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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR JACOBS WAY UNIT ONE

THIS DECLARATION is made on the date of execution stated at the end of this instrument. This Declaration is made by A. F. Alan Classic Homes, Inc., referred to in this instrument as the "Developer".

INTRODUCTION: The Developer is in the process of developing the multi-phase, gated, residential community in North Jacksonville to be known as Jacobs Way. In order to preserve the tangible and intangible value of the community, the Developer hereby imposes reasonable restrictions or conditions upon the development, ownership, and use of Jacobs Way Unit One. Also, the Developer needs to comply with applicable requirements of public land use laws and regulations. It is for these reasons that the Developer is making and recording this Declaration.

SUMMARY OF KEY TERMS FOR TITLE EXAMINERS AND CLOSING AGENTS: This summary is not an exhaustive analysis of this Declaration, and all affected persons should read all of the provisions of this instrument. Nevertheless, in order to assist title examiners and closing agents in routine transactions, the Developer provides the following summary of key terms, which the experience of the Developer indicates are routinely reviewed in most transactions:

1. **Assessments and Liens:** assessments may be due to Jacobs Way Homeowners Association, Inc. Unpaid assessments are secured by liens against the lots. Interested persons are entitled to receive a written certificate from the Association setting forth the status of the annual or special assessments due for the particular lot. Article III.

2. **Assessments and Mortgages:** mortgagees who are not also owners in default in the payment of assessments are not required to pay assessments accruing prior to the time that the mortgagee acquires title by foreclosure or deed in lieu of foreclosure. Liens for assessments accruing prior to that time are automatically subordinate to the rights of mortgagees. Section 3.7.

3. **Building restriction lines for Residences:** the front building restriction line is 20 feet. The side building restriction lines are 15 feet, but they may be reduced to not less than 5 feet, if the space between adjoining residences is not less than 15 feet. The rear building restriction line is 10 feet, except where the particular lot is subject to a rear easement per the plat, and then the rear building restriction line is 15 feet. Section 7.3.

4. **Specific easements:** this Declaration contains a number of provisions granting or reserving easement rights, as for example, rights of ingress and egress over the private roadways. However, no lot is made subject to a specific easement, as for example a rear easement for drainage and utilities, except as shown on the plat, or except as may be evidenced in the public records of Duval County, Florida, by separate instruments.

5. **Additional properties:** the Developer has reserved the right to add additional properties to Jacobs Way, subject to various limitations contained in this Declaration. Article IX and various provisions throughout the Declaration.

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ARTICLE I
DEFINITIONS

Section 1.1 **Articles.** This means the Articles of Incorporation for the Association filed with the Florida Department of State and all duly adopted amendments.

Section 1.2 **Association.** This means Jacobs Way Homeowners Association, Inc.

Section 1.3 **Bylaws.** This means the instrument commemorating the rules for managing the business and regulating the affairs of the Association, as adopted at the organizational meeting for the Association, and all duly adopted amendments.

Section 1.4 **Common Areas.** See Article II.

Section 1.5 **Declarant or Developer.** This means A. F. Alan Classic Homes, Inc., a Florida corporation, the plat maker and the Developer of Jacobs Way Unit One. Also, these terms include any transferee or successor in interest to A. F. Alan Classic Homes holding the rights of the Developer under this Declaration.

Section 1.6 **Declaration.** This means this Declaration of Covenants, Restrictions and Easements imposed by the Developer upon the record title of Jacobs Way, and any duly adopted and recorded amendment to this instrument.

Section 1.7 **FHA.** This means the U. S. Department of Housing and Urban Development, Federal Housing Administration, and where applicable, will include the Secretary of that Department and any successor to that agency.

Section 1.8 **Jacobs Way.** This means the plat of Jacobs Way Unit One, according to the plat thereof, recorded in Plat Book 56, pages 65A-E, of the current public records of Duval County, Florida. Also, this term will include any additional units, appearing in additional plats, which are made subject to the terms of this Declaration by a recorded instrument executed by the Developer or other persons having the fee simple title. In various provisions of this Declaration, there are understandings concerning the impact of the additional properties which may be added to Jacobs Way and made subject to this Declaration. The additional properties which may be added are identified in Article IX, below.

Section 1.9 **Lot.** This means any one of the 68 parcels shown on the plat of Jacobs Way Unit One. Also, this term means any single building site or parcel added to Jacobs Way pursuant to this Declaration.

Section 1.10 **Member.** This term means the persons who have proprietary interests in the Association. This term is interchangeable with the term "Owner," as all owners are required to be members of the Association.

Section 1.11 **Owner.** This means any record owner, whether one or more persons or entities, of a fee simple interest to any of the lots in Jacobs Way, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

Section 1.12 **Residence.** This means a detached, single-family residential structure located upon a lot within Jacobs Way.

Section 1.13 **Surface Water or Storm Water Management System.** This 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 from the system pursuant to Chapters 40C-4, 40C-40 and 40C-42, *Florida Administrative Code*.

Section 1.14 **VA.** This means the U. S. Department of Veterans Benefits, Veterans Administration, and where applicable will include the Secretary of that Department, and any successor to that agency.

Section 1.15 **Water Management District.** This means the St. Johns River Water Management District, a Florida public agency, and any successor to that agency.

ARTICLE II
COMMON AREAS

Section 2.1 **Tract "B" Recreation Area.**

2.1.1 This is the parcel referred to on the plat of Unit One as Tract "B" Recreation Area.

2.1.2 At the time of the recordation of this Declaration, the Developer is retaining ownership of Tract B, but the Developer cannot convey or further encumber (beyond the development loan) Tract B, except as allowed by this Declaration.

2.1.3 Tract B is being retained by the Developer for future improvement by the Developer as a recreation area for the owners and their social invitees. However, at the time of the recordation of this Declaration, the Developer is not committing to create the recreation area, or to install particular facilities, if it is improved. If the Developer proceeds with the development of Tract B as a recreation area, the Developer may record an instrument imposing such additional covenants, restrictions, or easements as the Developer may deem to be necessary, as for example rules governing the proper use of any recreational facilities. When the Developer records that notice, the Developer will also record a quit-claim deed conveying the fee simple title to the Association, free and clear of all liens and encumbrances, except matters on the plat, the terms of this Declaration, and taxes and assessments not yet due and payable, and upon the recordation of that quit-claim deed, the Association will be deemed to have accepted the title and to become responsible for Tract B in accordance with the terms of this Declaration. Alternatively, the Developer reserves the right neither to convert Tract B to lots nor to develop it as a recreational area, but, instead, to convey it by quit-claim deed to the Association at any time for ownership and use and maintenance by the Association as the Association may deem to be appropriate.

Section 2.2 **Tracts "C" and "D" Preservation Areas and Conservation Easements.**

2.2.1 These are the parcels designated as Tracts "C" and "D" Preservation Area & Conservation Easement on the plat of Unit One. For convenience, in the balance of this writing, that parcel will be referred to as Tracts C and D.

2.2.2 At, or after the time of the recordation of this Declaration, the Developer will record a quit-claim deed conveying the fee simple title for Tracts C and D to the Association free and clear of all liens and encumbrances, except matters on the plat, this Declaration, and taxes and assessments not yet due and payable.

2.2.3 By this instrument, the Developer subjects the fee simple title for Tracts C and D to a conservation easement pursuant to Florida Statutes, Section 704.06 (2000) and the Water Management District Permit Number 40-031-87504-1. The plat also shows certain unobstructed natural buffers on certain lots. The buffer is a part of the surface water management system permitted by the St. Johns River Water Management District. The purpose of this buffer is to assure that the property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property and to provide the necessary treatment prior to runoff discharge. The buffer and existing wetlands will be included in a conservation easement that will be under the jurisdiction of the St. Johns River Water Management District. The Association shall have 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 system 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, including buffer areas or swales, without prior written approval of the St. Johns River Water Management District. There shall be set aside a permanent unobstructed natural buffer a minimum of 15' wide, over certain portions of the property shown on the plat. This buffer extends across certain lots shown on the plat. The buffer is part of the surface water management system permitted by the St. Johns River Water Management District. The purpose of this buffer is to detain and treat stormwater prior to drainage offsite; therefore, the area must be maintained with a dense vegetative cover. Filling and placement of impervious surface are prohibited within the buffer. These conservation easements and unobstructed natural buffers prohibit or limit any or all of the following:

2.2.3.1 Construction or placing of buildings, roads, signs, billboards, or other advertising, utilities, or other structures on or above the ground.

2.2.3.2 Dumping or placing of soil or other substance or material as land fill or dumping or placing of trash, waste, or unsightly or offensive materials.

2.2.3.3 Removal or destruction of trees, shrubs, or other vegetation.

2.2.3.4 Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

2.2.3.5 Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.

2.2.3.6 Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

2.2.3.7 Acts or uses detrimental to such retention of land or water areas.

2.2.3.8 Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

2.2.4 The Association will be responsible for maintenance of Tracts C and D.

Section 2.3 **Tract "A" Lift Station.** This is the parcel referred to on the Plat of Unit One as Tract "A" Lift Station. At or after the recording of this Declaration, the Developer intends to record a deed conveying the fee simple title to Tract "A" to the JEA (Jacksonville Electric Authority).

Section 2.4 **Lake, Surface Water or Stormwater Management System.**

2.4.1 This is the designation for several areas appearing on various pages of the plat of Unit One. Unless otherwise expressed, the use of the term "Lake and/or Stormwater Management "System" will include all of those areas.

2.4.2 Part of the Lake/Stormwater Management System areas lie within Lots 1-3, Lots 139-146, Lots 148-154 and Lots 170-172, and the owners of those lots will hold the fee simple title to that portion of the Lake and/or Stormwater Management System areas, subject to the terms of this Declaration.

2.4.3 The Lake/Stormwater Management System areas exist as components of the surface water or stormwater management system. That is their sole purpose.

Recreational uses are not allowed. This prohibition against recreational uses includes, without limitation, the installation of docks and the use of boats of any kind. The Association will have the exclusive jurisdiction to determine reasonable rules and regulations for control of the Lake/Stormwater Management System.

2.4.4 The Lake/Stormwater Management System areas will be maintained by the Association, and the Association, through its officers, employees, and independent contractors will have reasonable rights of ingress and egress over the lots to and from the Lake/Stormwater Management System areas in order to perform the duties of maintenance or to determine if any reasonable rules and regulations concerning use are being violated.

Section 2.5 **Private Roadways.**

2.5.1 Jerry Adam Drive, Jerry Adam Court, Juliet Leia Circle N. and Juliet Leia Circle S. are the roadways shown on the plat of Unit One as providing ingress and egress to and from Dobson Drive and the lots and the common areas. A. F. Alan Classic Homes, Inc. may create additional roadways within the plat of Unit One, including over any platted lot.

