

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND EASEMENTS**

FOR

Royal Pointe

a planned mixed use community by

Larmac Development, Inc.

*752 Blanding Boulevard, Suite 110
Orange Park, Florida 32065*

PREPARED BY & RETURN TO:

Barry B. Ansbacher, Esquire
Ansbacher & McKeel, P.A.
2450 Riverplace Tower
1301 Riverplace Boulevard
Jacksonville, Florida 32207

Note: This instrument establishes lien rights and easements. This instrument does not contain any reverter provisions.

**Notice of all sales of residential lots must be furnished
to the Association within 5 days of date of closing to
avoid a \$150.00 assessment.**

THIS DECLARATION is made as of the 29th day of September, 2006 by **Larmac Development, Inc.**, a Florida Corporation (the "Developer").

STATEMENT OF FACTS:

A. The Developer is the Developer of all property within ROYAL POINTE, a subdivision, according to plat thereof recorded in Plat Book 50, pages 41 through 51, inclusive of the public records of Clay County, Florida. All of such land is referred to as the "Property" "Royal Pointe" or the "subdivision".

B. The Developer has caused or will cause to be created *Royal Pointe Community Association, Inc.*, a not for profit Florida corporation (the "Association").

C. In order to develop and maintain Royal Pointe as a planned mixed-use community and to preserve, protect and enhance the values and amenities thereof, it is necessary to declare, commit and subject the Property and the improvements now and hereafter constructed thereon to covenants, conditions, restrictions, regulations and easements and to delegate and assign to the Association certain powers and duties of ownership, administration, management, operation, maintenance and enforcement, all as set forth and provided in this Declaration.

NOW THEREFORE, for and in consideration of the above premises and for other good and valuable consideration, the Developer, for itself and its successors and assigns, hereby (i) establishes this Declaration of Covenants, Conditions Restrictions and Easements for Royal Pointe (this "Declaration"), (ii) declares that Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which will run with the title, and the grantee of any deed conveying any of the Property will be deemed by the acceptance of such deed to have agreed to all such covenants, conditions, restrictions and easements and to have covenanted to observe, comply with and be bound by all such covenants, conditions, restrictions and easements and (iii) imposes the easements referred to and described which will be perpetual in duration.

ARTICLE I

DEFINITIONS

As used in this Declaration, the following terms have the following meanings:

1.1. **Articles of Incorporation.** "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as may be amended from time to time.

1.2. **Assessment.** "Assessment(s)" is the collective term for any of the following charges:

(a) "Annual Assessment" is the annual charge distributed among all Members to meet the Association's annual budgeted expenses.

i. "Annual Commercial Assessment" is that portion of the Annual Assessment charged to the Commercial Members.

ii. "Annual Residential Assessment" is that portion of the Annual Assessment payable only by the Residential Members.

(b) "Individual Lot Assessment" is a charge made against an individual Lot and its Owners for expenses or fines relating only to such Lot.

(c) "Special Assessment" is a special charge distributed among all Members for capital improvements or emergency expenses in accordance with the provisions of Section 9.4.

1.3. **Architectural Review Authority.** "Architectural Review Authority" means the right to set standards for improvements to the Residential Lots, and the right to determine whether proposed construction or re-construction meets such standards. Architectural Review Authority is initially vested in the Developer.

1.4. **Architectural Review Committee.** "Architectural Review Committee" means a committee of persons which the Developer or the Developer's assignee may choose to establish in order to exercise Architectural Review Authority.

1.5. **Association.** "Association" means the entity known as Royal Pointe Community Association, Inc., a Florida non-profit corporation.

1.6. **Board.** "Board" means the Board of Directors of the Association. "Director" means a Member of the Board.

1.7. **Builder.** "Builder" means any persons or entities which are within the State of Florida or licensed contractors within Clay County, Florida, owning one or more Lots which are held for resale by such person or entities in the ordinary course of business.

1.8. **Bylaws.** "Bylaws" means the Bylaws of the Association.

1.9. **Common Property.** "Common Property" is an inclusive term referring to all real property dedicated to, owned by, or held by the Association, or intended by the Developer to be devoted to the common use or enjoyment of the Members, or for preservation in accordance with this Declaration. Common Property may include personal property acquired by the Association. Any land or personal property leased to the Association shall lose its character as Common Property upon the expiration of such lease. Common Property may include, without limitation, streets, entry features, easements, landscaping, perimeter fencing, signage, buffer areas, conservation areas, and recreational facilities, and social facilities constructed or to be constructed by the Developer or the Association. Unless conveyed in the Developer's discretion to the Association, the Common Property does not include Tract "J", or Tract "F" or any portion thereof.

1.10. **Declaration.** "Declaration" means (i) this Declaration of Covenants, Conditions, Restrictions and Easements for Royal Pointe and any amendments to this Declaration, and (ii) all exhibits attached to this Declaration, and any amendments to such exhibits.

1.11. **Developer.** "Developer" means Larmac Development, Inc. a Florida corporation, and its successors together with its assigns, upon a specific assignment to such assignees of the rights of Developer under the Declaration in an instrument recorded in the current public records of Clay County, Florida.

1.12. **Institutional Mortgagee.** "Institutional Mortgagee" means (a) any (i) commercial bank, (ii) savings bank, (iii) savings and loan association, (iv) life insurance company, (v) real estate investment trust, (vi) mortgage banking or lending corporation, association or trust, owning or servicing at least 100 mortgages, (vii) any federal agency, corporation or association including, without limiting the generality of the foregoing, Federal Housing Administration ("FHA"), Veterans Administration ("VA"), Federal National Mortgage Association, Government National Mortgage Association, and Federal Home Loan Mortgage Corporation and (viii) any affiliate, subsidiary, successor or assignees of any of the foregoing, holding a mortgage on a Lot, and (b) Developer if and so long as Developer holds a mortgage on a Lot.

1.13. **Lot.** "Lot" shall mean and refer to a portion of the Property, whether developed or undeveloped, intended for development, use or occupancy. The term "Lot" shall include all portions of the Developer owned, as well as any structure or other improvements thereon. Any two (2) or more Lots which are under common ownership and on which a single structure has been constructed shall nevertheless be considered to be two (2) or more separate Lots for purposes of voting, Assessment and all other matters hereunder. The number of Lots within the Property will be as shown on the Plat as to portions of the Property which have been platted, and as shown on the most recent site plan as to those portions of the Property which have not been platted.

(a) "Commercial Lot" means the Lot designated as Tract "J" and labeled as "Commercial" on the Plat. If additional lands, including without limitation all or part of Tract F as shown on the Plat, are designated by the Developer as a Commercial Lots in a document recorded in the Public Records, then same shall effective upon such recording also be deemed as Commercial Lots. If the Commercial Lot is subdivided than each subdivided parcel will be considered a separate Commercial Lot effective upon such subdivision.

(b) "Residential Lot" means a Lot intended for and restricted to for residential dwelling purposes. The Residential Lots are numbered as 1 through 150 on the Plat.

(c) "Vacant Lot" means a Lot (Commercial or Residential) upon which a building foundation has not yet been constructed; however, where two or more Lots have been combined into common ownership under a common plan for development for use by a single family or business, then none of such Lots will be considered a "Vacant Lot" once a building foundation has been constructed on any

of the associated Lots. After a building foundation has been constructed, a Lot will not be considered a Vacant Lot even if improvements to the Lot are later destroyed. "Vacant Residential Lot" means a Vacant Lot which is also a Residential Lot.

1.14. **Owner.** "Owner" means the record fee simple owner of a Lot. Owner does not include any party having an interest in a Lot merely as security for the performance of an obligation. In the event that there is a recorded contract for deed for any Lot, the Owner of such Lot will be the purchaser/vendee under said contract.

1.15. **Member.** "Member" means the person(s) or entity which is a member of the Association by reason of their ownership of a Lot.

(a) "Commercial Member" means a Member who owns a Commercial Lot. Commercial Members are sometimes referred to as Class "C" Members.

