(27)

1279

Public Records of
St. Johns County, FL
Clerk# 03-079602
O.R. 2075 PG 877
10:55AM 10/27/2003
REC $109.00 SUR $14
SUR#14.00

DECLARATION OF COVENANTS & RESTRICTIONS FOR SUMMERHILL SUBDIVISION

THIS DECLARATION, is made this 24th day of October, 2003, by SUMMERHILL DEVELOPERS, L.L.C., with its principal place of business at 3501-B North Ponce de Leon Boulevard, PMB 367, St. Augustine, Florida 32084, hereinafter referred to as "Developer," who recites and provides:

RECITALS:

A. Developer desires to develop of certain land owned by the Developer and located in St. Johns County, Florida, being all that real property platted as SUMMERHILL SUBDIVISION in Map Book 48, Pages 3 through 6, of the public records of St. Johns County, Florida, which is commonly referred to as "SUMMERHILL SUBDIVISION" (the "Property"). Developer desires to maintain the beauty of the Property to assure high quality standards for the enjoyment of the Property.

B. Developer intends to develop the Property for the purpose of constructing single family dwellings, which dwellings will share certain Common Property (as hereinafter defined) and which will be occupied and maintained as a residential development for the mutual and common advantage of all Owners (as hereinafter defined) and occupants of the Property, subject to the provisions of this Declaration and all other rules and regulations applicable to the Property.

COPY

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

D. Developer desires to provide for the efficient management of the Property and deems it desirable to create a non-profit corporation with the power and duty of administering and enforcing the protective covenants, conditions, restrictions, easements and limitations set forth in this Declaration, including, without limitation, the maintaining and administering of the Common Property and collecting and disbursing the Assessments for common expenses. To this end, Developer has created or will create SUMMERHILL HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation ("the Association"), whose membership shall include the Owners of all or any part of the Property.

DECLARATION

NOW, THEREFORE, Developer hereby declares that the Property shall be held, sold, occupied and conveyed subject to the following easements, restrictions, covenants, liens and

RET→ DOBSON & BROWN, PA
66A CUNA ST., STE B
ST. AUGUSTINE, FL 32084

conditions which are for the purpose of protecting the value and desirability of and shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part of the Property, their heirs, successors and assigns, and shall inure to the benefit of each Owner and the Developer.

ARTICLE I

DEFINITIONS

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

(a) "ARB" means the Architectural Review Board of the Association.

(b) "Articles" means the Articles of Incorporation for the Association, as amended from time to time.

(c) "Assessment" means and includes all types of charges to which a Unit is subject, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, and Unit Assessments (as hereinafter defined).

(d) "Association" means SUMMERHILL SUBDIVISION HOMEOWNERS' ASSOCIATION, INC., a Florida non-profit corporation, its successors and assignees, which is responsible for the management and operation of the Property.

COPY

(e) "Board of Directors" means the Board of Directors of the Association.

(f) "Bylaws" means the Bylaws of the Association, as amended from time to time.

(g) "Common Property" means all of the Property, except the Units, together with any improvements; all personal property intended for the common use and enjoyment of the Owners; and any area within the Property which the Association is obligated to maintain, notwithstanding that it may not own the underlying fee simple title to such areas. The Common Property is not dedicated for use by the general public. The Common Property shall specifically include, without limitation, sign and landscape easements (including, but not limited to, those shown on the plat of the Property), entry features (including easement, sign, landscaping, lighting, and entry wall), any perimeter fencing or walls, all landscaping, the Stormwater Management System, and the sewage collection system which includes the lift station. The roadways located on the Property shall be dedicated to the County.

(h) "County" means City of St. Johns County, Florida.

(i) "Declaration" means this Declaration of Covenants and Restrictions, as amended and supplemented from time to time.

(j) "Developer" means SUMMERHILL DEVELOPERS, L.L.C., its successors and assigns, or any successor or assign of all or substantially all of their interests in the development of the Property. Reference in this Declaration to SUMMERHILL DEVELOPERS, L.L.C. as the Developer under this Declaration is not intended and shall not be construed to impose upon SUMMERHILL DEVELOPERS, L.L.C. any obligations, legal or otherwise, for the acts or omissions of third parties who purchase Units within the Property from the owner of the Property and who develop and resell the same. Developer may also be an Owner for so long as Developer shall be the record owner of any Lot. The Developer, SUMMERHILL DEVELOPERS, L.L.C., shall exercise all powers, duties and rights granted to the Developer by the provisions of this Declaration. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Property. In the event of such a partial assignment, the assignee shall not be deemed the Developer but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a nonexclusive basis. In addition, in the event that any person or entity obtains title to all of the property owned by Developer as a result of foreclosure or deed in lieu thereof, such person or entity may elect to become the Developer by written election recorded in the public records of the County, and regardless of the exercise of such election, such person or entity may appoint the Developer or assign any rights of Developer to any other party who acquires title to all or any portion of the Property by written appointment recorded in the public records of the County. In any event, any subsequent Developer shall not be liable for any actions, defaults, or obligations incurred by any previous Developer, except as may be expressly assumed by the subsequent Developer.

COPY

(k) "Initial Improvements" means the initial, original construction of Units and related improvements and initial landscaping upon the Units constructed by Developer or those builders specified by Developer.

(l) "Member" means a person entitled to membership in the Association as provided in this Declaration and shall expressly include the Developer.

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

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

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

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

(q) "Residences" means any single family residential dwelling constructed or to be constructed on or within any Unit.

(r) "Roads" means and refers to the roads depicted on any plat of the Property which provide ingress and egress to a Unit. The Roads shall be considered Common Property of the Association and, unless specifically set forth in this Declaration, to the contrary all rules and regulations and provisions relating to the Common Property, shall include the Roads.

(s) "Sewage Collection System" and "Lift Stations" mean the pipes, valves, pumps and lift stations installed to carry sewage from the lines serving the Units to the sewage lines operated by St. Johns County Utilities.

(t) "Stormwater Management System" means a system designed, constructed, or implemented to control discharges necessitated by rainfall, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, or water pollution, or otherwise affect the quality and quantity of discharge from the system as permitted pursuant to Florida Administrative Code.