2.5.2 Jacobs Way will be a gated community, and, therefore, all of the public will not have access. Hence, these roadways will not be owned by the public (City of Jacksonville or any other governmental agency) but, rather, will be owned by the Association and will be private roadways. At, or shortly after, the time of the recordation of this Declaration, the Developer will record a quit-claim deed conveying the fee simple title for these private roadways to the Association, free and clear of all liens and encumbrances, except matters on the plat, this Declaration, and taxes and assessments not yet due and payable. Upon recordation of that quit-claim deed, the Association will be deemed to have accepted title, subject to this Declaration.

2.5.3 The Developer now grants to every lot and the common areas shown on the plat of Unit One a perpetual, automatically transferrable, easement over the private roadways for pedestrian and vehicular ingress to and from the lots and the common areas to Dobson Drive. The beneficiaries of these easements are the lot owners, their business and social invitees, and all public or private bodies having legal or contractual jurisdiction, as for example, the police, the fire department, U. S. mail and private parcel carriers, garbage collectors, the property appraiser and tax collector, the provider of utility services, and mortgagees.

2.5.4 The use of the private roadways will be subject to reasonable rules and regulations promulgated by the Association from time to time. These rules and regulations may include without limitation restrictions on the speed of vehicles, installation of speed reducing devices, restrictions on the size and weight of vehicles, restrictions on the use of bicycles, skates, and similar transportation, and restrictions on or prohibition of the parking of vehicles within the roadways.

2.5.5 The surface and sub-surface of the private roadways will be maintained by the Association, and the Association must establish a capital reserve fund for this purpose.

2.5.6 Only A. F. Alan Classic Homes, Inc. (but not any assignee of the Developer's rights herein) reserves the right to extend the private roadways into the additional properties which may be added pursuant to this Declaration. This reserved right includes the right to grant to future beneficiaries of the extended private roadways the concurrent right to use the private roadways within Unit One. In that event, the beneficiaries of the private roadways named in this Section 2.5 will automatically have reciprocal rights over the extended private roadways. Once the Developer has completed substantial construction of the extended private roadways in accordance with the public permits, the Developer will convey title for the extended private roadways to the Association in the manner contemplated in this Section 2.4 for the private roadways within Unit 1, and the Association will become the owner of the extended private roadways and the party responsible for their maintenance, in the same fashion as now provided in this Section 2.4.

Section 2.6 **Entranceway.**

2.6.1 The entranceway will be located within the boundaries of Jerry Adam Drive just inside Jacobs Way Unit One, near the intersection of Jerry Adam Drive and Dobson Drive. The improvements for the entranceway will consist primarily of an electronic security gate accessible by remote controls to be provided to owners and certain public beneficiaries such as fire, police, and ambulance services. Also, the entranceway will consist of landscaping and related facilities.

2.6.2 The entranceway area will be owned by the Association, as part of its ownership of Jerry Adam Drive.

2.6.3 The use of the entranceway will be by those persons and vehicles having the right to enter onto the private roadways.

2.6.4 The use of the entranceway will be subject to the reasonable rules and regulations promulgated by the Association from time to time.

2.6.5 The entranceway will be maintained by the Association.

2.6.6 The Developer reserves the right to create additional entranceways in the additional properties which may be added to Jacobs Way pursuant to this Declaration. In that event, those entranceways will be owned by the Association, if required by the plan of development, and, in all events, will be maintained by the Association.

Section 2.7 **Association Fencing.**

2.7.1 Association fencing means chain link fencing, wooden shadow box fencing and brick walls which are being installed by the Developer within Tract B and along Dobson Drive within Tract A and within Jerry Adam Drive right of way.

2.7.2 The Association will own the Association fencing and will be responsible for its maintenance. The Association is hereby granted an easement over the areas within which the fencing lies or will lie for the installation replacement, and maintenance of the fencing.

2.7.3 The Association, through its officers, employees, and independent contractors, will have reasonable rights of ingress and egress over the areas described in Section 2.7.2 in order to perform the duties of maintenance.

Section 2.8 **Drainage and Utility Easements.**

2.8.1 The Plat of Unit One grants to the City of Jacksonville a drainage easement for the Lake/Stormwater Management Facility areas. The Association will have concurrent, drainage easement rights for the purpose of utilizing and maintaining the surface water or stormwater management system.

2.8.2 Throughout the plat, there are shown other drainage and utility easement areas, which the Developer has or will be dedicating to public or private providers of drainage and utility services to Jacobs Way. The Association is granted concurrent drainage easement rights to the extent necessary to operate and maintain the surface water or stormwater management system.

2.8.2.1 Declarant hereby reserves unto itself a perpetual, transferable and releaseable easement, privilege and right to install, erect, maintain, repair, replace and operate utility lines and facilities (including without limitation, electric, telephone, water, sewerage and drainage lines, cables and conduits; water mains; drainage lines and ditches; sewer lines and force mains; and any other equipment for providing water, sewage, disposal, electrical, telephone, gas, heating, cable television or other communications or utility services) in, over and under all of the following described property except any portion thereof upon which a dwelling unit or other improvements have been erected.

2.8.2.2 All easements shown on the Plat) whether such easements are shown thereon to be for utility, drainage or other purposes);

2.8.2.3 The rear seven and one-half feet (7½) feet of each lot. Notwithstanding the foregoing, no such easements shall extend or be created through areas designated as "upland buffer" or "conservation easement" on the plat;

2.8.2.4 An area five (5) feet in width lying immediately adjacent to and along each interior side lot line of each lot;

together with the right of ingress and egress for the purpose of exercising the easements herein reserved. The Declarant shall have the unrestricted right and power to alienate, transfer and release privileges, easements and rights referred to in this paragraph and to grant additional non-exclusive easements to utility companies serving the Property to install, operate, maintain, repair and replace utility lines and equipment in the above described easement area. The owners of each lot subject to the privileges, rights and easements referred to in this paragraph shall acquire no right, title or interest in or to any wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the property which is subject to said privileges, rights and easements. All such easements, including those designated on the plat are and shall remain private easements and the sole exclusive property of the developer and its successors and assigns. In the event any lot in this plat is subdivided, then the side lot line will be deemed to have been moved according to its new dimensions and the former five foot side line easement will be deemed to follow on each side of the new lots thus created.

2.8.3 Each utility company providing service to any dwelling unit on the property, its successors, assigns, agents and employees, shall have a perpetual and unobstructed easement and right of entry upon each lot to the extent necessary or convenient to permit the installation, maintenance, replacement, removal, repair, servicing and reading of utility meters on any lot. No owner, occupant or tenant of any dwelling unit shall erect any fence or any locked gate which inhibits such access.

2.8.4 All utility lines serving one dwelling unit only shall be maintained by the owner or owners of the dwelling units served thereby from the dwelling units served to the point where such lines connect to the main line. All other utility lines , including drainage lines, drainage ditches and drainage retention ponds, lakes or basins, and all associated drainage structures serving or providing drainage of the property, shall be maintained by the Association.

2.8.5 The Developer reserves the right to extend the drainage and utility easements shown on the plat of Unit One for the benefit of the additional properties which may be added to Jacobs Way pursuant to this Declaration. In that event, the Developer will have the right to grant concurrent easement rights over the drainage and utility easements shown on the plat of Unit One, subject to the approval of the governments or public agencies having jurisdiction over the permitting of horizontal development.

Section 2.9 **Other Easements.**

2.9.1 On the plat of Unit One, there are other easement areas shown, as for example, private unobstructed drainage easements and JEA easements. Those easement areas may or may not be expressly dedicated by the Developer to particular persons or entities.

Unless otherwise provided by the plat, by law, or by contract, these easement areas will be maintained by the owners of the lots which are encumbered by those easements. However, the Association will have jurisdiction to maintain any of these easement areas which are not being maintained by the responsible party(ies), and will have the right to seek reimbursement for the maintenance from the responsible party(ies) who are in default in the performance of their maintenance duties.

Section 2.10 **Rights of Access in favor of the Association and the Owners.**

2.10.1 Wherever the Association is given title to and/or responsibility for maintaining a common area, the Association, through its officers, employees, and independent contractors will have the reasonable right of access to any part of Jacobs Way in order to perform the duties of ownership and maintenance.

2.10.2 In some communities of lesser complexity of development, the owners are given easements of enjoyment for use throughout the common areas. However, because of the intricate design of Jacobs Way, the easements of enjoyment and use in favor of the owners are limited to the expressed provisions appearing from time to time in this instrument and any duly adopted amendments. For example, if Tract B is developed as a recreational area for the owners and their social invitees, then all of the owners and their social invitees will have rights of enjoyment and use, subject to the reasonable rules and regulations of the Association.

Section 2.11 **Certain Prerogatives of the Association.**

2.11.1 The Association has the right to dedicate or transfer all or any part of the common areas to any public agency, public authority, or public utility for ownership, management, and maintenance, for the purposes of the common areas stated in this Declaration and for such other purposes as may be mutually agreed by the owners. No dedication or transfer will be effective unless an instrument agreeing to the dedication or transfer is signed by the owners of not less than two-thirds of the lots. For this purpose, the Developer will have the special voting rights afforded by Section 3.3.3, below, but, in that event, the dedication will be subject to the prior approval of the FHA and the VA. The instrument of dedication or transfer must be recorded in the current public records for Duval County, Florida.

2.11.2 The rules contained in the foregoing Section 2.11.1 apply to the creation of a mortgage against any common area.

Section 2.12 **No Absolute Liability for Injuries.** No absolute liability is imposed upon the Association or the owners for damages to property or to persons occurring within the common areas. The Association may carry insurance coverage for itself and the owners for liability which may be imposed in particular circumstances.

Section 2.13 **Additional Common Areas.**

2.13.1 The Developer reserves the right to create additional common areas within the properties which may be added to Jacobs Way pursuant to this Declaration.

2.13.2 These additional common areas may be owned by the Association or by the owners of the lots, as the plan of development may require.

2.13.3 Regardless, these additional common areas will be maintained by the Association in the manner required by this Declaration.

2.13.4 Article III, below, contains understandings concerning adjustments in assessments in the event that additional common areas are added.

2.13.5 In the creation of these new common areas, the Developer will have the right to modify or limit the easements of enjoyment and use for the owners in similar fashion to that appearing in this Declaration as originally recorded.

2.13.6 If any of these additional common areas are to be owned by the Association, then title must be conveyed to the Association free and clear of all encumbrances, except matters reflected on the plat, the terms of this Declaration, as it may be amended, taxes and assessments which are not yet due and payable, and any easements which are part of the plan of development for Jacobs Way. '

ARTICLE III
ASSESSMENTS

Section 3.1 **Purposes.** In this Declaration and the other governing documents, and, in applicable provisions of law, regulation, or permits, the Association has enumerated duties which it must perform and rights which it may exercise. Also, the Association may need to promote the recreation, health, safety, and welfare of the owners, their families, and their invitees. In order to fund its activities, the Association will need to adopt assessments for payment by the owners. It is the purpose of this Article III to establish the rules concerning the adoption and payment of these assessments.