(b) The Developer is a Member so long as the Developer (or its successor or assign) owns one or more Lots. Prior to Transition of the Association, the Developer is sometimes referred to as the Class "B" Member.

(c) "Residential Member" means a Member who owns a Residential Lot. Residential Members are sometimes referred to as Class "A" Members.

An Owner of both Residential Lots and Commercial Lots will be considered both a Commercial Member and a Residential Member with separate rights and obligations for each class of membership.

1.16. **Plat.** "Plat" means the Plat of Royal Pointe, recorded in Plat Book 50, pages 41 through 51, inclusive of the public records of Clay County, Florida. If any additional property is later made subject to this Declaration, "Plat" will also refer to the plats of such additional property.

1.17. **Public Records.** "Public Records" means the official public records of CLAY COUNTY, FLORIDA.

1.18. **Residential Architectural Review Committee.** "Residential Architectural Review Committee" means the committee established initially by the Developer to exercise Architectural Review Authority with respect to the Residential Lots. The Developer may elect to establish separate committees to address respectively review pertaining to new construction on a Vacant Lot and matters pertaining to additions, remodeling and changes to an improved Residential Lot.

1.19. **Stormwater Management System.** "Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to (i) collect, convey, store, absorb, inhibit, treat, use or reuse, water; (ii) prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

1.20. **Transition.** "Transition" means the transfer of control of the Association from the Developer to the Owners as provided for under Florida law or under this Declaration.

ARTICLE II

COMMON ROADS, COMMON PROPERTY, MAINTENANCE EASEMENTS AND LIMITATIONS

2.1 **Residential Lots.** Each Residential Lot shall be developed and used solely for single-family residential use in accordance with this Declaration. No business, commercial, religious, charitable or other enterprise of any kind may be maintained upon or in connection with the use of any Residential Lot. No residence or part thereof on any Residential Lot may be rented separately from the rental of the entire Residential Lot; however, the Developer, and Builders with the prior approval of the Developer, will have the right to maintain facilities on the Residential Lots owned by the Developer for sales and promotional purposes, and for maintenance purposes.

2.2 **Commercial Lots.** Each Commercial Lot shall be developed and used solely for such purposes as may be allowed under the applicable zoning laws, as may be modified from time to time. The Developer may impose additional restrictions on use in the deed conveying a Commercial Lot. Any such restrictions shall be considered to be a restriction enforceable under this Declaration. The Association may not impose any additional restrictions or impose any burdens on the Commercial Lot.

2.3 **Easements Reserved to Developer & Association on Residential Lots.** Developer reserves for itself, the Association, its successors and assigns, its successors and assigns, a perpetual, non-exclusive, alienable and releasable easement, privilege and right on, over, and under a strip of land extending the full length of the rear, front, and side lines of each Residential Lot. The width of such easement shall be 5.0 feet when measured at a 90 degree angle from the exterior boundary line of each Residential Lot; however, if 2 or more Residential Lots are combined and used for the construction of single dwelling, then the easement will exist only along the perimeter and not along the boundary lines separating each of the combined Residential Lots from the other.

Such easement will be for the following purposes: (i) for the ordinary and reasonable maintenance and upkeep of the Stormwater Management System, (ii) for the installation, maintenance and use of water drainage facilities and storm sewers, and (iii) for encroachment of utilities and conveniences, including the routine repair, replacement, servicing and inspection of the same. Subject to the restrictions of fencing described elsewhere in this Declaration, placement of fences and driveways within such easement will be permitted; however, the location of such fences and gates must afford access to the easement.

2.4 **Easement for Access and Drainage.** Developer reserves for itself, the Association, its successors and assigns, a perpetual, non-exclusive, easement on, over and under the (i) lands identified on the Plat as Tracts "A", "B", "C", "E", "G", "H", or

“J”; (ii) the lands identified on the Plat as “Pond”, or “Retention Pond”, or “Drainage Easement”; and (iii) portion of Tract J lying within 5 feet of the top of the bank of any Pond installed on Tract “J” or Tract “D-2”. Such easement is for access to operate, maintain or repair the Stormwater Management System. Such easement includes the right to at reasonable times and in a reasonable manner to operate, maintain or repair the Stormwater Management System as required by the St. Johns River Water Management District permit #40-019-95872-1 ERP, as same may be amended from time to time.

Developer also reserves for itself, the Association, its successors and assigns, its successors and assigns, a perpetual, non-exclusive, alienable and releasable easement over all areas of the Stormwater Management System, as shown on the Plat, for drainage. No Owner shall alter the drainage flow of the Stormwater Management System, (including buffer areas, if any are identified as such on the Plat) or swales, without the prior written consent of the St. Johns River Water Management District or its successors.

2.5 Maintenance of Tracts. Tracts “A”, “B”, “C”, and “D” as shown on the Plat (the “Tracts”) shall be maintained by the Association which will be responsible for the obligations set forth in the *Adoption and Dedication* of the Plat related to the maintenance obligations associated with the Tracts. In particular, and not in limitation, the Association affirmatively accepts the assignment of the Developer’s personal covenant and responsibilities for all matters associated with the Tract and the maintenance and indemnities related there to as set forth in the *Adoption and Dedication* portion of the Plat. Notwithstanding, such acceptance the Association shall execute such additional and further instruments as may be requested by the Developer, the County of Clay or the St. Johns River Water Management District to confirm the acceptance of such assignment and release the Developer from its obligations related thereto.

2.6 Common Property. The Developer shall convey the Common Property to the Association by quit-claim deed and without warranty. Developer may convey additional real property to the Association, from time to time, as Common Property, and the Association shall accept such conveyances, except that if required under applicable law or regulation no such conveyance shall be effected without the approval of the FHA and VA. Any such conveyances will be subject to covenants, conditions, restrictions and easements of record and taxes. Developer may reserve certain rights and easements, not inconsistent with the with the use of the same by the Owners, to itself or to third parties in any of the Common Property so conveyed. In addition, the Association may acquire Common Property, either personal or real when and on such terms as determined by its Board and Officers to be in the best interest of the Association.

2.7 Confirmation of Easements adopted in Plat. Developer reserves for itself, the Association, its successors and assigns, a perpetual, non-exclusive, alienable and releasable easement, privilege and right on, over, and under and upon Tract “A” as shown on the Plat and the easements as shown on the Plat identified either as “Drainage Easement”, “Private Drainage Easement”, “Easement to Clay Electric Cooperative & Clay County Utility Authority” or “Utility Easement” (the “Easements”). For the purposes of the preceding definition of “Easements”, any additional verbiage shown on the Plat (ie: 10’, 20’) in conjunction with the specified terms may be ignored. The

Easements will be for the following purposes: (i) for the ordinary and reasonable maintenance and upkeep of the Stormwater Management System, (ii) for the installation, maintenance and use of water drainage facilities and storm sewers, (iii) for encroachment of utilities and conveniences, including the routine repair, replacement, servicing and inspection of the same, and (iv) for the placement and maintenance of subdivision, and road identification signage and monuments, and landscaping except where prohibited by applicable permits or regulations. Except where such use would violate any applicable law or permit, the placement of fences and driveways within the Easements will be permitted; however, the location of fences and gates must not block access to the Easements.

2.8 **Tract "E"**. Either the Developer or any Commercial Member may cause a private driveway (the "Private Drive") to be constructed within Tract "E" as shown on the Plat in order to provide vehicular and pedestrian access to and from Tract "J" and Royal Pointe Drive. If constructed, the Private Drive shall be properly maintained, repaired, and if necessary replaced by the Association. The Private Drive shall be limited to use for ingress and egress to and from Tract "J" and to and from Tracts "D-1" and "D-2". The Owners of Commercial Lots within Tract "J" shall have the right to deny use of the Private Drive for the purposes of providing ingress and egress through Tract "J" to County Road No. 218. The Private Drive is intended to make the services of the commercial enterprises within Tract "J" more accessible to residents of Royal Pointe and is not intended as a means of ingress or egress to County Road No. 218, and no easements are created or implied hereby on Tract "J" or any portion thereof.

