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This Instrument was prepared by:
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RECORD AND RETURN TO:
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DECLARATION OF COVENANTS, EASEMENTS, CONDITIONS AND RESTRICTIONS, TUPELO PLANTATION

DATED: MAY 4 **2006**

THIS DECLARATION of COVENANTS, EASEMENTS, CONDITIONS and RESTRICTIONS, is made upon the date noted above by TUPELO PLANTATION DEVELOPERS, LLC, a Florida limited liability company, (the "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of Tupelo Plantation (the "Development"), a rural residential subdivision generally depicted upon the site plan attached hereto as Exhibit "A" (the "Site Plan"); and as more particularly described in the legal description attached hereto as Exhibit "B" together with, as and when filed of record, the plat or plats of all or any portion of the Land identified in Exhibit "B"(the "Land"); and

WHEREAS, Developer desires to subject the real property of the Development (a/k/a the "Land") to the provisions of this Declaration, to create Easements appurtenant to the Development, and to establish covenants and restrictions controlling the use and occupation of all Land located within the Development as identified in Exhibit "B", and such additional land, if any, as may be added to the Development as provided herein;

NOW, THEREFORE, Developer hereby declares that all of the Land shall be held, conveyed, hypothecated, occupied and improved subject to the reservations, easements, restrictions, covenants and conditions contained in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with, the Land and be binding on all parties having any right, title or interest in the Land or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof. Each and all of the covenants, conditions, restrictions, limitations, easements, uses and obligations contained herein shall be deemed to be and shall be construed as equitable servitude(s) enforceable by Developer and/or by the Association.

1. **Definitions**

1.1. "Association" shall mean and refer to Tupelo Plantation Owners Association, Inc., a Florida corporation not-for-profit, its successors and assigns.

1.2. "Builder" means any person who purchases one or more Lots from the Developer for the purpose of constructing improvements for later sale to consumers, or for development and/or resale in the ordinary course of business.

1.3. "Committee" shall refer to the Tupelo Plantation Design Review Committee.

1.4. "Common Area" shall mean real property owned by, or encumbered by an easement held by, or placed by agreement with the owner under the governance of, the Association, and personal property owned by the Association, all as may be held and made available for the common use and enjoyment of the Owners. At the date of the filing of this Declaration, the Association does not own in fee simple any real or personal property. The Common Area to be governed by the Association shall consist of all access, utility, drainage, stormwater management, and fire control easements, as well as all bridle paths, service areas, maintenance and telecommunication easements and licenses, all as are more particularly depicted on the Site Plan, and as are more particularly described and addressed in a Declaration of Easements to be recorded simultaneously herewith in the public records of Nassau County, Florida.

1.5. "Declaration" means this document as the Declaration of Covenants, Easements, Conditions and Restrictions, together with any supplement(s), additions, modifications or amendments hereto as and when adopted and filed of record.

1.6. "Developer" shall mean and refer to Tupelo Plantation Developers, LLC, a Florida limited liability company, and any successor or assign to whom Developer shall specifically transfer or assign its rights under this Declaration. The conveyance of Lots by Developer, absent specific transfer or assignment of Developer's rights under this Declaration, shall not be deemed to convey, transfer or assign such rights.

1.7. "Developer Control Period" shall mean the period of time during which the Class B Member is entitled to appoint a majority of the members of the Board of Directors of the Association. The Developer Control Period shall end:

1.7.1. on that date which is three (3) months after NINETY (90%) percent of the Lots in all phases of Tupelo Plantation have been conveyed to Class A Members; or

1.7.2. on that date which is three (3) months after SEVENTY FIVE (75%) percent of the Lots in all phases of Tupelo Plantation have final certificates of occupancy issued and have been conveyed to Class A Members other than Builders; or

1.7.3. on December 31, 2035; or

1.7.4. on a date specified by the Developer prior to the occurrence of any of the dates specified in subsection 1.7.1, 1.7.2, or 1.7.3 above, and determined solely by and at the discretion of the Developer.

1.8. "Development" shall mean and refer to the single-family residential development known as Tupelo Plantation, as generally depicted on the Site Plan and as more particularly depicted upon the Plat(s) as and when filed in the public records.

1.9. "Institutional Lender" means a financial institution or other business entity authorized and routinely engaged in business as lender in residential and/or rural, agricultural or commercial mortgage loan transactions.

1.10. "Land" shall mean and refer to the real property of the Development depicted on the Site Plan, as more particularly described in the legal description attached hereto as Exhibit "B."

1.11. "Lot" shall mean and refer to the numbered parcels appearing on the Plat and intended for use as a site for a single family detached residential unit.

1.12. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee title to any Lot, as identified on the most recent instrument of conveyance for the Lot appearing in the public records of Nassau County, Florida. "Owner" shall also include contract purchasers if the contract purchaser has possession of the Lot and the record Owner has assigned the rights and responsibilities of Membership to the contract purchaser by written instrument and provided a copy, or a verified statement vouching for the existence and terms of the assignment, to the Association. "Owner" shall exclude those having such interests merely as security for the performance of an obligation, and, as respects the restrictions, limitations and obligations contained in this Declaration, shall also mean and refer to any tenant, business invitee or guest of an Owner or occupant of an Owner's property.

1.13. "Plat" means the subdivision plat or plats of Tupelo Plantation, including any phases or phases thereof, as recorded in the public records of Nassau County, Florida, and including within such plat all or any portion of the Land, and also including, when and where applicable, any additions or supplements to the Land as provided herein.

1.14. "PUD" is the acronym for Planned Unit Development, and in this Declaration shall specifically mean and refer to Nassau County Florida Ordinance No. 2005-47 "Tupelo Plantation PUD," adopted June 13, 2005, together with any amendments, supplements, or revisions thereto.

1.15. **"**Roadway" or "Roadways**"** means those portions of the Plat designated as a road, roadway or street right of way and/or designated a "private street," or any real property which may be described in a subsequently recorded instrument executed by the Developer reciting that the property therein described shall be deemed to be a "Roadway" and shall be subject to the terms and provisions of this Declaration.

1.16. "Site Plan" shall mean and refer to the Site Plan of the Development attached hereto as Exhibit "A."

1.17. "Surface Water or 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 collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

1.18. "Utility and Public Services" refers to the public or private utility services in and to Tupelo Plantation, including but not limited to (a) any potable water lines, systems and appurtenant structures or facilities as may or might be provided by public or private utility systems; (b) all manner of emergency services, including but not limited to fire rescue and police; (c) municipal or private contractor waste removal; (d) electrical and gas systems, and telephone, cable television, or other cabled communications systems; and (e) drainage systems and management of stormwater runoff from Lots and Common Areas. The Developer, or the Association as and when the Association shall succeed to the Developer's interest in the Common Areas, shall have the right to license, or grant by easement, any or all Utility and Public Services easements upon or across any Common Area including road right of way, and within any utility easement(s) depicted upon the Plat.

2. **Owners' Rights in Common Areas**

2.1. **Owners' Easements of Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

2.1.1. The right of the Association to promulgate reasonable rules and regulations respecting use and enjoyment of the Common Area or any portions thereof in accordance with the provisions of the Association's Bylaws.

2.1.2. The right of the Association to charge reasonable fees for the maintenance, repair and operation of the Common Area in accordance with the provisions of the Association's Bylaws.

2.1.3. The right of the Association to suspend the right to the use of the Common Area, other than the roads, by an Owner for any period during which any assessment against that Owner's Lot remains unpaid, and for any infraction by an Owner of the Association's published rules and regulations for the duration of the infraction and for an additional period thereafter not to exceed sixty (60) days.

