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**Declaration of Covenants, Conditions and Restrictions,
Conveyance of Common Areas,
and
Conservation Easement
for**



Soaring

**a Planned Unit Development Subdivision located in a Portion of
Section 22, Township 1 North, Range 31 West, Escambia County, Florida**

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DEC 17 2004

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THIS DECLARATION, is made by Heron's Forest Development Company, a Florida corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Escambia County, Florida, more particularly described as follows, to wit:

Soaring, a Planned Unit Development Subdivision lying and situated within a portion of Section 22, Township 1 North, Range 31 West, according to Plat thereof recorded in Plat Book 18, Page 6, of the public records of said county.

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

ARTICLE I — DEFINITIONS

Section 1. "Association" shall mean and refer to Soaring Property Owners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

Section 2. "Builder" shall mean anyone acquiring Lot(s) for the purpose of constructing homes in the ordinary course of business for later sale to consumers.

Section 3. "Common Area" shall mean and refer to all real property (including any improvements, fixtures or tangible personal property relating thereto) owned by the Association from time to time for the common use and enjoyment of the Owners, subject to the easements, covenants, conditions and restrictions set forth herein. The Common Areas to be owned initially by the Association are being conveyed by Declarant as a part of this declaration and are more particularly described in Article IX hereof.

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Section 4. **"Declarant"** shall mean and refer to Heron's Forest Development Company, a Florida corporation, its successors and assigns.

Section 5. **"Lot"** shall mean and refer to each and all of the numbered Lots shown on the Plat of the Subdivision.

Section 6. **"Owner"** shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot in the Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. **"Plat"** shall mean and refer to the Plat of Soaring, which is recorded in the public records of Escambia County, Florida, as noted in the preamble hereof.

Section 8. **"Subdivision"** shall mean and refer to Soaring, a subdivision situated in Escambia County, Florida, according to the Plat.

ARTICLE II – MEMBERSHIP AND VOTING RIGHTS

Section 1. **Association Membership Required.** The Association shall consists of all Owners of Lots in the Subdivision. Every Owner of a Lot in this Subdivision shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. **Membership Classes.** The Association shall have two classes of voting membership:

CLASS A. Class A members shall be the Owners (with, while a Class B member, the exception of the Declarant) of all Lots (including any subsequently annexed Lots), who shall be entitled to one vote for each Lot owned . When more than one person holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as determined by the Owners thereof, but in no event shall more than one vote be cast with respect to any Lot.

CLASS B. The only Class B member shall be the Declarant, which shall be entitled to three votes for each Lot owned (including any Lots annexed from time to time). The Class B membership shall cease and be converted to Class A membership upon the first to occur of the following:

- (i) when 90% of the Lots are issued certificates of occupancy and are owned by a Class A member other than a Builder; or
- (ii) on January 1, 2012; or
- (iii) when, at its discretion, Declarant records in the public records of Escambia County, Florida, an instrument terminating the Class B membership.

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Notwithstanding the foregoing however if, after conversion of the Class B membership to Class A membership, there are additional Lots annexed, the Class B membership shall be thereupon re-instated until the first to occur of the following:

(i) either (i) or (iii) above occurs; or

(ii) on the 1st of January occurring five years after the date of recording the plat which includes the annexed lots.

ARTICLE III – ARCHITECTURAL CONTROL

Section 1. Prior Design Approval. No residential structure, fence, wall, mailbox, driveway, pool, landscaping or other structure or improvement of any nature whatsoever shall be commenced, erected, placed or altered on any Lot until the design, location, plans, specifications and plot plan showing the location, nature, kind, shape, height, materials, color and other specifications have been approved in writing as to the quality of workmanship and materials; as to the harmony of exterior design with the requirements of this declaration and with existing structures; and as to the location with respect to topography and finished grade and full compliance with the easements, restrictions, covenants and conditions of this declaration. Approval shall be by a majority vote of the Architectural Review Committee. In the event the Architectural Review Committee fails to approve or disapprove any complete set of plans and specifications within forty-five (45) days after they have been properly and completely submitted in writing, or in any event, if no action to enjoin the construction has been commenced prior to its completion of the construction specified in the submission, such approval will not be required and this Article shall be deemed to have been complied with fully.

Section 2. Architectural Review Committee Membership. The Architectural Review Committee shall consist of three (3) members, who shall originally be Richard R. Baker, Jennifer J. Rigby and Ricky S. Wiggins. Upon occurrence of a vacancy on the Architectural Review Committee, or in the event a member of the Committee cannot or does not continue to serve, then a new member of the Committee, who need not be an Owner, shall be appointed to serve. A member of the Architectural Review Committee may be removed by a two-thirds (2/3) vote of the members of the Association. Appointment of a new member to the Architectural Review Committee shall be made by the members then serving on the Architectural Review Committee, and if there be no members then serving on said Architectural Review Committee, new members of the Architectural Review Committee shall be appointed by the Board of Directors of the Association. The members of the Architectural Review Committee shall not be entitled to any compensation for services performed pursuant to this declaration; provided, however, that the Architectural Review Committee shall have the right to charge a modest fee (not to exceed \$250.00 in 2004) for review of plans and specifications, and any inspection(s) during construction, submitted in accordance with this Article.

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Any such fee may be used by the Architectural Review Committee to reimburse it for its out-of-pocket expenses, including employment of any professional advisors, and for any inspections during construction. All decisions of the Architectural Review Committee shall be by majority vote. Decisions of the Architectural Review Committee shall be based upon the uniform application of such reasonable standards as are consistent with a first-class single family residential subdivision, such standards to include, among other things, the harmony of external design (including roof style, pitch, material and color), chimney, exterior siding (material and color), windows and trim, shutters (color and style), doors, exterior lighting, garage doors, location in relation to surrounding structures and topography, the type, kind and character of building, structure and other improvements, and aesthetic qualities in general. The Architectural Review Committee may, from time to time, promulgate "Architectural Guidelines," and prospective owners should inquire of same by contacting the Architectural Review Committee as follows: Soaring Architectural Review Committee, Attention: Jennifer Rigby, 17 South Palafox Place, Suite 394, Pensacola, Florida 32502, Phone (850) 434-5330 and Fax (850) 434-6829.

Section 3. Construction Plans. All construction plans shall be thorough and complete; include all elevations; reflect all exterior material types, design and color; and shall be accompanied by a complete landscape plan for the entire Lot. Construction Plans which are not thorough or complete may, at the sole discretion of the Architectural Review Committee, be rejected in whole or in part.

Section 4. Inspection During Construction and Prior to Occupancy. The Architectural Review Committee shall have the right to inspect the Owner's property and improvements during construction and prior to occupancy to insure construction in accordance with the construction plans submitted and approved by the Architectural Review Committee. Failure of an Owner to comply with the provisions of this Article III, or failure of an Owner to carry out construction in accordance with the provisions of this Article III, shall, among other things, subject such Owner to:

- (i) the sanctions provided for in Section 1 of Article VIII; and/or
- (ii) a suit at law for monetary damages or in equity to stop or prevent any violation or occupancy, or both.

Section 5. Assignment to the Association. The Declarant shall have the power, through a duly recorded written instrument, to assign all or any part of the duties and obligations of the Architectural Review Committee to the Association. In such event, the Association shall thereafter determine how to best discharge the assigned duties and obligations, including creation of another Architectural Review Committee with such powers and duties consistent with this declaration as the Association deems appropriate.

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ARTICLE IV – RESTRICTIONS AND COVENANTS

The following restrictions will be observed and adhered to in substantially all situations. However, the Architectural Review Committee is hereby vested with the authority to grant in writing waivers and variances from any of the following restrictions, as well as Architectural Guidelines promulgated by it from time to time, utilizing the same standards of review as those set forth in Article III, Section 2, where it is demonstrated by the person requesting the waiver that the granting of such a waiver will not impact adversely on the aesthetic qualities of the proposed improvements, the Lot upon which same is located, and the neighborhood as a whole, and, that same is consistent with the first class single family residential Subdivision contemplated hereby. Neither the Architectural Review Committee, nor any of its members, shall in any way or manner be held liable to any Owner, the Association or any other person or entity for its good faith exercise of the discretionary authorities conferred by this declaration or relating hereto.

