafter collectively referred to as "Proposed Modification") shall be reviewed and approved by the MC.

Section 6.3 **Powers and Duties of the NCC and MC.** The NCC and MC shall have the following powers and duties:

(a) To promulgate Architectural Guidelines. In addition to the basic criteria hereinafter set forth, the NCC and MC may promulgate such amendments or modifications thereto as each deems reasonable and appropriate, provided, however, such modifications or amendments shall be consistent with the provisions of this Declaration. Upon adoption of a modification or amendment to the Architectural Guidelines by the NCC in the case of New Construction or by the MC in the case of a Proposed Modification, copies of such changes shall be delivered to Owners; provided, however, receipt of the modification or amendment to the criteria shall not be a condition precedent to the effectiveness or validity of such change.

(b) To require submission to each respective committee as is appropriate, two (2) sets of plans and specifications, and to the extent that NCC or the MC deems it necessary or appropriate, samples of building materials, colors or such other descriptive information as it so specifies.

(c) To approve or disapprove New Construction or a Proposed Modification, respectively. The determination of the NCC, with regard to New Construction, and the MC, with regard to a Proposed Modification, shall be binding upon all Owners.

(d) Each committee shall evaluate the application for the total effect thereof. This evaluation relates to matters of judgment and taste which cannot be reduced to a simple list of measurable criteria. It is possible that New Construction or a Proposed Modification might meet the general requirements delineated in Article VI hereof and still not receive approval, if in the sole discretion of the NCC or MC, its overall aesthetic impact is unacceptable. The approval of an application for New Construction or Proposed Modification shall not be construed as creating an obligation on the part of the NCC or MC to approve applications involving similar designs pertaining to different Lots.

(e) If any New Construction or a Proposed Modification shall be changed, modified or altered without prior approval of the applicable committee of such change, modification or alteration, and the plans and specifications therefore, if any, then

the Owner shall, upon demand, cause the New Construction or a Proposed Modification to be reconstructed or restored to comply with the original plans and specifications, or the plans and specifications originally approved by the applicable committee, and shall bear all costs and expenses of such restoration, including costs and reasonable attorneys' fees of the applicable committee.

(f) Any Owner making, or causing to be made, New Construction or a Proposed Modification agrees and shall be deemed to have agreed, for such Owner and his or her heirs, personal representatives, successors and assigns, to hold the NCC, MC, Association, Developer and all other Owners harmless from any liability, damage to the Property and from expenses arising from or out of the construction and installation of any New Construction or Proposed Modification and such Owner shall be solely responsible for the maintenance, repair and insurance of any alteration, modification or change and for assuring that the New Construction or a Proposed Modification meets with all applicable governmental approvals, rules and regulations.

(g) The NCC and MC are hereby authorized to make such charges as they deem necessary to cover the cost of review of the plans and specifications.

Section 6.4 **Procedure for Approval of Plans.** The NCC or the MC shall approve or disapprove the preliminary and final applications for New Construction or a Proposed Modification within thirty (30) days after each has been submitted to it in proper form together with all supporting information. If the plans are not approved within such period, such plans shall be deemed approved. However, no plan which is not in compliance with the specific provisions of this Declaration shall be deemed approved.

Section 6.5 **Limitation on Liability.** Developer, Developer's affiliates, the Association, its officers, the Board, the NCC, the MC, the Association's management agent, any committee, or any member of any of the foregoing shall not be held liable for the approval of, disapproval of, or failure to approve or disapprove any plan; soil conditions, drainage, or other general site work, any integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Developer has approved or featured such contractor as a builder in the Subdivision, or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot.

## **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 or 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 assessment as made, and the same 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, 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 or the Bylaws. Further, such annual assessments may be levied to fund reasonable reserves for deferred maintenance of, or non-recurring expenses related 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) All Lot Owners, other than Developer, shall pay an equal share of annual and special assessments which shall be established at a uniform rate per Lot.
- (b) The assessment obligations of each Owner other than Developer shall commence upon the recordation of this Declaration in the current public records of St. Johns 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 semi-annually. Special assessments shall be collectable in the manner established by the Board of Directors at the time such Assessments are authorized.

Section 7.4 **Effect of Non-Payment of Assessments: Lien, Personal Obligation and Remedies of Developer.** The lien of the Association shall be effective from and after recording in the public records of St. Johns 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 cost 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 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.** During the Development Period (as hereinafter defined), the Lots and other portions of the Property owned by the Developer shall not be subject to any annual assessments 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 remaining after the levying 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 recordation of this Declaration in the current public records of St. Johns County, Florida, and shall continue until such earlier date as the Developer shall determine in its sole discretion. Upon termination of the Development Period, 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 7.7 **Required Capital Contributions.** Upon the initial conveyance of any Lot by Developer, the grantee of such conveyance shall pay the Association the sum of Three Hundred and No/100 Dollars (\$300.00) ("Capital Contribution"). The Association may use any Capital Contribution for any of the purposes authorized by this Declaration.

## **ARTICLE VIII** **EXTERIOR MAINTENANCE**

Section 8.1 **Exterior Maintenance.** The Association may provide maintenance upon any Lot requiring same, when necessary in the sole discretion 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, exterior building surfaces, yard clean-up and yard maintenance. Each affected owner shall have thirty (30) 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 **Assessment 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 Section 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 be obligated to install and maintain, at the sole cost and expense of the Owner, one or more wells and associated equipment for potable water service for all improvements constructed upon each Lot.

Section 9.2 **Sewage System.** Each Owner shall be obligated to install and maintain, at the sole cost and expense of the Owner, one or more septic tanks and

associated drain fields and equipment for sanitary sewage service for all improvements constructed upon each Lot. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch, canal or roadway. All septic tanks and drain fields shall be located in the rear portion of the Building Envelope or in the rear portion of the Reserve Area, and shall be subject to review and approval pursuant to Article VI of this Declaration. In no event, however, shall any septic tanks and drain fields be permitted to be located in that portion of the Reserve Area surrounding the front and side portions of the Building Envelope of a Lot.

Section 9.3 **Garbage Collection.**

(a) Garbage, trash and rubbish shall be removed from the Lots only by parties or companies approved by St. Johns County, Florida. Each owner shall pay when due the periodic charges or rate for such garbage collection service made by the party or company providing the same.

(b) Each Owner shall participate in any available solid waste recycling program instituted by the Developer, St. Johns 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 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, telephone, cable television, and any other utility services for service to such Lot. With the exception of electric utility lines, all telephone lines and connections between the main utility line located in the public right-of-way and the residence and other buildings located on each Lot shall be located underground or concealed from public view.