2.1.4. The right of the Association (after such right is transferred to Association by Developer) to grant easements upon, across, over and under the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utilities, including, but not limited to, electric, water, sewer, gas, cable television and telephone utilities servicing, or serving to benefit, the Development.

2.1.5. The right of the Association (after such right is transferred to Association by Developer) to dedicate or transfer all or any portion of the Common Area owned in fee simple by the Association to any public agency, authority or utility subject to such conditions as may be agreed to by the Association, but provided that no such dedication or transfer shall be effective unless made in accordance with the provisions of the Association's Bylaws respecting the same, and so as not to materially adversely affect an Owner. The right of the Association to dedicate or transfer all or portions of the Common Area owned in fee simple by the Association shall be in addition to and shall not constitute a limitation upon the right to grant easements on, over, under or across the Common Area.

2.1.6. The right of the Association to borrow money for the purpose of improving the Common Area, or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Area owned in fee simple by the Association; provided, however, that the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements and privileges herein reserved or established for the benefit of Developer or any Owner or the holder of any mortgage, irrespective of when executed, given by Developer or Owner encumbering any Lot.

3. **Roadways and Other Easements:**

3.1. **Roadway Easements**: The Developer, as owner of the Land, hereby declares each and every Roadway to be and constitute a non-exclusive, perpetual right of way for all purposes of access, ingress and egress to and from, and as an appurtenance to, each of the Lots identified in and upon the plat of Tupelo Plantation, and to each and every tract(s) or parcel(s) of Land including "Common Area" identified upon EXHIBIT A as being encumbered by this Declaration, for the use and benefit of the separate owners, tenants, guests, agents and invitees of each of the Owners or occupants of the Lots, tracts or parcels of Land. Each of the Lots within Tupelo Plantation and each and all of the platted Common Area tracts or parcels, severally constitutes the dominant tenement, and the Roadways constitute the servient tenement. Developer reserves (a) the right to use the Roadways for its own uses and purposes; and (b) the right to convey the Roadways as a right of way to the Association, and (c) the exclusive right to grant other or additional easements or licenses in the Roadways that are not in conflict with the access easement established for the use and benefit of each of the Lots or the Common Areas. The right of access is made and predicated upon the fact existing as of the date of this instrument that all Lots within Tupelo Plantation are or are intended to be used for detached single-family residential units. Any redevelopment of a Lot or Lots, or any change in use or intensity of occupancy of a Lot that causes a regular and routine increase in traffic upon the Roadways beyond traffic levels associated with a private roadway serving a community of low-density rural residential dwellings, is a surcharge of the easement and prohibited. Developer or the Association shall maintain the roads, and Nassau County shall have no responsibility for maintenance of the roads.

3.2. **Easement in gross for services**. The Developer, as owner of the Land, hereby declares each and every Roadway, together with a contiguous strip of land TEN (10) FEET in width lying parallel to and on both sides of each of the Roadways and identified on the plat as "10' Utility Easement" or equivalent, to be and constitute an easement to provide Utility and Public Services necessary, appropriate or incident to the use and enjoyment of the common areas and the single-family residential units within Tupelo Plantation.

3.2.1. **Easement for access and drainage**. The Developer, as owner of the Land, declares that the Association shall have, and grants to Association, a perpetual non-exclusive easement over all areas of the Surface Water or Stormwater Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water or Stormwater Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water or Stormwater Management Systems as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water or Stormwater Management System. No person shall alter the drainage flow of the Surface Water or Stormwater Management System, including buffer areas or swales, without the prior written approval of the Association and the St. Johns River Water Management District.

4. **Association Membership and Voting Rights**

4.1. Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the fee simple ownership of a Lot. An Owner may not disclaim membership, or renounce the responsibilities accompanying membership by claiming or through actual non-use of the Common Area(s).

4.2. The Association shall have two classes of voting membership:

4.2.1. **Class A**. Class A members shall be all Owners with the exception of the Class B member and 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 but the vote for such Lot shall be exercised by one of their number, and in no event shall more than one vote be cast with respect to any Lot.

4.2.2. **Class B.** The Class B member shall be Developer, who shall be entitled to 144 votes as a Member at and upon the creation of the Association, corresponding to votes equal to twice the number of Lots authorized under the PUD for Tupelo Plantation Phases 1, 2 and 3. If Tupelo Plantation is enlarged or amended by additional phases, then upon such amendment, the Class B Member shall be awarded additional votes equal to twice the number of Lots within such additional phases(s) of Tupelo Plantation. The number of Class B votes may increase with the addition of Lots in phases subsequent to Phase 3 of Tupelo Plantation, but the number of Class B votes does not decrease upon, or by reason of, the sale of a Lot or Lots by the Developer. The Class B membership shall cease (i) three (3) months after ninety percent (90%) of the Lots have been sold to Class A members, or (ii) upon the voluntary or involuntary dissolution of the Association (and prior to any distribution of the assets thereof), whichever first occurs.

5. **Developer's Right to Expand Community**

From time to time, Developer may, but shall not be obligated to, add additional land to this Declaration by executing a Supplemental Declaration describing the additional land and recording that Supplement Declaration in the public records. Effective as of the date of filing the Supplemental Declaration in the public records, the Land as described and identified in this Declaration upon Exhibit "B" shall automatically be expanded and supplemented to include the additional land identified in the Supplemental Declaration, so that all Land within and comprising the Development of Tupelo Plantation, or any phase of the Development, is governed by a uniform and unified community standard. The additional land in any Supplemental Declaration must be contiguous at some point to Land that is at that time subject to this Declaration, but separation of lands by public road right of way, private or public waterbodies, or public open spaces and parklands shall nevertheless be deemed as contiguous. The additional land identified in any Supplemental Declaration must be owned by the Developer, or by an owner of land who joins the Developer in the execution of the Supplemental Declaration, and must be added to the PUD and be, or become, platted and contain no less than three (3) Lots. Developer's right to expand the Development pursuant to this section is unilateral, and shall not require the concurrence of any Owner or the Association. Developer's right to expand Tupelo Plantation pursuant to this section shall expire at such time as the

Developer turns over the governing control of the Development to the Association, or FIFTEEN (15) YEARS from the date of this Declaration, whichever event shall occur first. The Owners of any Lots within the Supplemental Declaration shall be and become subject to the assessment and lien provisions of this Declaration, shall be and become Class A Members of the Association, and shall be responsible for their pro-rata share of common expenses for which assessments may be levied pursuant to this Declaration, the Bylaws of the Association, and applicable law.

6. **Covenant for Common Area Improvement and Maintenance and for Assessments**

6.1. **Creation of the Obligation for Assessments.** Developer establishes and imposes, by this Declaration, uniform covenants, restrictions and conditions for, upon and encumbering each Lot within the Development, and each Owner of any Lot, by acceptance of the deed from Developer or any successor in title of Developer to such Lot in the Development, whether or not it shall be so expressed in such deed(s), is deemed to consent to the lien right(s) of the Association and to covenant and agree to pay to the Association (a) the annual assessments and any special assessments levied in accordance with the provisions of the Association's Bylaws, and (b) specific assessments against any particular Lot which are established pursuant this Declaration. All such assessments, together with interest, costs and reasonable attorney's fees will be a charge upon the Lot by consensual lien or otherwise as allowed by law, and shall be a continuing lien upon the Lot against which any such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees also shall be the personal obligation of the Owner of such Lot at the time the assessment becomes due. Each Owner shall be liable for his portion of each assessment coming due while he is the Owner of a Lot, and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

6.2. **Purpose of Assessments.** The annual and any special assessments levied by the Association shall be used exclusively for the improvement, maintenance and operation of the Common Area, and appurtenant Development infrastructure as required and specified in the PUD. The assessment(s) may include a roadways reserve fund dedicated to roadway maintenance and management responsibilities of the Development under the PUD, including but not limited to potential annual maintenance assessments of the railroad crossing. Lot Owners do not have a claim upon the reserve fund, and the reserve fund, if and when established by the Association, is not subject to distribution to the Owners even if the Association is dissolved, but must be transferred to a public entity and used only and solely for the roadway maintenance and management obligations arising under the PUD and/or this Declaration.