Section 1. Residential Use. All Lots shall be used and occupied solely for single family residential purposes and shall not be used for commercial, trade, public amusement, public entertainment or business purposes of any kind or character, other than a home office specifically authorized by the Architectural Review Committee provided, however, that in no event shall any such permitted home office be one where clients, customers, sales persons or others would routinely visit.

In addition, no Owner may rent or lease all or any portion of a Lot, or the improvements located thereon, for any period of time less than one year. An Owner may rent or lease all (but not less than all) of a Lot and the improvements located thereon to a single family unit for a minimum period of time of one year; provided, however, the Owner shall provide the Association at least fourteen (14) days prior written notice of the name and address of the tenant; the effective date of such rental agreement or lease; a copy of the rental agreement or lease (which must contain an affirmative covenant by the proposed tenant to abide by this declaration, any Architectural Guidelines and any and all other rules and regulations of the Association); continuing contact information (address, telephone number, email address, fax number, etc.) for the Owner; and such other information as the Association might reasonably request. Notwithstanding such one year or longer rental or lease of a Lot by an Owner, the Owner shall continue to be responsible for compliance with all obligations under this declaration, any Architectural Guidelines and any and all other rules and regulations of the Association.

No structure shall be erected, altered, placed or permitted to remain on any Lot other than one single family structure with a garage attached to the main structure (or a detached garage in conformity with architectural design of the residential structure) for at least two (2) vehicles, a pool, a detached gazebo, guest house, and/or such other out structures as might be permitted by the Architectural Review Committee. No such permitted detached structure may be constructed prior to completion of construction of the residential structure and shall, in all cases, be designed in conformity with the architectural design of the residential structure. Notwithstanding the foregoing, a Builder who is then currently active in constructing residences for sale within the Subdivision may,

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with the prior approval of, and within guidelines established by, the Architectural Review Committee, construct one or more house(s) within the Subdivision which may be used by that builder as a model home.

Section 2. Minimum Square Footage and Setbacks. The main residential structure constructed on any Lot shall not exceed two and one-half (2½) stories in height, or thirty-five feet (35'), whichever is greater, and shall contain a minimum of 2,200 square feet.

Residential Structures with more than one story shall have a minimum ground floor area as approved by the Architectural Review Committee, on a case by case basis.

All residential structures shall be setback from various Lot lines as set forth below.

Residential structure setback

<i>Front</i>	<i>Rear</i>	<i>Side</i>
25'	15'	10'

Setbacks for detached garages and other permitted detached structures shall be as approved on a case by case basis by the Architectural Review Committee. Waiver of any of the preceding fixed setback requirements is hereby granted for unintentional violations which do not exceed ten percent (10%) of the particular setback distance in question without Architectural Review Committee approval. Additional waivers of the preceding setback requirements (and those contained on the Plat) shall require the approval of the Architectural Review Committee. In the event the setbacks herein provided for are different than indicated upon the Plat, the setbacks set forth herein shall govern.

Section 3. Determination of Square Footage. The minimum square foot area of the main residential structure shall be determined by multiplying the outside length and width dimensions of each story of the structure, except that garages, open porches, patios, terraces, pools and permitted detached structures shall not be taken into account in calculating the minimum square foot area required.

Section 4. Landscaping. Prior to occupancy, the entire Lot (including any area located in road right-of-ways between the Lot lines and adjacent curbs shall be completely landscaped and irrigated by an automatic irrigation system, all pursuant to Architectural Review Committee Guidelines. The entire Lot (including any area located in road right-of-ways between the actual Lot line and adjacent curbs), drives and landscaping must be diligently, properly and neatly maintained and kept clean at all times.

Section 5. Exterior Structure Materials. All materials used on the exterior of any structure shall be approved in writing by the Architectural Review Committee.

Section 6. Clotheslines. Outside clotheslines shall not be permitted on any Lot.

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Section 7. Temporary Structures. No trailer, house trailer, motor home, basement, tent, garage or other out-building shall at any time be used as a residence, temporary or permanent, nor shall any structure of a temporary character be used as a residence. No building that is unfinished on the exterior shall be occupied.

Section 8. Lot Drainage. As a part of the Subdivision design process, Declarant has developed an Escambia County approved master drainage plan for Soaring. The master drainage plan information is contained on both the preliminary plat and construction plans for Soaring, copy of which may be viewed or obtained from the Escambia County Planning and/or Engineering Departments, 1190 W. Leonard Street, Suite 1, Pensacola, Florida, or from Declarant. Each Owner shall comply with the provisions of the Subdivision's approved master drainage plan.

Section 9. Garages. Every residential structure shall include, at a minimum, a two-car garage. Cars, off-the-road vehicles, jeeps, beach buggies, boats, campers, trailers, motor homes, recreational vehicles, vans, motorcycles, motorbikes, tractors, mowers, commercial vehicles of any kind, or any other vehicle, machine, equipment or apparatus shall not be parked anywhere on the Lot, temporarily or permanently (except for infrequent short term parking not to exceed forty-eight (48) hours), except in garages, or otherwise completely enclosed or camouflaged from view from both (1) all lot lines, and (2) from all elevations (i.e., so that they may not be seen above the top of any approved fence or wall), all so as not to be detrimental to the appearance of the property from any Lot line.

Section 10. Pets. No animal of any kind shall be kept or maintained on any Lot except that dogs, cats or other customary household pets may be kept provided that they are duly licensed, if applicable; that they do not constitute an annoyance or nuisance; that they are well groomed and maintained in a sanitary condition; that they are not kept or bred for any commercial purposes; and that such pets are not permitted to be present beyond the boundaries of the Owner's Lot without being leashed or caged. When any such authorized pets are beyond the boundaries of the Owner's Lot, the Owner shall be responsible for prompt clean up and sanitary disposition of any solid pet excrement.

Section 11. Fences. All fences, hedges, walls or the like constructed upon any Lot shall obtain prior approval of the Architectural Review Committee.

Section 12. Signs. No sign of any kind shall be displayed in public view on any Lot except, with prior approval of the Architectural Review Committee, one sign of reasonable size advertising the Lot for sale, or signs used by a Builder to advertise the property for sale during the construction and sales period.

Section 13. Trees. Upon completion of construction of the residential structure and prior to occupancy, trees (as well as other approved landscaping) shall be planted on all Lots in conformance with the "Architectural Guidelines" from time to time adopted by the Architectural Review Committee.

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During July, 2004, Declarant planted a number of Nutall Oaks (12' to 15' tall), evenly spaced, on Lots just outside, and on both of, that certain Common Area designated on the plat as "Parcel 'F' Gulf South Pipeline 50' Easement" (which is the Gulf South Pipeline Company easement referred to in Article VI, Section 1 (A)). It was Declarant's intent in so planting these Nutall Oaks that if they were properly cared for, maintained and endured, that they would provide the Subdivision, and its Owners, a number of benefits. Declarant will see to proper care and maintenance of the Nutall Oaks through the spring of 2005, following which it shall become the responsibility and obligation of each and every Lot Owner whereon the Nutall Oaks are located to properly care for and maintain same for posterity and into the future. Should any of same become diseased, die or otherwise need to be replaced in the opinion of either the Association or the Architectural Review Committee, then doing so (as well as the future care and maintenance of the replanted trees) shall be the sole responsibility and expense of the Owner of the Lot whereon same is located at the time replacement is determined appropriate.

Section 14 Resubdivision. All Lots shall be conveyed as a whole except that two (2) or more contiguous Lots may be resubdivided into an equal or lesser number of contiguous parcels provided that the Architectural Review Committee shall approve same by an instrument recorded in the public records of Escambia County, Florida. Thereafter, such resubdivided Lots shall constitute Lots for purposes of this declaration.