Section 3.2 **The Budget Process.**

3.2.1 The initial budget for the Association has been adopted by the Developer based upon its experience and research. This budget contains line items for expected, recurring obligations, as for example, taxes and utilities. Also, this budget contains line items for anticipated amounts for periodic capital repair or replacement, as for example, maintenance of the private roadways.

3.2.2 Except as provided in Section 3.2.3, below, all subsequent budgets will be adopted by the board of directors, but they will not be binding upon the members if they are in excess of the limitations contained in this Article III, unless approved by the members as provided below.

3.2.3 As a part of its plan of development for additional properties which may be added to Jacobs Way pursuant to this Declaration, the Developer will analyze the existing budget for the Association and determine modifications, if any, which need to be made to the existing budget because of the expanded responsibility of the Association. The Developer will have the right to adopt the amended budget, effective the following January 1st. The Developer will be responsible for paying all expenses of the added common areas accruing prior to the effective date of the amended budget.

Section 3.3 **The Amount of the Assessments.**

3.3.1 The initial, annual and special assessments are as follows:

3.3.1.1 For lots within Unit One, the initial, annual assessment is $300.00 per lot.

3.3.1.2 For all lots within Unit One, an initial capital reserve or road improvement fund payment of $150.00.

3.3.1.3 The payment of these annual and special assessments will be as prescribed in subsequent provisions of this Section 3.

3.3.2 As provided below, the initial, annual assessment for lots will be prepaid for 2004. Except as provided in Section 3.2.3, above, there will be no increases in the maximum annual assessment of $300.00 prior to January 1, 2005. From and after January 1, 2005, the maximum amount of the annual assessment may be increased each year but not more than 10% above the maximum assessment for the previous year, except for increases caused by the Developer's budget for additional common areas contemplated in Section 3.2.3, above. If the maximum amount of the annual assessment proposed by the board of directors is in excess of 10% above the maximum assessment for the previous year, then the budget must be approved by a vote of the owners.

3.3.3 In the adoption of budget increases above the 10% ceiling established in 3.3.2, the vote will be on the basis of one vote per lot, except for the rights reserved to the Developer in Section 3.2.3, above. The understandings in this Section 3.3.3 are qualified by the understandings contained in Section 4.4.6, below.

3.3.4 Special assessments may be proposed by the board of directors from time to time. However, they will not be effective unless they are approved by a vote of

the owners in accordance with the rules established in the immediately preceding paragraph. However, nothing in this section will preclude the Developer from adopting for the Association an initial, reasonable, capital contribution to be paid by the initial purchasers of lots at the time of closing.

3.3.5 Annual and special assessments must be fixed at a uniform rate for all lots.

3.3.6 On the Tuesday closest to December 21 each calendar year, beginning with December 21, 2004, the board of directors will meet to consider and to adopt a budget for the coming year. The budget meeting of the board will be open to all members. Notice of the budget meeting of the Board of Directors will be provided to the owners in the manner required by Florida statutes, Chapter 617. Each budget adopted by the board must reflect the estimated revenues and expenses for the coming year and the estimated surplus or deficit as of the end of the coming year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Developer, or another person. The Board of Directors shall provide each owner with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the owner within 20 business days. Additionally, the Board of Directors shall prepare (or cause to be prepared) an annual financial report within 60 days after the closing of the fiscal year. At the time of the drafting of this Declaration, it is anticipated that the fiscal year will be the calendar year, and, therefore, the report must be prepared by March 1 for the following calendar year. If requested in writing by an owner, within 10 business days, the Board of Directors shall provide that owner with a copy of the annual financial report at no charge to the owner. The financial report shall be an informal financial statement prepared by the Board showing receipts and expenditures and the beginning and ending cash balances of the Association.

3.3.7 If a vote of the owners is necessary to approve an annual or special assessment, then the board of directors must serve written notice of the meeting on all owners. Service may be by hand delivery to residences occupied by owners or by regular mail, postage prepaid, to the last address to which owners have given notice to the secretary of the Association, or, if necessary under the circumstances, to the last address of the owner on the rolls of the property appraiser and tax collector for Duval County, Florida. The written notice must be served not less than 30 days nor more than 60 days in advance of the meeting. However, the board will have the discretion to shorten the time of the notice as may be reasonably required under circumstances the board deems to be an emergency. In order to establish a quorum, two-thirds of the lots must be represented in person or by proxy. An affirmative vote of two-thirds of the lots constituting the quorum will be necessary in order to approve an annual or special assessment. If the required quorum is not present, the meeting may be continued to another date, time, and/or place, but the board will be required to serve written notice of the meeting not less than 30 days before the continued date and time. If, at the continued meeting, there is not a quorum, then those who are present will be deemed to

be a quorum, and they may adopt the annual or special assessment by an affirmative vote of two-thirds of the lots constituting the quorum.

Section 3.4 **When Assessments Become Due and Method of Payment.**

3.4.1 The initial, annual and special assessments contained in Section 3.3.1, above, will be due and payable as follows:

3.4.1.(1) These rules apply to closings occurring in 2004. However, the Developer reserves the right for the Association to adopt similar rules for closings occurring in any subsequent year.

3.4.1.(2) At closing, purchasers of lots in Unit One will be required to prepay the initial, annual assessment for 2004, plus the road improvement fund fee. However, the annual assessment for the year of closing will be prorated on a 365 day year so that the purchaser will not be required to pay for any portion of the assessment accruing prior to the day of closing.

3.4.2 Commencing on January 2004, annual assessments adopted by the board of directors will come due on January 1 of each calendar year, and, unless changed by the board of directors, will be due and payable annually, in advance. They will be delinquent if not paid by February 1 (or such other due date as the board may establish). They become delinquent 30 days after the due date(s) established by the board of directors.

3.4.3 Annual assessments adopted by the board but required to be approved by the owners will become due on January 1 of each calendar year, as well, but pending the approval of the increased budget by the owners, the maximum annual assessment from the previous calendar year will be due and payable on January 1 of that calendar year, with the increase to be retroactive to January 1, when approved.

3.4.4 The board of directors will have the discretion to establish the payment schedule for assessments, which may be any reasonable period, as for example annually, quarterly, or monthly. In circumstances contemplated in Section 3.4.2, the annual assessment for the prior year, which is to be paid pending adoption of the new budget, will be due and payable under the payment schedule adopted for the prior year, so that, for example, if the payment is annual, then it is due in full on January 1.

3.4.5 The recommendation of the board for the adoption of special assessments must contain a recommended due date and schedule for payment, and those terms will become part of the obligation when adopted by the requisite numbers of lots.

3.4.6 Interested persons (owners, purchasers, lenders, closing attorneys, or agents, title insurers, and the like) will be entitled to receive a written certificate

from an officer or agent of the Association setting forth the status of the annual or special assessments due for the particular lot. A properly issued certificate is binding upon the Association as of its date. The Association will be entitled to charge a reasonable fee for the service of issuing the certificate.

3.4.7 The board of directors will have the discretion to engage an independent contractor having experience and expertise in the management of the books and records of homeowners associations and the collection of their assessments. The reasonable fees of the manager will be a line item in the annual budget. In the same fashion, the board of directors will have the discretion to engage attorneys (at the expense of the Association, for reimbursal by the defaulting owner) to represent the Association in the issuance of demand letters, the creation of liens, and the enforcement of assessments and the liens. In no event will the board of directors have the right to delegate its duties to consider and propose annual and special assessments.

3.5 **Liability for Assessments.**

3.5.1 Unless exempted as provided below, all owners, including the Developer, are personally liable for all annual and special assessments. Multiple owners of a lot are jointly and severally liable. This means that an action for collection of an assessment may be brought against any owner who is in default, whether or not the Association has or will pursue any other defaulting co-owner and whether or not the Association has or will foreclose a lien for the security of the unpaid assessment.

3.5.2 The Developer may elect to be exempt from payment of assessments for lots owned by the Developer, upon the following terms and conditions only:

3.5.2.1 The Developer must guarantee the entire shortfall of revenues for the annual or special assessment, as the case may be, with the guarantee being made in writing and delivered to the president of the Association for retention in the records of the Association. This guarantee of the entire shortfall means that the Developer must obligate itself to pay any operating expenses incurred that exceed the assessments receivable from other owners and other income of the Association.

3.5.2.2 The exemption will end when the earliest of the following events occur: the Developer's written guarantee of the shortfall lapses due to passage of time and is not renewed; the Developer breaches the written guarantee of the shortfall and fails to fully cure the breach within 10 days following the service of a written notice of default by the Association or by any owner; the Developer files or has filed against it an action for relief in bankruptcy or takes any other action which would lead a reasonable person to conclude that the Developer cannot perform its written guarantee as a shortfall; or when title for any particular lot is transferred voluntarily or involuntarily by the Developer.

3.5.3 Builders (other than the Developer) are exempt from payment of assessments for lots owned by them upon the conditions stated in this section. The exemption will end when the earliest of the following events occurs: the closing of the sale by the Builder to a purchasing consumer of the lot and the completed residence; or 180 days after the closing of the purchase from the Developer.

3.5.4 Owners who are not exempt under Sections 3.5.2 and 3.5.3 will be exempt only upon the following terms and conditions:

3.5.4.1 Successors in title to owners who have defaulted in the payment of assessments will not be personally liable for the unpaid assessments owed by their predecessor, but title will be taken subject to the lien rights of the Association.

3.5.5 The personal liability for assessments not only includes the principal amount of the assessment but also includes all of the following: interest from 30 days after the due date(s) until payment in full at the simple, per annum rate of 18%; reasonable attorney's fees incurred by the Association in the pursuit of collection, including demand letters, preparation and recordation and service of claims of lien, and legal action for recovery; and all court costs, including abstracts of title, and the like.

Section 3.6 **Liens.**

3.6.1 As security for the payment of assessments, the Association has a lien against any lot owned by a defaulting owner.

3.6.2 The lien exists as of the due date of the assessment, without the necessity of any writing other than this Declaration. Liens are enforceable when any assessment is more than 30 days past due. The statute of limitation for commencing enforcement of a lien is the tenth anniversary of its due date.

3.6.3 Claims of lien are enforceable in the same manner as provided by Florida law for the enforcement of mortgages.

Section 3.7 **Rights and Duties of Mortgagees.**

3.7.1 The special understandings contained in this section for mortgagees do not apply to mortgagees who are also owners in default in the payment of assessments.