6.3. **Computation of Assessments and Determination of Date for Payment.** The amount of the annual assessments and of any special assessments levied upon each Lot and the dates at which the same are to be paid shall be determined as provided in the Association's Bylaws.

6.4. **Lien for Assessments; Attachment and Priority**. All sums assessed against a Lot pursuant to this Article, together with interest, costs and reasonable attorney's fees as provided herein, shall be secured by a lien on such Lot in favor of the Association. The lien for annual assessments shall attach as of 12:01 A.M. on January 1st of the year for

which each such assessment is made. The lien for special assessments and specific assessments shall attach upon the recording of a Notice of Assessment thereof in the public records of Nassau County, Florida, setting forth the amount of the lien and a description of the Lot or Lots encumbered thereby. All persons acquiring liens or encumbrances on any Lot after this Declaration is recorded in the public records of Nassau County, Florida, shall be deemed to consent that their liens or encumbrances are and shall be inferior to any existing or current calendar year liens for assessments of, by or in favor of the Association as provided herein, whether or not prior consent and agreement to subordination be specifically set forth in the instrument creating such lien or encumbrance. The lien of the Association shall be superior to all other liens and encumbrances (exclusive of easements) on such Lot, except only for:

6.4.1. Liens for ad valorem taxes or other governmental liens given priority by federal or state statute; and

6.4.2. The liens for sums unpaid on (i) a first mortgage in favor of an Institutional Lender, (ii) any other mortgages in favor of the holder of such first mortgage, or (iii) any mortgage to Developer, which has been recorded in the public records of Nassau County, Florida, prior to the attachment of such assessment lien, and the purchaser at a sale in foreclosure of any such mortgages or any such mortgage that accepts a deed in lieu of foreclosure shall take title free and clear of any assessment lien which attached subsequent to the recording of such mortgage and prior to the date of such acquisition of title.

6.5. **Effect of Nonpayment of Assessment; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the maximum rate permitted by applicable law, from the date that payment of such assessment is due until the date of payment thereof. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot upon which such assessment was made. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Area or abandonment of his Lot, or non-use of any Common Area.

6.6. **Limitation Upon Assessments.** Notwithstanding the provisions hereinabove and the provisions of the Association's Bylaws respecting annual assessments, special assessments and the determination of the amounts thereof, Developer specifically covenants and agrees, and each Owner of any Lot, by acceptance of the deed to Lot(s), is deemed to have covenanted and agreed with Developer that:

6.6.1. there shall be no annual or special assessments for the calendar year 2006 and that Developer shall be obliged to pay the Association's expenses for such calendar year; and

6.6.2. during the Developer Control Period, the Developer is NOT subject to assessment for any Lot(s) owned or held by Developer as unsold inventory.

7. **Covenant for Continued Maintenance of Common Areas, including Roadways and Drainage Systems.**

7.1. **Roadways**. The roadways in the Development as shown on the Site Plan are a

portion of the Common Area required to be repaired and maintained by the Association. **The Development, and every Lot within the Development, is governed by and pursuant to the PUD standards for private roadways, and NASSAU COUNTY DOES NOT MAINTAIN THE INTERNAL ROAD SYSTEM OF PRIVATE ROADWAYS WITHIN THE DEVELOPMENT.** Developer, for each Lot owned by Developer hereby covenants, and each Owner of any Lot by acceptance of the deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to maintain said roadways by payment of such assessments for this purpose as provided by this Declaration and by the terms of Nassau County Ordinance 2005-47, Tupelo Plantation PUD. Such assessments shall be subject to all of the terms and conditions set forth in this Declaration.

7.2. **Stormwater permit management requirements:**

7.2.1. **Duties of Association**: The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

7.2.2. **Covenant for maintenance assessments for association:** Assessments shall also be used for the maintenance and repair of the Surface Water or Stormwater Management Systems including but not limited to work within retention areas, drainage structures and drainage easements.

7.2.3. **Swale Maintenance:** The Developer has constructed upon each Lot a Drainage Swale for the purpose of managing and containing the flow of excess surface water, if any, found upon a lot of time to time. Each Lot owner, including builders, shall be responsible for the maintenance, operation and repair of the swales on the Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or manmade phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the Drainage Swale is located.

7.2.4. **Amendment:** Any amendment to the Covenants and Restrictions which alters any provision relating to the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the St. Johns River Water Management District.

7.2.5. **Enforcement:** The St. Johns River Water Management District shall have the

right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions, which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

7.3. **Recreational Amenities, Open Space and Common Space:** After any of the recreational amenities, open space and / or Common Areas within the Development are transferred from Developer to the Association, the Association shall thereafter continue to use and manage those recreational amenities, open spaces and / or Common Areas consistent with the use of such area or areas as shown in the final development plan and final engineering plans for the Development as filed with Nassau County, and conforming to the recreation and open space requirements of the PUD. The recreational amenities, open space or Common Areas are not subject to, nor shall they be the subject matter of, any action seeking to partition, or having the effect of partitioning, those areas among Lot Owners.

8. **Development and Use Restrictions and Obligations**

8.1. **Lot Development; Site and Structure Design Approval.** No change in the topography of any Lot, nor the removal or destruction of any existing tree or palm of any species that is equal to or greater than six inches diameter breast height [≥6" d/BH], nor the construction of any building, fence, wall or other structure of any kind, nor the installation of any utility or other service shall be commenced, erected or maintained on any Lot, nor any exterior addition to or change or alteration of any building on a Lot, shall begin or proceed unless and until a site plan for such Lot, showing all proposed changes in topography and vegetation (including any proposed landscaping) and detailed plans and specification showing the nature, kind, shape, height, materials, external colors and location of any building, fence, wall, or other structure (as applicable to the nature and scope of work to be performed), shall have been submitted to and approved in writing by the Tupelo Plantation Design Review Committee (the "Committee"), its successors and assigns, and a copy of such plans as finally approved have been deposited for permanent record with the Committee.

8.2. **Design Review Committee**. The Committee shall consist, initially, of the following persons: Thomas Beeckler, Bill Schroeder, and Brian Brown. The initial Chairman of the Committee shall be Mr. Schroeder. Applications and all correspondence to the Committee shall be addressed to the Chairman of the Tupelo Plantation Design Review Committee at such address as the Association may from time to time designate by resolution. The Board of Directors of the Association shall have the right at any time and from time to time to remove any member or to designate additional or successor members to the Committee, provided that any change in the membership of the Committee shall be effective only upon executing and recording of a notice evidencing such change, setting forth the names of all persons who are to be members of the Committee on and after the effective date of such notice and executed and acknowledged by the President of the Association. The Committee shall, in no instance, be comprised of less than three (3) persons, none of whom shall be required to own property in the Development. The requirement of written approval by the Committee shall be conclusively deemed satisfied by letter or other written instrument (other than a deed) specifically reflecting such approval executed and acknowledged by one or more of the members of record of the Committee as of the date of acknowledgement. The

death or incompetency of any member of the Committee shall terminate membership on the Committee and rights and authority vested in the Committee shall be exercised by the remaining member or members thereof until such time as a successor is appointed in accordance with the provisions of this paragraph.