Section 15. Mailboxes. All mailboxes, paper boxes, or other receptacles of any kind or use in the delivery of mail, newspapers, magazines, or similar materials shall be approved in writing by the Architectural Review Committee prior to construction. The Architectural Review Committee shall have the right to designate a uniform mailbox or limited group of mailboxes to select from, which shall then be used by all Owners.

Section 16. Antennas. No outside antennas, poles, masts, towers, satellite receiving dishes or the like shall be erected on any Lot without the prior written authorization of the Architectural Review Committee.

Section 17. Detrimental Appearance. Items detrimental to the appearance of the Subdivision shall not be permitted on any of the Lots except when enclosed or camouflaged from view from all Lot lines and when approved in advance by the Architectural Review Committee.

Section 18. Trash. All garbage and trash containers, oil tanks, bottled gas tanks and the like shall be kept clean and sanitary, and placed in a walled-in area or screened from view so that they shall not be visible from any Lot line (except for approved garbage cans awaiting pickup by garbage collection services, but, in such case, only for the limited period of time reasonably required to accommodate such collection). No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste.

Section 19. Nuisance. Noxious or offensive activity shall not be carried on or upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners.

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Section 20. Attractive. All structures shall be designed so that all elevations are attractive in appearance.

Section 21. Construction. All construction commenced upon a Lot shall be pursued diligently and such construction must be completed within eight (8) months after commencement. An industrial waste container (or other alternative method of containing and controlling construction debris acceptable to the Architectural Review Committee) shall be used during all construction.

Section 22. Compliance with the Laws. All federal laws, laws of the State of Florida, laws of Escambia County and any related rules and regulations of their respective administrative agencies now and hereafter in effect with regard to sewage disposal, water supply, sanitation, and land use are incorporated herein and made a part hereof.

Section 23. Mining. No drilling, mining, exploration or the like for oil, gas or other minerals or materials shall be permitted or allowed on or under any Lot in the Subdivision.

Section 24. Underground Utilities. No above ground electrical, telephone, cable TV, radio or other such wiring or utility service shall be permitted without prior approval of the Architectural Review Committee (which approval will not typically be granted absent extraordinary circumstances).

Section 25. Maintenance. All Owners shall keep their Lots and any improvements thereon (including landscaping), as well as any adjacent land areas in the road right of way between the Lot line and the curb of the road, neatly, diligently and properly maintained, clean and sanitary at all times. Failure to provide such maintenance shall be grounds for suit by any other property Owner in the Subdivision, the Association, the Declarant, the Architectural Review Committee and/or appropriate governmental agencies, and shall also subject such Owner to the sanctions provided for in Article V, Section 11.

Section 26. Non-Access Easements. The Plat shows a one foot (1') non-access easement along the westerly boundary of the Lots bordering the buffer along State Road 97. No non-emergency vehicular access shall be had across such 1' non-access easements onto the abutting road right-of-ways.

Section 27. Sidewalks and Sidewalk Easements. Prior to occupancy of any residential structure, or by January 1, 2008, whichever first occurs, concrete sidewalks will be constructed by each Owner on all Lots (or in the right-of-way between the Lot line and the curb), at the Owner's expense, in accordance with plans, specifications and other requirements established by the Architectural Review Committee. Regardless of where located (i.e., on a Lot or in the road right-of-way between the Lot line and curb):

- All owners are responsible for proper maintenance and a reasonably safe, reasonably

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solid and neat appearing condition of any and all sidewalks which are either located on their Lot or in the road right-of-way between their Lot line and the curb; and

- All sidewalks, whether located in the road right-of-way between a Lot and the curb or on a Lot, are subject to a non-exclusive perpetual easement in favor of all other Owners (as well as such Owners' family members, guests and invitees) for purposes of pedestrian access across, over and to all such sidewalks and to Common Areas adjacent thereto or in the immediate vicinity thereof.

ARTICLE V — ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation Assessments. The Owner of each Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (a) an annual assessment; and, (b) any special assessments for capital improvements. Such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable legal fees and expenses, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable legal fees, shall also be the personal obligation of the person(s) who is the Owner of such Lot at the time when the assessment becomes due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to provide for the acquisition, improvement, construction, management, care and maintenance of any Common Area, any property owned by the Association or in which it has an interest, or any public or private property adjacent to, or in the same general locality as, the Subdivision. The Association is responsible for the maintenance of all Common Areas (including, without limiting the generality of the foregoing, any and all roads, curbs, easements, drainage facilities, landscaping, drainage structures, holding and retention ponds, subdivision fencing, gatehouse, entry gate, lighting, and the like), and shall pay all ad valorem property taxes assessed upon them. The Association may fund in a reserve account such sums as it determines in good faith are necessary and adequate to make periodic repairs and capital improvements to any Common Areas.

Section 3. Annual Assessments. Until January 1, 2006, the maximum annual assessment will be \$1,100 per Lot.

- A. From and after January 1, 2006, the maximum annual assessment may be increased each year not more than 25% above the potential maximum assessment for the previous year without a vote of the membership.
- B. From and after January 1, 2006, the maximum annual assessment may be increased more than 25% of the previous year's potential maximum assessment by a vote of 60% of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

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- C. The Board of Directors of the Association shall fix the annual assessment at an amount not in excess of the potential maximum assessment.
- D. Regardless of the provisions above, the Association shall be obligated to pay all ad valorem property taxes upon any and all Common Areas, and no limitation above shall ever prohibit the Association from increasing the annual assessment to an amount sufficient to pay such taxes.

Section 4. Special and Emergency Assessments. In addition to the annual assessments authorized above, the Association may levy a special assessment per Lot for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, improvement, management, care or maintenance upon any Common Areas, any property owned by the Association or in which it has an interest, or any public or private property adjoining or in the same general locality as the Subdivision, including fixtures and personal property related thereto, provided that any assessment shall have the assent of sixty percent (60%) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of the amount and due date of any special assessment shall be mailed postage prepaid to every Owner subject thereto.

The Association is also authorized to levy an emergency special assessment in the event of a financial emergency caused by extreme damage or risk to Common Areas which must be acted upon within a time period less than otherwise required for Owner approval. The notice to Owners of such special assessment shall describe the emergency in detail and the reason the standard requirements for a special assessment could not be followed.

Section 5. Segregation of Funds. Funds collected by the Association from annual assessments and any special assessments shall be maintained separately. Notwithstanding the requirement that separated and segregated funds are required to be maintained as aforesaid, there need be no physical division of such funds and same may be held in a consolidated account in which each separate fund has an undivided interest.

Section 6. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3(B) or 4 of this Article shall be sent by United States Mail, postage prepaid, to all Owners (as of ninety (90) days prior to date of mailing such notice) not less than fifteen (15) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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Section 7. Uniform Rate of Assessment. Annual and special assessments shall be at a uniform rate for all Lots.

Notwithstanding the foregoing however, so long as there is a Class B membership (pursuant to Article II, Section 2), Declarant may satisfy any obligation for assessment(s) on Lots which it owns either by paying assessments in the same manner as any other Owner, or by funding any budget deficit. A budget deficit is the difference between the amount of assessment levied plus any other income received during the fiscal year, and the amount of the Association's expenditures during the fiscal year. Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of same.

Section 8. Annual Assessment Periods and Due Dates. The annual assessment shall be assessed on a calendar year basis and is due and payable on such date as set forth by resolution of the Board of Directors of the Association. The Board of Directors of the Association shall fix the amount of the annual assessment for each Lot in advance of each annual assessment period (except for the year 2005, when the Board of Directors of the Association may fix the amount of the 2005 annual assessment at any time prior to December 1, 2005). Written notice of the annual assessment shall be mailed to every Owner. The annual assessment provided herein shall not commence prior to the first day of the first month after this document is recorded in the public records of Escambia County, and shall commence thereafter as determined by the Association. Upon commencement, the Association is not required to prorate the first year's annual assessment. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association stating what assessments are outstanding against any Lot and the due date for such assessment. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments; Remedies of the Association. Any annual or special assessment not paid within thirty (30) days after the due date shall bear a late charge of ten percent (10%) of the assessment amount, plus interest from the due date at the highest legal rate. The Association may, after first giving ten (10) days written notice to the holder of any first mortgage, bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the property. No Owner may waive or otherwise avoid personal liability for the assessments provided for herein by non-use of any Common Area, facilities or real property owned by the Association or abandonment of his Lot.