(u) "Unit" means any portion of the Property intended as a site for a Residence and shown upon any duly recorded subdivision plat of the Property and by the site plan attached hereto as Exhibit "1." References to "Unit" shall also include the Residence and all improvements, unless specifically set forth to the contrary. The Units include no Common Property.

COPY

ARTICLE II

ASSOCIATION

SECTION 2.1 Members. Every Owner shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from title to each Unit and shall be transferred automatically by conveyance of the title to any Unit whereupon the membership of the previous Owner shall automatically terminate Tenants and persons or entities that have an interest in any Unit merely as security for the performance of an obligation shall not be Members of the Association, and in such case the beneficial Owner shall retain the membership in the Association.

SECTION 2.2 Voting Rights. The Association shall have two classes of voting membership.

(a) Class A. Class A Members shall be all Owners, with the exception of Developer, while Developer is a Class B Member. Class A Members shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be Members; however, the vote for such Unit shall be exercised as they, among themselves, determine.

In no event shall more than one vote be cast with respect to any Unit. Notwithstanding the foregoing, if title to any Unit is held by a husband and wife, either spouse may cast the vote for such Unit unless and until a written voting authorization is filed with the Association. When title to a Unit is in a corporation, partnership, association, trust or other entity, with exception of Developer, such entity shall be subject to the applicable rules and regulations for such entities contained in the Articles and Bylaws.

(b) Class B. Class B Member shall be Developer and shall be entitled to 2 votes for each Unit owned or intended to be a part of this Association. The Class B membership shall cease and be converted to Class A membership upon the earlier of the following events:

(i) The date on which Developer, which term includes, for purposes of this provision, any builder owning a Unit for the purpose of construction a Residence thereon for sale to an ultimate third party purchaser, no longer owns any Units within the Property.
(ii) Ten (10) years after the recording of this Declaration.
(iii) Such earlier date as Developer, in its sole discretion, may determine.

ARTICLE III

OWNER'S RIGHTS AND RESPONSIBILITIES

SECTION 3.1 Easement of Enjoyment. Subject to the limitations provided in this declaration, every Owner is hereby granted a nonexclusive right and perpetual easement of enjoyment in and to the Common Property which easements are appurtenant and shall pass with the title to every Unit, subject to the following:

COPY

(1) The right of the Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

(2) The right of Developer or the Association to grant easements and rights of way, as may be deemed appropriate for the proper development and maintenance of the Property, including, without limitation, Developer's right to reserve an easement for itself, its successors and assigns for ingress, egress, maintenance, surface water management and drainage and utilities over all Common Property.

(3) All provisions of this Declaration, any plat of any part of the Property, and the Articles and Bylaws of the Association.

(4) The rules and regulations governing the use and enjoyment of the Common Property adopted by the Association.

(5) All easements and restrictions of record affecting any part of the Common Property.

SECTION 3.2 Delegation of Use. Each Owner may delegate, subject to the Articles, Bylaws, and this Declaration, his right of enjoyment of the Common Property to the members or his family, tenants, guests, invitees, licensees, domestic servants, or contract purchasers who occupy the Unit.

SECTION 3.3 Damage or Destruction. In the event any Common Property or property of the Association or Developer is damaged or destroyed by an Owner or any of his guests, tenants, invitees, agents, employees or members of his family as a result of negligence or misuse, the Owner shall immediately, at Owner's expense, repair the damaged area or property in a good and workmanlike manner, in accordance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association. The cost of such repairs shall be the responsibility of that Owner. Should the Owner fail to immediately repair such damage, the Association may, but shall not be obligated to, repair the damaged area or property in a good and workmanlike manner in accordance with the proceeding provisions of this Section the cost of such repairs shall be the responsibility of that Owner shall be paid, immediately upon receipt of a written invoice or statement by the Owner and shall be a Unit Assessment.

SECTION 3.4 Maintenance. Each Owner shall keep all parts of his Unit, including the Residence, in good order and clean and free of debris and shall assure the repair or replacement of roofing, repair or replacement of windows and doors, including repair or replacement of glass or screens and, repair or replacement of building materials on the exterior of the Residence. Each Owner shall also maintain any portion of the Property lying between his Unit line and the edge of the paved portion of the right-of-way.

COPY

SECTION 3.5 Rules and Regulations. All Owners shall comply with the rules and regulations adopted and amended from time to time by the Board of Directors, the ARB and this Declaration. Such rules and regulations shall be for the purpose of elaboration and administration of the provisions of this Declaration, shall relate to the overall development of the Property and shall not in any way diminish the powers of self-government of the Association.

ARTICLE IV

COMMON PROPERTY AND EASEMENTS

SECTION 4.1 Common Property.

(a) Title. Developer shall convey title to the Common Property at the time of recordation of the plat of the subdivision. The Common Property shall be held by the Association for the benefit of the Association and its Members. No transfer of the title to any Unit, and no provision in any deed or other instrument of conveyance of any interest in any Unit, shall pass any rights in and to the Common Property except as expressly enumerated in this Declaration.

(b) Maintenance. It shall be the duty of the Association to manage and maintain the Common Property in a clean, attractive, sanitary and serviceable condition and in good order and repair for the

benefit of all Owners. The Association's duties shall commence upon the completion of any improvements upon the Common Property and shall include servicing, replacement, and renewal of all improvements, equipment, and tangible personal property installed by Developer as a part of the Common Property. Association assumes and agrees to be responsible for the maintenance and operation of the Stormwater Management System and Stormwater Management System permits and the Sewer Collection Systems and Lift Stations. The Association shall keep the improvements located on the Common Property, including fixtures, insurable at full replacement value, excluding foundation and excavation costs, as determined by the Board of Directors. The Association shall also maintain all landscaping on the Common Property, provided that neither Developer nor the Association shall be deemed to be a guarantor of such landscaping. The costs of maintenance and landscaping shall be a part of the Annual Assessments.

SECTION 4.2 Utility Easements.