3.7.2 Mortgagees are not required to collect assessments.

3.7.3 Mortgagees are not required to pay assessments accruing prior to the time that the mortgagee acquires title by foreclosure or deed in lieu of foreclosure. From

and after the time that the mortgagee acquires title by foreclosure or deed in lieu of foreclosure, the mortgagee becomes responsible for the payment of assessments in the same manner as any other owner. However, for the year that title is acquired by the mortgagee, the annual and special assessments then in force will be prorated on the calendar year, based upon a 365 day year, with liability for the assessments accruing from the day that title is acquired.

3.7.4 Liens for unpaid assessments accruing prior to the time that the mortgagee acquires title are automatically subordinate to the lien of the mortgage.

3.7.5 Failure to pay assessments will not constitute a default under any mortgage, unless the owner and their lender should otherwise agree among themselves.

3.7.6 Successors to mortgagees, such as assignees, the VA, the FHA, private mortgage insurers, and purchasers at foreclosure sales, are subject to the same duties and have the same rights as mortgagees.

ARTICLE IV
ASSOCIATION

Section 4.1 **Scope.** This article is not encyclopedic about the Association, but, rather, it supplements other provisions of this Declaration and the other governing documents for the Association.

Section 4.2 **Membership**.

4.2.1 All owners are required to be members of the Association.

4.2.2 All owners automatically become members of the Association at the time they acquire their fee simple interest in the lot.

4.2.3 Membership in the Association runs with the title to the lot and cannot be transferred separately from the title.

4.2.4 Abandonment of ownership of a lot does not discharge the obligations of membership, including payment of assessments.

Section 4.3 **Voting Rights of Members.**

4.3.1 Subject to the restrictions contained in this Declaration or the other governing documents, all members of the Association have voting rights in the Association.

4.3.2 In this instrument and the other governing documents for the Association, there will be references to the term "voting interests" or similar language. Unless otherwise expressly stated, there will be only one vote per lot, without regard to the number of owners of the lot, and, therefore, unless otherwise expressly stated, the number of lots will determine the existence of a quorum for the meeting. Where lots are owned by two or more individuals, those individuals must designate one of them in writing to act as agent for all of them in casting the vote for the lot. Where a lot is owned by a legal entity or legal relationship (i.e., a corporation, limited partnership, partnership, limited liability company, etc.), the vote for the lot shall be cast by the person who is designated in writing by the governing body (i.e. the board of directors of a corporation). If a written designation of a representative is not made, then the lot will be counted for determining a quorum, but the participation of the lot will be considered as an abstention.

Section 4.4 **Voting Rights of Developer.**

4.4.1 Until the happening of the events expressed in this Section 4.4, the Developer will be entitled to elect all of the members of the board of directors of the Association.

4.4.2 Members other than the Developer are entitled to elect at least a majority of the members of the board of directors three months after 90% of the lots in all units of Jacobs Way that will ultimately be operated by the Association have been conveyed to members. "Members other than the Developer" does not include builders, contractors, or others who purchase a lot for the purpose of constructing improvements for resales.

4.4.3 The Developer is entitled to elect at least one member of the board of directors of the Association as long as the Developer holds for sale in the ordinary course of business at least 5% of the lots in all of the units in Jacobs Way that will ultimately be operated by the Association.

4.4.4 Notwithstanding the foregoing, the Developer reserves the right to transfer control of the Association to the members other than the Developer at any time. "Transfer control" means that the members other than the Developer are entitled to elect at least a majority of the members of the board of directors.

4.4.5 After the Developer is no longer entitled to elect a majority of the members of the board of directors, or after the Developer relinquishes control of the Association, the Developer may exercise the right to vote in the same manner as any other member, except for the purpose of selecting the majority of the members of the board of directors.

4.4.6 Article III, above, provides that the board of directors will adopt budgets that will establish the annual assessments beginning with January 1, 2004. Article III

goes on to provide that the budgets adopted by the board of directors cannot be increased more than 10% above the maximum assessment for the previous year, except for increases caused by the Developer's budget for additional common areas contemplated in Section 3.2.3, without a vote of the owners. Section 3.3.3 states that the vote of the owners to approve any increases above 10% will be on the basis of one vote per lot, except for the rights reserved to the Developer in Section 3.2.3. The understandings contained in this Section 4.4.6 qualify those understandings. For increases in the budget above the 10% ceiling, the Developer will have only one vote per lot, as will all other members. However, for as long as the Developer holds for sale in the ordinary course of business at least five per cent of the lots in all of the units of Jacobs Way that will be ultimately operated by the Association, the Developer will have three votes per lot for the purpose of vetoing any budget increases above the 10% ceiling. This provision also applies to any votes by the owners for approval of any special assessments proposed by the board of directors.

ARTICLE V
VA/FHA

The Developer intends to submit Jacobs Way for approval by the VA as a PUD in order to be able to obtain VA guaranteed loans for purchasers of completed residences. The Developer plans to use VA approvals and VA appraisals and related documentation in order to convert over to FHA insured loans, as circumstances may require. The Developer has prepared this Declaration and the governing documents for the Association with the intention that they comply with the requirements of Florida Statutes, Chapter 617 and with the perceived requirements of the VA. Nevertheless, the Developer contemplates the possibility that there may be a need to modify this Declaration and the governing documents in order to conform to the requirements of the VA or the FHA not now contemplated. Therefore, the Developer reserves the right to make any unilateral amendments to this Declaration reasonably required by the VA (or the FHA) in order to obtain subdivision and individual loan approvals.

ARTICLE VI
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Section 6.1 **Use of Property: Surface Water or Storm Water Management System.** The Association shall be responsible for the maintenance, operation and repair of the surface water or storm water management system. Maintenance of the surface water or storm water management system(s) shall mean the exercise of practices which allow the system(s) to provide drainage, water storage, conveyance or other surface water or storm water management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or storm water management system shall be as permitted, or if modified, as approved by the St. Johns River Water Management District.

Section 6.2 **Amendment.** Any amendment of this Declaration which alters the surface water or storm water 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.

Section 6.3 **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 this Declaration (including but not limited to this article) which relate to the maintenance, operation and repair of the surface water or storm water management system.

Section 6.4 **Easement for Access and Drainage.** The Association shall have a perpetual non-exclusive easement over all areas of the surface water or storm water 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 storm water management system, at a reasonable time and in a reasonable manner, to operate, maintain, or repair the surface water or storm water management system 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 storm water management system. No person shall alter the drainage flow of the surface water or storm water management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 7.1 **Jurisdiction over Horizontal Development.** The Developer reserves exclusive jurisdiction over horizontal development of Unit One and any of the properties which may be added to Jacobs Way pursuant to this Declaration, subject to the jurisdiction of the governments or public agencies overseeing development, as for example the City of Jacksonville and the St. Johns River Water Management District. "Horizontal development" or "horizontal improvements" is a trade term employed for convenience in order to denote customary site development improvements such as paved roadways and drainage facilities.

Section 7.2 **Jurisdiction over Vertical Improvements.**

7.2.1 Jurisdiction over vertical improvements and its exercise will be upon the following terms:

7.2.1.1 The Developer will have exclusive jurisdiction over Unit One for as long as the Developer holds title to at least one lot in Unit One. However, any owner will have standing to enforce this Declaration against any person installing or retaining vertical improvements which have not been approved pursuant to the procedures established in this Declaration.

7.2.1.2 The Developer will have exclusive jurisdiction over vertical improvements within properties added pursuant to this Declaration for as long as the Developer holds title to at least one lot in each of the added properties.

7.2.1.3 When the exclusive jurisdiction of the Developer over vertical improvements expires, that exclusive jurisdiction will shift automatically to the Association.

7.2.1.4 The Developer, or the board of directors, as the case may be, will have the discretion to appoint an architectural review committee to gather facts and to make recommendations to the Developer or the board of directors, as the case may be. The architectural review committee will not have the power to decide any issues, unless specifically authorized in writing from the Developer or the board of directors, as the case may be.

Section 7.3 **Specific Rules Concerning Vertical Improvements.**

7.3.1 Scope. The following specific rules concerning vertical improvements apply presently only to Unit One. The economic and legal or regulatory forces at work in the future may necessitate a change in the overall plan of development, with the resulting need to modify these specific rules. Therefore, the Developer reserves the right to add to or to modify these rules when adding additional properties pursuant to this Declaration. "Vertical Improvements" is a trade term used for convenience in order to denote the improvements which may be added to the lots pursuant to the Declaration by the Developer or others, other than horizontal improvements.

7.3.2 Minimum square footage for residences. All residences must contain 1,600 square feet of heated and cooled area. However, if reasonable or necessary under the circumstances, during the architectural review process, the minimum square footage may be reduced by up to, but not more than, 80 square feet.

7.3.3 Maximum height of residences. The maximum height of residences must not exceed the maximum height allowed by zoning in force from time to time and must not exceed the maximum height as established by the Developer or the Association, whoever then has jurisdiction over architectural control and review.

7.3.4 Limitations on building materials for residences. The Developer or the Association, whoever has jurisdiction over the architectural review and control process, will have the right to determine any limitations or restrictions on building materials. Notwithstanding anything contained in this Declaration to the contrary, the front of all residences must be all brick or all stucco, or a combination of brick and stucco.

7.3.5 Limitations on exterior decor for residences.

7.3.5.1 Color. The Developer or the Association, whoever has jurisdiction over the architectural review and control process, will have the right to determine any limitations or restrictions on exterior colors. This provision is intended to preclude owners from painting the exteriors of their residences with colors which are not in harmony with the general architectural plan for Jacobs Way.

7.3.5.2 Window coverings. Window coverings must be of a customarily attractive type and style, as for example, mini-blinds or drapes and sheers. Window coverings made from newspaper or other forms of paper or foil may be installed but cannot remain in place more than 15 days after taking occupancy.

7.3.6 Front, side, and rear set-backs for residences. The front building restriction line is 20 feet. The side building restriction lines are 15 feet, but they may be reduced to not less than 5 feet, if the space between adjoining residences is not less than 15 feet. The rear building restriction line is 10 feet, except where the particular lot is subject to a rear easement per the plat, and then the rear building restriction line is 15 feet.

7.3.7 Landscaping and other building site considerations for residences. Landscaping and other building site considerations for residences will be subject to the architectural control by the Developer or the Association, whoever then has jurisdiction. Additionally, the Association will have the right to enter upon any lot which does not properly maintain its landscaping and have the landscaping maintained, with the concurrent right of immediate reimbursal from the defaulting owner(s), with the right of reimbursal to be secured by a lien of the same type as provided above for annual or special assessments. Thus, for example, the Association will have the right to have excessive, unmowed grass cut or dead trees removed at the expense of the owner(s).