Section 10. Subordination of Assessment Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage which was originally recorded as a first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure of such a first mortgage or any proceeding or conveyance in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to the date of such sale or transfer; however, it shall not extinguish the personal obligation of the Owner of the Lot for payment of same. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter coming due or from the lien thereof.

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Section 11. Maintenance. In the event an Owner shall fail (after ten (10) days written notice from the Association or the Architectural Review Committee sent United States Mail, postage prepaid) to maintain a Lot or to maintain the improvements situated thereon in a neat, clean and orderly fashion and otherwise satisfactory to the Board of Directors of the Association or the Architectural Review Committee, the Association shall have the right, through its agents, employees and contractors, to enter upon said Lot and to repair, maintain and restore the Lot and/or exterior of the building or any other improvements erected thereon. The cost of such maintenance, together with interest at the maximum rate then allowed by law (if not paid within ten (10) days after written demand therefore), as well as reasonable legal fees and costs, shall be a charge on the Lot, shall be a continuing lien on the Lot and shall also be the personal obligation of the Owner of such Lot at the time such maintenance is performed. The Association shall have the right to collect such amount, as well as reasonable legal fees and costs, in accordance with the procedures set forth in this Article for the collection of assessments, as well as such additional legal or equitable remedies as might otherwise be available.

ARTICLE VI — COMMON AREAS

Section 1. Owner's Easements of Use and Enjoyment. Every Owner shall have a right and easement of use and enjoyment in and to the Common Areas, or any part thereof which shall be appurtenant to and shall pass with the title to every Lot, subject to each of the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon any Common Areas.
- B. The right of the Association to suspend the voting rights and the right of an Owner to use and enjoy the Common Areas or any part thereof for any period during which any assessment against his Lot remains unpaid or any violation of the provisions of this declaration remains uncured; and for a period not to exceed ninety (90) days for any infraction of its published rules and regulations pertaining to the use and enjoyment of any such recreational facilities.
- C. The right of the Association to dedicate or transfer all or any part of any Common Areas to any public agency, governmental body or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument signed by the Owners then entitled to cast two-thirds (2/3) of the votes of the Association has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Owner not less than fifteen (15) days and no more than sixty (60) days in advance; provided, however, that for a period of eight (8) years from date of recording this declaration, Declarant may, without action of the Association, grant such

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easements, licenses or the like across, to or under all or any portion of the Common Areas which Declarant, in its sole discretion, deems appropriate or necessary for the benefit of any or all Owners.

- D. The right of the Association, in accordance with its articles and bylaws, to borrow money for the purpose of improving and maintaining the Common Areas and facilities, and in aid thereof, to mortgage said property, but the rights of said mortgagee in said properties shall be subordinate to the rights of Owners hereunder.
- E. The right of the Association to limit the use of any Common Areas by published rules and regulations, including the number of guests and prescribing hours of usage, and to promulgate rules and requirements appropriate for the operation, maintenance, and replacement of gates and other security equipment and devices.

Notwithstanding the foregoing however, so long as there is outstanding a Class B membership (see Article II, Section 2), Declarant solely, and not the Association or any others, shall have exclusive control over the hours of operation of any privacy gate(s) which might be installed at the entrance to the Subdivision. In that regard, it is anticipated that until such time as the Subdivision is substantially built out, any such gate(s) might either be permanently left open to accommodate extended work hours six or seven days a week, or, work crews might be provided with an access code to open the gate(s) (thereby providing access to the Subdivision), or some arrangement allowing relatively free and unfettered access to work crews during extended work hours, six or seven days a week, all at Declarant's sole discretion.

- F. Traversing the Subdivision are two high pressure natural gas pipelines, both of which are underground and are located within an easement in favor of Gulf South Pipeline Company. As pertains thereto, see "Partial Release of Right of Way Grant" and "Encroachment Permit," both of which are recorded in the public records of Escambia County, Florida, in Official Record Book 5227, Page 194, and Official Record Book 5435, Page 588, respectively. **If disturbed, natural gas lines can be very dangerous.** The Association, its officers and directors; all Owners and their guests and invitees; and any and all others doing construction or otherwise undertaking any activity within the Subdivision which might involve digging, altering the terrain and/or anything remotely related thereto in the area of the pipelines' easement, are for safety's sake, urged **not to do so** until after first contacting Gulf South Pipeline Company (111 Park Place, Suite 100, Covington, Louisiana 70433, (985) 898-1000, and/or 4001 Lillian Highway, Pensacola, FL 32506, (850) 453-1715); reviewing both of the recorded documents referenced above; and

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obtaining professional, expert engineering advice and assistance.

- G. The conservation easement in favor of Escambia County, Florida, more particularly set forth in Article VII, Section 1 of this declaration.

Section 2. Delegation of Use. Subject to the provisions of Section 1 of this Article, any Owner may delegate, in accordance with the bylaws of the Association, his right and easement of use and enjoyment of the Common Areas and facilities to the members of his family, guests, authorized tenants, invitees, deliverymen, contract purchasers who reside on the property, contractors performing work for the Owner, suppliers and purveyors of services solicited by the Owner.

Section 3. Grant/Reservation of Easements.

- A. Declarant does hereby grant a nonexclusive perpetual easement and right of ingress and egress across, under and to all Common Areas unto each and all law enforcement, fire fighting and postal or delivery organizations, and to any other persons, organizations or entities who, in the normal course of their operation, respond to public or private emergencies.
- B. Declarant does hereby grant a non-exclusive perpetual easement and right-of-ingress and egress across and to all road right-of-ways within the Subdivision to all public utilities to provide utility services to the Lots within the Subdivision, including, without limitation, the Escambia County Utilities Authority, BellSouth, Gulf Power Company, Farm Hill Utilities, Bright House Networks and Energy Services of Pensacola. The easement rights hereby granted to such utilities are for purposes of installing, constructing, maintaining, repairing, improving and the like lines, pipes, wires, transformers, valves, meters and the like which are appropriate or necessary to properly provide such utility service, underground, to Lots within the Subdivision. Although the road right-of-ways within Subdivision will be, at least initially, private (that is, not dedicated for use to the general public), in exercising their easement rights hereby granted, all such utilities shall do so in accordance with the rules, regulations and guidelines imposed by Escambia County generally upon such utility companies relating to such matters in public road right-of-ways.
- C. Declarant, for itself, its successors and assigns, does hereby reserve a nonexclusive perpetual easement and right of ingress and egress across, under and to all Common Areas for purposes of construction thereon and thereabout of improvements; installation and maintenance of utilities and drainage facilities; carrying out the mitigation plan described in Article VII, Section 1; sale of Lots (including placement or construction of a temporary sales trailer, which shall be removed by Declarant upon completion of such uses); and such

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other purposes and uses as Declarant, in its absolute discretion, deems appropriate or necessary in connection with the sale and development of the Lots within the Subdivision.

ARTICLE VII -- CONSERVATION EASEMENT AND ENVIRONMENTAL MATTERS

Section 1. Wetlands and Wetland Buffers.