(a) Blanket Easement. Developer reserves for itself, its successors and assigns, a nonexclusive, perpetual, alienable blanket easement for the benefit of the Property upon, across, over, through, and under the Property for ingress, egress, installation, replacement, repair, use and maintenance of all utility and service lines and service systems, public and private, including, but not limited to, water, sewer, drainage, irrigation systems, telephones, electricity, television cable or communication lines and systems, and police powers and services supplied by the local, state and federal governments. This easement shall in no way affect any other recorded easements on the Property. Upon construction of a Unit, the blanket easement hereby reserved shall be vacated with respect to the portion of the Property on which the Unit and other approved improvements are located.

COPY

(b) Sign and Landscaping Easements. Developer reserves unto itself, its successors and assigns a non-exclusive, perpetual and alienable easement as shown on the Plat for the installation and maintenance of community identification signage and entry landscaping and features.

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

SECTION 4.3 Stormwater Management System.

(a) Blanket Easement. The plan for the development of the Property includes the construction of a Stormwater Management System including, without limitation, retention areas, swales, conduits, and berms. Developer reserves for itself, its successors and assigns, and conveys to the Association, its designees and agents, a nonexclusive, perpetual, alienable blanket easement over, under and across the ground within the Property, including any platted easements and any easements reserved herein or otherwise, for ingress, egress, installation, replacement, repair, use and maintenance to maintain and correct the drainage of surface water. Such right expressly includes the right to cut any

trees, bushes or shrubbery, make any gradings of the soil, construct or modify any berms placed along the rear of Units as part of the Stormwater Management System, or to take any other similar action reasonably necessary, following which Developer or the Association shall restore the affected property to its original condition as nearly as practicable; and provided, however, that Developer or the Association shall restore the affected property to its original condition as nearly as practicable; provided, however, that Developer or the Association shall not be required to replace or repair fences, walks, structures, landscaping, or other improvements which are removed or damaged. Developer or Association shall give reasonable notice of intent to take such action to all affected Owners, unless, in the opinion of Developer or the Association, an emergency exists which precludes such notice. The right granted hereunder may be exercised at the sole option of Developer or the Association and shall not be construed to obligate Developer or the Association to take any affirmative action in connection therewith.

(b) Maintenance. Except as specifically set fort herein to the contrary, the Association is responsible for the maintenance, operation, and repair of the Stormwater Management System. Such maintenance shall include the exercise of practices which allow the Stormwater Management System to provide drainage, water storage, conveyance, or other capabilities in accordance with all the permits, statues, rules, and regulations pertaining to surface water management, drainage, and water quality promulgated by the St. Johns River Water Management District, Florida Department of Environmental Protection, and all other local, state and federal authorities having jurisdiction. The Association shall be responsible for the routine removal and disposal of trash which may accumulate within the Stormwater Management System. The Association shall be obligated to accept an assignment of any and all Stormwater Management System permits and the Association shall execute any minutes or other documents required to cause the permits to be transferred to the Association from the Developer, and accepting complete responsibility for any and all Stormwater Management System permits for the Property.

COPY

Any amendment to the covenants and restrictions which alter the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

(c) Improvements. No Owner, except Developer, its designee, or the Association shall be permitted to construct any improvements, permanent or temporary, on, over or under any portion of the Stormwater Management System without the written consent of the Association and the approval of the ARB, which consent or approval may be withheld for any reason. Any improvements to the Stormwater Management System permitted by the Association and installed by the Owner shall be maintained by such Owner in accordance with the maintenance provisions of this Declaration.

(d) Compliance with Stormwater Management System Permits. Stormwater Management System Permits have been issued authorizing construction and operation of the Stormwater Management System to serve the Property. No alteration to any part of the Stormwater Management System, including but not limited to, swales and pipes will be allowed without the written consent

of Developer or the permit issuing governmental body. All clearing grading and other construction activities must comply with the terms and conditions of the permits.

(e) Enforcement and Liability. In addition to the provisions of Section 13.4 of this Declaration, the St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this declaration which relate to the maintenance, operation and repair of the surface water or the stormwater management system, the St. Johns River Water Management District shall have the right to seek enforcement of any of the provisions of this Declaration relating to the Stormwater Management System.

SECTION 4.4 Developer's Rights. Developer, its successors and assigns, shall have the unrestricted right, without approval or joinder of any other person or entity:

(i) to designate the use of, alienate, release, or otherwise assign the easements shown in any plat of the Property or described herein;
(ii) to plat or replat all or any part of the Property controlled by Developer;
(iii) to widen or extend any right-of-way shown on any plat of the Property or convert a Unit to use as a right-of-way, provided that Developer controls the lands affected by such changes. The Owners of Units subject to easements shown on any plat of the Property shall acquire no right, title, or interest in any of the cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over, or under the easement area. The Owners of Units subject to any easements shall not construct ant improvements on the easement areas, alter the flow or drainage, or landscape such areas with hedges, trees, or other landscape items that might interfere with the exercise of the easement rights. Any Owner who constructs any improvements or landscaping on such easement areas shall remove the improvements or landscape items upon written request of the Developer, the Association, or the grantee of the easement.

COPY

ARTICLE V

UTILITIES

SECTION 5.1 Water System. The St. Johns County Utility Department, a public utility company, will provide the central water supply system for the Property which shall be used as the sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Unit. Each Owner shall pay water meter charges established or approved by the supplier and shall maintain and repair all portions of such water lines located within the boundaries of his Unit. No individual water supply system or well for consumptive purposes shall be permitted on any Unit.

