

RETURN TO:
GAYLE DAVIDSON, DEVELOPMENT REVIEW BOARD
MARION COUNTY ENGINEERING DEPT.
412 S. E. 25th AVENUE
OCALA, FL 34471-2887

DAVID R. ELLSPERMANN, CLERK OF COURT MARION COUNTY

DATE: 05/12/2004 08:06:24 AM

FILE #. 2004064708 OR BK 03714 PGS 1435-1486

RECORDING FEES 235.50

Declaration of Covenants and Restrictions for Estates at Cotton Plant

Prepared By

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Draft Date: January 16, 2004

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RECORD: \$ _____

Return to:

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Ocala, FL 34470

This Instrument Prepared by:

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Gray, Ackerman & Haines, P.A.
125 NE 1st Avenue, Suite 1
Ocala, FL 34470

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DECLARATION OF COVENANTS AND RESTRICTIONS FOR ESTATES AT COTTON PLANT

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR ESTATES AT COTTON PLANT (hereinafter referred to as the "*Declaration*") is made on the date hereinafter set forth by **SOUTHWELL LAND COMPANY, L.L.C., A FLORIDA LIMITED LIABILITY COMPANY** (hereinafter referred to as "*Declarant*").

WITNESSETH:

WHEREAS, Declarant is the sole owner in fee simple of certain real property located in Marion County, Florida, platted as *Estates at Cotton Plant* as per plat thereof recorded in Plat Book 8, at Pages 23 through 27, inclusive, public records of Marion County, Florida (hereinafter referred to as the "*Property*"); and

WHEREAS, the Declarant desires to provide for the preservation of the values in the Property and for maintenance of certain common facilities in the Property sometimes referred to herein as Estates at Cotton Plant and designated by this Declaration and, to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each subsequent owner of all or part thereof; and

WHEREAS, the Declarant has deemed it desirable for the efficient preservation of the values and amenities in the Property to create a property owner's association to which shall be delegated and assigned the powers of maintaining and administering the common area properties and facilities; administering and enforcing the covenants and restrictions; and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Florida, a not for profit corporation called The Estates at Cotton Plant Property Owner's Association, Inc. (hereinafter referred to as the "*Association*"), to exercise the aforesaid functions.

NOW, THEREFORE, Declarant declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the Property, shall be binding on all parties having any rights, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

Section 1.1 "**Architectural Review Board**" or "**ARB**" -- shall mean the Declarant or the committee created pursuant to Article 7, Section 7.1 of the Declaration.

Section 1.2 "**Articles**" -- shall mean the Articles of Restatement of the Articles of Incorporation of The Estates at Cotton Plant Property Owner's Association, Inc., which have been filed in the office of the Secretary of the State of Florida (a true copy of which is attached hereto as Exhibit "A"), including any amendments thereto.

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Section 1.3 "Assessments" -- shall mean any of the types of Assessments defined below in this Section.

1.3.1 "Common Assessment" -- shall mean a charge against each Owner and his Lot, representing a portion of the expenses of operating, maintaining, repairing, improving and replacing the Common Areas, located within the platted subdivision of Estates at Cotton Plant including, but not limited to, managing, operating, and maintaining the Surface Water or Storm Water Management System. Maintenance of the Surface Water or Storm Water Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or storm water management capabilities permitted by the Southwest Florida Water Management District.

1.3.2 "Special Assessment" -- shall mean a charge against one or more Owners and their Lots equal to the cost incurred by the Association in connection with the enforcement of this Declaration against such Owner(s) for such Owner(s)' failure to duly perform their obligations hereunder.

1.3.3 "Reconstruction Assessment" -- shall mean a charge against each Owner and his Lot representing a portion of the cost incurred by the Association for reconstruction of any portion or portions of the Improvements located on the Common Areas or any portion or portions of the Surface Water or Storm Water Management System.

1.3.4 "Capital Improvement Assessment" -- shall mean a charge against each Owner and his Lot representing a portion of the cost incurred by the Association for installation or construction of any Improvements on any portion of the Common Area which the Association may from time to time authorize.

Section 1.4 "Association" -- shall mean and refer to The Estates at Cotton Plant Property Owner's Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

Section 1.5 "Board" or "Board of Directors" -- shall mean the Board of Directors of the Association.

Section 1.6 "Bylaws" -- shall mean the Bylaws of the Association adopted by the Board (a copy of which is attached hereto as Exhibit "B") including any amendments thereto.

Section 1.7 "County" -- shall mean the County of Marion, in the State of Florida.