7.3.7.1 Trees. No tree(s) more than eight (8) inches in diameter at breast height may be cut down or removed at any time after occupancy without the prior written consent of the Developer or Association as applicable, and in all events, consent must first be obtained from the City of Jacksonville, Florida, if required by applicable ordinance. This provision does not apply to Declarant, nor to pine trees, nor to any tree(s) which poses an immediate threat to health or safety by reason of but not limited to being dead, diseased or damaged. No removal of trees or vegetation pursuant to this section is authorized within areas designated as unobstructed natural buffer or conservation easement on the record plat.

7.3.8 Swimming pools. Only inground swimming pools will be allowed. Their site plan is subject to prior approval through the review process established in this Section 7.

7.3.9 Outbuildings and Setbacks. The only outbuildings which will be allowed will be those which are installed on a permanent foundation, shingled on the roof in the same fashion as the residence, and approved in advance as to style and location by the architectural review process established in this Section 7. Setbacks are 3 feet from lot lines.

7.3.10 Fences and walls. With regard to fences and walls to be installed by the individual owners, they must first be approved pursuant to the review process contained in this Section 7, for materials, height, and location. All of these types of fences must be made of wood, as chainlink fencing will not be allowed. No fences may be installed forward or in front of a residence. No fence which exceeds 4 feet in height may be installed across the rear of any lot which abuts or is a part of the Lake/Stormwater Management Facility.

7.3.11 Window air-conditioning and heating units. Window air-conditioning and heating units are not allowed.

7.3.12 Driveways and sidewalks. The Developer or the Association, whoever has jurisdiction over architectural review and control, will have the right to establish criteria for the size, location, and materials involved with driveways and sidewalks.

7.3.13 Types of utility services.

7.3.13.1 All residences will have central water and sewer services.

7.3.13.2 Wells for irrigation purposes only will be allowed.

7.3.13.3 Satellite dishes are permitted provided that they are not larger than 36" in diameter. The Developer or the board of directors, as the case may be, will have the power to impose reasonable landscaping screening requirements and safety restrictions.

7.3.13.4 Solar collectors, clothes lines, or other energy devises based on renewal resources are not prohibited, but the Developer or the board of developers, as the case may be, will have the right to make reasonable determinations concerning location, size and esthetic aspects.

7.3.14 Combining and subdividing lots. Provided that each residence has a minimum land area required by zoning in force from time to time, lots may be combined or subdivided, but only after approval through the architectural review process established in this Section 7. The resulting parcel containing a residence will be deemed a "lot" for all other purposes under this Declaration, such as voting rights.

7.3.15 Mailboxes. All initial mailboxes will be installed by the Developer. All mailboxes must conform to general design criteria established by the Developer or the Association, whoever has jurisdiction over architectural review and control.

7.3.16 Other Improvements. The Developer does not deem it necessary to list all of the improvements which might now be installed by an owner. Also, the Developer contemplates that human ingenuity and technology may bring into being in the future improvements which are not now contemplated. Therefore, the Developer reserves for itself or the Association, whoever has jurisdiction over architectural review and control, the power to approve any improvements in order to preserve the architectural, esthetic, and monetary values of Jacobs Way.

7.3.17 Garages and Carports. Unless otherwise specifically approved pursuant to the process established in this Declaration, no garage, tool shed, or storage room may be constructed separate and apart from the residence. Each residence must have an enclosed garage or carport for not less than two and not more than four cars. No carport will be permitted unless otherwise specifically approved by the process established in this Declaration as being part of a total design which contributes to the esthetic appearance of the dwelling and the neighborhood. Without the prior written approval of the Developer, or the Board of Directors, as the case may be, no garage may be permanently enclosed or converted to other use without the substitute of another garage on the lot meeting the requirements of this Declaration.

7.3.18 Recreational Facilities. All recreational facilities constructed or erected on a lot, including, without limitation, basketball backboards, platforms, playhouses, dog houses, or other structures of similar kind or nature, must be approved in accordance with the process established in this Declaration and must be adequately walled, fenced, or landscaped in a manner specifically approved during the process of approving the recreational facility.

Section 7.4 **Plan Review.**

7.4.1 Before installation of any improvements covered by Section 7.3, above, the owner(s), or their agent, must submit the proposed improvement to the Developer, or the Association, whoever has jurisdiction over architectural review and control.

7.4.2 The Developer or the board of directors, as the case may be, may make any reasonable requirement for information and documentation in order to make an informed decision as to whether or not the requested vertical improvement is in conformity with this Declaration, including the evolving, architectural harmony of Jacobs Way.

7.4.3 The Developer or the board of directors, as the case may be, must exercise good faith in making its determination about the approval of the requested

vertical improvements. Included in the concept of good faith is a timely response, which is recommended to be 30 or less days. However, a failure to respond within any period of time will not act as an automatic approval, but the affected owner will have standing to seek the remedies provided in Article X, below.

7.4.4 The Developer or the board of directors, as the case may be, must keep written records of its decisions for a period of three years.

Section 7.5 **Relief.**

7.5.1 If a proposed vertical improvement does not conform to all of the specific requirements of this Declaration but is within substantial conformity, then the Developer, or the board of directors, as the case may be, will have the discretion to grant relief from the specific requirements of this Declaration. This relief must be expressly stated in a recordable, written report on the action taken on the application. If the Developer, or the board of directors, as the case may be, or the applicant owner, reasonably believe that a future transaction may be impaired because of a lack of record notice of this relief, then the Developer, or the board of directors, as the case may be, must record the written summary of the action in the current public records for Duval County, Florida.

7.5.2 If an error is made in the installation of an approved vertical improvement, so that there is a violation of the specific requirements of this Declaration, then the Developer, or the board of directors, as the case may be, will have the discretion to release the violation, if the Developer or the board of directors, as the case may be, reasonably concludes that the violation(s) is not a material violation of the specific requirement within this Declaration or does not have a material, adverse impact upon the adjoining lots and the overall plan of development for Jacobs Way. For example, a residence may be substantially constructed only to have the survey show that it violates the front building restriction line established in Section 7.3, above. If the Developer, or the board of directors, as the case may be, reasonably conclude that the violation is not objectionable upon the grounds stated in this section, then the Developer or the board of directors may grant relief by giving a written release, which must be recorded by the Developer, or the board of directors, as the case may be, in the current public records of Duval County, Florida.

7.5.3 Limited Liability. In connection with all review, acceptances, inspections, permissions, consents or required approvals by or from the Developer or the Association as contemplated in this Declaration, neither the Developer nor the Association shall be liable to an Owner or to any other person or entity on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person or entity 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 the Developer or the Association.

ARTICLE VIII
LAND USE COVENANTS

Section 8.1 **Scope.** This Article VIII supplements this Declaration by adding general land use covenants applicable presently to Unit One only. As with the architectural control matters, future economic or legal or regulatory issues may necessitate a change in the plan of development, so that the Developer may need to modify or to add to these land use covenants. The Developer reserves the right to take those actions.

Section 8.2 **Residential and Business Uses/No Additional Easements.** Jacobs Way is a residential community, and, therefore, all business uses are precluded, except for home offices allowed by zoning, with no signs and no customer traffic. Residences shall not be used as group homes. The foregoing limitation upon business uses does not apply to the construction and sales activities of the Developer or any other builder. No lot owner, including any assignee of Developer, may give, sell, grant, convey or transfer an easement over or under any lot or portion of a lot to any person or entity without the prior written consent of A. F. Alan Classic Homes, Inc.

Section 8.3 **Level of Maintenance by Owners of Permitted Vertical Improvements.** All owners must timely and properly maintain all vertical improvements permitted under Section 7.

Section 8.4 **Maintenance by Owners of Yards and Landscaping.** All owners must timely and properly maintain their yards and landscaping.

Section 8.5 **Maintenance and Removal by Owners of Trees.** All owners must timely and properly maintain their trees and must timely and properly remove any dead trees.

Section 8.6 **Handling of Garbage and Trash Containers and Collection.** All garbage and trash containers must be made of plastic and not of metal. They must stored inside the garage or inside an attractive, matching fenced area and must not be left out except for the reasonable time necessary to have collection made.

Section 8.7 **Noise, Nuisances, and Lawful Uses.** Excessive noise and any activities which constitute nuisances under Florida tort law are prohibited. Moreover, in all events, both inside and outside of residences, the activities within Jacobs Way must be in conformity with applicable law, both civil and criminal.

Section 8.8 **Vehicles and Boats.** The understandings contained in this Section 8.8 are in addition to any rules the Association may adopt for the use of the private roadways. Passenger motor vehicles are permitted. They must be parked off the street and in the driveway or within the garage. Passenger vehicles which are inoperable must be repaired within a reasonable time and while inoperable must be stored within the garage. Work on inoperable

passenger vehicles must be conducted within the garage. Only the following types of trucks and off-road motor vehicles are permitted, subject to the rules of the Association concerning the types of vehicles which may pass over the private roadways: pick-up trucks; vans which are not larger than non-commercial, customized vans; and sports utility vehicles. The foregoing rules concerning passenger motor vehicles apply as well to permitted trucks and off-road vehicles. Motor homes and travel trailers are not permitted. Boats and boat trailers are permitted only if parked to the rear of the front face of the residence and only if totally screened from view from the street.

Section 8.9 **Pets.** No pets are permitted except not more than two dogs and three cats. None of the permitted animals may be tied up outside or contained in exterior facilities such as outside dog runs.

Section 8.10 **Oil and Mining Operations.** Oil and mining operations are not allowed.

Section 8.11 **Rights of the Developer and the Association to Interpret these Covenants and to Enforce them, including Performance of Maintenance.** The language in the foregoing sections of this Article VIII is intended to be limiting and instructive but not exhaustive. The Developer recognizes that it is not possible to set forth express language which might apply to all circumstances. Therefore, the Developer reserves to itself, while it has jurisdiction over architectural review and control, and for the Association thereafter, the power to interpret reasonably these land use covenants and to take any reasonable action necessary to prevent their violation. Therefore, as an example, the Association may effect yard and landscaping maintenance at the expense of any defaulting owner, or the Association may remove a dead tree at the expense of the defaulting owner(s). Nothing in this Section 8.11 is intended to preclude the standing of any owner to enforce this Declaration against any person violating this Declaration, but the aggrieved owner must first submit the issue to the Developer or the Association, whoever has jurisdiction over architectural review and control.

ARTICLE IX
ADDING ADDITIONAL PROPERTIES

Section 9.1 **Additional Units.** Developer owns an adjoining tract. At this time, the Developer plans to, but is not obligated to, develop the adjoining property into two additional units. As well, there presently exists adjoining undeveloped acreage which is not owned by the Developer but which the Developer may acquire in the future. All of these unplatted, yet to be developed tracts may be added only by A. F. Alan Classic Homes, Inc. (but not by any assignee of the Developer's rights herein) to Jacobs Way. For convenience, in this Declaration, they will be referred to as the "Additional Units".