8.3. **Approval Required for Site Alterations.** The Owner of any Lot desiring to alter the existing topography thereof, the existing vegetation thereon, or to erect, place, construct or alter a building or structure thereon shall submit detailed plans and specifications reflecting such proposed alteration in topography, vegetation or structure which must include.

8.3.1. A site plan showing all proposed alterations of topography and vegetation (including any landscaping or plantings to be installed), and the dimensions and location of all buildings, fences, walls, driveways, walks, utility easements or other improvements to be erected on or under such Lot.

8.3.2. Foundation plan, floor plan, and exterior elevations of all structures (including the dimensions thereof), as they will actually appear after all topographic changes and landscaping is done from finished ground up.

8.3.3. The description of the exterior color schemes and materials to be employed in all structures. The Committee may require samples of exterior materials to be submitted for approval.

8.3.4. The date the Owner intends to commence such work, and the date such work is projected to be completed.

8.3.5. Plans and specifications of any structure anticipated to cost or be of a value of $5,000 (or such amount as may from time to time be set by the Association) or more at the time of construction shall be prepared by a professional contractor, designer or architect registered and/or licensed in the United States. The Committee, for and on behalf of the Association, may require appropriate reasonable assurance to be posted to assure the completion of construction and to mitigate damage to Development infrastructure, including roadways and their maintenance.

8.3.6. Plans and specifications shall be submitted in writing for approval over the signature of the Owner of the Lot or his duly authorized agent (with written evidence of such authority). Committee approval of such plans and specifications may be withheld not only because of their noncompliance with any specific restrictions contained in this Declaration but also by reason of the reasonable dissatisfaction of the Committee with the grading plan, tree removal, location of the structure on the building site, the engineering, color scheme, finished design, proportions, architecture, shape, height, style or appropriateness of the proposed structure or addition or remodeling, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon, or because the Committee's reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Committee, would render the proposed changes in topography, vegetation or structure inharmonious or aesthetically inconsistent with the general plan of improvement of the Development or with the structures erected on other Lots in the immediate vicinity of the Lot on which such improvement is proposed to

be made.

8.3.7. Construction in accordance with the approved of plans and specifications as approved by the Committee must be completed within ONE (1) YEAR from the time construction commences, or within EIGHTEEN (18) MONTHS from the date of Committee approval, whichever period of time is less. Absent good cause (such as the intervention of force majeure) acknowledged and accepted by the Committee, failure to timely complete construction is cause for the imposition of fines consistent with the rules and regulations of the Association.

8.4. **Assurance**. The Committee may require reasonable assurances and/or certification from design or construction professionals that the proposed work by the Owner consistent with the submitted plans and specifications is consistent with all applicable regulatory permits governing the Development in general and the Owner's particular Lot.

8.5. **Tree Protection / Indemnity for Permit Violations.** The retention, nurture and management of the trees at, within and upon Tupelo Plantation is significant to the total appearance of each Lot and of the entire community, therefore the Association may impose a minimum fine in accordance with the regulations of the Association, as well as fines equal to the value of the trees. Except for the removal of trees as fire lines under State of Florida fire prevention standards, or in a state of emergency or in emergency circumstances, the removal, clearing or damaging of any of tree(s) ≥6"d/BH on a Lot without the prior approval of the Design Committee is strictly prohibited, and the committee may recommend the imposition of fines to the Association, and the Association is and shall be authorized to seek to recover damages for any such loss. Any unauthorized removal of live oak (*Quercus virginiana)* ≥ 3"d/BH or Southern Magnolia (*Magnolia grandiflora*) ≥ 5"d/BH, wherever located shall have presumptive damages payable to the Association of $1,000.00 per tree, or such greater amount as may be set by the Association upon a uniform schedule of fines and fees. The unauthorized removal of any tree of any species if such tree is or was located in a wetland, wetland buffer area or common area, shall have presumptive damages of $1,000.00 per tree, or such greater amount as may be set by the Association by resolution upon a uniform schedule of fees and fines, payable to the Association, together with the obligation to indemnify the Association for any fine or penalty assessed against the Association for violation of permits protecting the tree(s) within the wetland areas from unauthorized damage, pruning or removal.

8.6. **Terms of Approval.** The Committee shall have the right and authority to condition approval upon such terms as will ensure consistent standards, appearances and performance within Tupelo Plantation, including the following:

8.6.1. The Committee shall have the right to establish a list of preferred service providers, and the right to have any work performed by a party other than a preferred service provider supervised and/or bonded to assure performance consistent with plans and specifications approved by the Committee. Supervisor(s) appointed by the Committee shall have the power and authority to stop any work that is, or appears to be, inconsistent with the approved plans and specifications of the Committee.

8.6.2. Written approval by the Committee shall be deemed valid for a period of one year and all construction so approved must be completed within eighteen (18) months of such approval. Construction which is not pursued to reasonably and timely completion, whether by abandonment or suspension of work for two or more weeks, may be subjected to fines by the Association.

8.6.3. The approval of the Committee for use of any plans or specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Committee of such right to object to any of the features or elements embodied in such plans or specifications if and when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided, for use on other Lots.

8.6.4. If, after plans and specifications have been approved, there is any change in topography or vegetation, or any building, fence, wall or other structure or thing shall be altered, erected, placed or maintained upon a Lot otherwise than approved by the Committee, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Committee ever having been obtained as required by these restrictions and shall constitute a breach thereof.

8.6.5. If, after commencement of any approved change in topography or vegetation or approved construction or alteration of any building, fence or other structure, such work is abandoned for a period of twenty-one (21) days or is not prosecuted in a manner consistent with completion within the time estimated and approved for completion, then such abandonment or failure of diligent prosecution shall be deemed a violation and breach of the requirements of this Declaration.

8.6.6. Members or agents of the Committee may from time to time at any reasonable daylight hour enter and inspect any improvements underway on any Lot as to compliance with the provisions hereof and shall not thereby be deemed guilty in any manner or trespass for such entry or inspection.

8.6.7. If, within thirty (30) days following submission of all plans, specifications, materials and information required herein (such period to commence only upon submission of all required information), the Committee fails to take official action with respect to approval or disapproval of any plans and specifications submitted in conformity with the requirements hereof and receipted for in writing, then such approval will not be required, provided that the improvements shown by such plans and specifications are not in violation of any specific restrictions contained in this Declaration and entail no variance permitted to be made by the Committee under this Declaration.

8.7. **Variances**. The Committee may authorize variances from compliance with any architectural provisions of this Declaration or applicable architectural criteria when circumstances such as topography, natural obstructions, or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by the Chairman of the Committee. If such a variance was granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and

provisions of this Declaration for any purpose except as to the particular Lot and particular provisions of this Declaration or applicable architectural criteria covered by the variance, nor shall it effect in any way an Owner's obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

8.8. **Exculpatory Provision**. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Developer, the Association or the Committee pursuant to this Declaration, neither Developer, the Association, the Committee or any individual persons serving as a member thereof shall be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way related to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld by Developer, the Association or the Committee.