**ARTICLE X**  
**USE RESTRICTIONS AND RIGHTS AND**  
**EASEMENTS RESERVED BY DEVELOPER**

Section 10.1 **Building Envelopes.** Permitted construction within each Building Envelope includes residential dwellings consisting of conventional homes and modular homes, subject to the approval of the NCC, except that one or more Building Envelopes may be used for sales and construction facilities and model homes during the development and sale of Lots within the Property. Mobile Homes are permitted to be placed within a Building Envelope only for a period not to exceed two (2) years from the date on which the first Owner following recording of the plat takes record title to the Lot, subject to the prior written approval of the Developer, which approval shall not be unreasonably withheld. The NCC or MC shall consider, in its sole discretion, such criteria including, but not limited to, size, color, age, make, model, condition, and the like for such mobile homes. In all cases, and at all times, any mobile home previously approved shall be maintained in a neat and attractive condition and be in as good repair and in substantially the same mechanical and aesthetic condition as such mobile home

was on the date of initial approval. No such mobile homes shall be rented or leased to any party. The maximum height of all residential structures is limited to thirty-five feet (35'). Except as otherwise permitted by the PRD, no business or commercial building may be erected on any Lot and no business may be conducted on any part thereof, except home occupations consistent with the provisions of the St. Johns County Land Development Code. 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. Each detached single family residence constructed within the Building Envelope is subject to the approval of the NCC.

10.1.1 **Mailboxes.** Mailboxes for each residence shall be located adjacent to each driveway, and shall prominently display the street address number of the Lot. The materials and style of the mailboxes must be consistent with the style and materials of the main dwelling structure, and shall not exceed a width of two feet by two feet (2' x 2'), and a height of four feet (4').

Section 10.2 **Reserve Area.** The Reserve Areas as shown on the PRD Master Development Plan (or as it may be superseded by a subsequently recorded plat) may be used for accessory structures, buffers, conservation and vegetative natural buffer easements or mitigation areas, agricultural, silvicultural, retention, docks, boardwalks, aquacultural, livestock, horses, and other animals, recreation, or open space purposes. No residential dwelling structures shall be constructed within any Reserve Area pursuant to this Section 10.2. Barn structures shall be permitted only in Reserve Area located in the rear portion of each Lot. Barn structures shall not exceed thirty-nine and one-half feet (39 ½') in height. Wells, septic tanks and drain fields shall be located within the rear portion of each Reserve Area so as to permit proper separation between such uses.

Section 10.3 **Common Area.** The Common Area shall be used solely for roadways, drainage facilities serving the Lots, and for recreation or open space purposes; provided however, timber may be harvested from the Common Area except where prohibited by a conservation easement or similar restriction. No residential dwellings shall be constructed within any portion of the Common Area.

Section 10.4 **Detached and Attached Garages and Accessory Structures.** Every residence constructed shall have an attached or detached garage, or other vehicle storage area approved by NCC. All garages and other vehicle storage areas shall contain at least enough space to park two (2) full size automobiles or sport utility vehicles. It is preferred that garages have a side entry relative to the orientation of the associated residential dwelling, and may be located in the front or rear portions of the Building Envelope. Alternative garage designs may be permitted, subject to the approval of the NCC or MC, as applicable, in its sole discretion. Other vehicle storage areas may be located within the rear portions of the Reserve Area, subject to the approval of the NCC or MC, as applicable, in its sole discretion. Accessory buildings and uses must be located in the rear portion of the Building Envelope or the rear portion of the Reserve Area.

Section 10.5 **Setbacks.** Notwithstanding the following setbacks, all residential dwellings must be located within the Building Envelope, and all of the following setbacks shall be measured from the exterior wall of the dwelling structure to the applicable Lot boundary as shown on the plat of all or any portion of the Property recorded in the public records of St. Johns County, Florida, and as stated in the PRD.

10.5.1 **Easement Areas.** No structure shall be erected within any easement area shown on any plat of all or any portion of the Property or within any easement reserved by this Declaration.

Section 10.6 **Recreational Vehicles, Boats, Farm Equipment, Trailers, Trucks, etc.** No recreational vehicles, boats, farm equipment, trailers, trucks, or other motor vehicles, except four (4) wheel passenger automobiles, and except as otherwise permitted by the Declaration, shall be placed, parked or stored within the front portion of any Building Envelope. All boats, recreational vehicles, trucks, trailers, tractors, or other motor vehicles shall be parked in the rear portion of the Building Envelope. No maintenance or repair shall be performed upon any recreational vehicle, boat, farm equipment, trailer, truck, or motor vehicle except within a building or in the rear portion of the Building Envelope. 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 the area designated by the Developer.

Section 10.7 **Nuisances.** Nothing shall be done or maintained on any Lot which may 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 10.8 **Aerials and Antennae.** Subject to the rules and regulations promulgated by the Federal Communications Commission (the "FCC") from time to time, all aerials, antennae and satellite dishes should be placed, to the extent feasible, in locations that are not visible from the street, so long as such placement does not impair reception, permits reception of an acceptable quality signal, and does not cause the Owner to incur an unreasonable expense. If an acceptable signal can only be obtained from a location that is visible from the street, the Association reserves the right to require adequate screening or painting of said aerials, antennae and satellite dishes to minimize visual intrusion, provided that such screening does not interfere with the signal or cause the owner to incur an unreasonable expense. Notwithstanding any provision herein, and to insure the aesthetic quality and protect the value and desirability of the Property, it is suggested and preferred that all aerials, antennae and satellite dishes be placed in the exterior portion of the Lot and be reasonably screened from public view.

Placement of an aerial, antenna or satellite dish in a non-preferred location, other than the exterior portion of a Lot, could result in such Owner being required to relocate the aerial, antenna or satellite dish to a preferred location, at Owner's sole cost and expense.