Section 1.8 "Common Areas" -- shall mean and refer to those areas of land shown on any recorded subdivision plat of the Property, other than Lots, which areas are intended to be used and enjoyed by Owners of Lots in the Property, which include without limitation, any private roads, drainage areas, Surface Water or Storm Water Management System, easements for roads, walkways, parking areas, paths, utilities, and all improvements now or hereafter constructed thereon including, without limitation, streets, lighting systems, signage, structures, and landscaping thereon, including any Surface Water or Storm Water Management System (as defined below). Common Areas shall include, but not be limited to, Tract "A" and the Common Open Space as designated on the Plat. All personal property and real property, including easements, licenses, leaseholds, or other real property interests, including the improvements thereon, owned by the Association or maintained by the Association for the common use and enjoyment of the Owners, are to be devoted to and intended for the common use and enjoyment of the Owners, Members of the Association, and their families, guests, and persons occupying "Dwelling Units" on a guest or tenant basis and any other Permitted Users, and to the extent authorized by this Declaration or by the Board of Directors.

Section 1.9 "Common Expenses" -- shall mean the actual and estimated costs of ownership,

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maintenance, management, operation, insurance, repair, reconstruction and replacement of the Common Areas (including unpaid Special Assessments and including those costs not paid by the Owner responsible for the payment); any costs incurred in exercising the rights of the Association granted in this Declaration, the costs of all utilities; the costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees, agents or independent contractors; the costs of all utilities, gardening and other services benefitting the Common Areas, the costs of fire, casualty and liability insurance, Workmen's Compensation insurance, and other insurance covering or connected with the Common Areas; costs of bonding the officers, agents, and employees of the Association; costs of errors and omissions liability insurance for officers, employees and agents of the Association; taxes paid by the Association, including real property taxes for the Common Areas; amounts paid by the Association for the discharge of any lien or encumbrance levied against the Common Areas or any portion thereof, and the costs of any other item or items so designated by, or in accordance with other expenses incurred by, the Association for any reason whatsoever in connection with the Common Areas or for the benefit of the Owners.

- Section 1.10 "Declarant"** -- shall mean and refer to Southwell Land Company, L.L.C., its successors and assigns. No entity shall be considered a successor or assign of the Declarant unless its status is evidenced by written assignment from Declarant to said entity recorded in the Public Records of Marion County, Florida.
- Section 1.11 "Declaration"** -- shall mean and refer to this Declaration of Covenants and Restrictions for Estates at Cotton Plant and any amendments and supplements thereto.
- Section 1.12 "Dwelling Unit"** -- shall mean and refer to a Lot as defined herein with a detached single-family residential unit constructed thereon for which a Certificate of Occupancy has been issued by the applicable governmental authorities. In the case of any of the Multi-Use Lots upon which multiple living units have been constructed, whether duplexes, quadraplexes, townhomes or separate freestanding single-family residences, each unit intended to house a single family shall constitute a Dwelling Unit. For example, a duplex shall constitute two Dwelling Units, a quadraplex shall constitute four Dwelling Units, and a townhouse complex consisting of eight townhomes shall constitute eight Dwelling Units. In the case of any dispute as to the number of Dwelling Units on any of the Multi-Use Lots, the determination of the ARB shall be controlling and final.
- Section 1.13 "Exclusive Builder"** -- shall mean and refer to any licensed building contractor designated as an Exclusive Builder by the Declarant.
- Section 1.14 "Front Yard"** -- shall mean the portion of each Lot described by drawing a line through the centerpoint of any Dwelling Unit constructed on the Lot, which line runs parallel to the road or road right of way adjacent to the Lot. The Front Yard shall be the portion of the Lot on the side of the line so drawn lying nearest the road or road right-of-way. The Front Yard of Lots situated on the corner of multiple roads or road right-of-ways shall be all portions of the yard not included within the definition of Rear Yard. In the case of any dispute as to the location of the Front Yard as defined herein the determination of the ARB shall be controlling and final. The ARB shall determine, without regard to the description of Front Yard set forth herein, the location of the Front Yard for any Multi-Use Lot and for any Lot served by a "Flag", and may determine that such Lot has no Front Yard.
- Section 1.15 "Lot"** -- shall mean and refer to any plot of land shown upon the plat of Estates at Cotton Plant and designated as a numbered Lot, and shall exclude any Common Areas owned in fee simple by the Association. In the case of the Multi-Use Lots, each shall constitute a "Lot" unless and until in excess of one Dwelling Unit is constructed thereon. Thereafter, each such Dwelling Unit shall be deemed a Lot for purposes of determining membership in the Association and the obligation to pay Assessments.