ARTICLE III

THE ASSOCIATION

3.1 **General.** The Association has been or shall be organized, among other things, to the extent set forth in this Declaration, to preserve the beauty and value of the Property, to own the Common Areas and to maintain the Stormwater Management System, and perform such other duties and services as provided in the Plat, Articles and Bylaws of the Association or in this Declaration. The Association shall act in accordance with the terms and provisions of this Declaration, the Articles of Incorporation and the Bylaws. To the extent there is any distinction between such documents as to the duties, obligations, or operation of the Association, then they shall be construed in the following order of priority: Declaration, Articles, Bylaws.

3.2 **Membership.** Membership in the association is appurtenant to the ownership of a Lot. Each and every Owner is automatically a Member so long as a person or entity is the fee-simple owner (or contract vendee in the case of a recorded agreement for deed) of a Lot. A Member whose membership derives from the ownership of a Commercial Lot is a Commercial Member. A Member whose membership derives from the ownership of a Residential Lot is a Residential Member. If an Owner owns both a Residential Lot and a Commercial Lot then such Owner will be both a Residential Member and a Commercial Member. In such event the rights of such Member as a Commercial Member and the rights of such Member as a Residential Member shall be distinct and the

person shall be entitled to the privileges and bound by the obligations of each such membership. Membership in the Association shall be established by recording in the Public Records a deed or other instrument conveying record fee title to the Lot, or with respect to a recorded agreement for deed conveying equitable title to the Lot. The Owner designated by such instrument shall, by said Owner's acceptance of such instrument, become a Member of the Association.

3.3 Classes. Membership is divided into three classes as follows:

(a) Each Residential Member —other than the Developer prior to Transition— is a Class "A" Member.

(b) The Developer (or its successors or assigns) is the Class "B" Member until Transition. Upon Transition each Class "B" Member will automatically become a Class "A" Member, as to Residential Lots and a Class "C" Member as to Commercial Lots owned by the Developer.

(c) Each Commercial Member is a Class "C" Member.

3.4 Voting Rights. Each Class "B" Member will have 8 votes for every Residential Lot owned. Each Class "A" Member will have 1 vote for each Residential Lot owned. Each Class "C" Member will have 2 votes for each Commercial Lot owned.

3.5 Exercise of Membership Rights by Entities and Joint Owners. In the event a Member is a corporation, partnership, trust or other entity or joint form of ownership, voting rights may be exercised by the individuals listed on a certificate filed with the Secretary of the Association or other evidence of authority acceptable to the Association, and rights to use the Common Areas shall be by the occupant of the Lot. In the absence of such a certificate, any officer/trustee/partner/manager/member may exercise the voting rights of an entity Owner. Where more than one person is the Owner of a Lot then all such persons are Members; however, they shall jointly exercise the voting rights of only a single Member for each Lot owned, and with respect to Residential Owners, only occupants of the Residential Lot shall be entitled to use of the Common Areas. Accordingly, if a Lot is owned by a married couple, each spouse will be a Member, but together they will have only one vote as a Class "A" Member. The Association may in the Bylaws establish additional rules governing the exercise of the rights of a Member by entities or joint owners.

3.6 Transition of Control from Developer to Homeowners. The special rights of the Class "B" Member will terminate upon the sooner of (i) the filing by the Developer of a notice terminating the Class "B" Membership in the Public Records; and (ii) 90% or more of the Lots are not owned by the Developer, its successors or assigns. This event is called "Transition". Upon Transition, the Developer shall schedule a meeting of the Association, for the purpose of electing new Directors to the Board, and for transferring funds and records to the newly elected Board as required under Chapter 720, Part I Florida Statutes. Such meeting shall be scheduled for a date which is 90 days or less after the Transition. After the Transition, the Class "B" Member will automatically

become a Class "A" Member and/or a Class "C" Member depending on which Lots the Developer owns. Architectural Review Authority and any other rights reserved to the Developer will not be affected by Transition.

3.7 Stormwater Management System. The Association will be responsible for the maintenance, operation, and repair of the Stormwater Management System. Maintenance of the Stormwater Management System(s) means the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. The Association will be responsible for such maintenance and operation. Any repair or reconstruction of the Stormwater Management System must be consistent with the permits issued by the St. Johns River Water Management District, as may be modified from time to time, or in accordance with the directions of St. Johns River Water Management District. The Association shall, upon demand of the Developer, accept the assignment of any and all St. Johns River Water Management District permits from the Developer relating to the Stormwater Management System, and promptly execute any instruments as may be necessary to effect such assignment.

ARTICLE IV ARCHITECTURAL REVIEW AUTHORITY

4.1 Residential Lots – New Construction. The Developer has broad authority and complete discretion to exercise Architectural Review Authority over new construction on any Residential Lot. The Developer reserves the exclusive power and discretion to control and approve all of the buildings, structures and other improvements on each Residential Lot in the manner and to the extent set forth in this Declaration. No residence or other building, fence, wall, driveway, dock, swimming pool or other structure or improvement, regardless of size or purpose, whether attached to or detached from the residence, may be commenced, placed, erected or allowed to remain on any Residential Lot, unless and until building plans and specifications covering same have been submitted to and approved by the Developer in writing. The building plans and specifications submitted to the Developer must show the nature, kind, shape, height, size, materials, floor plans, exterior color schemes, location and orientation on the Residential Lot, including the location of all trees, the approximate square footage, construction schedule and other such information as the Developer may require, including plans for the grading and landscaping of the Residential Lot showing any changes proposed to be made in the elevation or surface contours of the land. The Developer will have the absolute and exclusive right to refuse to approve any such building plans and specifications, including location and orientation on the Residential Lot, and Residential Lot grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons. In passing upon such building plans and specifications and site location and grading and landscaping plans, the Developer may take into consideration the suitability and desirability of proposed construction and materials to be used. The Developer may require changes in the location and orientation of the structures in order to save trees. No clearing of a Residential Lot or any part thereof may be commenced unless and until the building plans and specifications have been approved by the Developer in writing.

The Developer will have no liability to any Owner on account of the Developer's exercise or failure to exercise Architectural Review Authority.

4.2 Procedures for Residential Lot ARB Review - New Construction. The Developer may, but is not required to, establish written standards and procedures for the exercise of Architectural Review Authority applicable to construction on Vacant Residential Lots. The Developer may also modify such standards and procedures, from time to time. If established, the Developer shall furnish such standards and procedures—and any modifications—to the Association which shall keep same as part of the official records of the Association. Any Owner, other than the Developer if the Developer or an affiliate is the builder, shall follow such standards and procedures if adopted. Unless and until Developer adopts contrary standards and procedures then the standards shall be as the Developer determines to be appropriate for the community and the following procedures will apply:

(a) Prior to commencing any improvements to a Vacant Residential Lot, the Owner or the Owner's representative shall furnish a proposed site plan showing the elevation of the proposed improvements and the intended location of the proposed improvements on the subject Lot. The Residential Lot shall be identified by street address, block and unit number. Submission shall be mail, or personal delivery to the "principal address" of the Developer as published in the records of the Florida Department of State. Such submission shall specify that the applicant is seeking Architectural Review Authority from the Developer and include the name, address, and phone number of the applicant.

(b) Within 30 days after delivery of the application, the Developer shall either (i) approve the application, (ii) reject the application, or (iii) request additional information. If the Developer fails to respond within 30 days then approval will be deemed granted.

(c) Approval of any application will permit only the improvement approved and any changes must be re-submitted for approval in the required manner. Modifications to existing improvements desired during the course of construction and prior to the issuance of a certificate of occupancy will be treated as the exercise of Architectural Review Authority for new construction.

(d) If the Developer has assigned Architectural Review Authority for new construction then references to the Developer shall mean the assignee.

4.3 Architectural Review Authority – Remodeling or Additions. The Developer has broad authority and complete discretion to exercise Architectural Review Authority over any remodeling, improvements, additions, or other changes to any Residential Lot other than a Vacant Lot. Prior to making any such changes the party desiring to make the change shall submit an application to the Developer, or if applicable to the respective assignee of the Developer's review rights. Such application shall specify the desired changes and demonstrate compliance with any standards adopted for remodeling at the time of application.