8.9. **Lot Development; Restrictions and Limitations.** The development of and the construction or maintenance of any improvement on each Lot shall be subject to the following restrictions and limitations:

8.9.1. No building shall be erected, placed or permitted to remain on any Lot other than one single-family residential building (the principal residential building), together with, and as an appurtenance to the existing single-family residential building, a structure or structures (referred to as "accessory building") of the following types:

8.9.1.1. a detached building for garage space, a personal office and/or workshop, and

8.9.1.2. a barn or barns for the keeping of any *Equus* genus (horse, ass or donkey, mule or hinny), any *Bos* genus (bovine variations as cows or steers, no bulls), any domesticated variants of the genus *Capra* (goats), or the non-commercial keeping of dogs; PROVIDED, HOWEVER, that the keeping of any hoofed animals shall not exceed a density greater than ONE (1) hoofed animal per acre of fenced enclosure on the Lot; and

8.9.1.3. a greenhouse with no commercial on-site sales.

8.9.1.4. structures appropriate to garden or landscape maintenance of the Lot, structures enclosing wells or pump houses, and structures necessary or appropriate for the accumulation and control of manure or vegetative debris to avoid any pollutant or eutrophic runoff from the Lot into any wetlands or man-made ponds.

8.9.2. An accessory building may not contain any human residential facilities. The exterior of an accessory building used as a garage, personal office or workshop shall be designed to conform to the general design of the principal residential building, and all accessory buildings shall be located in such manner with respect to the principal residential building that the same will present an attractive and harmonious appearance.

8.9.3. No principal residential building shall contain less than 1,700 square feet of heated and air conditioned living area, excluding attached garage, screen porch, attached greenhouses, covered patios, entry-ways or the like. No underground or

"berm" house will be permitted on any Lot. No shell or modular house will be permitted on any Lot regardless of the price or square footage of the house, nor may any mobile home be placed on a Lot for use as a residence.

8.9.4. Each principal residence is required to have a private, fully-enclosed garage for not less than two and no more than six automobiles, which shall be used only for the parking of automobiles, customary storage and hobby workshop purposes. All vehicles must be parked on the driveway, in the garage or to the rear of the main residence in accordance with this Declaration.

8.9.5. No structure of a temporary character shall be placed upon any Lot at any time; provided, however, that this prohibition shall not prohibit temporary shelters used by a builder during the construction of permanent buildings, provided such temporary shelters may not at any time be used as residences or permitted to remain on the Lot after completion of construction. No travel trailer, motor home, tent or other form of movable shelter may be used on any Lot for human habitation for a period in excess of one (1) week; however, in an emergency situation consequent upon natural calamity (fire, hurricane or similar) the Association may allow use of such temporary shelter(s) on specific Lots for such period of time as the Association may specify but not to exceed one (1) year.

8.9.6. No part of any building, structure, wall or swimming pool shall be constructed nearer than one hundred (100) feet from the front property line nor nearer than twenty-five (25) feet from a side property line abutting a roadway, nor nearer than fifty (50) feet to a rear yard lot line, except that when any two or more adjacent Lots are held in one ownership and a residence is built thereon in compliance with the other restrictions set forth herein, in such cases, such set back requirements may be ignored and the actual boundaries of ownership used in lieu thereof and thereafter such ownership shall be thereafter considered as one Lot for the purpose of the restriction. Owners of Lot(s) adjacent to the Lake and pasture shall so situate buildings and landscaping as to preserve the view and privacy of both the Common Area and the adjoining Lot.

8.9.7. All fencing or cross-fencing by Owners shall be with 1" x 6", 4-board, wood creosote or pressure-treated fencing, and 4" x 4" wood posting (collectively, the "Uniform Fencing"), which shall be painted black, to maintain a uniform street front image for all parts, portions, and Lots within the Development. Notwithstanding the foregoing, (i) the yard area immediately behind the primary residence, or surrounding a pool area, may be fenced with shadow-box privacy fencing, and side yard fencing more than forty (40) feet away from any street, right of way or side yards where the boundary ten (10) or more feet from any street right of way is heavily wooded, may be fenced with traditional wire or cattle fencing having metal or wood posting. No barbed wire may be utilized on any fencing except for a single strand at the top of the fencing. All fencing by Owners of Lots abutting a Common Area shall be installed up to, but not in or on, the Common Area. For those Lots sharing a property line, it is the desire of Developer that the respective abutting Lot Owners share equally in the installation and maintenance of such property line Uniform Fencing, regardless of which Owner first installed such fencing. In this regard, an Owner purchasing a Lot that an abutting Owner has previously installed

Uniform Fencing on the common property line should, in good faith, upon receipt of appropriate documentation from the first Owner, reimburse such first Owner for one-half of the reasonable costs for the installation of the Uniform Fencing on the common property line.

8.9.8. All electric, telephone, cable television or other utility services using wires or pipes and extending on or across any Lot, from the point of connection with the distribution or collection utility service line and extending to the house or other structure on the Lot where such services are used, shall be underground unless specifically exempted by the Committee as a variance. For those Lots which share a common property line along which the electrical service extension (or "drop line") is installed, the respective abutting Lot Owners may share equally in the costs of installation and maintenance to the extent of their shared use or the usefulness of such drop line, regardless of which Owner first installed the drop line. In this regard, an Owner purchasing a Lot where an abutting Owner has previously installed a drop line should, in good faith, upon receipt of appropriate documentation from the adjoining Owner, reimburse such first Owner for one-half or lesser appropriate share of the reasonable costs for installation of the common use portion of the drop line.

8.9.9. No stationary wire, clothes line, clothes racks, or similar objects shall be placed, erected or permitted to remain on the exterior portion of any Lot within view of the street without the prior written approval of the Committee. For aesthetic reasons, no antennae tower shall be permitted on any Lot without exception.

8.9.10. No above ground swimming, wading, lap or other recreational pools shall be allowed.

8.9.11. Construction of all buildings shall be in accordance with the Southern Standard Building Code or such other more stringent standards of Nassau County, Florida, as shall exist on the date of construction.

8.9.12. Every Owner (after Developer) of a Lot, upon commencement of construction on such Lot, must install and maintain at the sole cost and expense of the Owner, one or more septic tanks and associated drain fields and equipment for sanitary sewage service for all improvements constructed upon such Lot. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch, canal or roadway. The location of all septic tanks and drain fields shall be subject to the review and approval by the Committee and any authority, division or agency of government as required by and in accordance with applicable code, statute, ordinance, law or regulation.

8.9.13. Every Owner (after Developer) of a Lot, upon commencement of construction on such Lot, must install and maintain at the sole cost and expense of the Owner, one or more wells and associated equipment for potable water service for all improvements constructed upon such Lot.

8.9.14. All culverts installed in the street rights-of-way in order to give access to individual Lots shall be approved by the appropriate governmental agency or authority as may from time to time be appropriate as to size and specifications and

shall be installed prior to commencement of any construction on the Lot. All culverts shall be of such size, shape and design so as to enhance the appearance of the driveway entry and shall have concrete end caps. All driveways to the principal residential building shall be asphalt paved, concrete slab, slag or of the same material as the internal roads of the Development. Any other alternative driveway material or design shall be subject to the prior approval of the Committee.

8.9.15. No mineral excavations shall be permitted upon any Lot, nor may sand, clay, peat or loam be mined for commercial purposes. This provision shall not impair the construction and creation of a pond or lake on a Lot in accordance with applicable laws and permits, provided the plans have the prior approval of the Committee.