SECTION 5.2 Sewage Collection System. The St. Johns County Utility Department, a public utility company, will provide sewage and wastewater services which connect to the Sewage Collection

System and Lift Stations on the Property. Each owner of a Unit, at his or her expense, shall connect the sewage disposal line serving that Unit to the sewage connection line provided to serve that owner's Unit so as to comply with the requirements of the sewage collection and disposal service. Each Owner shall maintain and repair all portions of such sewer improvements and lines located within the boundaries of his Unit and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal service made by St. Johns County or the operation of Sewage Collection System. No sewage shall be discharged onto the open ground or into any marsh, drainage ditch or roadway.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

SECTION 6.1 Annual Assessments. For each Unit within the Property, each Owner, by acceptance of a deed or other conveyance, agrees to pay Annual Assessments levied by the Association for the improvement, maintenance and operation of the Common Property, including, without limitation, the maintenance and operation of the Stormwater Management System, the management and administration of the Association, and the furnishing of services as set forth in this Declaration, at a level sufficient to meet the Association's obligations, including contingencies and reserves. The Board of Directors shall set the date or dates such Annual Assessments shall become due and may provide for collection of Assessments to be payable annually or in monthly, quarterly or semi-annual installments; provided, however , that upon default in the payment of any one or more installments, the entire balance of such Annual Assessment may be accelerated, at the option of the Board of Directors, and be declared due and payable in full. The initial maximum Annual Assessment shall be determined by the Developer. From and after January 1 of the year immediately following the conveyance of the first unit to an owner, the maximum assessment may be increased each year by the Board of Directors of the Association but by not more than fifteen percent (15%)above the maximum assessment for the previous year. Increased assessments in excess of fifteen percent (15%) of the previous year's assessment shall require the approval of a majority of the membership.

COPY

SECTION 6.2 Special Assessments. In addition to the Annual Assessments, the Association may levy in any fiscal year a Special Assessment applicable to that year and not more than the next four (4) succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided any such Special Assessment shall have the consent of Owners holding two thirds of the votes, other than Developer, voting in person or by proxy at a regular meeting or special meeting called for that purpose at which a quorum of each class of membership is present.

SECTION 6.3 Emergency Assessments. The Association may also levy an Emergency Assessment at any time by a majority vote of the Board of Directors, for the purpose of defraying, in whole or in part, the cost of any extraordinary or emergency matters, as determined by the Board of Directors in its sole discretion, that affect all the Common Property or Members of the

Association, including, after depletion of any applicable reserves of this Article, any unexpected expenditures not provided by the Budget or unanticipated increases in the amounts budgeted. Any such Emergency Assessment shall be due and payable at the time and in the manner specified by the Board of Directors.

SECTION 6.4 Commencement of Annual Assessments.

(a) Date of Commencement. The Annual Assessments shall commence with respect to each Unit on the date of conveyance of the Unit to an Owner other than Developer. The initial Annual Assessment on any Unit subject to Assessment shall be collected at the time title to such Unit is conveyed to the Owner. During the initial year of ownership, each Owner shall be responsible for the pro rata share of the Annual Assessments charged to each Unit prorated to the day of closing on a per diem basis. Any other Assessments shall be paid in full without proration.

(b) Capital Contribution. In addition, at the closing and transfer of title of each Unit to the first Owner other than Developer or a builder constructing the initial improvements thereon, such Owner shall make a working capital contribution to the Association in the sum of Two Hundred and 00/100 Dollars ($200.00) per Unit. These contributions to the Association shall be used for the purpose of defraying the initial and nonrecurring capital expenses of the Association and to provide initial working capital for the Association. Such contribution shall not be considered as a prepayment of Annual Assessments.

COPY

SECTION 6.5 Nonpayment of Assessments and Remedies.

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

(b) Owner's Acceptance. The Assessment Charge is also the personal obligation of the person or entity which was the Owner of such Unit at the time when the Assessment was levied and of each subsequent Owner thereof. Each Owner of a Unit, by acceptance of a deed or other transfer document therefor, whether or not it shall be so expressed in such deed or transfer document, is deemed to covenant and agree to pay to the Association the Assessment Charge established or described in this Article. Each Owner, by his acceptance of title to a Unit, hereby expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of such Assessment Charge as a debt and to enforce the aforesaid by all methods available for the enforcement of such liens, including foreclosure, by an action brought in the name of the Association. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of his Unit.

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

(d) Remedies. The Association may bring an action at law against the Owner or Owners personally obligated to pay such Assessment Charge or foreclose the lien against the Unit upon which the Assessment Charge is made in the manner provided below. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Unit at such foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Board of Directors, by majority vote, shall have the right to assess fines and to suspend the voting rights and the right to use the Common Property by an Owner for any period during which any Assessment against his Unit that is more than thirty (30) days past due remains unpaid and for a period not to exceed sixty (60) days for any infraction of the other provisions of its rules and regulations or of this Declaration.

(e) Subordination of Lien to Mortgages. The lien of the Assessment Charge shall be inferior and subordinate to the lien of any Mortgagee, but only to the extent of the Mortgage balance outstanding as of the date the notice of an Assessment Charge is first recorded against the Unit, plus interest and reasonable costs of collection which subsequently accrue. The sale or transfer of any Unit shall not affect the Assessment Charge; however , the sale or transfer of any Unit pursuant to foreclosure of a Mortgage or deed in lieu of foreclosure shall extinguish the lien of an Assessment Charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve the transferee of such Unit from liability for any Assessments subsequently becoming due or from the Lien for Unit Assessments or shall relieve the Owner responsible for such payments from such Owner's personal liability for payment of the Unit Assessments.

COPY

SECTION 6.6 Certificate of Payment. The Treasurer of the Association or the management company authorized by the Board of Directors, upon demand of any Owner liable for an Assessment, shall furnish to such Owner a certificate in writing setting forth whether such Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge for the services involved in preparing such certificate may be assessed by the Association or management company as applicable.

SECTION 6.7 Budget.

(a) Fiscal Year. The fiscal year of the Association shall consist of the twelve (12) month period commencing on January 1 of each year.

(b) Initial Budget. Developer shall establish the budget for the fiscal year in which a Unit is first conveyed to an Owner other than Developer.

(c) Preparation and Approval of Annual Budget. Commencing December 1 of the year in which a Unit is first conveyed to an Owner who is not Developer, and on or before December 1 of each subsequent year, the Board of Directors shall adopt a budget for the coming year containing an estimate of the total amount which it considers necessary to pay the cost of all expenses to be

incurred by the Association, including, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses for the rendering to the Owners of all services required or permitted hereunder. Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital for the Association and to provide for a general operating reserve and reserves for contingencies and replacements. The Board of Directors shall send to each Owner a copy of the budget, in a reasonably itemized form which sets forth the amount of the Annual Assessments payable by each Owner, on or before December 15 preceding the fiscal year to which the budget applies. Such budget shall constitute the basis for determining each Owner's Annual Assessment as provided above. The Assessments shall be determined by dividing the amount of the Budget by the number of Units subject to the Declaration.