4.4 Procedures for Residential Lot ARB Review – Remodeling or Additions. The procedures applicable to the exercise of Architectural Review Authority for remodeling will be the same as the procedures applicable to new construction/Residential Vacant Lots unless and until the Developer or its assigns adopts other procedures.

4.5 Assignment. Architectural Review Committees. The Developer may assign its Architectural Review Authority either in whole or separately assign the Architectural Review Authority applicable to new construction/Vacant Residential Lots and/or the Architectural Review Authority applicable to remodeling.

The Developer may establish an “Architectural Review Committee” naming such persons to such committee as the Developer deems appropriate and naming, from time to time, the successors to such persons. The Developer shall also have the right to remove any person from such position upon notice from time to time. The Developer may elect to establish one committee to review Vacant Residential Lots and a separate committee to review all other Residential Lots.

After Transition the Developer shall retain the authority to appoint or remove the members of any Architectural Review Committee; provided however, at any time the Developer may elect to assign the right to appoint or remove the members of any either Architectural Review Committee to the Association whereupon the following procedures shall apply as to the Architectural Review Committee which is then controlled by the Association, but not as to the Architectural Review Committee whose membership is still controlled by the Developer.

(a) All Architectural Review Authority will be vested in the Architectural Review Committee; however, any procedures, or rules adopted or modified by the Architectural Review Committee shall not be effective unless and until ratified by the Board of the Association.

(b) Any Member may appeal a decision of the Architectural Review Committee to the Board of the Association within 30 days after the decision is announced. In such event, the Board of the Association shall review the decision and either modify, affirm or reverse the action taken by the Architectural Review Committee.

(c) Persons serving on the Architectural Review Committee shall serve at the pleasure of the Board of the Association, for such term as the Board may establish, but in any event subject to removal at any time by the Board.

(d) The Association Secretary shall be the official custodian of all records of the Architectural Review Committee.

(e) At such time as the Association becomes vested with Architectural Review Authority for both new construction and remodeling, the Association may either maintain separate Architectural Review Committees, operate with only a single Architectural Review Committee for all Architectural Review Authority, or disband the Architectural Review Committee and exercise Architectural Review Authority directly

through its Board.

4.6 Fees Regarding Architectural Review Applications. The Developer, the Residential Architectural Review Committee, and the Commercial Architectural Review Committee may charge as a condition of any architectural review reasonable fees for such services to defray their costs including if desired the cost of retaining a professional architect or other designer to review any proposed improvements.

ARTICLE V

ARCHITECTURAL CRITERIA AND BUILDING RESTRICTIONS APPLICABLE TO RESIDENTIAL LOTS ONLY

The provisions of this Article 5 apply only to Residential Lots.

5.1 Residential Building. No building shall be erected, placed or permitted to remain on any Residential Lot other than one (1) single-family dwelling and optional attached garage. Notwithstanding the foregoing buildings and structures accessory to the use of the family occupying the dwelling may be erected on the Residential Lot upon approval by the Developer provided that any such accessory buildings do not furnish residential accommodations for an additional family. Prior to Transition the Developer may and after Transition the Association may promulgate additional standards for fencing and in either such event fences which are constructed in compliance with such standards shall not require prior approval before construction.

5.2 Minimum Floor Space. Each dwelling located on a Residential Lot must contain not less than 1,200 square feet of livable, enclosed floor area (exclusive of garages, carports and open or screened porches, terraces or patios).

5.3 Recreation Facilities.

(a) All recreation facilities constructed or erected on a Residential Lot, including, without limitation, swimming pools and any other play or recreation structures, basketball backboards, platforms, playhouses, dog houses or other structures of a similar kind or nature (collectively "Recreation Facilities") must be adequately walled, fenced or landscaped in a manner specifically approved by the Developer prior to the construction or erection of same.

(b) No lighting of a Recreation Facility will, in any event, be permitted unless otherwise specifically approved by the Developer.

5.4 Non-Interference With Easements. No structure, planting or other material may be placed or permitted to remain on a Residential Lot which may damage or interfere with the installation and maintenance by the Association of any entry way, hedge, planting, tree, grass, fence, or other improvement or landscaping located within an area to be maintained by the Association. Any easement area located upon a Residential Lot and all improvements upon an easement area shall be maintained by the Owner of the

Residential Lot whereon said easement area lies except for those easement areas the maintenance of which is the responsibility of a public authority, utility or the Association. Drainage easements located on and constituting part of a Residential Lot shall be maintained by the Owner of such Residential Lot (i) so as to conform to all requirements of the St. Johns River Water Management District and (ii) so as not to interfere in any way with drainage of Royal Pointe or any portion thereof.

5.5 Utility Connections. Connections for all utilities, including, but not limited to, water, sewage, electricity, telephone and television must be run underground from the connecting point therefore to the building structure in such a manner as is acceptable to the respective utility authority or company and the Developer. No wells are permitted.

5.6 Air Conditioning Units. No window or wall air conditioning units will be permitted on any Residential Lot.

5.7 Mailboxes. All mailboxes, paper boxes or other receptacles of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected or permitted only in the location approved by the Developer and must be constructed according to a size, design and material approved by the Developer. In the event the United States Postal Service makes available delivery service of mail to individual dwellings located on Residential Lots, the Developer may require that all mailboxes, paper boxes or other such receptacles previously utilized by Owners be removed and replaced by mailboxes, paper boxes and similar receptacles attached to dwellings.

5.8 Antennae and Aerials - Satellite Dishes. No antennae or aerial may be placed upon any Residential Lot or affixed to the exterior of any building, and no antennae or aerial placed or affixed within a building may extend or protrude beyond the exterior of such building or in any way be visible from outside the building without the prior written approval of the Developer. No satellite dishes may be placed on any Residential Lot or affixed to the exterior of any building without the prior written approval of the Developer except that a satellite dish of 19 inches in diameter or less may be installed and maintained if the same (i) is located below the lowest portion of the roof of the dwelling, and (ii) is located on the rear of the dwelling.

5.9 Clothes Drying Area. Except where such restriction is prohibited by law, no clotheslines or other facilities or apparatus for the drying of clothes outside of a dwelling shall be constructed or maintained on a Residential Lot unless the same is located where the same is not visible to a person standing outside of the subject Residential Lot.

5.10 Signs. The size and design of all signs located on a Residential Lot will be subject to the approval of the Developer. No sign of any kind shall be displayed to general view on any Residential Lot except under any of the following circumstances:

(a) Directional or traffic signs may be installed by the appropriate governmental authority, by Developer or by the Association. Entrance or other identification signs may be installed by or with the consent of the Developer or the Association;

(b) Developer and any Builder may display "For Sale" and all other signs as and where allowed by law on Residential Lots owned by the Developer or Builder;

(c) One "For Sale" sign not more than 2 square feet (when measured on one side thereof) may be displayed on a Residential Lot by the Homeowner Residential Owner or the agent for such Homeowner Residential Owner,

(d) A name plate and address plate in size and design approved by the Developer or Association.

5.11 Fences. No fences, except as may be required by law or government regulations may be erected without prior written approval of the Developer except for fences which (i) comply with applicable zoning, (ii) do not interfere with Easements, (iii) are 6 feet in height measured from the surface of the ground, (iv) made of natural wood, (v) unpainted or painted with the same color as the exterior of the dwelling located on the same Residential Lot as the fence, and (vi) are not located closer to the front of the subject Residential Lot than the dwelling measured from the front boundary line of the Residential Lot to the nearest portion of the dwelling. With respect to corner Residential Lots only, the restriction in §5.11(vi) will not apply; however fences may not be constructed closer than 20 feet to any property boundary line.

The Owners of any Lot which borders a Pond or Retention Pond must erect and maintain fencing as required and of the type and height prescribed in the Planned Unit Development Order for the Subdivision issued by Clay County. These requirements supersede the provisions of the previous paragraph. In general these requirements require (i) the installation of green chain link (with open unobstructed mesh) fencing along the edge of the Pond or Retention Pond; (ii) each Owner to tie the fencing on their Lot to the fencing on the adjacent Lots so as to create a continuous barrier around the Pond/Retention Pond; and (iii) fences located closer than 20 feet to any Pond/Retention Pond be 4 feet in height measured from the surface of the ground.