8.9.16. No discharge of firearms or hunting shall be allowed on any Lot. Bowhunting by an Owner on the Owner's Lot without endangering any adjoining Lot, domesticated animals or other Owners, is permitted

8.9.17. Outside Lighting can detract from the rural atmosphere at the Development. Spotlights, area lights similar to street lights, lights on trees, and all lights, other than porch lights or motion sensitive security lights that are automatically operated, shall be turned off by 11:00 P.M. each evening. No outdoor lights other than porch lights or motion sensitive security lights shall be installed without prior approval of the Committee.

8.10. **Lot Use; Restrictions, Limitations and Obligations.** The use of each Lot shall be subject to the following restrictions, limitations and obligations:

8.10.1. Each Lot shall be occupied and used for single-family residential purposes only and no trade business or profession shall be pursued on any Lot.

8.10.2. No noxious or offensive activity shall be conducted or allowed to be conducted or exist on any Lot and nothing shall be done or allowed to exist thereon, which may be or may become an annoyance or nuisance to others.

8.10.3. No signs other than standard realty signs advertising the Lot upon which the sign is placed to be "for sale" or "for rent," and temporary signs addressing political candidates or pending electoral issues for a duration not to exceed 120 days of display per year, are allowed on any Lot. No commercial signs of any kind will be permitted on any Lot except temporary architect and general building contractor's site identification signs identifying the construction project and parties, which shall be not more than four (4) square feet, shall be approved by the Committee as to size, content and design and shall not be placed on any Lot less than twenty (20) feet from the property line. Under no circumstances shall any sign be nailed to trees.

8.10.4. Each Lot shall provide garbage and trash containers and shall not accumulate any garbage or trash on any Lot except in such containers. Each Owner shall utilize the services of the private or public refuse collection agency designated by the Association from time to time. The Committee shall have the right to require all Owners to obtain and use certain make(s) or model(s) of trash containers approved by the Committee so as to maintain uniformity within the Development. Each such trash container shall have stenciled thereon the address of the Owner within the Development. If at anytime the Committee shall determine a central or several

designated point(s) of collection of trash shall be beneficial to the Development for reasons of avoidance of deterioration to the internal roads by the refuse collection agency, or otherwise, each Owner agrees to use such designated point(s) and no others. No trash may be set out for collection prior to 5:00 p.m. of the evening prior to the day of collection, and all trash containers shall be picked up no later than 8:00 p.m. of the evening of the day of collection and stored out of public view and in a location that will not be offensive to other Owners.

8.10.5. All motor vehicles, whether belonging to the Owner of the Lot, the Owner's guest or business invitee, shall be parked on the Owner's Lot in accordance with this Declaration and no on-street parking shall be permitted.

8.10.6. The use of motorized vehicles (including motorcycles, all-terrain vehicles, automobiles or trucks) upon any of the fire management lines or horse trails through the Common Area is prohibited, EXCEPT FOR motorized vehicles operated by authorized persons (i) engaged in permitted vegetation management, including the harvest of timber reserved to the Developer, its successors or assigns, or (ii) engaged in fire suppression and other emergency purposes, or (iii) for construction, maintenance and repair of the fire management lines or horse trails.

8.10.7. No abandoned junk or dismantled motorcycle, boat, trailer camper, travel trailer, recreational vehicle, or other powered or unpowered vehicle, including any private passenger vehicle may be parked or maintained on any Lot unless wholly contained within an enclosed storage or garage facility approved by the Committee. No commercial vehicle of any kind operated by a business invitee providing services to the premises shall be permitted to remain on any Lot beyond the time necessary to provide the services contemplated. Notwithstanding the foregoing, there shall be permitted to be kept such farm equipment, trucks, and trailers as may be required for horse farming, provided same is kept orderly, clean and as out of sight as reasonably possible except during its use.

8.10.8. Beginning from the date of purchase, each Lot Owner shall maintain his premises and all improvements thereon in a clean, neat and attractive condition, shall keep his property free of accumulation of junk, trash, abandoned vehicles, used construction materials, equipment or other unsightly objects and shall not permit any natural or artificial feature on any Lot to become obnoxious, overgrown or unsightly. If, in the judgment of the Committee, an Owner fails to maintain improvements on a Lot, permits accumulation of trash or junk or permits any lawn, fence, hedge, tree or landscaping feature to become obnoxious, overgrown, unsightly, or unreasonably high, the Association shall have the right, but not the obligation, to cut, trim or maintain said lawn, fence, hedge, tree or landscaping feature, to remove such accumulation of junk or trash or to effect necessary repair and maintenance to the premises with the cost thereof to be billed as a specific assessment enforceable pursuant to the terms of this Declaration.

8.10.9. No animals shall be kept or maintained on any Lot except (i) *Equus* in domesticated variants only, including horse (*Equus cabalus*), donkey (*Equus asinus*), mule or hinny; (ii) *Bos*, in domesticated cattle variants (*Bos taurus*) and only as cow or steer only, no bulls; (iii) *Capra* in domesticated goat variants only

(*Capra aegagrus hircus*) with no male (buck or billy) exceeding fifty (50) pounds; (iv) *Canis* in domesticated variants only (*Canis lupus familiaris*), and no wolf, coyote, jackal, dingo or fox shall be considered domesticated; (v) *Felis* only in domesticated variants (*Felis silvestris catus*) not to exceed twenty-five pounds, and any lion, tiger, jaguar, cougar or other predatory member of the *Felis* genus, however allegedly tame, is not regarded as domesticated. The number of hooved animals kept on any Lot shall not exceed one animal (excluding offspring at side) for each acre of fenced enclosure on the Lot. Conventional household pets (dogs, cats, birds or fish) may be kept in or near the residential dwelling but only in such number and manner as not to constitute a hazard, nuisance, or annoyance to the other residents of the Development. Notwithstanding the immediately preceding sentence, in the event that any animal(s) should prove to be a nuisance or annoyance to the other residents of the Development (e.g., by reason of noise or otherwise, such as bird calls, howling dogs etc.), the Owner of such animal(s) shall remove such animal(s) promptly upon request of the Association. There will be no outdoor keeping of non-native fish, toads or other non-native species, and no live release of any such non-native species in any form or stage of its life, in or to the natural environment of, within or near Tupelo Plantation. There shall be no indoor or outdoor keeping of any variety of snakes or reptiles, whether as exotic pets or native species. All animals permitted to be maintained on any Lot shall be kept contained on and within the Owner's property and shall be permitted in street rights-of-way or common areas only when under restraint.

8.10.10. No Owner, his family, employees or social and business invitees shall make use of any Lot in a manner that violates any laws, ordinances or regulations of any governmental authority having jurisdiction over the area or results in noxious or offensive activity or which is or may become a nuisance, source of embarrassment, discomfort or annoyance to other residents of the Development.

8.10.11. No portion of any Lot shall be used as a pedestrian or vehicular easement, or as a roadway otherwise used as a means of access, ingress or egress from one Lot to another or from any road appearing on the Site Plan within the boundaries of the Development to any private easement, roadway or public road along the perimeter or outside the Development, or from any road within the Development to any property outside the Development, or from any road within the Development to the same or any other road within the Development. This restriction shall not, however, be deemed to preclude the use of portions of any Lot as a driveway for access from a road depicted on the Site Plan within the Development to the residence or other buildings located upon said Lot nor to preclude pedestrian and vehicular access by utility company employees along utility easements for the limited purpose of construction and maintenance of such utilities, or from use of any Common Area which may be designated for use as an interior access between or around the Lots. All Owners shall access their Lots only by way of the internal roads of the Development.