- A. **Background.** By way of background, Declarant designed the Subdivision to avoid any impacts to the three wetland areas located within the Subdivision boundary. The three wetland areas are denominated on the Plat as Parcels 1, 2 and 3 (each also being labeled on the Plat "Conservation"). The Declarant was not however able to avoid impact to 0.31 acres of wetland buffer which is protected by an Escambia County, Florida, ordinance. A copy of excerpts from "The Wetland Buffer Encroachment Mitigation Plan," together with pertinent background information, which allowed the 0.31 acre wetland buffer encroachment, as approved by Escambia County, is attached to this declaration as Exhibit "A" (and incorporated herein by reference as if set forth in full herein).
- B. **Conservation Easement.** By separate document, Declarant (sometimes in this part referred to as "Grantor") did hereby grant, convey and quit claim to Escambia County, Florida, a political subdivision of the State of Florida, acting by and through its duly authorized Board of County Commissioners (whose mailing address is 223 Palafox Place, Room 300, Pensacola, Florida 32502)("Grantee"), their successors and assigns forever, a perpetual conservation easement pursuant to Florida Statutes Section 704.06 in, over and to Parcels 1, 2 and 3 (each also being labeled on the Plat as "Conservation") and Parcels H, J and L (each also being labeled on the Plat as "Wetland Buffer")("Subject Property"), upon the following terms and conditions:

It is the purpose and intent of this Conservation Easement to assure that the Subject Property will be retained and maintained forever predominately in the natural vegetative and hydrological condition existing as at the time of executing this Conservation Easement.

The following activities are hereafter prohibited on the Subject Property:

- (a) Construction or placing of buildings, roads, signs, billboards, or other advertising, utilities, or other structures on or above the ground;

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- (b) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, or unsightly or offensive materials;
- (c) Removal or destruction of trees, shrubs, or other vegetation (with exception of the nuisance and exotic plant species as required by the mitigation referred to above in Part (A) of this section);
- (d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substances in such manner as to affect the surface;
- (e) Surface use except for purposes that permit the land or water areas to remain in its natural condition;
- (f) Activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;
- (g) Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas; and
- (h) Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archaeological or cultural significance.

It is understood that the granting of this Conservation Easement entitles the Grantee or its authorized representatives to enter the above-described land in a reasonable manner and at reasonable times to assure compliance herewith.

The Grantor, on behalf of itself and its successors and assigns, hereby agrees to bear all reasonable costs and liability in the operation and maintenance of the Subject Property in substantially the same natural vegetative and hydrological condition as existing at the time of execution of this Conservation Easement.

The Conservation Easement hereby granted and the obligation to retain and maintain the Subject Property predominately in the vegetative and hydrological condition as herein specified shall run with the land and shall be binding upon Grantor, its successors and assigns, and shall enure to the benefit of Grantee, and its successors and assigns.

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The terms and conditions of this Conservation Easement maybe enforced by the Grantee by injunctive relief and other appropriate available remedies. In any enforcement action in which Grantee prevails, Grantor shall bear the cost of restoring the land to predominately the vegetative and hydrological condition existing at the time of execution of this Conservation Easement.

Any forbearance on behalf of the Grantee to exercise its rights in the event of failure of Grantor to comply with the provisions of this Conservation Easement shall not be deemed or construed to be a waiver of the Grantee's rights hereunder.

Notwithstanding the foregoing however, Declarant, and its successors and assigns, may, in their sole discretion:

(i) do additional plantings (and appropriate maintenance thereof) and mow all parts of the Subject Property except in the aforesaid Parcels 1 and 2;

(ii) construct and maintain pinestraw (or other organic, biodegradable material) leisure trails, three to six feet wide, in all parts of the Subject Property except in the aforesaid Parcels 1, 2 and 3; and

(iii) observing best management practices, undertake such activities in any or all of the Subject Property as are necessary or appropriate to properly carry out the mitigation plan referred to above in Part (A) of this section.

- C. Association. Referring to the Mitigation Plan referenced above in Part (A) of this section, Declarant commenced implementation of same in August, 2003, with enhancement activities including efforts to eradicate Chinese Tallow and Chinese Privet in the areas specified, and also with the planting in the fall of 2003 of 45+ multi-trunk River Birch with a minimum height of seven feet. Through date, Declarant has maintained the River Birch with substantially all surviving, and Declarant continues periodic efforts to eradicate Chinese Tallow and Chinese Privet in the areas specified in the Mitigation Plan. Declarant shall continue performing its responsibilities under the Mitigation Plan through April, 2005, whereupon the Association shall assume responsibility for continued compliance of all requirements of same, with the costs thereof to be assessed by the Association against all Owners (including Declarant).

Section 2. Water. In the interest of public health and sanitation and in order to insure that the Subdivision and Development and all other land in the same locality may be benefitted by decrease in hazards of pollution and for the protection of water supplies, recreation, wildlife and other public uses of storm drainage facilities, no Owner or occupant of any Lot in the Subdivision shall use

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such Lot for any purpose that would result, directly or indirectly, in the draining or dumping into any drainage system or device, any refuse, sewage, or other material which might tend to pollute.

Section 3. Construction Activities. During and following construction of any residence or other improvements with any proximity at all to any wetland or wetland buffer, the following shall be observed:

- (a) All wetland areas or water bodies which might be affected by reason of such construction shall be protected from any erosion, sedimentation, siltation, scouring, excess turbidity and dewatering;
- (b) All disturbed upland areas shall be stabilized during and after construction so as to prevent any erosion, sedimentation, siltation, or scouring; and
- (c) There shall be no storage or stockpiling of tools, materials, etc. within any wetland or wetland buffer, and any cleared vegetation, excess materials, trash, garbage, and any type of debris shall be kept from (or, if inadvertently located in the same, promptly removed) all wetlands and wetland buffers at all times.

Section 4. Sanitary Sewerage. Declarant has constructed and otherwise provided for disposal of sanitary sewerage by extending an Escambia County Utilities Authority (ECUA) low pressure sanitary sewerage collection force main (complete with individual Lot service laterals) throughout the Subdivision along the road right-of-ways. Upon initial construction of a house on each Lot, each Owner, at his expense, will be required to construct and install, the following:

- A. An individual grinder pump whereby the on-lot sewerage is collected, preliminarily processed and pumped into ECUA's low pressure sanitary sewerage collection force main referenced above; and
- B. An in ground valve box type structure (meeting ECUA's specifications) located in the front yard of the Lot where the discharge line from the individual grinder pump will be tied into the service lateral extending onto the Lot from ECUA's low pressure sanitary sewerage collection force main.

Specifications for, and construction of, the aforesaid grinder pump and the in ground valve box shall be provided by the Association's Architectural Review Committee; shall be consistent with ECUA's requirements; and shall be constructed by a State of Florida licensed plumber certified to do so and designated by the Association. Thereafter, the Association shall be responsible for the operation and maintenance of the "on-lot" facilities (meaning the grinder pump and all parts of the sanitary sewerage system down stream from the grinder pump to and including the tie in to ECUA's service lateral, and including the in ground valve box), although the Owner shall bear all operation and maintenance costs of same. ECUA shall be responsible for the operation and maintenance of the "off-lot" facilities (meaning all that part of the low pressure sanitary sewerage collection force main downstream of the

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"on-lot" facilities).

The use of septic tanks on any Lot, even temporarily, is prohibited. .

ARTICLE VIII — GENERAL PROVISIONS

Section 1. Enforcement. The Association, the Declarant, the Architectural Review Committee or any Owner shall have the right to enforce by any proceeding at law or in equity, any and all restrictions, conditions, covenants, reservations, liens and charges imposed by the provisions of this declaration. Failure by the Association, the Declarant, the Architectural Review Committee or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any action (whether in advance of or prior to the initiation of any legal or equitable proceeding, in arbitration, in trial, in any administrative or other similar proceedings, or in any appeal from any of the same) pertaining to any condition, restriction or covenant herein contained (due to their alleged violation or breach) or for the enforcement of any lien against any Lot or against any person or entity, unless otherwise in this declaration expressly provided, the prevailing party shall be entitled to recover all costs, including reasonable legal fees and expenses.

Section 2. Severability. Invalidation of any one of the covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect thereafter.