5.12 Temporary Structures. No structure of a temporary character, whether a trailer, tent, shack, garage, barn or any other such building, may be placed on any Residential Lot; provided, however, the Developer may permit, a temporary storage or out-building for materials and supplies used in connection with and during the construction of a dwelling provided that it shall be removed immediately from the Residential Lot upon the completion of such construction.

5.13 Completion of Construction and Repairs. The construction of any new building or the repair of the exterior of any building damaged by fire or otherwise shall be diligently and continuously effected and completed with reasonable promptness.

5.14 Sales Office of Developer & Builders. Notwithstanding anything in this Declaration to the contrary, the Developer and Builders with the consent of the Developer may construct and maintain sales offices and sales trailers, together with a sign or signs relating thereto, on a Residential Lot or upon any other property within

Royal Pointe until such time as all of the Residential Lot and additional property owned within the Subdivision by the Developer and by Builders are sold. Any signs or sales trailers permitted by the Developer must be removed and any sales offices must be converted to use as dwellings only, within 5 days after Developer demand to do so. The Developer and with the approval of the Developer a Builder may utilize a Residential Lot for parking purposes to provide convenient parking for visitors to model homes or sales centers.

5.15 Further Subdivision. Developer reserves the right to re-subdivide the Residential Lots provided, however, no residence shall be erected upon or allowed to occupy such re-subdivided Residential Lot if the same has an area less than that which is required by the zoning ordinance for the Clay County, Florida. In the event of such re-subdivision all provisions hereof shall apply to each such re-subdivided Residential Lot as if each re-subdivided Residential Lot had been a Residential Lot as shown on the Plat.

5.16 Further Subdivision of Residential Lots. If permitted by law and governmental authorities, the Developer may resubdivide any Residential Lot into two or more Residential Lots. In such event, each new Lot will be considered a separate Lot and the Owner of each Lot will be entitled to membership and voting rights as the Developer of a Lot.

5.17 Conversion of Tracts and Lots from or to Residential Lots or Commercial Lots. The Developer may convert any Residential Lot or portion thereof to a Commercial Lot, or convert any Commercial Lot or portion thereof to a Residential Lot, or any tract or portion thereof to either a Commercial Lot or Residential Lot by recordation of a supplemental declaration in the public records.

5.18 Destruction Or Damage to Subdivision Improvements. Residential Lot Owners will be responsible for any and all damage caused to subdivision improvements, including but not limited to curbs and gutters, water hydrants, sidewalks erected by anyone, power poles and fences, whether the such damage is caused by the Residential Lot Owner or the Residential Lot Owner's employees, agents, invitees, guests, contractors or subcontractors.

5.19 Conversion of Residential Lots to Other Uses. Notwithstanding anything herein otherwise provided, Developer reserves the right (i) to use any Residential Lot owned by it for the purpose of ingress and egress to any adjoining property owned by Developer or subsequently acquired by Developer, or which Developer deems advantageous to be joined with Royal Pointe and (ii) to cause any Residential Lot or tract to be platted as right-of-way. Developer reserves the right to impose easements for drainage and maintenance thereof on any Residential Lot prior to conveyance.

5.20 Garages. Unless the Developer, or other party exercising Architectural Review Authority gives its prior written consent, any garage, carport or similar structure once constructed upon a Residential Lot may not be converted or used for other purposes. This provision will not apply to sales offices or model homes.

ARTICLE VI

USE RESTRICTIONS AND COVENANTS APPLICABLE TO RESIDENTIAL LOTS ONLY

The provisions of this Article 6 apply only to Residential Lots.

6.1 Residential Use. No business or commercial building may be erected on any Residential Lot and no business or commercial activity may be conducted on any Residential Lot except for a sales and marketing program of the Residential Lots by Developer and the construction and sale by Builders of speculative homes on Residential Lots in accordance with the terms and provisions of this Declaration.

6.2 Maintenance of Exteriors. Each Owner shall at all times maintain the exterior of all structures on his Residential Lot and any and all fixtures attached thereto in a slightly manner. The Developer or the Board may provide repairs or maintenance upon any residence or other improvements located upon a Residential Lot which in the opinion of the Developer or the Board require repair or maintenance in order to preserve the beauty, quality and value of the neighborhood. The Developer or the Board as the case may be may not undertake such repairs or maintenance unless and until the affected Residential Lot Owner is provided written notice of the intent to undertake such repairs or maintenance and a minimum of 5 days to cause such repairs or maintenance to be effected. Permissible repairs and maintenance under this Section 6.2 include without limitation (i) the repair or replacement of the roof, (ii) painting, (iii) gutter downspouts, and (iv) yard cleanup and maintenance. Each Owner grants the Developer, the Association, and their respective contractors, employees, and agents and easement to enter upon their Residential Lot, to carry out the foregoing.

6.3 Noxious Vegetation. No Owner shall permit the growth of noxious weeds or vegetation upon the Owner's Residential Lot or upon the land lying between the street pavement and the front Residential Lot line of the Residential Lot. All unimproved areas of a Residential Lot on which a dwelling is erected must be maintained in an attractive landscaped and slightly manner.

6.4 Litter, Trash, Garbage. No garbage, trash, refuse or rubbish may be deposited, dumped or kept on any Residential Lot except in closed sanitary containers approved by the Developer. Such containers shall be kept in a sanitary condition in (i) an enclosed area attached to the dwelling and constructed in a manner approved by the Developer or (ii) an underground container. Such containers may be placed on the Residential Lot for pick up at the times and in accordance with the requirements of the franchised or governmental entity providing garbage removal utility service for Royal Pointe; however, such containers shall be returned to and kept in the enclosed area or underground, as the case may be, promptly after pick up. If curbside service is not available to the Residential Lots, then garbage collection shall be placed in facilities designated by the Association and private collection shall if available at competitive rates.

6.5 **Nuisances.** No Owner shall cause or permit to emanate from the Owner's Residential Lot any unreasonable noises or odors. No Owner shall permit to be maintained on the Owner's Residential Lot any nuisance, any immoral or illegal activity or anything which may be an annoyance or a noxious or offensive activity to the neighborhood.

6.6 **Parking of Wheeled Vehicles, Boats.** Except as below provided no wheeled vehicles of any kind, boats, or any offensive objects as determined by rules enacted by the Association, may be kept or parked on any roads shown on the Plat or upon any Residential Lot, except completely inside a garage attached to the residential dwelling, or completely enclosed by fencing approved by the Developer or Association so as not to be visible from adjacent Residential Lots or streets. Notwithstanding the foregoing, (i) private automobiles or trucks (excluding recreational vehicles, travel trailers, trailers and campers) of the occupants of a residential dwelling constructed on a Residential Lot and those of their guests may be parked in such driveways provided they bear no commercial signs, (ii), commercial vehicles (including, without limitation, all vehicles with tradenames, logos or advertising exclusive of the name of the automobile manufacturer and/or dealer) may be parked in such driveways during the times necessary for pickup and delivery service and solely for the purpose of such services, and (iii) recreational vehicles, travel trailers, trailers and campers may be parked in the driveway of Residential Lot for up to a total of 12 hours per week, provided the same are not connected to any water well and/or septic tank or used as a place of residence by anyone on any of the Residential Lots.

6.7 **Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any Residential Lot except that dogs, birds (other than parrots), cats and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and that they do not cause an unreasonable nuisance or annoyance to other Owners. In no event may more than a total of 4 dogs and/or cats be kept on any Residential Lot. The determination of the Association as to what constitutes a household pet will be conclusive.

6.8 **Vehicles and Repair.** No inoperative cars, trucks or trailers or other type of vehicles will be allowed to remain on or adjacent to any Residential Lot; however, this provision will not apply to any such vehicle which is kept within an enclosed garage. No cars, trucks or trailers or other type of vehicles may be repaired or maintained on or adjacent to a Residential Lot, except within a garage.