Section 10.9 **Lakes.** Only the Developer and the Association shall have the right to pump or otherwise remove any water from the Stormwater System Lakes, for the purpose of irrigation or other use, or to place any refuse therein. The Developer and the Association shall have the sole and absolute right and, the Association shall have the obligation to control the water level of the Stormwater System Lakes, and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi therein. The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Drainage flow to or from the Stormwater System Lakes shall not be obstructed or diverted, except by the Association. No boat, watercraft, or any related water transportation or recreational vehicle or device, whether manually powered, motorized, electric, gas powered, or otherwise, shall be permitted to be operated on any Stormwater System Lake, except by the Association in connection with the maintenance of the Surface Water or Stormwater Management System. Owners of Lots upon which portions of the Stormwater System Lakes are located ("Lake Parcels") (the "Lake Parcel Owners") shall maintain the embankment of the portion of the Stormwater System Lakes located on their respective Lake Parcels so that such grass, planting or other lateral support to prevent erosion of the embankment adjacent to each Stormwater System Lake, and the height, grade and contour of the embankment of each shall not be changed without the prior written consent of the Association. Further, all shoreline vegetation of a Stormwater System Lake shall be maintained and controlled by the Lake Parcel Owner pursuant to the requirements of Sections 10.13 and 10.16 hereof. If a Lake Parcel Owner fails to maintain the embankment or shoreline vegetation as part of the 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 Lake Parcel Owner pursuant to the provisions of Article VII 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 embankments of the Stormwater System Lakes unless and until the same shall have been approved by the NCC or MC, as the case may be. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with the use of the surface waters of any Stormwater System Lake. The use of the surface waters of any Stormwater System Lake shall be subject to the rights granted to other persons pursuant to the rules and regulations of the Association.

WITH RESPECT TO WATER QUALITY, WATER LEVELS, WILDLIFE AND LAKE BANKS, SLOPES AND LAKE BOTTOMS, ALL PERSONS ARE REFERRED TO SECTION 10.9 HEREOF.

Section 10.10 **Casualty Damages.** In the event of damage or destruction by fire or other casualty to the improvements on any Lot, the Owner thereof shall remove all debris immediately and restore the Lot to an orderly condition within a reasonable time, not to exceed sixty (60) days from the date of such damage.

Section 10.11 **Trees and Landscaping.** Except for pine trees, no tree or shrub, the trunks of which exceed six inches (6") in diameter one foot (1') above the ground, shall be cut down, destroyed or removed from any Lot without the prior written consent of the Developer. Each Owner is obligated to plant a minimum of fifteen (15) trees, the trunks of which must be at least two inches (2") in diameter at breast height, and sod with St. Augustine or Floratam sod, a minimum of fifty percent (50%) of the portion of the Reserve Area between the edge of the pavement of the respective Subdivision Road and the Building Envelope. Mulch and other ground cover is encouraged in the remaining un-sodded portion of the Reserve Area described in this Section.

Section 10.12 **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, the NCC or MC, as the case may be. In addition to the obligations set forth in Section 10.11, each Owner may install sod, plants, shrubs and other vegetation in the Reserve Area.

Section 10.13 **Maintenance of Lots.** Lots shall at all times be maintained in a neat and attractive condition and all landscaping shall be maintained in a neat, attractive and orderly manner, including regular maintenance of grass, plants, plant beds, trees, turf and proper irrigation, all in a manner and with such frequency as is consistent with good property management.

Section 10.14 **Miscellaneous Objects.** No objects, including but not limited to, signs of any kind, flagpoles, trash cans or the like, shall be displayed in public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the Association. Recycling bins are permitted in accordance with Section 9.3. This Section shall not be construed to prohibit the respectful display of one (1) American Flag on each Lot.

Section 10.15 **Lighting.** No lighting shall be permitted on any Lot that alters the character of the Subdivision. Exterior or overhead lighting shall be permitted in the rear portion of the Reserve Area, subject to the approval of the NCC or MC, but in no event shall installation of overhead lighting be permitted in the portion of the Reserve Area surrounding the front and side portions of each Building Envelope.

Section 10.16 **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 suffered to remain anywhere within the Property. All Lots and Limited Common Areas 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 and 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 or Limited Common Area 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. During construction upon any Lot, any and all vehicles involved in the construction or delivery of materials and supplies to the site shall enter and exit the site only over the driveway or driveway subsurface and shall not park on any roadway or any Property other than the Lot on which construction is proceeding. During construction of the dwelling or other improvements, the Owner will be required to maintain his or her 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 10.17 **Fences.** Chain link fences are prohibited on any portion of the Property. No fence shall be located closer than seventy feet (70') from the edge of the pavement of the Subdivision Roads. Any fence that is placed parallel to a Subdivision Roads, shall be landscaped with, at a minimum, five (5) gallon plants, which shall be planted every twelve inches (12") on center. Such landscaping shall be maintained in a manner and with such frequency as is consistent with good property management and in accordance with Sections 10.13 and 10.16 herein. Subject to the restrictions of this Section 10.17, the following types of fences shall be permitted:

(a) **Privacy Fence.** This fence type shall be four feet (4') in height, picket design, constructed of cedar or cypress, and may not be painted.

(b) **Animal Control.** This fence type is typically used for animal control and to define boundary lines of a Lot, or enclose the Lot, without obscuring views, and shall be subject to the following:

- i) Height shall not exceed four feet (4');
- ii) Four inch (4") square or three inch (3") round posts shall be placed every four feet (4') on center along the entire length of the fence; such posts shall be attached to the fence, perpendicular to the ground, and shall be set in the ground a minimum of one foot (1');
- iii) Interior fence material and design shall consist of three (3) one inch by six inch (1" by 6") black board runners; such board runners shall be placed at the top, middle and bottom of the fence, a minimum of eight inches (8"), but no more than ten inches (10") apart, and shall run along the entire length of the fence, provided however, that the bottom board runners are placed six inches (6") from the ground, and the top board runners are placed level across the entire

length of the fence, without regard to the natural grade of the land.

Owners are encouraged to cooperate with one another in the placement and design of their fencing so as to present a unified, contiguous and complementary appearance.

Section 10.18 **Common PRD.** Due to the integrated nature of the Property and the lands described by the PRD, no Owner, or any other person or entity shall construct any improvements upon any Lot or any other portion of the Property, nor take any other action, which in the sole opinion of the Developer, would result in a modification of the terms and provisions of the PRD, as the same may be amended from time to time, without the prior written consent of the Developer. Information concerning the requirements for amending or changing the PRD may be obtained from the St. Johns County, Florida Planning Department. All amendments or changes to the PRD are subject to the approval of St. Johns County, Florida.

Section 10.19 **Compliance with Laws.** All Owners and other occupants of the Property shall at all times comply with the terms of the PRD, and all environmental, land use, marketing and consumer protection ordinances, statutes, regulations and permits applicable to the Property or to any improvements constructed thereon.