Section 9.2 **Adding Additional Units.**

9.2.1 A. F. Alan Classic Homes, Inc. will have the right to add Additional Units to Jacobs Way without the consent of any owner or mortgagee of any owner (unless required by FHA, VA or the Federal National Mortgage Association) provided that their addition is made in accordance with the terms of this Declaration. No other person or entity, including any assignee of Developer, shall have the right to add Additional Units to Jacobs Way without the prior written consent of A. F. Alan Classic Homes, Inc.

9.2.2 Before any Additional Units will be considered to be added, their title must be made subject to a recorded supplement to this Declaration imposing the terms of this Declaration upon the fee simple title and modifying or adding provisions to the extent permitted to the Developer by the terms of this Declaration.

Section 9.3 **Effect of this Declaration on Additional Units which are not Added.** The Developer has planned the development of Unit One so that it stands alone and does not need the Additional Units to be added. Therefore, this Declaration and the plan of development for Unit One are not binding upon the Developer or covenants against the title to the Additional Units, if they are never added. Therefore, for example, the Developer will have the right to sell the acreage described in Section 9.1 unencumbered by this Declaration or the plan of development for Unit One.

ARTICLE X
LAWS AND REMEDIES

Section 10.1 **Laws.** This Declaration and the relationships which it creates are to be construed and enforced in accordance with the laws of the State of Florida.

Section 10.2 **Enforcement and Standing to Enforce this Declaration.** This Declaration touches and concerns Jacobs Way and runs with the title to Jacobs Way. Therefore, this Declaration is enforceable against all of the property constituting Jacobs Way and all of the owners and their successors in interest and assigns. The Association has standing to enforce this Declaration. Any owner has standing to enforce this Declaration. The VA, the FHA, and St. Johns River Water Management District, as their interests may appear, have standing to enforce this Declaration.

Section 10.3 **Remedies.**

10.3.1 Except as limited by this Declaration, all remedies afforded by Florida law will be available.

10.3.2 In addition to the other remedies provided by Florida law, the Association may suspend, for a reasonable period of time, the rights of a member or a

member's tenants, guests, or invitees, or both, to use the common areas and facilities. Also, the Association may levy reasonable fines, not to exceed the maximum amount allowed by Florida Statutes, Chapter 617, against any member or any tenant, guest, or invitee. However, suspension of common area use rights shall not impair the right of an owner or tenant of a lot to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. The Association may not suspend the voting rights of a member.

10.3.3 If the Association is bringing an action to recover unpaid assessments, whether by collection or by enforcement of a lien or both, the following limitations on remedies will not apply, and the Association will be entitled to proceed immediately with the use of the judicial system to recover the unpaid assessments.

10.3.4 No party may file a lawsuit for resolution of a dispute without first pursuing mediation before a certified mediator in Duval County, Florida, under the rules of mediation applicable to court-ordered mediation. If, after a good faith attempt, the mediation is not successful, then the matter must be made subject to non-binding arbitration. If the parties involved in the dispute cannot agree as to the identity of a single arbitrator, then each party will be entitled to select their own arbitrator, with that panel selecting enough additional arbitrators to create a panel of an odd number of arbitrators. Pre-arbitration discovery and the use of the rules of evidence will be at the discretion of the arbitration panel. As well, the arbitration panel will have the discretion to conduct fact finding by hearing or to consider the conflict by written statements submitted by the participants or their attorneys. All parties to the conflict will jointly and equally share in the reasonable fees and expenses of the arbitration panel, but the arbitration panel will have the right to recommend the payment of fees and expenses, including attorney's fees and expenses for the parties. The court will not be bound by the findings and recommendations of the arbitration panel, but the court may consider them in reaching its decision.

10.3.5 If the non-binding arbitration does not cause a resolution of the dispute, then any party to the dispute may bring a judicial action. Personal jurisdiction and venue for all actions will lie with the appropriate state court in Duval County, Florida. The prevailing party(ies) will be entitled to recover all costs and a reasonable attorney's fee. For reasons of cost effectiveness and efficiency, all trials by jury are waived, so that all trials will be before the judge sitting as a trier of fact.

ARTICLE XI
ADDITIONAL PROVISIONS

Section 11.1 **Transfers of the Developer's Right.** Throughout this Declaration, various rights are reserved to the Developer. The Developer reserves the right to transfer its rights under this Declaration subject to the terms and conditions of this Declaration. The transfer of Developer's rights under this Declaration will not include rights specifically reserved to A. F. Alan Classic Homes, Inc. herein. The Developer may sell some or all of the

acreage described in Section 9.1, above, and transfer with the title the rights reserved in this Declaration. Transfers of the Developer's rights will not be binding on third parties unless they are evidenced in writing and recorded in the current public records of Duval County, Florida. The Developer is required to serve a notice of any such transfer upon the board of directors for the Association.

Section 11.2 **Mortgagee Notice Rights.** Upon written request to the Association, identifying the name and address of the mortgagee, any mortgagee will be entitled to timely written notice of the following:

11.2.1 Any condemnation loss or any casualty loss which affects a material portion of the common areas or any lot on which there is a first mortgage held, insured, or guaranteed by the mortgagee.

11.2.2 Any delinquency in the payment of assessments owed by an owner of a lot subject to a first mortgage held, insured, or guaranteed by the mortgagee, which remains uncured for a period of 60 days.

11.2.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

11.2.4 Any proposed action which would require the consent of a specified percentage of mortgagees.

Section 11.3 **Amendments.**

11.3.1 In some provisions within this Declaration, the Developer has reserved the right to add to or to modify this Declaration for specific purposes. Those reserved rights are not limited by the understandings in this Section 11. Prior to the transfer of control of the Association, Developer may amend this Declaration in order to correct scrivener's errors or other omissions without the consent of the owners or the Association provided that such amendment does not materially affect the rights of owners or their mortgagees.

11.3.2 For as long as the Developer holds for sale in the ordinary course of business at least 5% of the lots in all units of Jacobs Way that will ultimately be operated by the Association, the Developer will have the right to veto any amendments.

11.3.3 This Declaration cannot be amended except by a writing signed by the owners of two-thirds of the affected lots, or their duly appointed attorneys-in-fact. The amendment may provide for an earlier effective date, but it will not be binding upon third parties until it is recorded in the current public records of Duval County, Florida.

AGREEMENT BETWEEN DEVELOPER AND DEVELOPMENT LOAN LENDER

A. F. Alan Classic Homes, Inc. ("Developer") and Mercantile Bank, the Development Loan Lender, mutually agree as follows:

1. On March 5, 2003,the Developer executed and delivered to the Development Loan Lender a development loan mortgage securing the original principal sum of $1,159,640.00 as modified by Future Advance Note and Note and Real Estate Modification and Consolidation Agreement dated August 11, 2003 ("modification agreement"). That mortgage was recorded in Official Records Book 10970, page 847, of the current public records of Duval County, Florida, and the modification agreement was recorded in Official Records Book 11305, page 2238,of the current public records of Duval County, Florida . The Development Loan Lender remains the owner and holder of that mortgage, and, therefore, it has full authority to make this agreement.

2. The Development Loan Lender has joined in the execution of the plat for Unit One in order to subordinate its mortgage to the terms and conditions of the plat. Similarly, the Development Loan Lender is entering into this agreement in order to subordinate its mortgage to the terms and conditions of this Declaration.

3. By making this agreement, the Development Loan Lender does not agree to assume the responsibilities of the Developer under this Declaration. However, all of the rights of the Developer under this Declaration are hereby assigned to the Development Loan Lender as additional collateral. Although this assignment is presently effective, the Development Loan Lender agrees not to exercise its rights under this assignment unless and until the Developer should have an uncured default in the development loan.

4. The Development Loan Lender now releases from the lien, operation, and effect of its mortgage as modified the following common areas: Tracts A, B, C and D, and private roadways, and the entranceway. This release also includes all easement or other rights in favor of the Association expressed in this instrument and necessary for the Association to perform the duties imposed upon it by this Declaration.

5. The Development Loan Lender has been induced to enter into this agreement with the Developer in reliance upon the scheme of regulation established by this Declaration.

11.3.4 "Affected lots" referenced in this Declaration is intended to mean less than all owners of all lots subjected to this Declaration, if the circumstances so require. For example, an Additional Unit may be added in the future with a later discovery that it is appropriate to amend a land use covenant only for that unit because of particular circumstances. In that event, an amendment affecting that unit only may be made, provided that the requisite number of owners within that unit approve the amendment. In that case, the approval by owners of lots in other units will not be required.

In Witness Whereof, Developer has hereunto set its hand by its duly authorized officer on this 30th day of January, 2004.

Signed, Sealed and Delivered
in the Presence of:

Witness Signature
Print Name SHEILA R. SMITH

Witness Signature
Print Name SANDRA D. SAUM

A. F. Alan Classic Homes, Inc.

By: _____
Alan L. Fixel, President

STATE OF FLORIDA,
COUNTY OF DUVAL:

The foregoing instrument was acknowledged before me this 30th day of January, 2004, by Alan L. Fixel, President of A. F. Alan Classic Homes, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me.

Notary Public
My Commission Expires:
Commission No.

Jeffrey B. Marks
MY COMMISSION EXPIRES
October 29, 2006
#DD140797
Bonded thru
Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Therefore, until the Development Loan Lender is paid in full, the consent of the Development Loan Lender to any modification contemplated in Article XI, above, will be required.

Signed, sealed and delivered in the presence of:

Signature of Witness
Print Name SHEILA R. SMITH

Signature of Witness
Print Name SANDRA D. SAUM

A. F. ALAN CLASSIC HOMES, INC.

By: _____
Alan L. Fixel, President

STATE OF FLORIDA,
COUNTY OF DUVAL:

The foregoing instrument was acknowledged before me this 30th day of January, 2004, by Alan L. Fixel, President of A. F. Alan Classic Homes, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me.

Notary Public
My Commission Expires:
Commission No.

Jeffrey B. Marks
MY COMMISSION EXPIRES
October 29, 2006
#DD140797
Bonded thru
Troy-Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Signed, sealed and delivered
in the presence of:

Signature of Witness
Print Name SHEILA R. SMITH

Signature of Witness
Print Name SANDRA D. SAUM

MERCANTILE BANK

By: _____
Stephen C. Meadows
Senior Vice President

STATE OF FLORIDA,
COUNTY OF DUVAL:

The foregoing instrument was acknowledged before me this 30th day of January, 2004, by Stephen C. Meadows, Senior Vice President of Mercantile Bank, on behalf of the bank, who is personally known to me.