(d) Reserves. The Association may, in its discretion, maintain reserves for

(i) working capital;
(ii) contingencies;
(iii) replacement of Common Property;
(iv) the performance of such other coordinating or discretionary functions not contrary to the terms of this Declaration which the Board of Directors may from time to time approve, which shall be collected as part of the Annual Assessment as provided above.

The amount and manner of collection of reserves shall be as determined by the Board of Directors, in its sole discretion. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except in the event of any emergency, reserves accumulated for one purpose may not be expended for any other purpose unless approved by the Members of the Association holding the majority of the votes. If the reserves are inadequate for any reason, including nonpayment of any Owner's Assessment, the Board of directors may, at any time, levy a Special Assessment in accordance with the provisions of this article, which may be payable in a lump sum or in installments as the Board of Directors may determine. In the event there is a balance of reserves at the end of any fiscal year and the Board of Directors so determines, any excess reserves may be taken into account in establishing the next year's budget and may be applied to defray general expenses incurred thereunder.

COPY

(e) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of directors to prepare or adopt an annual budget or adjusted budget for any fiscal year shall not constitute a waiver or release in any manner of any Owner's obligation to pay his Annual Assessment whenever the same shall be determined. In the absence of any annual Association budget or adjusted budget, each Owner shall continue to pay the Annual Assessment at the rate established for the previous fiscal period in the manner such payment was previously due until notified otherwise.

(f) Accounts. Except as otherwise provided herein, all sums collected by the Board of Directors with respect to Assessments against the Owners may be commingled in a single fund.

SECTION 6.8 Exempt Property. In the event the Common Property is taxed separately from the Units, the Association shall include such taxes as part of the Annual Assessment. In the event the Common Property is taxed as a component of the value of the Unit owned by each Owner, it shall be the obligation of such Owner to promptly pay such taxes prior to their becoming a lien on the Property.

ARTICLE VII

ARCHITECTURAL CONTROL

SECTION 7.1 Purpose. The Association through the ARB shall have the right to exercise architectural control over all improvements constructed, erected, or placed upon any part of the Property and to assist in making the Property a community of high standards and aesthetic beauty. Such architectural control may include, without limitation, size, height, exterior design, materials, colors, open space, landscaping, and aesthetic criteria. For so long as Developer owns any Unit (and irrespective of whether the Class B Membership has terminated), Developer shall have the sole right to appoint the members of the ARB. Thereafter, the members of the ARB shall be appointed by the Board of Directors as designated in the Bylaws, or, if the Board of Directors fails to so appoint the ARB, then the Board of Directors shall constitute the ARB.

COPY

SECTION 7.2 Construction Subject to Architectural Control.

(a) ARB Approval. After completion of the Units by the Developer or their successors, no construction, modification, alteration or improvement, except for interior alterations not affecting the external structure or appearance of any Unit, shall be undertaken on any Unit unless and until a plan of such construction, modification, alteration or improvement shall have been approved in writing by the ARB.

(b) Improvements Subject to Approval. Construction, modifications and improvements subject to approval by the ARB specifically include, but are not limited to, painting or other alteration of the exterior appearance of a Unit, including doors, windows and roofs, installation of antennae, satellite dishes or receivers, solar panels or other devices, addition of awnings, signs, whether located on the Unit or in windows of the Unit, flower boxes, shelves, statues, or other outdoor ornamentation patterned or brightly colored window coverings, and all other modifications, alterations or improvements visible from any road or other Units. All of the foregoing, are jointly called the "Proposed Improvements."

(c) Basis for Decision. Approval shall be granted or denied by the ARB or Developer based upon compliance with the provisions of this Declaration and any guidelines established pursuant to the Declaration, the quality of workmanship and materials, the harmony of external design with its

surrounds, the effect of the construction on the appearance from adjoining surrounding Units, and all other factors, guidelines and standards promulgated from time to time including purely aesthetic considerations, which, in the sole opinion of the ARB or Developer, will affect the desirability or suitability of the construction.

In connection with its approval or disapproval of an application, the ARB or Developer shall evaluate each application for total effect. The evaluation relates to matters of judgment and taste which can not be reduced to a simple list of measurable criteria. It is possible, therefore, that an application may meet individual criteria and still not receive approval, if in the sole judgment of the ARB or Developer, its overall aesthetic impact is unacceptable. The approval of an application shall not be construed as creating any obligation on the part of the ARB or Developer to approve applications involving similar designs for different Units.

(d) Minimum Area. All homes constructed in the SUMMERHILL SUBDIVISION shall include a ground floor area in the main structure of not fewer than one thousand two hundred (1,200) square feet, exclusive of first story open porches and garages.

(e) Mobile, Manufactured or Modular Homes. No mobile homes, manufactured homes, modular homes or homes with portions constructed off site shall be built on any lot in the SUMMERHILL SUBDIVISION.

(f) Landscaping. All lots must be fully grassed or sodded. The Board of Directors upon the recommendation of the ARB shall approve all modifications, repair, replacement and maintenance of landscaping on the Property.

COPY

(g) Fences. The use of fences, walls and other forms of visual screens throughout the Property shall be limited to the perimeter of the Property and the Common Property swimming pool and shall be designed and installed so as not to unnecessarily or unduly restrict the view of other owners.

(h) Ancillary Structures. Unless approved by the ARB or Developer as to use, location and architectural design, no garage, tool, guest quarters or storage buildings can be constructed separate and apart from the Residence nor can any such structures be constructed prior to construction of the main Residence. Any such permitted ancillary structures such as detached garages, guest quarters or storage buildings shall be subject to the same set back lines, approvals of the ARB and other restrictions applicable to the Residence itself.