Section 10.20 **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 10.21 **Regulated Areas and Permits.**

10.21.1 **Conservation Easement Areas.** PURSUANT TO THE PROVISIONS OF SECTION 704.06, FLORIDA STATUTES, DEVELOPER HAS GRANTED OR WILL GRANT TO THE SJRWMD A CONSERVATION EASEMENT IN PERPETUITY OVER THE PROPERTY DESCRIBED IN THE CONSERVATION EASEMENT WHICH IS OR WILL BE RECORDED IN THE OFFICIAL PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA (THE "CONSERVATION EASEMENT"). DEVELOPER HAS GRANTED OR WILL GRANT THE CONSERVATION EASEMENT AS A CONDITION OF PERMIT NUMBER 4-109-94357-1 ISSUED BY THE SJRWMD (THE "PERMIT"), SOLELY TO OFFSET ADVERSE IMPACTS TO NATURAL RESOURCES, FISH AND WILDLIFE AND WETLAND FUNCTIONS.

10.2.2. **Environmental Permits and Restrictions.** THE PROPERTY HAS BEEN OR WILL BE DEVELOPED IN ACCORDANCE WITH REQUIREMENTS OF THE PERMIT AND THE CONSERVATION EASEMENT. 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.

FURTHER, ANY OWNER OWNING A LOT WHICH CONTAINS OR IS ADJACENT TO JURISDICTIONAL WETLANDS OR CONSERVATION AREAS AS ESTABLISHED BY THE ARMY CORPS OF ENGINEERS ("ACOE") OR THE SJRWMD OR BY THE 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 EASEMENT AREAS IN THE CONDITION REQUIRED UNDER THE PERMIT. IN THE EVENT THAT AN OWNER VIOLATES THE TERMS AND CONDITIONS OF THE PERMIT AND THE CONSERVATION EASEMENT AND FOR ANY REASON, THE DEVELOPER OR THE ASSOCIATION IS CITED THEREFOR, THE OWNER AGREES TO INDEMNIFY AND HOLD THE DEVELOPER HARMLESS FROM ALL COSTS ARISING OUT OF OR IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION, ALL COSTS 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 EASEMENT AREAS, INCLUDING WITHOUT LIMITATION, ANY BUFFER AREAS, SWALES, TREATMENT BERMS OR SWALES, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SJRWMD.

NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED ELSEWHERE IN THIS DECLARATION, THE ACOE AND THE SJRWMD SHALL EACH HAVE THE RIGHTS AND POWERS ENUMERATED IN THIS PARAGRAPH. THE ACOE AND 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 PERMITS AND THE JURISDICTIONAL LANDS SUBJECT TO THE REGULATIONS OF THE ACOE OR SJRWMD. ANY AMENDMENTS TO THIS DECLARATION WHICH AMENDS THE RESPONSIBILITIES OR OBLIGATIONS OF THE PARTIES WITH RESPECT TO THE REFERENCED PERMIT, MUST HAVE PRIOR WRITTEN APPROVAL OF THE ACOE AND SJRWMD, AS APPLICABLE. IN THE EVENT THAT THE ASSOCIATION IS DISSOLVED, PRIOR TO SUCH DISSOLUTION, ALL RESPONSIBILITY RELATING TO THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM, THE PERMITS AND THE CONSERVATION EASEMENT AREAS MUST BE ASSIGNED TO AND ACCEPTED BY AN ENTITY APPROVED BY THE ACOE AND SJRWMD.

**ARTICLE XI**  
**RIGHTS AND EASEMENTS RESERVED BY DEVELOPER**

Section 11.1 **Easement 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 electric, telephone and street lighting equipment or other public conveniences or utilities on, in and over (1) any portion of the Common Area; (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; and (iii) a strip of land within each Lot ten feet (10') in width along the front, rear and side portions 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 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 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 any plat of all or any portion of the Property, or reserved in this Declaration.

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, across 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 all or any portion of the Property or within any easement reserved by this Declaration.

Section 11.5 **Easement for Maintenance Purposes.** The Developer reserves for itself, and grants to 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 it 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 homes and/or other structures upon Lots owned by the Developer, which 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.

## **ARTICLE XII** **RIGHTS AND EASEMENTS GRANTED BY DEVELOPER**

Section 12.1 **Easement for Ingress and Egress over Roadways.** 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 the non-exclusive and perpetual right of vehicular and pedestrian ingress and egress over and across all roadways depicted on the plat of any portion of the Property (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 Declaration referenced in Section 3.2 hereof.

Section 12.2 **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 Association 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 and common trails referenced in this Article XII including the right to prohibit use of the Roadways by traffic or vehicles (including and without limitation, motorcycles, golf carts and "gocarts") which in the sole opinion of the Developer or the Association would or might result in damage to the Roadways, or create a nuisance for the residents, and the right, but no obligation, to control and prohibit parking on all or any portion 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 Association, obstruct the vision of a motorist upon any of the Roadways referenced in this Article. 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 12.1 thereafter shall be of no further force or effect.

Section 12.3 **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 Board of County Commissioners of St. Johns County 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 Section 12.1 and Section 12.2 without the consent or joinder of any party so long as no Lot is denied reasonable access to a publicly dedicated street or highway by such redesignation, relocation or closure.

### **ARTICLE XIII** **GENERAL PROVISIONS**

Section 13.1 **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 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 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.

Section 13.2 **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 the standards established by this Declaration.

Section 13.3 **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 and of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 13.4 **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 or owns any property contiguous to 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 or other building parcel located within the Property. Any such amendment to this Declaration shall be executed by the Association and Developer, if applicable, and shall be recorded in the current public records of St. Johns County, Florida.

Section 13.5 **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.

Section 13.6 **Usage.** Whenever used, the singular shall include the plural and the singular and the use of any gender shall include all genders.

Section 13.7 **Effective Date.** This Declaration shall become effective upon its recordation in the public records of St. Johns County, Florida.

Section 13.8 **Disclaimers as to Water Bodies.** NEITHER THE DEVELOPER, THE ASSOCIATION, NOT 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 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 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 LAKW 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.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed under seal this 10 day of February, 2005.

Signed, sealed and delivered in the presence of:

NORTHFORK CHEROKEE COMPANY, a Florida corporation

[Signature]  
Print Name: William T. Pyburn, III

By: [Signature]  
Kevin L. Troup,  
Its President

[Signature]  
Print Name: Douglas Smiley

STATE OF FLORIDA }  
                                  }  
COUNTY OF DUVAL }

The foregoing instrument was acknowledged before me this 10 day of FEBRUARY, 2005 by Kevin L. Troup, the president of NORTHFORK CHEROKEE COMPANY, a Florida corporation, on behalf of the corporation.