Section 3. Duration and Amendment. This declaration shall run with and bind the Lots, shall be deemed a part of all deeds and contracts for conveyance of any and all Lots, and shall be binding on all Owners and all persons claiming under them until January 1, 2035, unless amended by an instrument signed by two-thirds (2/3) of the Lot Owners then entitled to exercise two-thirds (2/3) of the voting rights as set forth in Article II, Section 2. After January 1, 2035, this declaration shall be automatically extended for successive periods of ten (10) years each, unless amended by an instrument signed by a majority of the then Lot Owners. Notwithstanding the foregoing, Declarant reserves the right unto itself to amend this declaration at any time within eight (8) years after date hereof if doing so is necessary or advisable to:

- A. Accommodate FHA, VA, FNMA other agencies, or lenders, involved with the financing of residential structures within the Subdivision; or
- B. To conform to the requirements of any governmental body or agency with permitting or other regulatory authority; or
- C. Correct any scrivener's errors herein contained or to clarify any ambiguities contained herein.

Any amendment to this declaration must be recorded in the public records of Escambia County, Florida.

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Notwithstanding the foregoing, the rights of use and easements provided for in Article VI and Article VII, Section 1, shall be perpetual. Additionally, and notwithstanding any other provision of this declaration which might be to the contrary, the conservation easement provided for in Article VII, Section 1, may only be amended with the approval of the Board of County Commissioners of Escambia County, Florida.

Section 4. Annexation. Declarant may, in its sole discretion and without consent of any Owner or the Association, at any time, and from time to time, annex such additional property and common areas (regardless of whether contiguous or not and regardless of whether residential or otherwise) as Declarant shall in good faith determine. Such annexation shall be evidenced by an instrument recorded in the public records of Escambia County, Florida, executed by Declarant describing the real property to be annexed and any modifications and/or qualifications to this declaration to be applied to such annexed property (including potentially different use restrictions), all as determined by Declarant in its sole discretion. Following any and all such annexations, the owners of such additional property shall thereupon and thereafter have such rights, privileges and benefits, including, but not limited to, the right to use the Common Areas, and shall be subject to such responsibilities and obligations, all as set forth in such recorded annexation document.

Section 5. Nonliability of Association, et al. Neither the Association, its officers, directors, Declarant, the Architectural Review Committee nor the Architectural Review Representative shall, in any way or manner, be held liable to any Owner or any other person or entity for failure to enforce, or for any violation of, the restrictions, conditions, covenants, reservations, liens or charges herein contained by any Owner.

Section 6. Indemnification. The officers, directors and committee members of the Association, and individuals serving on the Architectural Review Committee, acting in such capacities, shall not be liable for a mistake of judgment, neglect or otherwise, except for their own individual willful misfeasance, willful misconduct, or a bad faith. Further, none of them shall have personal liability for any contract or other commitment made or action taken in good faith on the Association's behalf.

Subject to Florida law, the Association shall indemnify officers, directors and committee members of the Association, and individuals serving on the Architectural Review Committee, against all damages and expenses, including legal fees, reasonably incurred in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Association) to which he/she may be a party by reason of being, or having been, an officer, director or committee member of the Association, or member of the Architectural Review Committee, except that such obligation to indemnify shall be limited to those actions for which the indemnity's personal liability is limited under this section. This right to indemnification shall not be exclusive of any other rights which any present or former officer, director or committee member of the Association or member of the Architectural Review Committee, may have. The Association shall, as a common expense, maintain adequate general liability of officers and directors liability insurance to fund this obligation, if

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such insurance is reasonably available.

Section 7. Miscellany. Any single violation of any use restriction by an Owner shall constitute a continuing violation which shall allow the Association or any other Owner to seek permanent injunctive relief. In no event shall a violation of these conditions, restrictions or covenants ever be interpreted to work a reverter or forfeiture of title. Unless otherwise expressly provided herein, the requirements of the Association to give any type of notice provided herein may be satisfied by mailing said notice, postage prepaid, to the last mailing address of the Owner as reflected on the records of the Association.

ARTICLE IX—CONVEYANCE OF COMMON AREAS

Declarant does hereby grant, convey and quit claim to the Association (whose mailing address is: P.O. Box 12358, Pensacola, FL 32591), its successors and assigns, each and all of the following described property, as Common Areas, subject to the easements, rights of use, covenants, conditions and restrictions set forth in this declaration:

All areas on the Plat (including, without limitation, all buffers, all trail easements, all road right-of-ways, all wetlands, all areas designated as conservation, all wetland buffers, the Gulf South Pipeline 50' Easement, and all private retention ponds) which are not Lots.

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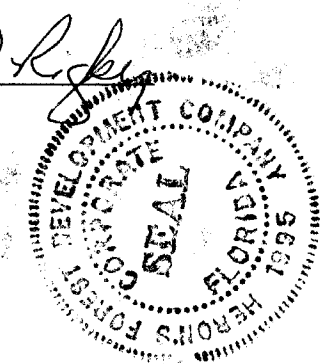
IN WITNESS WHEREOF, Heron's Forest Development Company, a Florida corporation, has, pursuant to due and proper authorization, caused this instrument to be executed by a duly authorized officer and its corporate seal to be affixed hereto this 27 day of January, 2005.

Signed, sealed and delivered in the presence of:

HERON'S FOREST DEVELOPMENT CO.

Janet E. Roberts
(Print Name: JANET E. Roberts)
Angel Murphy
(Print Name: Angel Murphy)

By: Jennifer J. Rigby
Its Vice President
Jennifer J. Rigby
(Corporate Seal)



JOINDER BY MORTGAGEE

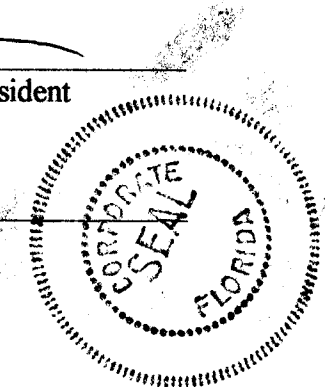
THE UNDERSIGNED, having an interest in mortgages and/or other security instruments encumbering the Subdivision, does hereby join in this "Declaration of Covenants, Conditions and Restrictions, Conveyance of Common Areas, and Conservation Easement for Soaring," intending that by so doing, its rights pursuant to any such mortgages and/or security interests shall be subject to the terms and conditions of this declaration.

Signed, sealed and delivered in the presence of:

WHITNEY NATIONAL BANK

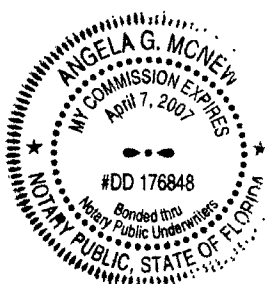
Melisa Turner
(Print Name: Melisa Turner)
Gwendolyn M. Boone
(Print Name: Gwendolyn M. Boone)

By: Robert C. Maloy
Robert C. Maloy, Vice President
Commercial Lending
Date: 1-27-05



STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 27th day of January, 2005, by Jennifer J. Rigby, as Vice President of Heron's Forest Development Company, a Florida corporation and Robert C. Maloy, as Vice President of Whitney National Bank. They are personally known to me.



Angela G. McNew
NOTARY PUBLIC
Typed Name: Angela G. McNew
Commission Expires: _____
Commission No.: _____

Prepared by
Margaret T. Stopp, of
MOORE, HILL & WESTMORELAND, P.A.
Post Office Box 13290
Pensacola, FL 32591

**AMENDMENT TO SOARING DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

COUNTY OF ESCAMBIA
STATE OF FLORIDA

THIS AMENDMENT TO SOARING DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Amendment") is pursuant to Article VIII, Section 3 of the Soaring Declaration of Covenants, Conditions and Restrictions dated the 27th day of January 2005, and recorded in Official Records Book 5566, Page 135 of the Public Records of Escambia County, Florida ("Declaration").