Notary Public
My Commission Expires:
Commission No.

Jeffrey B. Marks
MY COMMISSION EXPIRES
October 29, 2006
#DD140797
Bonded thru
Troy Fain-Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Z:\My Documents\ALAN FIXEL MISCELLANEOUS\JACOBS WAY UNIT 1 C&R FINAL.wpd

5 Min Return
858-9200

This instrument prepared by and after recording, return to:

Kelli M. Salo, Esq.
Greenberg Traurig, P.A.
777 South Flagler Drive Suite 300 East
West Palm Beach, Florida 33401
(561) 650-7900

Doc# 2004130285
Book: 11763
Pages: 1142 - 1150
Filed & Recorded
04/21/2004 02:10:44 PM
JIM FULLER
CLERK CIRCUIT COURT
DUVAL COUNTY
RECORDING $ 37.00
TRUST FUND $ 5.00

(1) 4786716

SECOND AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR JACOBS WAY SUBMITTING UNIT TWO

THIS SECOND AMENDMENT is made as of the 14th day of April, 2004 by **TOUSA HOMES, INC.**, a Florida corporation, having an office at 11945 San Jose Boulevard, Building 300, Jacksonville, Florida 32223 ("**Developer**").

RECITALS

A. A. F. Alan Classic Homes, Inc., a Florida corporation ("**Classic**") recorded that certain Declaration of Covenants, Restrictions and Easements for Jacobs Way Unit One in Official Record Book 11609, Page 401, as amended by that First Amendment to Declaration of Covenants, Restrictions and Easements recorded in Official Record Book 11649, Page 1885, and as assigned by Classic to Developer pursuant to that certain Assignment of Developer's Rights recorded in Official Record Book 11756, Page 1592, all of the Public Records of Duval County, Florida (collectively, the "**Declaration**"). Unless the context otherwise requires, any capitalized term not defined but used herein shall have the meaning given to such word or words in the Declaration.

B. Of even date herewith, Developer's designee, GMAC Model Home Finance, Inc., a Virginia corporation ("**GMAC**") became the fee simple owner of a large portion of the property legally described as the Plat of Jacobs Way Unit Two, according to the plat thereof, recorded in Plat Book 56, Pages 82A-82D, as recorded in the Pubic Records of Duval County, Florida, said land situate, lying and being in Duval County, Florida ("**Unit Two**").

C. Pursuant to Section 9.1 of the Declaration, Unit Two is adjoining property which Classic developed as an additional unit, and Developer may amend and supplement the Declaration, provided Developer obtains the consent and approval of Classic.

D. Developer now desires to supplement the Declaration to submit Unit Two to the terms and conditions of the Declaration, pursuant to Section 9.2.1 of the Declaration, and to further amend the Declaration as set forth herein.

(9)

NOW, THEREFORE, in consideration of the premises and by virtue of the authority of Developer as hereinabove set forth, the Declaration is hereby amended as follows:

1. The foregoing recitals are true and correct and are incorporated herein.

2. Developer hereby submits Unit Two and all improvements erected or to be erected thereon and all other property, real, personal or mixed, now or hereafter situated on or within Unit Two, but excluding all dedications to public or private utilities or to governmental entities as set forth on the Plat of Unit Two, to the terms and conditions of the Declaration. From and after the execution and recordation of this Second Amendment, Unit Two, and each and every of the Lots located therein, shall be subject to, and burdened by, the covenants, conditions, restrictions, liens, terms, and other provisions of the Declaration. Accordingly, the private roadways within Jacobs Way shall be extended into Unit Two, as appropriate.

3. "Jacobs Way," as defined in Section 1.8 of the Declaration, shall now collectively refer to the property originally submitted to the Declaration together with Unit Two. Accordingly, the Lots within Unit Two shall each be deemed a "Lot" and the owners thereof shall each be an "Owner," as such terms are defined in the Declaration.

4. Certain tracts and private roadways, as set forth on the Plat of Unit Two, have been dedicated and shall be conveyed to the Association as Common Areas. Accordingly, certain additions, alterations, and improvements may be installed in such Common Areas.

5. Each Lot within Unit Two shall be entitled to the same vote as Lots within the property originally submitted to the Declaration in accordance with the provisions therein. Each Owner of a Lot within Unit Two shall be a Member of the Association, as set forth in Section 1.10 of the Declaration.

6. Section 2.2 of the Declaration is hereby renamed "Preservation Areas and Conservation Easements" and Section 2.2.1 is hereby deleted in its entirety and replaced with the following:

> *2.2.1. These are the parcels designated as Tracts "C" and "D" Preservation Area & Conservation Easement on the plat of Unit One. For convenience, in the balance of this Section, such Tracts together with any areas designated as unobstructed natural buffers shall collectively be referred to as the "**Conservation Easement Area.**"*

7. The last sentence of Section 2.2.3 of the Declaration is hereby deleted in its entirety and replaced with the following sentence:

> *"These conservation easements over Tracts C and D and the areas designated as unobstructed natural buffers prohibit or limit any or all of the following:"*

8. The following new provisions are hereby added to Section 2.2:

> *"2.2.5. **Responsibilities**. The Association, its successors and assigns, are responsible for the operation and maintenance of the Conservation Easement Area, which shall include without limitation the periodic removal of trash and other debris which may accumulate in the Conservation Easement Area.*
>
> *2.2.6. **Reserved Rights**. The Association reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Conservation Easement*

Area, including the rights to engage in or permit or invite others to engage in all uses of the Conservation Easement Area that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Easement.

2.2.7 ***Rights of District****. To accomplish the purposes stated herein, Developer conveys the following rights to the St. Johns River Water Management District (the "**District**"):*

(a) To enter upon and inspect the Conservation Easement Ares in a reasonable manner and at reasonable times to determine if the Association, or its successors and assigns are complying with the covenants and prohibitions contained herein.

(b) To proceed at law or in equity to enforce the provisions contained herein, or within the Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Area that may be damaged by any activity inconsistent with the terms herein or within the Conservation Easement.

Section 2.2.8 ***District's Discretion****. The District may enforce the terms of the Conservation Easement at its discretion, but if the Association breaches any term of the Conservation Easement and the District does not exercise its rights under the Conservation Easement, the District's forbearance shall not be construed to be a waiver by the District of such terms, or of a subsequent breach of same, or any other term of the Conservation Easement, or of any of the District's in the exercise of any right or remedy upon any breach by the Association shall impair such right or remedy or be construed as a waiver. The District shall not be obligated to the Association, Developer, or to any other person or entity, to enforce the provisions of the Conservation Easement.*

Section 2.2.9 ***District's Liability****. The Association shall assume all liability for any injury or damage to the person or property of third parties which may occur in the Conservation Easement Area arising from the Association's ownership of the Conservation Easement Area. Neither Developer, nor any person or entity claiming by or through the Association, shall hold the District liable for any damage or injury to person or personal property which may occur in the Conservation Easement Area.*

Section 2.2.10 ***Acts Beyond Developer's Control****. Nothing contained in the Conservation Easement shall be construed to entitle the District to bring any action against Developer or the Association for any injury to or change in the Conservation Easement Area resulting from natural causes beyond Developer's control, including without limitation, fire, flood, storm, and earth movement, or from any necessary action taken by Developer under emergency conditions to prevent, abate or mitigate significant injury to the Conservation Easement Area or to persons resulting from such causes.*

Section 2.2.11 ***Successors****. The covenants, terms, conditions and restrictions of the Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representative, heirs, successors and*

assigns and shall continue as a servitude running in perpetuity with the Conservation Easement Area."

9. Section 2.5.6 of the Declaration is hereby deleted in its entirety.

10. Section 8.2 of the Declaration is hereby deleted in its entirety and replaced with the following:

*"Section 8.2 **Residential and Business Uses**. Jacobs Way is a residential community, and therefore, all business uses are precluded, except for home offices allowed by zoning, with no signs and no customer traffic. Residences shall not be used as group homes. The foregoing limitation upon business uses does not apply to the construction and sales activities of Developer or any other builder."*

11. Article IX of the Declaration is hereby deleted in its entirety and replaced with the following:

*"Section 9.1. **Additional Units**. Until such time as Developer transfers control of the Association pursuant to Section 4.4.4. of the Declaration, additional residential property and/or Common Areas may be included and annexed to Jacobs Way with the consent and approval of Developer and the fee simple title owner of such property, if not Developer. Except for applicable governmental approvals, no consent from any other party, including Owners or any mortgagees of any Lots shall be required. Such annexed lands shall be brought within the scheme of this Declaration by the recording of an amendment and shall be executed by Developer and any applicable mortgagee and recorded in the Public Records of Duval County. Such amendment shall refer to this Declaration and shall, unless specifically otherwise provided, incorporate by reference all the terms, protective covenants and conditions of this Declaration, thereby subject said additional lands to such terms, covenants, conditions and restrictions as fully as though said additional lands were described herein as a portion of Jacobs Way. Such amendment may contain such additions or modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added land and not inconsistent with the scheme of this Declaration. In no event, however, shall such amendment revoke, modify, or amend the covenants established by this Declaration as to the property originally submitted to this Declaration. Nothing herein, however, shall obligate Developer to add to the initial property of Jacobs Way, to develop any such future portions under a common scheme, nor to prohibit Developer from rezoning and changing plans with respect to Jacobs Way. Furthermore, without amending or supplementing this Declaration, Developer may rezone, replat, covenant in lieu of unity of title, or add to or reduce the number of Lots within Jacobs Way. All Owners, by acceptance of a deed to or other conveyance of their Lots and Residences, shall be deemed to have automatically consented to any such rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion thereafter made by Developer and shall evidence such consent in writing if requested to do so by Developer at any time.*

Section 9.2 ***Annexation by Members.*** *At such time as Developer transfers control of the Association, pursuant to Section 4.4.4 of the Declaration, additional lands may be included and annexed to the Declaration by the consent of at least two-thirds (2/3rds) of Owners, and the procurement of applicable governmental approvals.*

Section 9.3 ***Withdrawal.*** *Until Developer transfers control of the Association, pursuant to Section 4.4.4 of the Declaration, Developer shall be entitled to withdraw any portion of Jacobs Way (or any additions thereto which may be annexed in accordance with the provisions of Section 9.1 of this Article IX) from the provisions and applicability of any governing documents of the Association, including but not limited to this Declaration, by recording a notice thereof in the Public Records of Duval County; provided however, that this right of Developer to withdraw shall not apply to any portions of the Jacobs Way which have been conveyed to an Owner thereof unless said right is specifically reserved in such conveyance or unless the transferee of such conveyance agrees to such withdrawal. The withdrawal of any portion of Jacobs Way as hereinafter stated shall not require the consent or joinder of any other party, including any Owner, the Association, or any mortgagee provided applicable governmental approvals are obtained. Further, said withdrawal shall not be construed to prevent Developer from developing other forms of residential parcels on the same property, at a later time."*

12. Section 11.3 of the Declaration is hereby deleted in its entirety and replaced with the following:

"This Declaration may be amended at any time and from time to time upon a majority vote of all Members of the Association and the execution and recordation of an instrument containing a certification by the President and Secretary of the Association that the amendment is duly adopted, PROVIDED that for the period of time Developer owns one (1) or more Lots, Developer's written consent must first be obtained; and FURTHER PROVIDED, that until Developer transfers control of the Association, pursuant to Section 4.4.4 herein, this Declaration may be amended by the execution and recordation of an instrument executed solely by a majority of the Board of Directors of the Association. Notwithstanding any of the above, for such time that Developer owns one (1) or more Lots, Developer's written consent must first be obtained to any amendment. Developer shall have the right at any time to amend this Declaration to correct scrivener's errors or to clarify any ambiguities determined to exist herein. No amendment shall alter the subordination provisions of this Declaration without the prior approval of any mortgagee enjoying such protection. It is further provided that in order to be effective any amendment to this Declaration must be recorded in the Public Records of Duval County.