[Signature]  
(Print name \_\_\_\_\_)

NOTARY PUBLIC  
State of Florida at Large  
Commission # \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



CHARLES D. RALEY, JR.  
MY COMMISSION # DD 280521  
EXPIRES: May 11, 2008  
Bonded Thru Budget Notary Services

Personally known   
or Produced I.D. \_\_\_\_\_  
[check one of the above]

Type of Identification Produced  
\_\_\_\_\_

**CONSENT AND JOINDER OF MORTGAGEE**

The undersigned, **FIRST NATIONAL BANK** ("Mortgagee"), the Mortgagee under that certain **MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT** dated September 21, 2004, and recorded in Official Records Book 2296, page 229 in the public records of St. Johns County, Florida (if any assignments, specify) hereby consents and joins in the foregoing Declaration of Covenants and Restrictions for Bartram Downs Unit Three, and subordinates its mortgage lien encumbering all or any part of the Property (as described in the Declaration of Covenants and Restrictions) to the Declaration of Covenants and Restrictions for Bartram Downs Unit Three.

**IN WITNESS WHEREOF**, this Consent and Joinder is executed by the undersigned this 21<sup>st</sup> day of Feb., 2005.

**MORTGAGEE:**

Marcy Hughes  
Name Printed: Marcy Hughes

Kim S. Lavis  
Name Printed: Kim S. Lavis

By: Robert K. Beatty  
Its: Senior Vice President

STATE OF FLORIDA        }  
  }  
COUNTY OF DUVAL        ]

The foregoing instrument was acknowledged before me this 10 day of February, 2005 by Robert K. Beatty, the SR. Vice Pres. of FIRST NATIONAL BANK, on behalf of the bank.

Marcy Hughes  
(Print name Marcy Hughes)

NOTARY PUBLIC  
State of Florida at Large  
Commission # \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



Personally known   
or Produced I.D. \_\_\_\_\_  
[check one of the above]

Type of Identification Produced  
\_\_\_\_\_



**EXHIBIT "A"**

**THE PROPERTY**

**Bartram Downs Unit Three as recorded in Plat Book 53, pages 9 through 24 of the official current public records of St. Johns County, Florida.**

**EXHIBIT "B"**  
**ARTICLES OF INCORPORATION**

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**ARTICLES OF INCORPORATION OF  
BARTRAM DOWNS UNIT THREE  
HOMEOWNERS ASSOCIATION**

**A CORPORATIO NOT-FOR-PROFIT**

The undersigned, being desirous of forming a corporation not-for-profit, does hereby form this corporation for the purposes and with the powers herein specified and does hereby agree to the following Articles of Incorporation.

**ARTICLE I  
NAME**

The name of this corporation shall be:

**BARTRAM DOWNS UNIT THREE HOMEOWNERS ASSOCIATION, INC.**, (hereinafter referred to as the "Association").

**ARTICLE II  
PURPOSE**

The purpose and object of the Association shall be to exercise all of the rights, powers and duties granted to it under that certain Declaration of Covenants and Restrictions for Bartram Downs Unit Three, as amended from time to time (the "Declaration"), as well as all other rights, powers and duties which may be granted to it. Such rights, powers and duties shall include, but not be limited to, the following: The Association shall own, operate, administer and maintain the Common Areas as defined in the Declaration (the "Common Areas"). The Association shall operate, maintain and manage the Surface Water Management System(s) in a manner consistent with the permit requirements and applicable St. Johns Water Management District (the "District") rules and regulations, and shall assist in the enforcement of the restrictions and covenants contained therein. The Developer, until such time as it releases its rights of review shall, in its sole discretion, exercise architectural control over the development of the Property, and the Association shall have the right to enforce the covenants, conditions, restrictions and easement contained in the Declaration. All defined terms contained herein shall have the same meanings as such terms are defined in the Declaration.

**ARTICLE III  
POWERS**

The Association shall have the following powers:

A. All of the powers and privileges granted to corporations not-for-profit under the laws of the State of Florida and the Declaration.

Art. of Inc. Bartram Downs Unit Three  
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B. All of the powers reasonably necessary to implement and effectuate the purposes of the Association, including, without limitation, the power, authority and right to:

1. Make and establish reasonable rules and regulations governing the use of the Property or the Common Areas, as such terms will be defined herein and in the Declaration.

2. Adopt for, and in advance of, each fiscal year, a budget necessary to carry out the purposes of the Association as set out herein.

3. Levy and collect by any lawful means, all charges or assessments against Members of the Association pursuant to the terms of the Declaration to defray the expenses of the Association.

4. Enforce any lien right granted to the Association to secure the payment of assessments as described in Article IIIB.3. above.

5. Own, operate, lease, sell, manage, encumber, convey, subject to easements and otherwise deal with such real and personal property as may be necessary or convenient for the administration of the Common Areas.

6. To own, manage, administer and operate such property as may be conveyed to it by the Developer, its successors or assigns as Common Areas for the mutual benefit and use of all Members.

7. The Association shall levy and collect assessments against members of the Association for the costs of maintenance and operation of the Surface Water Management System, including, but not limited to, work within retention areas, drainage structures and drainage easements.

C. Enforce the provisions of these Articles of Incorporation, the Bylaws, the Declaration and all covenants, restrictions, rules and regulations governing use of the Property, or a portion thereof, and the Common Areas which may or hereafter be established.

**ARTICLE IV**  
**QUALIFICATION OF MEMBERS**

The qualification of members, manner of their admission to and termination of membership and voting by members shall be as follows: Each Owner of a Lot shall be and become a member of the Association upon the recording of a deed in the public records of St. Johns County, Florida, granting him or her fee simple title to a Lot ("Members"). In addition, the Developer of the Property shall be a member of the Association as set forth below and in the Declaration.

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**ARTICLE V**  
**VOTING**

A. The affairs of the Association shall be administered and managed by the Board of Directors as described in Article VIII hereof.

B. Until such time as the first Lot is conveyed to an Owner other than Developer, the membership of the Association shall be comprised of the Developer, who shall be entitled to cast votes as set forth in paragraph C. below on all matters upon which the membership would be entitled to vote.