Recitals

1. Article IV, Section 9 of the Declaration sets forth the parking of vehicles on Lots. Section 9 of Article IV of the Declaration is amended and the following paragraph is added to Section 9, Garages:

Vehicles shall not be parked off driveway surfaces in cul-de-sacs nor on any grass-covered area. Parking of vehicles on streets will be limited to those special social occasions and such parking is limited to 10 hours.

Exception: Up to two passenger vehicles may be parked in the driveway of a home provided the vehicle(s) is (are) used by members of the household for daily transportation.

Attached as Exhibit "A" and incorporated by reference is an Affidavit of the President of the Association attesting to the vote at a duly constituted meeting held January 20, 2009 of not less than two-thirds (2/3) of the Lot Owners entitled to exercise the voting rights as set forth in Article II, Section 2 of the Declaration, pursuant to which twenty-one (21) Lot Owners voted in favor of the Amendment, and none opposed the Amendment.

IN WITNESS WHEREOF, the President of the Association has caused this Amendment to the Declaration to be executed this 10 day of March, 2009.

{Signature Page Follows}

Signed, sealed and delivered in the presence of the following witnesses:

SOARING PROPERTY OWNERS ASSOCIATION, INC.

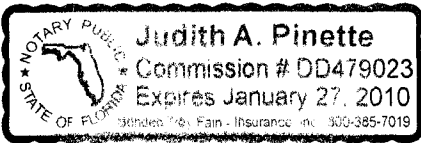
Elizabeth A. McIntosh
Print ELIZABETH MCINTOSH

By: *Joe R. McIntosh*
JOE R. MCINTOSH, Its President

Judith A. Pinette
Print Judith A. Pinette

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this the 10th day of March 2009, by Joe R. McIntosh, as President of Soaring Property Owners Association, Inc., who is personally known to me, or who produced N/A as identification.



Judith A. Pinette
NOTARY
My Commission Expires: _____

Exhibit "A"

AFFIDAVIT OF JOE R. MCINTOSH
SOARING PROPERTY OWNERS ASSOCIATION, INC.

STATE OF FLORIDA
COUNTY OF ESCAMBIA

Before me, the undersigned authority, personally appeared Joe R. McIntosh, who, upon being first duly sworn, depose and say:

1. Joe R. McIntosh is the current President of Soaring Property Owners Association, Inc. ("Association").

2. Joe R. McIntosh presided as President at the duly constituted meeting of the members of the Association held on January 20, 2009.

3. The Lot Owners entitled to exercise two-thirds (2/3) of the voting rights as set forth in Article II, Section 2 of the Declaration considered amending the Declaration of Covenants, Conditions and Restrictions concerning parking of vehicles on Lots and amending Article IV, Section 9 of the Declaration.

4. Twenty-one (21) Lot Owners, inclusive of the Class A members and the Class B member, attended in person or by proxy at or within ninety (90) days of the meeting.

5. Votes were cast representing twenty-one (21) Lot Owners, with no dissenting vote, which constitutes more than two-thirds (2/3) of the Lot Owners entitled to exercise the voting rights as set forth in Article II, Section 2 of the Declaration.

FURTHER AFFIANTS SAYETH NOT.

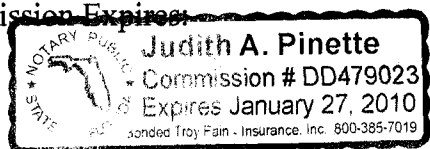


JOE R. MCINTOSH

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was sworn to and subscribed before me this 10th day of March, 2009, by Joe R. McIntosh, who is personally known to me or who produced N/A as identification.

My Commission Expires:





NOTARY PUBLIC

86.50

BYLAWS

OF

SOARING PROPERTY OWNERS ASSOCIATION, INC.
(A Corporation Not For Profit)

DEC 17 2005

Article I - Name and Location

This corporation shall be known as SOARING PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "ASSOCIATION." The principal office of the ASSOCIATION shall be located at 17 South Palafox Place, Suite 394, P.O. Box 12358, Pensacola, Florida 32591, but meetings of the members and directors may be held at such places within the State of Florida, County of Escambia, as may be designated by the Board of Directors.

Article II - Definitions

Section 1. "DECLARATION" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the properties recorded in the office of the Clerk of the Circuit Court of Escambia County, Florida.

Section 2. "MEMBER" shall mean and refer to those persons entitled to membership as provided in the DECLARATION.

Section 3. All other terms used herein shall have the same definitions as set forth in the DECLARATION.

Article III - Meetings of Members

Section 1. Annual Meetings. The first annual meeting of the members shall be held in January, 2006, and each subsequent regular meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7 o'clock p.m., or on such other date as the Board of Directors may determine. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote ten percent (10%) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the ASSOCIATION, or supplied by such member to the

ASSOCIATION for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, in person or by proxy, thirty percent (30%) of the total votes of all members at the time of the meeting shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the DECLARATION or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Adjourned Meetings. If an annual meeting or special meeting is adjourned to a different date, time or place, then the new date, time or place must be announced at the meeting before it is adjourned. Otherwise, notice of the new time, place or date must be given in the same manner as required for the adjourned meeting.

Section 6. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary and such proxies shall be valid only for the meeting for which they were submitted. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

Section 7. Voting. At all meetings of members where a quorum has been attained, those members present in person or by proxy may vote in the manner set forth in the DECLARATION and a simple majority of the voting interests present in person or by proxy shall be required on any action unless otherwise provided in the Articles of Incorporation, the DECLARATION, or these Bylaws.

Article IV - Board of Directors

Section 1. Number. The affairs of this ASSOCIATION shall be initially managed by a Board of three (3) directors, who need not be members of the ASSOCIATION. There shall never be less than three (3) directors.

Section 2. Term of Office. The affairs of the Association shall be managed by a Board of Directors (hereinafter the "Board") consisting of five (5) Directors. In order to provide for a continuity of experience by establishing a system of staggered terms, in the first election which unit owners other than the Developer elect a majority of the Directors, the number of Directors to be elected shall be increased to five (5). The three (3) candidates receiving the highest number of votes shall be elected for two (2) year terms. The two (2) candidates receiving the next highest number of votes shall be elected for one (1) year terms. If there are five or fewer candidates, the determination of who will serve the longer terms shall be made among them by agreement or by lot. Thereafter, all Directors shall be elected for two (2) year terms.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the ASSOCIATION. In the event of death,

resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the ASSOCIATION. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Article V - Nomination and Election of Directors

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the ASSOCIATION. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Elections. Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the DECLARATION. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Article VI - Meetings of Directors

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the ASSOCIATION, or by any two (2) Directors, after not less than three (3) days notice to each Director.

Section 3. Notice to Members. All meetings of the Board of Directors shall be open to all members except meetings between the Board and its attorney to discuss proposed or pending litigation where the contents of the discussion would be governed by the attorney-client privilege. Notices of all board meetings must be posted in a conspicuous place in the

subdivision at least 48 hours in advance of a meeting, except in an emergency. If notice is not posted in a conspicuous place in the subdivision, notice of each board meeting must be mailed or delivered to each member at least seven (7) days before the meeting, except in an emergency. If the meeting for which the notice is being provided shall be for the purpose of acting on assessments, the notice shall include a statement that assessments will be considered and the nature of the assessments to be considered.

Section 4. Voting. Directors may not vote by proxy or by secret ballot at board meetings except a secret ballot may be used when electing officers.

Section 5. Miscellaneous. The voting and notice requirements set forth in this Article shall also apply to the meetings of any committees authorized by the Board of Directors including the Architectural Review Committee.

Section 6. Minutes. Minutes of all meetings of the Board of Directors and committees must be maintained in written form or in another form that can be converted into written form within a reasonable time. The minutes must reflect the action taken by the Board, or committee, including the recording of votes or the abstention from voting on each matter voted upon for each director present or for each committee member present.