ARTICLE VII

BUILDING RESTRICTIONS APPLICABLE TO COMMERCIAL LOTS ONLY

The provisions of this Article 7 apply only to Commercial Lots. The Developer may prior to Transition impose additional restrictions, but upon Transition this right will terminate and may not be assigned.

7.1 **Non-Interference With Easements.** Any easement area located upon a Commercial Lot and all improvements upon an easement area shall be maintained by the Owner of the Commercial Lot whereon said easement area lies except for those easement areas the maintenance of which is the responsibility of a public authority, utility or the Association. Drainage easements located on and constituting part of a Commercial Lot shall be maintained by the Owner of such Commercial Lot (i) so as to conform to all requirements of the St. Johns River Water Management District and (ii) so as not to interfere in any way with drainage of the Property or any portion thereof.

ARTICLE VIII

USE RESTRICTIONS AND COVENANTS APPLICABLE TO COMMERCIAL LOTS ONLY

The provisions of this Article 8 apply only to Commercial Lots. The Developer may prior to Transition impose additional restrictions and covenants, but upon Transition this right will terminate and may not be assigned.

8.1 **Nuisances.** No Owner shall cause or permit to emanate from his Commercial Lot any unreasonable noises or odors. No Owner shall commit on his Commercial Lot or permit to be maintained on his Commercial Lot any illegal activity. The engagement of commercial and business activities permitted under applicable law shall not be considered a nuisance merely by their proximity to residential homes or by inclusion in a mixed use planned development. Each Residential Member acknowledges and agrees that Royal Pointe is being developed as a mixed use development and that such commercial and business activities (including commercial lighting, noise, traffic and odors) are explicitly permitted within the subdivision.

8.2 **Destruction Or Damage to Subdivision Improvements.** Any person making improvements to a Commercial Lot will be responsible for any and all damage caused to subdivision improvements, including but not limited to curbs and gutters, water hydrants, sidewalks erected by anyone, power poles and fences, whether the such damage is caused by the Commercial Lot Owner or the Commercial Lot Owner's employees, agents, invitees, guests, contractors or subcontractors.

8.3 **Destruction Or Damage to Subdivision Improvements.** Any person making improvements to a Commercial Lot will be responsible for any and all damage caused to subdivision improvements, including but not limited to curbs and gutters, water hydrants, sidewalks erected by anyone, power poles and fences, whether the such damage is caused by the Commercial Lot Owner or the Commercial Lot Owner's employees, agents, invitees, guests, contractors or subcontractors.

ARTICLE IX

ASSOCIATION EXPENSES, ASSESSMENTS AND LIENS

9.1 **Creation of Lien and Personal Obligations for Assessments.** All assessments in this Article ("Assessments") together with interest and costs of collection when delinquent, will be a charge on the land and will be a continuing lien upon the Lot against which the Assessments are made, and will also be the personal obligation of the person or entity who was the Owner of such Lot at the time when the Assessments were levied. Developer covenants for each Lot and each Owner of any Lot, by acceptance of a deed or other transfer instrument, whether or not expressed in such deed or instrument, is deemed to covenant and agree to pay both as a personal obligation and as a lien against the Lot to the Association the following (to be known collectively as "Assessments"):

- (a) General Assessment for expenses included in the budget.
- (b) Special Assessments for the purposes provided in this Declaration, and
- (c) Capital Contribution Assessment particular to that Lot.
- (d) Individual Lot Assessment particular to a lot.

The Assessment shall be assessed among all Lots as follows:

- (a) Exempt Lots will not be subject to any Assessment.
- (b) Capital Contribution Assessment will be payable by the Owners of the respective Lot only.
- (c) The General Assessment and Special Assessment will be payable by class. The classes are be "Exempt Lots", "Improved Residential Lots"; "Vacant Residential Lots"; and Commercial Lots. It is the intent that only Commercial Lots, and Improved Residential Lots be subject to assessments and that Vacant Residential Lots not pay the general or special assessments until improved. Residential Lots unimproved by dwelling other than a model home (not occupied as a dwelling) will constitute the "Vacant Lots" class and all other Residential Lots will constitute the "Improved Lots" class. Exempt Lots are Lots owned by the Developer or by a Builder until such time as the Developer elects to waive the exemption whereupon Exempt Lots shall become Improved Residential Lots, Vacant Residential Lots or Commercial Lots as the case may be.
- (d) Each General Assessment and Special Assessment which is levied shall be assessed and is payable as follows:
 - 90% of the total Assessment shall be paid by the Improved Residential Lot class.

9% of the total Assessment shall be paid by the Vacant Residential Lot class.

1% of the total Assessment shall be paid by the Commercial Lot class.

0% of the total Assessment shall be paid by the Exempt Lot class.

Notwithstanding the preceding, if the Assessments applicable to each Lot within the Residential Vacant Lots class equal or exceed the Assessments applicable to each Lot within the Improved Residential Lots class then the Improved Residential Lots class and Vacant Residential Lots class shall be merged and together shall pay 99% of the total Assessment.

(e) Within each class, the Assessments will be the same for each Lot. Each Lot within a class will be assessed an amount equal to [portion of respective Annual General Assessment or Special Assessment allocated to the class] divided by [number of Lots within the class].

9.2 Residential Lot Capital Contribution Assessment. Upon the conveyance of a Residential Lot (i) from the Developer to any person(s) or entity other than to an entity affiliated with the Developer or to a Builder or (ii) upon the conveyance of a Residential Lot by a Builder to any person(s) or entity other than another Builder, the Developer, or an entity affiliated with the Developer there will be, at the option of the Developer, due upon the closing of the sale of the Residential Lot by the Builder a Capital Contribution Assessment of \$150.00. Each Residential Lot will be subject to the Capital Contribution Assessment only once, all future conveyances of any such Residential Lot being exempt. The Capital Contribution Assessment may be used to pay for any expense properly payable by the Association and is not restricted to capital expenses.

If a Residential Lot is conveyed by any party other than the Developer then a copy of the deed shall be sent to the Association within 5 days of closing otherwise a Individual Lot Assessment of \$150.00 will be due in addition to any other Assessment.

9.3 Annual General Assessment. Except as otherwise provided in this Article 9, each Lot is subject to Annual General Assessments by the Association for (i) the maintenance and contributions required above, (ii) the management and administration of the Association; (iii) the maintenance, improvement repair and replacement of the Common Property and to establish reserves for the same; (iv) the maintenance and repair of the Stormwater Management System, including but not limited to work within retention areas, drainage structures and drainage easements; and (v) the furnishing of such other services as set forth in this Declaration. Each such Annual General Assessment will be assessed for and will cover a calendar year (except as to the initial Annual General Assessment which will cover the period from the Commencement Date as provided in Section 9.5 to the expiration of the calendar year in which such "Commencement Date" occurs. Except as further described in this Article, the Board by majority vote will set the Annual General Assessments in an amount sufficient to meet the Association's obligations. The Board will have the right, power and authority, to

establish, increase or decrease the Annual General Assessment for the purpose of meeting its expenses and operating costs on a current basis subject to the following restriction. Unless approved by a majority of each class of Member voting in person or proxy at meeting called for such purpose, the maximum Annual General Assessment shall not exceed the following: (i) for the initial fiscal year - \$150.00 (ii) for each subsequent fiscal year - 200% of the maximum Annual General Assessment applicable to the previous fiscal year. The Board will set the date or dates that Assessments shall become due. Assessments will be collected annually provided, however, the Board may provide for collection of Assessments in monthly, quarterly or semi-annually installments. Upon default in the payment of any one or more installments, the entire balance of the Assessment may be accelerated at the option of the Board and be declared due and payable in full.

9.4 Special Assessment. In addition to the Annual General Assessments authorized above, the Association may levy in any Assessment year a Special Assessment applicable to that year and not more than the next four succeeding years for the purpose of the maintenance, operation and repair of the Stormwater Management System, or defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement provided that any such Assessment shall have the approval of a majority of the Members of each class of the Association in attendance in person or proxy at a meeting called for such purpose.