C. There shall be two (2) classes of voting membership in the Association.

*Class A.* Class A Members shall be all Owners, with the exception of the Developer while the Developer is a Class B Member. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, other than as security for the performance of an obligation, all such persons shall be Members. The vote for such Lot shall be exercised as they, between or among the Owners determine, by written designation to the Association, but in no event shall more than one (1) vote be cast with respect to any Lot. The vote appurtenant to any Lot shall be suspended in the event that, and for so long as, more than one (1) Member holding an interest in the Lot lawfully seeks to exercise it.

*Class B.* Class B Member shall be the Developer, who shall be entitled to one (1) vote plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members, and be converted to Class A membership on the date which is three (3) months following the date that ninety per cent (90%) of the Lots have been conveyed to Owners other than the Developer, or when the Developer, in its sole and absolute discretion, elects to terminate its Class B membership, whichever occurs first. Upon this termination of Class B membership, the Developer shall be a Class A Member so long as it owns any Lots.

**ARTICLE VI**  
**TERM OF EXISTENCE**

The Association shall have a perpetual existence. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water Management System must be transferred to and accepted by an entity which would comply with Section 40C-42.027, Florida Administrative Code and be approved by the District prior to such termination, dissolution or liquidation.

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**ARTICLE VII**  
**OFFICE**

The principal office of the Association shall be 1914 Art Museum Drive, Jacksonville, Florida 32207, or such other place as the Board of Directors may designate.

**ARTICLE VIII**  
**BOARD OF DIRECTORS**

A. The business affairs of the Association shall be managed by the Board of Directors. Each member of the Association Board of Directors shall be entitled to one (1) vote.

B. The name and address of the persons who are to serve as the sole members of the initial Board of Directors until their successors are chosen, are as follows:

<u>Director</u>	<u>Address</u>
Victoria D. Towers	1914 Art Museum Drive Jacksonville, Florida 32207
William T. Pyburn, III	1914 Art Museum Drive Jacksonville, Florida 32207
Kevin Troup	1914 Art Museum Drive Jacksonville, Florida 32207

C. The members of the Board of Directors shall be elected or appointed in the manner provided in the Bylaws.

**ARTICLE IX**  
**OFFICERS**

A. The officers of the Association shall be a President, one (1) or more Vice Presidents, Secretary, Treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, who shall perform the duties of such officers customarily performed by like officers of corporations in the State of Florida subject to the directions of the Board of Directors.

B. Officers of the Association may not be compensated. The Board of Directors, or the President, with the approval of the Board of Directors, may employ a managing agent, agency, and/or other managerial and supervisory personnel or entity to administer or assist in the administration of the operation and management of the affairs of the Association, and any and all such persons and/or entity or entities may be so

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employed without regard to whether any such person or entity is a Member, Director or Officer of the Association.

C. The officers shall be elected by the Board of Directors at their annual meeting as provided in the Bylaws. Any vacancies in any office shall be filled by the Board of Directors at any meeting duly held.

D. The President shall be elected from the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two (2) offices, provided however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. Officers shall be elected annually.

**ARTICLE X**  
**AMENDMENT OF ARTICLES**

A. These Articles of Incorporation may be amended upon the proposal of the Board of Directors. Upon such proposal, a special meeting of the Members shall be called, the notice of which shall state that such proposal is to be voted upon at that meeting. The proposal shall be passed if a majority of the votes present at a meeting at which a quorum is present, vote to approve the proposal.

B. If so approved, a certified copy of the said amendment shall be filed in the office of the Secretary of State of the State of Florida.

**ARTICLE XI**  
**INDEMNITY**

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities incurred by him or her in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of his or her being or having been a director or officer of the Association, whether or not he or she is a director or officer at the time such expenses are incurred, except in such cases where the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided, that in the event any claim for reimbursement or indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

**ARTICLE XII**  
**NON-PROFIT STATUS**

No part of the income of this corporation shall be distributed to the Members except upon dissolution or final liquidation and as permitted by the court having jurisdiction thereof.

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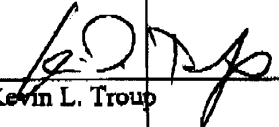
**ARTICLE XIII**  
**INCORPORATOR**

The name and address of the incorporator under these Articles is:

Kevin L. Troup

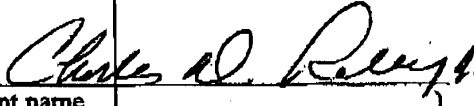

1914 Art Museum Drive  
Jacksonville, Florida 32207

IN WITNESS WHEREOF, the undersigned subscribing Incorporator, has hereunto set his hand and seal this 19<sup>th</sup> day of April, 2004, for the purpose of forming this corporation not-for-profit under the laws of the State of Florida.

  
\_\_\_\_\_  
Kevin L. Troup

STATE OF FLORIDA     }  
                                  }  
COUNTY OF DUVAL    ]

The foregoing Articles of Incorporation were acknowledged before me this 19<sup>th</sup> day of April, 2004, by Kevin L. Troup, as Incorporator.

  
\_\_\_\_\_  
(Print name)  
**NOTARY PUBLIC**  
State of Florida at Large  
Commission # \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
 Charles D. Raley Jr  
My Commission CC838708  
Expires May 11, 2004

Personally known   
or Produced I.D. \_\_\_\_\_  
[check one of the above]

Type of Identification Produced  
\_\_\_\_\_

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**CERTIFICATE NAMING AGENT UPON WHOM PROCESS MAY BE SERVED**

In compliance with Section 48.091, Florida Statutes, the following is submitted:

**BARTRAM DOWNS UNIT THREE HOMEOWNERS ASSOCIATION, INC.**, a corporation duly organized and existing under the laws of the State of Florida, with its principal office, as indicated in the Articles of Incorporation at the City of Jacksonville, County of Duval, State of Florida, hereby names Victoria D. Towers located at 1914 Art Museum Drive, Jacksonville, Florida 32207, as its agent to accept service of process within the state.

  
\_\_\_\_\_  
Kevin L. Troup, Incorporator

Date April 19, 2004

Having been named to accept service of process for the above stated corporation, at the place designated in this certificate, I hereby accept to act in this capacity, and agree to comply with provisions relative to said office.

  
\_\_\_\_\_  
Victoria D. Towers

Date April 19, 2004

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**EXHIBIT "C"**

**BYLAWS**

**BYLAWS OF BARTRAM DOWNS UNIT THREE**  
**HOMEOWNERS ASSOCIATION, INC.**  
**A Florida Corporation Nor-for-Profit**

1. **IDENTITY.**

1.1 **Applicability.** These are the Bylaws of BARTRAM DOWNS UNIT THREE HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit (the "Association") organized pursuant to the provisions of Chapter 617, Florida Statutes, as amended, to the date of filing of the Articles of Incorporation (the "Articles").