Article VII - Powers and Duties of the Board of Directors Including Fiscal Matters

Section 1. Powers. The Board of Directors shall have the power to:

- a. Adopt and publish rules and regulations governing the use of the common area and facilities;
- b. Suspend the voting rights and right to use the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the ASSOCIATION.
- c. Exercise for the ASSOCIATION all powers, duties and authority vested in or delegated to this ASSOCIATION and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the DECLARATION;
- d. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- e. Employ a manager, an independent contractor or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- a. Make available to lot owners and lenders and to holders, insurers or guarantors of any first mortgage, current copies of the DECLARATION, Bylaws, other rules concerning the project and the books, records and financial statements

of the ASSOCIATION. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances;

- b. Supervise all officers, agents and employees of this ASSOCIATION, and to see that their duties are properly performed;
- c. As more fully provided in the DECLARATION, to:
 - 1. Fix the amount of the annual assessment against each lot at least ten (10) days in advance of each annual assessment period;
 - 2. Send written notice of each assessment to every owner subject thereto at least ten (10) days in advance of each annual assessment period; and
 - 3. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- d. Issue, or to cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- e. Procure and maintain in effect liability insurance and such additional coverages as the ASSOCIATION's Board of Directors may determine;
- f. Cause the common area and ASSOCIATION owned properties to be maintained;
- g. Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth of the Class A members who are entitled to vote;
- h. Coordinate and cooperate with the Architectural Review Committee, as constituted in the Declaration, on matters pertaining to architectural control within the Subdivision.

Section 3. Budgets. The ASSOCIATION shall prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The ASSOCIATION shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member within ten (10) business days after receipt of a written request by the member.

Section 4. Financial Reporting. Within 90 days after the end of the fiscal year, the

ASSOCIATION shall prepare and complete, or the ASSOCIATION shall contract for the preparation and completion of a financial report for the preceding fiscal year. Within 21 days after the final report is completed, but not later than 120 days after the end of the fiscal year, the Association shall provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. The financial report must consist of either:

- a. Financial statements presented in conformity with generally accepted accounting principles; or
- b. A financial report of actual receipts and expenditures, cash basis, which report must show:
 1. The amount of receipts and expenditures by classification; and
 2. The beginning and ending cash balances of the ASSOCIATION.

Section 5. Fiscal Year. The fiscal year for the ASSOCIATION shall begin on the first day of January and end on the 31st day of December each year, except that the date of commencement for the first partial fiscal year shall begin in 2004.

Article VIII - Officers and Their Duties

Section 1. Enumeration of Officers. The officers of this ASSOCIATION shall be a President, who shall at all times be a member of the Board of Directors, a Vice-President, a Secretary/Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first Board meeting following the annual membership meeting.

Section 3. Term. The officers of this ASSOCIATION shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the ASSOCIATION may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Duties. The duties of the officers are as follows:

- a. President: The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes;
- b. Vice-President: The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board;
- c. Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the ASSOCIATION and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the ASSOCIATION together with their addresses; and shall perform such other duties as required by the Board;
- d. Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the ASSOCIATION and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the ASSOCIATION; keep proper books of account; cause an annual audit of the ASSOCIATION books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of each to the members.

Article IX - Official Records

Section 1. The ASSOCIATION shall maintain each of the following items which constitute the "Official Records" of the ASSOCIATION:

- a. Copies of any plans, specifications, permits and warranties relating to improvements constructed on the Common Area or other property that the ASSOCIATION is obligated to maintain, repair or replace.
- b. A copy of the Bylaws of the ASSOCIATION and of each amendment thereto.
- c. A copy of the Articles of Incorporation of the ASSOCIATION and each amendment thereto.
- d. A copy of the DECLARATION.

- e. A copy of the current rules of the ASSOCIATION.
- f. The minutes of all meetings of the Board of Directors and of the members and of any committees appointed by the Board which minutes must be retained for at least seven (7) years.
- g. A current roster of all members and their mailing addresses and lot designations.
- h. All of the ASSOCIATION's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years.
- i. A copy of all contracts to which the ASSOCIATION is a party, including, without limitation, any management agreement, lease, or other contract under which the ASSOCIATION has an obligation or responsibility. Bids received by the ASSOCIATION for work to be performed must also be considered Official Records and must be kept for a period of one (1) year.
- j. The financial and accounting records of the ASSOCIATION, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:
 - 1. Accurate, itemized and detailed records of all receipts and expenditures.
 - 2. A current account and periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.
 - 3. All tax returns, financial statements and financial reports of the ASSOCIATION.
 - 4. Any other records that identify, measure, record, or communicate financial information.

Section 2. The Official Records shall be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. This Section may be complied with by having a copy of the Official Records available for inspection or copying in the subdivision.

Section 3. The Board of Directors may adopt reasonable written rules governing the frequency, time, location, notice and manner of inspections, and may impose fees to cover the costs of providing copies of the Official Records, including, without limitation, the cost of

copying. The ASSOCIATION shall maintain an adequate number of copies of the recorded governing documents, to insure their availability to members and prospective members, and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

Article X - Assessments

As more fully provided in the Declaration, each member is obligated to pay to the ASSOCIATION annual and special assessments, together with interest, costs and reasonable legal fees and expenses, which are secured by a continuing lien upon the property against which the assessment is made. Each such assessment, together with interest, costs and reasonable legal fees, shall also be the personal obligation of the person(s) who is the owner of such lot at the time when the assessment becomes due. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, a late charge of ten percent (10%) of the assessment amount shall be due and the assessment shall bear interest from the date of delinquency at the highest rate allowed by law. If the assessment is not paid within thirty (30) days after the due date, the Board of Directors, through its officers, may cause to be filed in the public records of Escambia County, Florida, a lien certificate evidencing the lien against the lot as provided for in the DECLARATION. After first giving ten (10) days written notice to the holder of any first mortgage, the ASSOCIATION may bring an action at law against the member personally obligated to pay the assessment or foreclose the lien against the property, and all interest, costs and reasonable attorney's fees of either such action shall be added to the amount of such assessment and shall be included in the lien. No member may waive or otherwise escape liability for the assessments provided for herein by non-use of the common properties or abandonment of his or her lot.

Article XI - Corporate Seal

The ASSOCIATION shall have a seal in circular form having within its circumference the words: SOARING PROPERTY OWNERS ASSOCIATION, INC., a Florida Corporation Not for Profit.

Article XII - Amendments

Section 1. These Bylaws may be amended, at a regular or special meeting of the members, by a majority vote of members at a duly called meeting at which a quorum is present in person or by proxy, except that the Federal Housing Administration or Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflicts between the DECLARATION and these Bylaws, the DECLARATION shall control.

Section 3. No amendment which affects the Declarant's rights prior to the owners obtaining control of the ASSOCIATION shall be effective without the written consent of the Declarant.

Article XIII - Committees

The ASSOCIATION shall appoint an architectural review committee as provided in the DECLARATION and a nominating committee as provided in these Bylaws. The initial members of the architectural review committee shall be as set forth in the DECLARATION and they shall continue to serve until removed by the Board of Directors, subject to the limitations and provisions set forth in the DECLARATION. In addition, the Board of Directors shall appoint other committees as deemed appropriate to carry out its purposes.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal this 1st day of October, 2004.

Signed, sealed and delivered in the presence of:


SOARING PROPERTY OWNERS ASSOCIATION, INC., a Florida Corporation Not for Profit

Lydia Brackett
Lydia Brackett
Jennifer Lee Warfel-Bushnell
Jennifer Lee Warfel-Bushnell

By: *[Signature]*
Richard R. Baker, President

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me on this the 1st day of October, 2004, by Richard R. Baker, as President of SOARING PROPERTY OWNERS ASSOCIATION, INC., a Florida Corporation Not for Profit, on behalf of said corporation, who personally appeared before me and is personally known to me.

 Jennifer Lee Warfel-Bushnell
My Commission DD 197054
Expires March 26, 2007

Jennifer Lee Warfel-Bushnell
NOTARY PUBLIC

✓ This Instrument Prepared By:
Jennifer Lee Bushnell, Esq. of
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Pensacola, FL 32502