9.5 Commencement of Annual Assessments. The Annual General Assessments provided for herein will commence on the day of conveyance (the "Commencement Date") of the first Lot to an Owner who is neither Developer nor a Builder. Except as provided in Section 9.6, the initial Assessment on each Lot will be collected at the time title to such first Lot is conveyed to the Owner who is neither Developer nor a speculative builder.

9.6 Exempt Lots. Each Lot owned by the Developer or a Builder will be exempt from all Assessments (Annual General Assessment and Special Assessment) until the sooner of (i) such time as such exemption is terminated by the Developer as to all Lots (the "Exempt Lots") or as to particular Lots; (ii) such time as Developer or Speculative Builder has sold such Lot to a person, persons or entity other than to (a) an entity affiliated with the Developer or (b) to a Speculative Builder. At such time as an Exempt Lot loses its exempt status, such Lot will be subject to the Annual General Assessment assessed for that year on a pro-rata basis. In consideration of said exemption, Developer agrees to be responsible for any Association expenses (exclusive of expenses pursuant to Section 9.7) incurred in excess of the Association's income including capital contributions received by the Association until the sooner of (a) the expiration of the Class B membership, or (b) the termination of such exemption by voluntary election of the Developer.

9.7 Assessments on Account of Real Property Taxes. In the event that Tax Collector assesses more than one Lot as a single parcel, the Association may, but will not be obligated to pay the real property taxes for said parcel whereupon each Lot comprising said parcel will be assessed an amount equal to a sum determined by dividing

the taxes assessed upon said parcel by the number of Lots comprising said parcel. Said Assessment shall be paid by the Owner of each Lot to the Association no later than 7 days after evidence of payment of said taxes is sent to each effected Owner. If said Assessment is not so paid the defaulting Owner shall pay interest upon the amount due at the then highest lawful rate until paid. Failure to pay said Assessment will be deemed for enforcement purposes as a failure to pay any other Assessment permitted by this Declaration.

9.8 Effect of Nonpayment of Assessment; Remedies of the Association.

(a) **Interest.** Any Assessments not paid within ten (10) days after the due date and any judgments rendered in favor of the Association shall bear interest at the highest lawful rate.

(b) **Lien.** All Assessments against any Lot pursuant to this Declaration, together with such interest thereon, and cost of collection thereof (including reasonable attorney's fees, whether suit is filed or not), shall become a lien on such Lot effective upon recording a Claim of Lien against such Lot by the Association. The Association may bring an action at law against the Owner personally obligated to pay the same, foreclose the lien against the Lot, or both. Costs and reasonable attorney's fees (through appeal if necessary) incurred in any such action shall be awarded to the prevailing party. The lien provided for in this Section shall be in favor of the Association. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot foreclosed at such foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

(c) **Owner's Obligations.** Each Owner, by acquisition of an interest in a Lot, hereby expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of such Assessments as a debt and to enforce the aforesaid by all methods available for the enforcement of such liens, including foreclosures, by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with such lien. No Owner may waive or otherwise escape liability for the Assessments provided for herein by abandonment of his Lot.

(d) **Priority and Subordination of the Lien to Mortgages.** Subject to the subordination provisions set forth below, all liens will relate back to the date of recording of this Declaration. The lien of the Assessments provided for herein shall be inferior and subordinate to the lien of a mortgage held by an Institutional Mortgagee now or hereafter placed upon any Lot subject to Assessment so long as such mortgage lien is recorded prior to any Claim of Lien filed by the Association. Sale or transfer of any Lot shall not affect the Assessments lien; however, the sale or transfer of any Lot pursuant to foreclosure of such Mortgage to an Institutional Mortgagee shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer.

9.9 Certificate of Payment. The Treasurer, or other officer designated by the Board, of the Association, upon demand of any Owner liable for Assessments, shall furnish to

such Owner a certificate in writing signed by such Treasurer setting forth whether such Assessments have been paid. The Association shall be entitled to make a reasonable charge for such certificate in an amount as shall be determined by the Association provided.

9.10 **Budget.**

(a) **Fiscal Year.** The fiscal year of the Association shall consist of the twelve month period commencing on January 1 of each year and terminating on December 31 of that year.

(b) **Initial Budget.** Developer shall determine the Association budget for the fiscal year in which a Lot is first conveyed to an Owner who is not Developer or a Builder to whom the rights of the Developer have been assigned as to such Lot.

(c) **Preparation and Approval of Annual Budget.** Commencing with December 1 of the year in which a Lot is first conveyed to an Owner who is not Developer or a Builder to whom the rights of the Developer have been assigned as to such Lot and each year thereafter, on or before December 1, the Board shall adopt a budget for the coming year containing an estimate of the total amount which they consider necessary to pay the cost of all expenses to be incurred by the Association to carry out its responsibilities and obligations including, without limitation, the cost of wages, materials, insurance premiums, services, supplies and other expenses needed to render the services specified hereunder. Such budget shall also include such reasonable amounts as the Board considers necessary to provide working capital and to provide for a general operating reserve and reserves for contingencies and replacements. The Board shall send each of its Members a copy of the budget, in a reasonably itemized form which sets forth the amount of the Assessments payable by each Member, on or before December 20 preceding the fiscal year to which the budget applies. Each budget shall constitute the basis for determining each Owner's General Assessment as provided herein; provided, however, that the budget for any fiscal year subsequent to the first full fiscal year may not exceed 200 percent of the budget for the preceding year without the approval of a majority of the votes of the Members voting in person or by proxy at a regular meeting or special meeting of the Association called for that purpose.

(d) **Reserves.** The Board may build up and maintain a reserve for working capital and contingencies, and a reserve for replacements which shall be collected as part of the Annual General Assessments as provided herein. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against the appropriate reserves. Reserves accumulated for one purpose may not be expended for any other purpose unless approved by a majority of the Members of the Association, or, in the event of emergency, if directed by the Board. If the reserves are inadequate for any reason, including nonpayment of any Owner's Assessment, a further Assessment may be levied in accordance with the provisions of Section 9.4 of this Article. The further Assessment may be payable in a lump sum or in installments as the Board may determine.

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

ARTICLE X

GENERAL PROVISIONS

10.1 **Incorporation of the Land Use Documents.** Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration.

10.2 **Release From Minor Violations.** Where strict enforcement would unreasonably restrict construction on a Lot due to irregular dimensions or similar circumstances or where a building has been erected on a Lot or the construction thereof substantially advanced, in such manner that the same constitutes a violation or violations of the covenants either the Developer or the Board may and each of them shall have the right, by written instrument, at any time to release such Lot from such violation(s), provided, however, that the Developer or the Board determines such violations to be minor. The Developer will also have the right to release any other minor violations of this Declaration.

10.3 **Disputes.** In the event there is any dispute as to whether the use of any Lot or other property within Royal Pointe complies with the covenants and restrictions contained in this Declaration, such dispute shall be referred to the Developer, and the determination rendered by the Developer with respect to such dispute shall be final and binding on all parties thereto. Upon the conveyance of the last Lot to a person other than the Developer, the Developer's successor or to a Speculative Builder, such disputes shall be submitted to the Board instead of the Developer.

10.4 **Enforcement.** The covenants and restrictions contained in this Declaration may be enforced by Developer, the Association, any Owner or Owners, and any Institutional Mortgagee in any judicial proceeding seeking any remedy recognizable at law or in equity, including an action or suit seeking damages, injunction, specific performance or any other form of relief, against any person, firm or entity violating or attempting to violate any covenant or restriction herein. The failure by any party to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of such covenant or restriction or of the right of such party to thereafter enforce such covenant or restriction. The prevailing party in any such litigation shall be entitled to reasonable attorneys' fees and court costs at all trial and appellate levels. Such fees and costs if charged to an Owner shall constitute an Individual Lot Assessment against such Owner's Lot. The St. Johns River Water Management District will have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate

to the maintenance, operation and repair of the Stormwater Management System. The Association may in addition to all other remedies impose fines for violation of the provisions of this Declaration in accordance with the provisions of Chapter 720 Florida Statutes, as amended, from time to time.