1.2 **Office.** The office of the Association shall be at 1914 Art Museum Drive, Jacksonville, Florida 32207, or at some other place as may be established by resolution of the Board of Directors.

1.3 **Fiscal Year.** The fiscal year of the Association shall be the first day of January through the last day of December.

1.4 **Seal.** The seal of the Association shall bear the name of BARTRAM DOWNS UNIT THREE HOMEOWNERS ASSOCIATION, INC., the word "Florida", the words "Corporation Not-for-Profit", and year of incorporation.

2. **MEMBERSHIP, VOTING QUORUM AND PROXIES.**

2.1 **Membership.** The qualification of members of the Association ("Members"), the manner of their admission to membership and termination of such membership, shall be as set forth in the Articles, the provisions of which are incorporated herein by reference.

2.2 **Quorum.** A quorum at meetings of Members shall consist of persons entitled to cast a majority of the votes of all classes of membership entitled to vote upon any matter or matters arising at said meeting.

2.3 **Voting.**

(a) Each Lot Owner, other than the Developer, shall be a Class A Member and shall be assigned the right to cast one (1) vote at any meeting of the Members.

(b) The Developer shall be the Class B Member and shall be entitled to cast one (1) vote, plus two (2) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members, until such time as the Developer's membership is terminated in accordance with the Articles and Declaration.

(c) If a Lot is owned by one (1) person, his or her right to vote shall be established by the record title to his or her or her Lot.

(d) If any Lot is owned by more than one (1) person or a partnership, corporation, trust or any other association or entity, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record owners of the Lot or the President, general partner or other chief executive officer of the respective entity and filed with the Secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until ownership of the Lot is changed. A certificate designating the person entitled to cast the vote of a Lot may be revoked by any owner of that Lot. If such certificate is not on file, the vote of such owners\ shall not be considered in determining the requirement of a quorum nor for any other purpose.

2.4 Vote Required. Except as otherwise required under the provisions of the Articles, these Bylaws or the Declaration, or where the same otherwise may be required by law, at any meeting of the general membership of the Association, duly called and at which a quorum is present, the acts approved by the affirmative vote of a majority of the votes present at such meeting shall be binding upon the Members.

2.5 Proxies. At any meeting of the Members, every Member having the right to vote shall be entitled to vote in person or by limited proxy, provided that no one (1) person shall be designated to hold more than ten (10) proxies. Any proxy given shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. All such proxies shall be filed with the secretary prior to or during the roll call of such meeting. In no event shall any proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the Lot owner executing it.

### 3. MEMBERS' MEETNGS.

3.1 Annual Meeting. The annual meeting of the Members shall be held at the office of the Association or such other place as the Board of Directors may determine, and at such time as may be specified in the notice of the meeting on such date as determined by the Board for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members.

3.2 Special Meetings. Special meetings of the entire membership of the Association shall be held whenever called by the President or Vice President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members entitled to cast a majority of the votes of the entire membership.

#### 3.3 Notice of Meetings.

(a) **Generally.** Written notice of all meetings of Members shall be given by the Secretary or, in the absence of the Secretary, another officer of the Association, to each Member or class of Members, if any, unless waived in writing. Each notice shall

state the time and place and purpose for which the meeting is called and shall be mailed to the Members at least fourteen (14) days prior to said meeting.

(b) **Annual.** Notice of the Annual Meeting shall be given to each Member not less than fourteen (14) days nor more than sixty (60) days prior to the date set for the meeting, and shall be mailed or delivered personally to each Member. If mailed, such notice shall be deemed properly given when deposited in the United States Mail addressed to the Member at his or her post office address as it appears on the records of Association, and the post office certificate of mailing shall be retained as proof of such mailing.

(c) **Special.** Notice of Special Meetings shall be given to each Member not less than fourteen (14) days prior to the date set for the meeting and shall be mailed or delivered personally to the Member.

(d) **Waiver.** Any Member may, in writing signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before, at or after the holding of the meeting, shall constitute notice of such Member.

(e) **Adjourned Meetings.** If any meeting of Members cannot be held because a quorum is not present, or because a greater percentage of the membership is required to constitute a quorum for a particular purpose is not present, wherever the latter percentage of attendance may be required as set forth in the Articles or the Bylaws the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

3.4 **Presiding Officer and Minutes.** At meetings of Members, the Chairperson of the Board, or in his or her absence, the President, shall preside, or in the absence of both, the Members present shall select a chairperson of the meeting. Minutes shall be kept in a business-like manner and available for inspection by Directors, Lot owners and their authorized representatives during normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven (7) years.

3.5 **Order of Business.** The order of business at annual meetings of Members, and, as far as practical, at other meetings of Members, shall be:

- (a) Calling of the roll and certifying of proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading or waiver of reading of minutes of previous meeting of Members;
- (d) Reports of officers;
- (e) Reports of committees;
- (f) Appointment by Chairperson of inspection of elections;
- (g) Election of Directors;
- (h) Unfinished business;
- (i) New business; and

(j) Adjournment.

4. BOARD OF DIRECTORS.

4.1 Composition of Board and Developer Control. The affairs of the Association shall be managed by a Board of Directors. So long as there is a Class B Member, the Class B Member shall be entitled to appoint the directors. Each member of the Board of Directors shall be entitled to one (1) vote. Directors shall be elected or appointed at the annual meeting of the Association.

4.2 Election of Directors. Directors shall be elected or appointed in the following manner:

(a) Commencing with election of the Board to succeed the first Board as designated in the Articles, Developer shall appoint that number, and the identity, of the members of the Board which it shall be entitled to appoint in accordance with the Articles and these Bylaws, and upon such appointment by Developer, by written instrument presented at the meeting at which such election is held, the persons so appointed by Developer shall be deemed and considered for all purposes Directors of the Association and shall thenceforth hold the offices and perform the duties of such Directors until their successors shall have been elected or appointed, as the case may be, and qualified in accordance with the provisions of these Bylaws.

(b) Commencing with the first annual election of Directors after Developer shall have relinquished the right to appoint the Directors, the Members shall elect all Directors by a plurality of the votes cast at the annual meeting of the general membership. The Class A Members shall vote in person at a meeting of the members or by a ballot that the Class A members personally sign.