8.10.12. No Lot shall be further subdivided in any manner or form whatsoever.

8.10.13. No Owner, tenant or occupant shall burn his pasture without first notifying

adjacent property Owners in the Development and the Association, and taking prudent precautions against the spread of fire.

8.10.14. Each Owner shall be required to construct or purchase and install the type or model of mailbox as shall be approved by the Committee, so as to maintain uniformity within the Development.

9. **Enforcement**

9.1.1. In the event any Owner or agent of such Owner violates or breaches any of the requirements, restrictions, conditions or limitations contained in this Declaration or in rules and regulations promulgated under authority of this Declaration by the Association, the Association shall have the right, but not the obligation, to (a) suspend the right to use of the Common Area, other than the roads, by that Owner, the Owner's family and guests during the period such violation or breach continues, (b) proceed at law or in equity to prevent the violation or breach and to compel compliance with the requirements of this Declaration or rules and regulations, or (c) enter upon the property where such violation exists and summarily abate or remove the same at the expense of the Owner, if, after ten (10) days' written notice of such violation to the Owner, it shall not have been corrected, or (d) to impose fines, pursuant to a schedule of fines published by the Association as Rules and Regulations, which fines, if left unpaid for more than ninety (90) days, may be charged by the Association as a lien upon the Owner's lot from which the act or actions arose or to whose actions such fined activities are attributed. Each of the rights herein granted the Association shall be cumulative and failure to enforce any right, reservation, restriction or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so as to the same breach, or as to any other breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement.

9.1.2. The authority to abate or remove an existing violation shall include, as respects a violation of an Owner's representation and covenant to complete improvements within a specified time, the right to remove or to complete improvements undertaken but not diligently prosecuted by the Owner.

9.1.3. In the event any Owner believes such a violation or breach by any other property Owner or agent of such Owner exists and desires to secure an abatement of such violation or breach, such Owner shall first notify the Association to exercise the rights of enforcement hereinabove granted. Should the Association fail or specifically decline to do so within thirty (30) days after receipt of such notice, such Owner, individually, or jointly or severally with other Owners of Lots shall have the right to proceed at law or in equity to prevent the violation or breach and to compel compliance by the offending Owner.

9.1.4. In the event the Association elects to enter upon an individual Lot where a violation or breach of any of the restrictions exists and to summarily abate or remove the same, the entire actual cost to the Association of such action shall be payable by the Owner of such Lot to the Association upon demand and shall

constitute a specific assessment enforceable in accordance with the provisions of this Declaration.

9.1.5. All costs and expenses, including reasonable attorney's fee, incurred by the Association or a Lot Owner or Owners who elect to proceed at law or in equity to remedy or abate a violation of this Declaration or the rules and regulations promulgated under authority of this Declaration shall be borne by the Lot Owner adjudged in violation thereof, provided, however, that neither an institutional mortgagee that acquires a Lot by foreclosure or deed in lieu of foreclosure, nor the purchaser at a judicial, clerk or tax sale shall become liable for costs, expenses or attorney's fees in any action to abate or remedy a violation arising or existing prior to its acquisition of the Lot.

10. **Amendments**

10.1. **Amendment by Developer.** Notwithstanding anything to the contrary contained in this Declaration, Developer reserves unto itself, its successors and assigns, the right, exercisable at any time prior to that date that is three (3) months after ninety (90%) percent of the parcels in all phases of the Development have been conveyed to Owners other than Developer, to:

10.1.1. Amend this Declaration for the purpose of curing any ambiguity in or inconsistency between the provisions set forth herein;

10.1.2. Amend this Declaration so as to modify or add restrictions and limitations respecting the development and use of Lots, including, without limitation, modification of set-back restrictions for particular Lots, so long as such amendment shall conform to the general purposes and standards set forth herein;

10.1.3. Amend this Declaration for the purposes of designating additional Common Area, provided that such property is (i) owned by Developer, and (ii) is or becomes a portion of the property subject to this Declaration at the time such amendment is recorded; or

10.1.4. Amend or alter this Declaration or any part hereof in any other respect with the consent of two-thirds (2/3) of the Owners other than Developer.

10.2. **Amendment by Owners.** Subject to the limitations set forth in Sections 10.3 and 10.4 below, this Declaration may be amended by instrument executed by two-thirds (2/3) of the Owners and recorded among the public records of Nassau County, Florida, a copy of which shall be furnished to the Association.

10.3. **Mortgagee's Rights Preserved.** No amendment to this Declaration shall affect the lien of the holder of any mortgage lien of record prior to such amendment without such mortgagee's express written consent thereto, and, to the extent an amendment purports to affect such lien or the holder's rights in respect thereto, it shall be void and of no force and effect absent such consent.

10.4. **Limitation on Amendment.** No amendment to this Declaration which modifies or purports to modify or affect in any way the rights, duties and/or obligations of Developer granted or reserved hereunder, or which, in the reasonable judgment of

Developer, adversely affects any other portion, phase or aspect of the Development of Tupelo Plantation shall be permitted without the express written consent of Developer, and to the extent an amendment purports to affect such rights, duties and/or obligations it shall be void and of no force and effect absent such consent.

11. **Reservations By Developer**

11.1. **Reservations for Development and Sale.** Notwithstanding any provisions to the contrary contained in this Declaration, the Association's Bylaws, or any Rules and Regulations published by the Association pursuant to the authority contained herein and in the Association's Bylaws, it shall be expressly permissible for Developer and for any public utility, private utility service company or residential construction contractor authorized by Developer so to do, to maintain and carryon upon such portion of the Common Area or Lot owned by Developer as Owner, as Developer may deem necessary, such facilities and activities as may be reasonably required, convenient or incidental to the development and sale of the Lots, including, but without limitation, business offices, material storage sites, signs and sales offices.

11.2. There is hereby specifically reserved to Developer an easement for ingress, egress and use of the Common Area for the purposes herein expressed, which easement and right shall continue to exist in Developer so long as Developer is the Owner of any unimproved Lot in the Development.

11.3. **Reservation of Right to Assign Rights.** Developer shall have the right at any time to assign any rights it may have under this Declaration to such other person or entity, as it shall reasonably elect. No such assignment shall require the written consent of any Owner or of the Association and, in the event any such is assigned, the Assignee shall assume all obligations of Developer so assigned, and Developer, its officers, directors and stockholders shall thereupon be relieved of any and all obligation or liability with respect thereto.

12. **Effect of Declaration: Duration**

12.1.1. This Declaration, as amended and supplemented from time to time as provided herein, shall, subject to the provisions hereof, be deemed to be covenants running with title to the property subject hereto and any part thereof and shall remain in full force and effect for TWENTY (20) YEARS from the date of this Declaration, and thereafter this Declaration shall be automatically extended for successive periods of ten (10) years each, unless during the six-month period preceding the end of such original term or of any such successive ten-year period, a written agreement, signed and acknowledged by no less than two-thirds (2/3) of the Owners, changing, modifying, waiving or extinguishing any of the covenants, restrictions, reservations and easements provided for herein as to all or any part of the property is recorded in the public records of Nassau County, Florida.

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IN WITNESS WHEREOF, the undersigned has hereunto duly set his hand and seal the day and year first above written.

Signed and sealed in the presence of these witnesses:

Jennifer Snider [sign]
JENNIFER SNIDER [print]
James L. Shroads [sign]
JAMES L. SHROADS [print]

TUPELO PLANTATION
DEVELOPERS, LLC
By its Managing Member,
The Beeckler Company

Thomas F. Beeckler
president

STATE OF FLORIDA)

COUNTY OF NASSAU)

The foregoing instrument was acknowledged before me this 4th day of MAY, 2006 by Thomas F. Beeckler, president, The Beeckler Company, as Managing Member of Tupelo Plantation Developers, LLC, by authority and on behalf thereof, and who is

☑ personally known to me or
□ has produced as identification: n/a.