10.5 Assignment. The Developer shall have the right, from time to time, to assign jointly or severally any of its rights pursuant hereto as to any of the Lots sold by the Developer as such Lots shall be designated in such assignment; provided specific reference is made in such assignment to this Section 10.5.

10.6 Notices to Owners. Any notice or other communication required or permitted to be given or delivered under this Declaration to any Owner shall be deemed properly given and delivered upon (i) the mailing thereof by United States mail, postage prepaid, to the last known address of the person whose name appears as the Owner on the records of the Association at the time of such mailing, (ii) posted upon the dwelling located upon such Owner's Lot, unless such Owner has furnished the Association with a mailing address other than the address of such Lot. or (iii) as required or permitted by applicable law. Electronic delivery of notices by web posting, email or other means is explicitly permitted.

10.7 Notices to Association. Any notice or other communication required or permitted to be given or delivered under this Declaration to the Association shall be deemed properly given and delivered upon the delivery thereof or upon the mailing thereof by certified United States mail, postage prepaid to the corporate address of the Association or at such other address as the Board may hereafter designate by notice to Owners in the manner provided in Section 10.6 or announce at a regular or special meeting of the Association.

10.8 Amendment.

(a) Subject to the provisions of Section 10.9 Developer specifically reserves the absolute and unconditional right, so long as it owns any of the Lots (including any Lots which are added to this Declaration from time to time), to amend this Declaration without the consent or joinder of any party to (i) conform to the requirements of the St. Johns River Water Management District, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veteran Administration, Department of Housing and Urban Development or any other generally recognized institution involved in the purchase and sale of home loan mortgages or (ii) to conform to the requirements of Institutional Mortgagee lender(s) or title insurance company(s) or (iii) to perfect, clarify or make internally consistent the provisions herein;

(b) Subject to the provisions of Sections 10.8(a) and 10.9 this Declaration may be amended at a duly called meeting of the Association whereat a quorum is present if the amendment resolution is adopted by a majority of all Members. An amendment so adopted shall be effective upon the recordation in the public records of Clay County of a copy of the amendment resolution, signed by the President of the Association and certified by the Secretary of the Association. So long as there remains a Class B Member,

the approval to such amendment must be obtained from the VA or Department of Housing and Urban Development. Any such amendment shall also require the consent of the Developer until such time as the Developer, its successors and Builders own no Lots. If the amendment is limited to or disproportionately affects the Commercial Lots, then notwithstanding the preceding, such amendment also requires the approval of a majority of the Class "C" Members.

(c) Any amendment to the Declaration which would alter the Storm Water Management System, including the water management portions of the Common Areas, must have the prior approval of the St. Johns River Water Management District.

(d) So long as there remains a Class B Member and for one year after the termination of the Class B Membership, the Developer may without the consent of any party, bring within the scheme of this Declaration any additional property provided that (i) such additional land is contiguous to Royal Pointe, (ii) the addition of such property will not alter the common scheme for development provided in this Declaration, and (iii) the additional properties and the Developers of the same will upon their addition to Royal Pointe be subject to all Assessments assessed by the Association. Said addition of lands may be made by supplementary declaration and will be effective upon the recording of the same in the public records of Clay County Florida. Any Lots shown on any plat of such additional land will be deemed "Lots" under this Declaration.

(e) No amendments may be adopted which impose any restrictions on the use, development, improvement, or operation of the Commercial Lots without the consent of a majority of the Class "C" Members.

10.9 Consents. This Declaration contains provisions concerning various rights, priorities, remedies and interests of the Institutional Mortgagees. Such provisions are to be construed as covenants for the protection of the Institutional Mortgagees on which they may rely in making loans secured by mortgages on the Lots. Accordingly, unless current of future Florida law specified otherwise, no amendment or modification of this Declaration impairing such rights, priorities, remedies or interest of an Institutional Mortgagee shall be adopted without the prior written consent of all Institutional Mortgagees holding liens on eighty percent (80%) or more of the Lots encumbered by Mortgages to Institutional Mortgagees. Any such consent requested by Developer of such Institutional Mortgagees shall be given prompt consideration and shall not be unreasonably withheld. This Section shall not apply or be construed as a limitation upon those rights of Developer, the Association or the Owners under this Declaration to make amendments which do not adversely affect the Institutional Mortgagees.

10.10 Legal Fees. Any and all legal fees, including but not limited to attorney's fees and court costs, including any appeals, which may be incurred by the Association in the lawful enforcement of any of the provisions of this Declaration, regardless of whether such enforcement requires judicial action, shall be assessed against and collectible from the unsuccessful party to the action, and if an Owner, shall be a lien against such Owner's Lot in favor of the Association.

10.11 **Law to Govern.** This Declaration shall be construed in accordance with the laws of the State of Florida.

10.12 **Captions.** Captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only and in no way shall such captions or headings define, limit or in any way affect any of the terms or provisions of this Declaration.

10.13 **Context.** Whenever the context so requires, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any noun or pronoun herein may be deemed to mean the corresponding plural form thereof and vice versa.

10.14 **Severability.** In the event any one of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect. Without limitation of the foregoing, the invalidation of any of the covenants or restrictions or terms and conditions of this Declaration or a reduction in the term of the same by reason of the legal rule against perpetuities shall in no way affect any other provision which shall remain in full force and effect for such period of time as may be permitted by law.

10.15 **Term.** This Declaration (but excluding the easements herein created which are perpetual) and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein, including, without limitation, the provisions for Assessment of Lots, shall run with and bind the all of Royal Pointe and inure to the benefit of Developer, the Association, Owners and their respective legal representatives, heirs, successors and assigns for a term of ninety (90) years from the date hereof, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such ninety year time or to each such ten-year extension, as the case may be, there is recorded in the Public Records of Clay County, Florida, an instrument agreeing to terminate this Declaration signed by two-thirds (2/3) of all Owners and two-thirds (2/3) of all Institutional Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the ninety-year term or the ten-year extension during which such instrument was recorded, as the case may be.

10.16 **Waiver of Jury Trial and Release.** As material consideration for the Developer's sale of a Lot to an Owner, or the Owner's predecessor in title to a Lot, and for the mutual consideration of the covenants contained in this Section 10.16 (i) each party to this Declaration, whether Developer, Owner, or mortgagee agrees that in any litigation arising from or out of this Declaration, or from or out of the respective Lot or other property within Royal Pointe or dealings therewith, each party waives their respective right to a trial by jury and agrees that the judge shall act as the sole determiner of facts; and (ii) to the full extent permitted by law. Developer will not be liable to any party for consequential or special damages and the Association and each Owner accepts

the Common Areas, Royal Pointe and all appurtenances in their "AS IS" condition and without any warranty.

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed the day and year first above written.

Larmac Development, Inc.
a Florida corporation (Corporate Seal)

By: Lawrence D. Nichols
Lawrence D. Nichols, President

"DEVELOPER"

Address:
752 Blanding Blvd., Suite 110
Orange Park, Florida 32065

WITNESSES: (2 REQUIRED, NOTARY CAN ALSO SIGN AS A WITNESS)

1 Sherry D. Olmstead
First Witness Signature

2 Frank B. Holum
Second Witness Signature

1 SHERRY D. OLMSTEAD
First Witness Printed Name

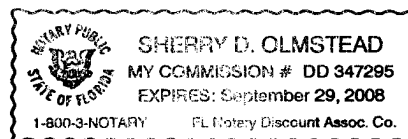
2 Frank B. Holum
Second Witness Printed Name

NOTARY ACKNOWLEDGEMENT:

State of Florida
County of Clay

The foregoing instrument was acknowledged before me this 29th day of September, 2006 by **Lawrence D. Nichols**, as **President**, for **Larmac Development, Inc.**, a Florida Corporation.

Sherry D. Olmstead
Notary Public, State of Florida
Print Name:
Notary No.:



Personally Known
 Produced _____ as identification