(c) Vacancies on the Board may be filled, through the unexpired term thereof, by the remaining Directors. However, should any vacancy on the Board be created in a Developer appointment by written instrument delivered to any officer of the Association, the successor Director shall fill the vacated directorship for the unexpired term thereof.

(d) In the election of Directors, after Developer has relinquished the right to appoint the Directors, there shall be appurtenant to each Lot one (1) vote for each Director to be elected provided however, that no Member may cast more than one (1) vote for any person nominated as a Director, it being the interest hereof that voting for Directors shall be non-cumulative.

(e) Until such time as the Class A Members are entitled to elect all of the Directors, there shall be three (3) Directors of the Association and each Director shall serve for one year until the next annual meeting or such other time as his or her successor is elected or appointed. At the first annual meeting at which the Class A Members are entitled to elect all of the members of the Board of Directors, the number of Directors shall be increased to five (5) and three (3) directorships shall be designated as two-year

term directors and the other two (2) shall be one-year term directors. At the next succeeding annual meeting, such one-year term directorship shall be, from that point on, designated as two-year term directorships. The intent hereof is to stagger the terms of the directorships so that there shall be two or three directors elected each year for two-year terms.

(f) In the event that Developer selects any person or persons to serve on the Board, Developer shall have the absolute right at any time, in its sole discretion, to replace any such person or persons with another person or other persons to serve on the Board. Replacement of any person or persons designated by Developer to serve on any Board shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons designated as successor or successors to the persons so removed from the Board. The removal of any Director and designation of his or her successor shall be effective immediately upon delivery of such written instrument by Developer to any officer of the Association.

4.3 Organizational Board Meeting. The organizational meeting of a newly elected or designated Board shall be held within fifteen (15) days of their election or designation, at such time and place as shall be fixed at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary; provided however, that a quorum shall be present.

4.4 Regular Board Meeting. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telefax, at least seven (7) days prior to the day named for such meeting, unless notice is waived. Further, notice of regular meetings shall be posted in a conspicuous place within the Property at least forty-eight (48) hours in advance. Meetings of the Board of Directors shall be open to all Members. Notice of any meetings where assessments against Members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

4.5 Special Meetings. Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the Directors. Except in an emergency, not less than three (3) days notice of a special meeting shall be given to each Director, personally or by mail, telephone or telefax, which notice shall state the time, place and purpose of the meeting. Further, except in an emergency, such notice shall be posted as specified in Section 4.4 hereof. Notice of any meeting where assessments against Members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

4.6 Board Minutes. Minutes of all meetings of the Board shall be kept in a businesslike manner and available for inspection by Members and Directors during

normal business hours at the principal office of the Association. The Association shall retain these minutes for a period of not less than seven (7) years.

4.7 Waiver of Notice. Any Director may waive notice of a meeting before, at or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

4.8 Quorum. A quorum at meetings of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as may be specifically otherwise provided in the Articles or these Bylaws. At any adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.9 Action Without a Meeting. To the extent, now or from time to time hereinafter permitted by the laws of Florida, the Board may take any action which they might take at a meeting of the Board without a meeting; provided, that a record of all such actions so taken, signed by each Director, shall be filed and retained in the minute book of the Association.

4.10 Removal. Directors may be removed from office with or without cause by the vote or written agreement of a majority of all Members, provided however, that only Developer can remove a member of the Board who was appointed by Developer.

4.11 Presiding Officer. The presiding officer of meetings of the Board shall be the Chairperson of the Board, if such officer has been elected or, if not, the President of the Association. In the absence of the presiding officer, the Directors present shall designate one of their numbers to preside.

4.12 Powers and Duties. All of the powers and duties of the Association shall be exercised by the Board, including those existing under the laws of the State of Florida, the Articles of Incorporation and these Bylaws. Such powers and duties shall be exercised in accordance with the Articles and these Bylaws, and shall include, without limitation, the right, power and authority to do the following:

(a) Make and establish reasonable rules and regulations governing the use of the Property or the Common Areas, as such terms will be defined herein and in the Declaration.

(b) Adopt for, and in advance of, each fiscal year, a budget necessary to carry out the purposes of the Association as set forth herein.

(c) Levy and collect assessments against Members of the Association to defray the expenses of the Association, including the right to enforce any lien right granted the Association to secure the payment of said assessments.



(d) Own, operate, lease, sell, manage, encumber, convey, subject to easements and otherwise deal with such real and personal property as may be necessary or convenient for the administration of the Common Areas.

(e) To own, manage, administer and operate such property as may be conveyed to it by the Developer, its successor or assigns, for the mutual benefit and use of all Members.

(f) Enforce the provisions of the Articles, these Bylaws, the Declaration and all covenants, restrictions, rules and regulations governing the use of the Property, or a portion thereof and the Common Areas which may now or hereafter be established.

## 5. OFFICERS.

5.1 Generally. The Board shall elect a President, Secretary, Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall deem advisable from time to time. The same person may hold two (2) offices, the duties of which are not incompatible; provided, however, that the office of President and Vice President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person. The Board may, from time to time, elect such other officers, and designate their powers and duties, as the Board may deem necessary to properly manage the affairs of the Association. Officers may be removed from office by the Board.

5.2 President. The President shall be the chief executive officer of the Association. He or she shall have all of the powers and duties which are usually vested in the office of President of a corporation not-for-profit, including, but not limited to, the power to appoint committees from among the Members from time to time, as he or she may in his or her discretion determine appropriate, to assist in the conduct of the affairs of the Association. He or she shall have such additional powers as the Board may designate.

5.3 Vice-President. The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He or she shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

5.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Board and the members. He or she shall attend to the affairs of the Association. He or she shall have such additional powers as the Board may designate.

5.5 Treasurer. The Treasurer shall have custody of all of the property of the Association including funds, securities and evidence of indebtedness. He or she shall keep the assessment roll and accounts of the Members; he or she shall keep the books of the Association in accordance with good accounting practices, and he or she shall perform all other duties incident to the office of Treasurer.

6. These Bylaws may be altered or amended by the vote or written consent of a majority of the members of the Board of Directors.

The foregoing were adopted as the Bylaws of BARTRAM DOWNS UNIT THREE HOMEOWNERS ASSOCIATION, INC., a corporation not-for-profit under the laws of the State of Florida, at the first meeting of the Board of Directors on the \_\_\_\_\_ day of \_\_\_\_\_, 2004.