(i) Antennae and Other Devices. Unless prior written approval has been obtained from the ARB, no exterior radio or television antenna, satellite dish or other receiving or transmitting device, antenna or aerial, solar panel or other solar collector, windmill or any similar exterior structure or apparatus may be erected or maintained anywhere within the Property unless such device is screened from view from other Units or the roadways. The said approvals must comply with all applicable statutes and ordinances.

The Association, through its Board of Directors, shall establish rules and regulations which govern the installation and use of small dish satellite receivers of paid programming. Such rules and regulations shall govern the location of such dishes. Such rules and regulations shall not unreasonably restrict the location of the dish to allow the receipt of the programming signal. The fact that the location of a Unit owner's Unit does not allow reception of the programming signal does not authorize the Unit owner to install the dish at a location other than within the boundaries of his lot.

(j) Lighting. All lots shall have post lamps on the front lawns. No other external lighting shall be installed without the prior approval of Developer or the ARB, as applicable. No lighting will be permitted which alters the residential character of the Property. Any lighting of a pool or other outdoor recreation area must be designed so as to buffer the surrounding Residences from the lighting.

(k) Recreational Structures. No basketball backboards play structures or other recreational structures except for those provided as Common Property shall be located on the Property unless prior written approval is obtained from the ARB.

(l) Window Coverings. Reflective window coverings and heat mats are expressly prohibited on any building in the Property. The ARB, at its discretion, may control or prohibit window coverings and treatments not reasonably compatible with aesthetic standards set forth herein.

COPY

(m) Mailboxes. No mailbox, paper box or other receptacle of any kind for any use in the delivery of mail, newspapers, magazines, packages, or similar materials shall be erected on any Unit without the approval of the ARB or Developer, as applicable, as to style and location. The ARB may elect to require group mailboxes.

(n) Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearance of such devices will be closely scrutinized and controlled by the ARB or Developer, as applicable, to assure consistency with the aesthetic standards of the Property.

(o) Interference with Roads or Easements. Without limiting or qualifying the other provisions of this Declaration, nothing shall be erected, constructed, planted, or otherwise placed in such a position so as to create a hazard or block the vision of motorists upon any roads within or adjacent to the Property. No modification, alteration, or improvement shall interfere with the easements or other rights set forth in this Declaration

SECTION 7.3 Remedy for Violations. In the event any Proposed Improvement is constructed without first obtaining the approval of the ARB or Developer, as applicable, or is not constructed in strict compliance with any approval given or deemed given by the ARB or Developer, as applicable, or the provisions of this Article are otherwise violated, the ARB, as the authorized representative of the Association, shall have the specific right to injunctive relief to require the

Owner to stop, remove, and alter any improvements in order to comply with the requirements hereof, or the ARB may pursue any other remedy available to it. In connection with this enforcement section, the ARB and Developer shall have the right to enter into any Unit and make any inspection necessary to determine that the provisions of this Declaration have been complied with. The failure of the ARB or Developer to object to any Proposed Improvement prior to its completion shall not constitute a waiver of the ARB's or Developer's right to enforce this Article. The foregoing rights shall be in addition to any other remedy set forth herein for violations of this Declaration.

SECTION 7.4 Reservation of Rights to Release Restrictions. In each instance where a structure has been erected or construction thereof has substantially advanced in such manner that some portion of the structure encroaches on any setback line or easement areas, Developer reserves for itself, its successors, assigns and designees, the right to release such Unit from the encroachment and to grant an exception to permit the encroachment without the consent or joinder of any person, irrespective of who owns the burdened Unit or easement areas, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially or adversely affect the value of the adjacent Unit and the overall appearance of the Property. This reserved right shall automatically pass to the Association when Developer no longer owns any portion of the Property. Upon granting of an exception to an Owner, the exception shall be binding upon all subsequent Owners of the affected Units and shall be recorded in the public records of the County.

SECTION 7.5 No Liability. Notwithstanding anything contained herein to the contrary, the ARB and Developer shall merely have the right, but not the obligation, to exercise architectural control, and shall not be liable to any Owner, its successors, assigns, personal representatives, or heirs, due to the exercise or non-exercise of such control or the approval or disapproval of any Proposed Improvement. Furthermore, the approval of any plans and specifications or any Proposed Improvements shall not be deemed to be a determination or warranty that such plans and specifications or Proposed Improvements are complete, do not contain defects, or in fact meet any standards, guidelines, or criteria of the ARB or Developer, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and neither the ARB, the Association, nor Developer shall be liable for any defect or deficiency in such plans and specifications or Proposed Improvements, or any injury to persons or property resulting from the approval.

COPY

ARTICLE XIII

USE OF PROPERTY

SECTION 8.1 Protective Covenants. In order to keep the Property a desirable place to live for all Owners, the following protective covenants are made a part of this Declaration. Without limiting any of the provisions or requirements of Article VII, the specific references to the ARB approval set forth in this article or elsewhere in this Declaration shall not be construed as a limitation of the requirements of this article.

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

(b) Residential Use: Limitations on Lease Terms. Each Unit shall be used, improved and devoted exclusively to single family residential use and for no commercial purpose. No time-share ownership of Units is permitted. Nothing herein shall be deemed to prevent the Owner from leasing a Unit for a period of time of not fewer than six (6) months, subject to all of the provisions of the Declaration, Articles, and Bylaws. Nor shall anything herein be deemed to prevent Developer from converting the use of a Unit or Units to be used as a road for ingress and egress from adjacent Unit or Units. The foregoing restrictions shall not operate to prevent Developer or its designees from using one or more Units for a model home or sales center during the development and sale of the Property. No other business or commercial use may be made of any part of the Property. An occupant of a Residence who maintains a personal or professional library, keeps personal or professional books or accounts, conducts personal business provided that such use does not involve customers, clients, employees, licensees or invitees regularly visiting the Residence, or makes professional telephone calls or correspondence in or from a Unit is engaging in a residential use and shall not be deemed to be in violation of this section.

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

COPY

(d) Pets. No animals except two (2) common domestic household pets, within the ordinary meaning and interpretation of such words, may be kept, maintained or cared for in any Unit or within the Property. No pets shall be allowed to make an unreasonable amount of noise or to become a nuisance; and no pets will be allowed on the Property other than in the Unit of the Owner of such pets, unless confined to a leash. No pets shall be allowed to run at large and all pets shall be kept within an enclosed area, which must be clean, sanitary and reasonably free of refuse and waste. No pet may be maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels for boarding or operation shall be allowed.