James L. Shroads [sign]
JAMES L SHROADS [print]
Notary Public, State of Florida
My Commission expires:

James L. Shroads
Commission # DD517954
Expires March 20, 2010
Bonded Troy Fain - Insurance, Inc 800-385-7019

EXHIBIT A
to Declaration of Covenants,
Easements, Conditions and
Restrictions, Tupelo Plantation

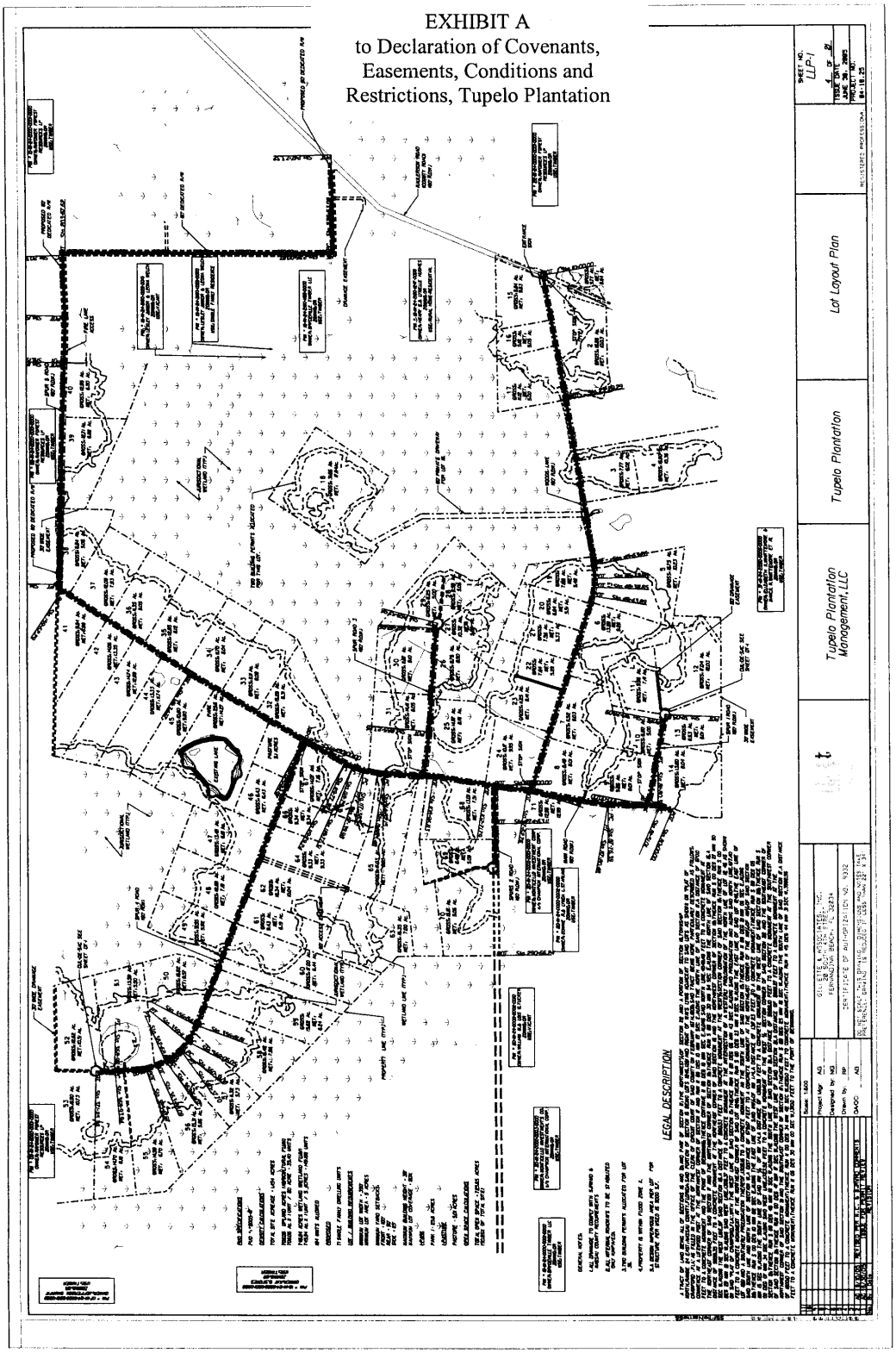

EXHIBIT B
Declaration of Covenants, Easements, Conditions and Restrictions, Tupelo Plantation

A Tract of land being All of Sections 16 and 21; Part of Section 17; The Northwest ¼ of the Northwest ¼ of Section 22, Township 1 North, Range 24 East; Nassau County, Florida; said tract being more particularly described as follows:

Commence at a Litewood Post at the Northwest corner of Section 17 and run N 89 deg 10 min 27 sec E, along the North line of said Section 17, a distance of 670.0 feet to a concrete monument and the Point of Beginning; thence continue N 89 deg 10 min 27 sec E, along said North line, 4549.48 feet to a concrete monument at the Northeast corner of said Section 17 and the Northwest corner of Section 16; thence run S 88 deg 30 min 54 sec E, along the North line of said Section 16, a distance of 5658.35 feet to a concrete monument at the Northeast corner of said Section 16 and the Northwest corner of Section 15; thence run S 00 deg 27 min 50 sec W, along the West line, of said Section 15, a distance of 2610.53 feet to a concrete monument at the West ¼ Section corner of said Section 15; thence run S 00 deg 29 min 19 sec W, along said West line, 2610.74 feet to a concrete monument at the Southwest corner of Section 15 and the Northwest corner of Section 22; thence run N 89 deg 21 min 06 sec E, along said South line of Section 15 and the North line of Section 22, a distance of 1359.34 feet to a concrete monument at the Northeast corner of the NW ¼ of NW ¼ of said Section 22; thence run S 00 deg 10 min 02 sec E, along the East line of said NW ¼ of NW ¼, a distance of 1317.23 feet to a concrete monument; thence run S 89 deg 05 min 15 sec W, along the South line of said NW ¼ of NW ¼, a distance of 1360.36 feet to a concrete monument on the West line of said Section 22; thence run S 00 deg 07 min 34 sec E, along said West line, 1323.52 feet to a concrete monument at the West ¼ Section corner of said Section 22 and the Southeast corner of Section 21; thence run S 89 deg 45 min 18 sec W, along the South line of said Section 21, a distance of 5518.10 feet to a concrete monument at the Southwest corner of said Section 21; thence run N 00 deg 47 min 17 sec W, along the west line of said Section 21, a distance of 2688.27 feet to a concrete monument at the Northwest corner of said Section 21 and the Southeast corner of Section 17; thence run S 89 deg 25 min 18 sec W, along the South line of said Section 17, a distance of 1600.0 feet to a concrete monument; thence run N 00 deg 34 min 42 sec W, 1220.0 feet to a concrete monument; thence run N 45 deg 44 min 31 sec W, 3982.56 feet to a concrete monument; thence run N 06 deg 30 min 00 sec W, 1310.0 feet to the Point of Beginning. Said tract being 1,433.70 acres, more or less, in area.

Said tract being one and the same tract or parcel of land platted as TUPELO PLANTATION, according to the plat thereof as recorded in Plat Book 7, page(s) 206-210, public records of Nassau County, Florida.