Notwithstanding the foregoing, any amendment proposed to the governing documents of the Association, including but not limited to this Declaration, which would affect the Surface Water or Storm Water Management System, the Conservation Easement Area or water management portions of the Common Areas shall be submitted to the District for review prior to finalization and recording of the amendment."

13. The rights of Classic reserved in the Declaration and pursuant to Paragraph 1 of that certain Assignment of Developer's rights recorded in Book 11756 Page 1592 of the Public Records of Duval County, are hereby terminated and deleted as stated herein. Accordingly, the approval and consent of Classic shall not be required for any subsequent amendment to the Declaration.

14. Except as specifically amended hereby, the Declaration shall remain in full force and effect and is not otherwise amended.

IN WITNESS WHEREOF, Developer has executed this Second Amendment as of the day and year first above written.

Witnessed by:

Name: Mary E Hollis
Print Name: Mary E. Hollis

Name: Ann Brown
Print Name: ANN BROWN

TOUSA HOMES, INC., a Florida corporation

By: Karen A Chappell
Karen Chappell, a Division Vice President

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me, this 14 day of April, 2004, by Karen Chappell, as a Division Vice President of TOUSA HOMES, INC., a Florida corporation, on behalf of said corporation. She is personally known to me or presented _____ as identification.

Name: Lisa Lynn Waddell
Notary Public, State of Florida
Commission No. _____
My Commission Expires: _____

LISA LYNN WADDELL
Notary Public - State of Florida
My Commission Expires Feb 28, 2008
Commission # DD285543
Bonded By National Notary Assn.

CONSENT AND JOINDER OF CLASSIC

The undersigned, as original Developer under the Declaration and holder of certain reserved rights thereunder, does hereby approve, join-in, and consent to the foregoing Second Amendment submitting Unit Two to, and otherwise amending, the Declaration, including but not limited to, the termination of its reserved rights as set forth in the Second Amendment.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand as of the date acknowledged below.

Witnessed by:

Name: Carol E. Ruggiero
Print Name: CAROL E. RUGGIERO

Name: Pam Stewart
Print Name: PAM STEWART

A. F. ALAN CLASSIC HOMES, INC., a Florida corporation

By: _____
Alan L. Fixel, President

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me, this 14th day of April, 2004, by Alan L. Fixel, as President of A. F. ALAN CLASSIC HOMES, INC., a Florida corporation, on behalf of said corporation. He is personally known to me or ~~presented~~ _____ ~~as identification~~.

Name: Carol E. Ruggiero
Notary Public, State of Florida
Commission No. CAROL E. RUGGIERO
My Commission Expires: _____

Carol E Ruggiero
Commission No DD 086257
Expires September 11, 2005

CONSENT AND JOINDER OF OWNER

The undersigned, as owner of Unit Two, does hereby approve, join-in, and consent to the foregoing Second Amendment submitting Unit Two to, and otherwise amending, the Declaration.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand as of the date acknowledged below.

Witnessed by:

Name: _____
Print Name: JULIE C SIMPSON

Name: _____
Print Name: Leslie Argenta

GMAC MODEL HOME FINANCE, INC. a Virginia corporation

By: _____
Print Name: Brian K Murray
Title: VP

STATE OF Virginia)
) SS:
COUNTY OF Henrico)

The foregoing instrument was acknowledged before me, this 14th day of April, 2004, by Brian K. Murray as VP of GMAC MODEL HOME FINANCE, INC., a Virginia corporation, on behalf of said corporation. He is personally known to me or presented _____ as identification.

Name: Sarah P Berglund Sarah P. Berglund
Notary Public, State of Virginia
Commission No. _____
My Commission Expires: 10/31/08

CONSENT AND JOINDER OF MORTGAGEE

The undersigned mortgagee, pursuant to that certain Mortgage recorded in Official Record Book 11756, Page 1585 of the Public Records of Duval County, Florida does hereby approve, join-in, and consent to the foregoing Second Amendment submitting Unit Two to, and otherwise amending, the Declaration.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand as of the date acknowledged below.

WITNESSES:

Monika Peets

JULIE SIMPSON

MORTGAGEE:

RESIDENTIAL FUNDING CORPORATION,
a Virginia corporation

By: _____
Print Name: Brian K Murray
Title: VP

STATE OF Virginia)
) SS:
COUNTY OF Henrico)

The foregoing instrument was acknowledged before me, this 14th day of April, 2004, by Brian K. Murray, as VP of RESIDENTIAL FUNDING CORPORATION, a Virginia corporation, on behalf of said corporation. He/she is personally known to me or presented _____ as identification.

Sarah P Berglund
Name: Sarah P Berglund
Notary Public, State of Virginia
Commission No. _____
My Commission Expires: 10/31/08

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Doc # 2005043080, OR BK 12281 Page 1979, 1 of 4 Filed & Recorded 02/09/2005
at 02:46 PM, JIM FULLER CLERK CIRCUIT COURT DUVAL COUNTY RECORDING $35.50

Prepared by and return to:
Grant T. Downing
Godbold, Downing, Sheahan, & Bill, P.A.
222 W. Comstock Avenue, Suite 101
Winter Park, Florida 32789

THIRD AMENDMENT TO DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR JACOBS WAY SUBMITTING UNIT THREE

THIS THIRD AMENDMENT is made as of the 8th day of February, 2005 by **TOUSA HOMES, INC.**, a Florida corporation, having as office at 11945 San Jose Boulevard, Building 300, Jacksonville, Florida 32223 (**"Developer"**).

RECITALS

A. A. F. Alan Classic Homes, Inc., a Florida corporation (**"Classic"**) recorded that certain Declaration of Covenants, Restrictions and Easements for Jacobs Way Unit One in Official Records Book 11609, Page 401, as amended by that First Amendment to Declaration of Covenants, Restrictions and Easements recorded in Official Records Book 11649, Page 1885, as further amended by that Second Amendment to Declaration of Covenants, Restrictions and Easements recorded in Official Records Book 11763, Page 1142, and as assigned by Classic to Developer pursuant to that certain Assignment of Developer's Rights recorded in Official Record Book 11756, Page 1592, all of the Public Records of Duval County, Florida (collectively, the **"Declaration"**). Unless the context otherwise requires, any capitalized term not defined but used herein shall have the meaning given to such word or words in the Declaration.

B. DR Horton, Inc- Jacksonville has acquired a certain number of lots within Unit Three.

C. Pursuant to Section 9.1 of the Declaration, Unit Three is adjoining property which Classic developed as an additional unit, and Developer may amend and supplement the Declaration.

D. Developer now desires to supplement the Declaration to submit Unit Three, as more particularly described on the attached Exhibit "A", to the terms and conditions of the Declaration, pursuant to Section 9.2.1 of the Declaration, and to further amend the Declaration as set forth herein.

E. The rights of Classic reserved in the Declaration and pursuant to Paragraph 1 of that certain Assignment of Developer's rights recorded in Book 11756, Page 1592 of the Public Records of Duval County were terminated. Therefore, Classic's approval and consent to this Third Amendment is not required.

NOW, THEREFORE, in consideration of the premises and by virtue of the authority of Developer as hereinabove set forth, the Declaration is hereby amended as follows:

1. The foregoing recitals are true and correct and are incorporated herein.

2. Developer hereby submits Unit Three and all improvements erected or to be erected thereon and all other property, real, personal or mixed, now or hereafter situated on or within Unit Three, but excluding all dedications to public or private utilities or to governmental entities as set forth on the Plat of Unit Three, to the terms and conditions of the Declaration. From and after the execution and recordation of this Third Amendment, Unit Three, and each and every of the Lots located therein, shall be subject to, and burdened by, the covenants, conditions, restrictions, liens, terms, and other provisions of the Declaration. Accordingly, the private roadways within Jacobs Way shall be extended into Unit Three, as appropriate.

3. "Jacobs Way," as defined in Section 1.8 of the Declaration shall now collectively refer to the property originally submitted to the Declaration, as amended, together with Unit Three. Accordingly, the Lots within Unit Three shall each be deemed a "Lot" and the owners thereof shall each be an "Owner," as such terms are defined in the Declaration.

4. Certain tracts and private roadways, as set forth on the Plat of Unit Three, have been dedicated and shall be conveyed to the Association as Common Areas. Accordingly, certain additions, alterations, and improvements may be installed in such Common Areas.

5. Each Lot within Unit Three shall be entitled to the same vote as Lots within the property originally submitted to the Declaration in accordance with the provisions therein. Each Owner of the Lot within Unit Three shall be a Member of the Association, as set forth in Section 1.10 of the Declaration.

6. Except as specifically amended hereby, the Declaration shall remain in full force and effect and is not otherwise amended.

CONSENT AND JOINDER OF DR HORTON, INC.-JACKSONVILLE

The undersigned, as the owner of certain lots within Unit Three, does hereby approve, join-in, and consent to the foregoing Third Amendment submitting Unit Three to, and otherwise amending, the Declaration.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand as of the date acknowledged below.

Witness by:

Name: _____

Printed Name: _____

Name: _____

Printed Name: MARK C. DEARING

DR HORTON, INC.-JACKSONVILLE, a Florida corporation

By: _____

Print Name: _____

Its: _____

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me, this 15 day of February, 2005, by KENNETH C. JOHNS JR. as V.P. of DR HORTON, INC.-JACKSONVILLE, a Florida corporation, on behalf of said corporation. He/She is personally known to me or presented _____ as identification.

Name: _____

Notary Public, State of Florida

Commission No. _____

My Commission Expires: _____

Mark C Dearing
My Commission DD091314
Expires February 11, 2008

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