(e) Signs. No sign, advertisement or notice of any type or nature whatsoever shall be erected or displayed upon any Unit, Common Property or from any window, unless express prior written

approval of the size, shape, content, appearance and location has been obtained from the Board of Directors and the ARB. Notwithstanding the foregoing, Developer, and those persons or entities specifically designated by Developer, shall be permitted to post and display advertising signs on the Property for the marketing and sale of Units and the owner of a Unit shall be allowed to display a single "For Sale" sign the dimensions of which shall not exceed two (2) feet by three (3) feet.

(f) Parking. All vehicles shall be parked and stored within the Units' garages or driveways. No boats may be stored or parked within the Property except within the Units' garages in a manner that allows the garage door to be closed. Recreational vehicles may be parked in driveways for no more than seven (7) consecutive days. Only vehicles bearing current license and registration tags, as required pursuant to state law, shall be permitted to be parked on any of the Property except wholly within a garage or driveway. All parking within the Property shall be in accordance with rules and regulations adopted by the Association and County ordinances.

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

(j) Garbage and Trash Containers. All garbage and trash containers must be placed and maintained in accordance with rules and regulations adopted by the Board of Directors. No garbage or trash shall be placed elsewhere and no portion of the Property shall be used for dumping refuse.

COPY

(k) Window Air Conditioners. No window air conditioning unit shall be installed in any of the Units.

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

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

(n) Removal of Trees. In order to preserve the environment no trees which remain on the Property at the time of completion of all Unit construction shall be felled, removed, or cut down unless such tree represents a hazard to a Unit, to other improvements on the Property, or to persons occupying or using the Property.

(o) Garages. Garage doors shall normally be kept closed except when automobiles or boats are entering or leaving the garage. No garage shall at any time be used as a residence or converted

to become part of a residence. A garage may be used by Developer as a sales office during the marketing of the Property.

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

(q) Elevations. No modifications or changes in the elevations of the land comprising a Unit shall be made which interfere with the natural flow of water on a Unit lot, the drainage of water to or from a Unit lot or which causes an undue hardship to adjoining property. All plans for the grading of a Unit lot shall be submitted to and approved by St. Johns County.

SECTION 8.2 Amendments and Modifications. The Board of Directors may from time to time adopt and amend rules and regulations governing the details of the operation, use, maintenance and control of the Units, Lots, Common Property, and any facilities or services made available to the Owners. A copy of the rules and regulations adopted from time to time as provided shall be available to each owner.

SECTION 8.3 Compliance.

(a) Owners' Responsibility. It shall be the responsibility of all Owners, family members of Owners and their authorized guests and tenants to conform with and abide by the rules and regulations in regard to the use of the Units and Common Property which may be adopted in writing from time to time by the Board of Directors or the ARB, and to assure that all persons using the Owners' Units also comply.

COPY

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

SECTION 8.4 Personal Services. Employees of the Association shall not be required to attend to any personal matters or business of Owners, nor shall they be permitted to leave the Property on any private business of Owners. The uses and functions of such employees shall be governed by the Board of Directors of the Association. In the event personal services are provided to Owners by any of the employees of the Association, the Association will not assume any responsibility or be liable for, in any manner, the quality of such services or work provided, nor do they warrant such services or work. In addition, the Association shall not be liable for any injury to persons or damage to property resulting from any act or omission by those performing such personal work or services for Owners.

ARTICLE IX

INSURANCE

SECTION 9.1 Types of Coverage.

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

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

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

COPY

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

SECTION 9.2 Repair and Reconstruction After Fire or Other Casualty.

(a) Common Property. In the event of damage to or destruction of all or any of the improvements on the Common Property as a result of fire or other casualty, the Board of Directors shall arrange for and supervise their prompt repair and restoration substantially in accordance with the plans and specifications under which the improvements were originally constructed, or any

modification thereof approved by the Board of Directors and the ARB. The Board of Directors shall proceed towards reconstruction of such improvements as quickly as practicable under the circumstances and shall obtain funds for such reconstruction from the insurance proceeds and any Special Assessments that may be necessary after exhaustion of reserves for the repair and replacement of such improvements.

(b) Residences. Any Owner whose Unit is destroyed or damaged by fire or other casualty shall immediately proceed to rebuild and restore the Unit or Units to the conditions existing immediately prior to such damage or destruction, unless other plans are approved in accordance with the provisions of Article VII above.

ARTICLE X

ASSOCIATION LIABILITY

SECTION 10.1 Disclaimer of Liability. Notwithstanding anything contained herein, in the Articles or bylaws of the Association, or any other document governing or binding the Association (jointly referred to herein as "Association Documents"), the provisions hereof shall not be construed to mean that the Developer or the Association shall be liable or responsible for in any manner as a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Property, including, without limitation, Owners, residents, their families, guests, invitees, agents, servants, contractors or subcontractors, nor for any property of such persons.

COPY

SECTION 10.2 Specific Provisions. Without limiting the generality of the previous section:

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

(b) Neither Developer not Association is empowered to, nor have they been created to, act as an entity which enforces or insures compliance with the laws of the United States of America, State of Florida, county, or any other jurisdiction, or which prevents tortious or criminal activities.

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

SECTION 10.3 Owner Covenant. Each Owner, his heirs, successors and assigns (by virtue of his acceptance of title of his Unit) and each other person or entity having an interest in or a lien upon or making use of, any portion of the Property (by virtue of accepting such interest or lien or making use thereof) shall be bound by this Article and shall be deemed to automatically waive all rights,

claims, demands, and causes of action against the Association or Developer arising from or connected with any manner for which the liability of the Association or Developer has been described in this Article.

ARTICLE XI

PROPERTY SUBJECT TO DECLARATION AND ANNEXATION

SECTION 11.1 Existing Property. The Property which initially is and shall be held, transferred, sold, conveyed, encumbered, and occupied subject to this Declaration consists of that land described in the Recitals above.

ARTICLE XII

GENERAL PROVISIONS

SECTION 12.1 Duration. This Declaration, as amended and supplemented from time to time, shall run with and bind the Property and shall inure to the benefit of and be binding upon Developer, the Association, the Owners, and their respective legal representatives, heirs, successors or assigns, for a term of twenty (20) years from the date this Declaration is recorded in the public records of the County, after which time all of said provisions shall be extended automatically for successive periods of ten (10) years each unless an instrument or instruments signed by the then Owners of seventy-five percent (75%) of the Units subject to this Declaration agreeing to terminate all of said provisions as of a specified date is recorded in the public records of this county. Unless this Declaration is terminated as provided above, the Association shall rerecord this Declaration or other notice of its terms at intervals necessary under Florida law to preserve its effect.

COPY

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

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

SECTION 12.4 Enforcement. In addition to the enforcement provisions previously set fort in this Declaration, the provisions of this Declaration may be enforced by any Owner, by the Association, or by Developer (as long as it controls any interest in the Property) against any person, firm,

corporation, trust, or other entity which violates or attempts to violate any of the covenants or restrictions hereof, by prosecuting any proceeding at law or in equity for the recovery of damages, for the purpose of preventing or enjoining all or any such violations or attempted violations, or for the enforcement of any lien created by this Declaration.

In addition to all other remedies, the Board of Directors shall have the authority, in its sole discretion, to impose a fine or fines upon any Owner for failure of the Owner, his family, guests, invitees, tenants, or occupants, to comply with any covenant, restriction, rule, or regulation contained in this Declaration, the Articles, or the Bylaws, provided the following procedures are adhered to:

(a) The Association shall notify the Owner or occupant of the infraction(s) and the date and time of the next Board of Directors meeting.

(b) At such meeting, the Board of Directors shall be presented with the infraction(s) and shall give the Owner or occupant the opportunity to present reasons why penalties should not be imposed. A written decision of the Board of Directors shall be provided to the Owner or occupant within twenty-one (21) days after the date of the meeting.

(c) The Board of Directors may impose fines against the applicable Unit of up to Fifty Dollars ($50.00) per incident. The maximum permitted fine may be increased from time to time by the Board of Directors, as it in its discretion may deem necessary or convenient.

COPY

(d) Each incident which is grounds for a fine shall be the basis for a separate fine. In case of continuing violations, each continuation after notice is given shall be deemed a separate incident.

(e) Fines shall be paid within thirty (30) days after the receipt of notice of their imposition.

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

(g) The imposition of a fine shall not be an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association may otherwise be entitled, including without limitation the right to impose a Unit Assessment; however, any fine paid by the Owner or occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner or occupant.

The remedies contained in this section shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Developer, the Association, or any Owner, or their respective successors or assigns, to enforce any covenant, restriction, obligation, right, power, privilege, authority, or reservation herein contained, however long continued, shall not be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior or subsequent thereto. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the

provisions contained in this Declaration which relate to the maintenance, operation, and repair of the Stormwater Management System.

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

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

COPY

SECTION 12.7 Litigation. No judicial or administrative proceedings shall be commenced or prosecuted by the Association unless the same is approved by a vote of the Owners holding seventy-five percent (75%) of the votes in the Association, either in person or by proxy at a duly called meeting, or by written consent without meeting in a manner permitted by law by Owners holding seventy-five percent (75%) of votes in the Association. This section shall not apply, however, to;

(a) actions brought by the Association to enforce the provisions of the Declaration including, without limitation, foreclosure of lien;
(b) imposition of Assessments as provided herein;
(c) proceedings involving challenges to any taxation; or
(d) counter claims brought by the Association in proceedings instituted against it.

Notwithstanding the provisions of this Section, this Section shall not be amended unless such Amendment is approved by Developer or is approved by the percentage vote pursuant to the same procedures as are necessary to institute proceedings as provided above.

SECTION 12.8 Amendment. This Declaration may be amended at any time by any instrument signed by the President or Vice President and Secretary or Assistant Secretary of the Association, certifying that such amendment has been adopted by Owners holding seventy-five percent (75%) of the votes in the Association, either in person or by proxy at a duly called meeting, or by written

consent without meeting in a manner permitted by law by Owners holding seventy-five percent (75%) of the votes in the Association, which amendment shall become effective upon its filing in the public records of the County; provided, however, that:

(a) As long as Developer is an Owner of any Unit or planned but unbuilt Unit, no amendment shall become effective without the written consent of Developer.

(b) Developer specifically reserves the absolute and unconditional right so long as it owns any of the Property to amend this Declaration without consent or joinder of any party:

(i) to conform to the requirements of any holder of a Mortgage;
(ii) to conform to the requirements of title insurance companies;
(iii) to conform to requirements of any governmental entity having control or jurisdiction over the Property;
(iv) to clarify the provisions hereof; or
(v) in such other manner as Developer deems necessary and convenient.

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

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

COPY

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

SECTION 12.11 Law to Govern. This Declaration shall be construed in accordance with the laws of the State of Florida, both substantive and procedural.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed in its name, the day and year first above written.

Signed, sealed and delivered
in our presence as witnesses:

Print Name: Ronald W. Brown

Print Name: J D Moffett

By: _____
George Kapler
Its Managing Member

STATE OF FLORIDA
COUNTY OF ST. JOHNS

BEFORE ME, the undersigned officer duly authorized to take oaths and acknowledgments in the County and State aforesaid, personally appeared GEORGE KAPLER, as Managing Member of SUMMERHILL DEVELOPERS, L.L.C., who is personally known to me or who produced _____ as identification, and who, after being by me first duly sworn and cautioned, acknowledged to and before me that they executed the above and foregoing Declaration of Covenants and Restrictions for SUMMERHILL SUBDIVISION for the purposes therein expressed.

COPY

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in St. Augustine, St. Johns County, Florida this 24th day of October, A. D., 2003.

Notary Public, State of Florida
at Large

RONALD WAYNE BROWN
Notary Public, State of Florida
My Comm. expires Aug. 28, 2004
Comm. No. CC 944849