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- Section 1.16 "Member"** -- shall mean and refer to the Declarant and any Owner.
- Section 1.17 "Multi-Use Lots"** -- shall mean and refer to Lots 24, 25, and 26 as depicted on the Plat, and each of them shall be a "Multi-Use Lot".
- Section 1.18 "Owner"** -- shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any "Lot" which is a part of or situated upon the Property; however, notwithstanding any applicable theory of the law of mortgages, "Owner" shall not mean or refer to a Mortgagee unless and until such Mortgagee has acquired title pursuant to foreclosure or any deed or proceeding in lieu of foreclosure. With regard to the Multi-Use Lots the owner of each shall be deemed an Owner for each separate Dwelling Unit constructed thereon. For example, should a quadraplex be constructed on one of the Multi-Use Lots the owner thereof shall be deemed the Owner of four Lots. To the extent a Multi-Use Lot is subdivided, whether by platting of the Multi-Use Lot into multiple Lots, or submitting the Multi-Use Lot to a condominium form of ownership, the owner of each separate Dwelling Unit shall be an Owner. By way of example, should one of the Multi-Use Lots be submitted to a condominium form of ownership with six (6) condominium units thereon, each condominium unit consisting of a townhome or other single family Dwelling Unit, the owner of each condominium unit shall be an Owner hereunder.
- Section 1.19 "Permitted Users"** -- shall mean and refer to the (i) permitted tenants, subtenants, concessionaires or Owners of any Lot, or any properly subdivided portion of a Lot; and, (ii) employees, licensees, customers, visitors, and invitees of the tenants, subtenants, concessionaires or Owners of any Lot, or any properly subdivided portion of a Lot.
- Section 1.20 "Plat"** -- shall mean and refer to the subdivision of Estates at Cotton Plant, as recorded in Plat Book "8", at Pages 23 through 27 of the public records of Marion County, Florida, as the same may subsequently be partially vacated or abrogated, or modified.
- Section 1.21 "Property"** -- shall mean and refer to the property platted as Estates at Cotton Plant, as per plat thereof recorded in Plat Book 8, at Page 23, 27 public records of Marion County, Florida, as well as any other real property subjected to the Declaration pursuant to Article 3 hereof.
- Section 1.22 "Rear Yard"** -- shall mean the portion of each Lot described by drawing a line through the centerpoint of any Dwelling Unit constructed on the Lot, which line runs parallel to the road or road right of way adjacent to the Lot. The Rear Yard shall be the portion of the Lot on the side of the line so drawn lying furthest from the road or road right of way. The Rear Yard of Lots situated on the corner of multiple roads or road right of ways shall be the portion of the Lot lying behind both of the two lines drawn as set forth herein. In the case of any dispute as to the location of the Rear Yard as defined herein the determination of the ARB shall be controlling and final. The ARB shall determine, with regard to any Multi-Use Lot the location of the Rear Yard, and may determine that such Lot has no Rear Yard.
- Section 1.23 "Side Yard"** -- shall mean the portions of each Lot described by drawing a line through the point of the Dwelling Unit which extends the furthest into the Front Yard, which line runs parallel to the road or road right-of-way adjacent to the Lot, and by drawing a line through the point of the Dwelling Unit that extends the furthest into the Rear Yard, which lines runs parallel to the line previously described. The Side Yard or Side Yards shall be all portions of the Lot, exclusive of the Dwelling Unit, lying between the two lines so described. In the case of any dispute as to the location of the Side Yard or Side Yards as defined herein, the determination of the ARB shall be controlling and final. The ARB shall determine, without regard to the description of Side Yard set forth herein, the location of the Side Yard for any Multi-Use Lot or any Lot served by a "Flag", and may determine that such Lot has no Side Yard.

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Section 1.24 **"Surface Water or Storm Water Management System"** -- shall mean and refer to a system, temporary or permanent, which is designated 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, over drainage, environmental degradation, and water pollution, or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to the provisions of the Florida Statutes and Chapters 40C-4, 40C-40, or 40C-42 of the Florida Administrative Code. The Surface Water or Storm Water Management System shall include, but is not limited to, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas.

**ARTICLE 2.
USE RESTRICTIONS**

Section 2.1 **Use Restrictions.** The use restrictions contained in this Article shall apply uniformly to all Lots and Dwelling Units on the Property, except for the Multi-Use Lots for which different restrictions may apply as specifically set forth herein.

Section 2.2 **Exclusive Builder.** No builder or contractor who is not an Exclusive Builder may construct a Dwelling Unit within the Property and the ARB shall not approve any Plans or Specifications submitted to it which do not provide for construction to be instituted and completed by an Exclusive Builder. Each Owner, by acceptance of the Deed conveying its Lot, acknowledges the requirement that an Exclusive Builder be used and further acknowledges that Declarant may receive a marketing fee or commission from the Exclusive Builder as payment for the Declarant's efforts in marketing the Property. Said fee or commission may be based upon the Purchase Price of each Owner's Lot, and the cost of constructing a Dwelling Unit thereon.

Section 2.3 **Use.** No Lot, except for a Multi-Use Lot, shall be used for any purpose except for residential. The term "*residential*" is intended to prohibit any commercial or institutional use, including professional office use of any portion of any Lot or Dwelling Unit. No building shall be erected, altered, placed or permitted to remain on any Lot other than Dwelling Units designated for residential use, with attached private garages, or detached private garages, guest houses, barns, stables, or storage facilities which have been approved by the ARB and are consistent with the primary residential use of the Property and, in the case of the Multi-Use Lots, those buildings or structures consistent with use of the Multi-Use Lots for Limited Commercial Purposes, as defined herein. The foregoing shall not prohibit the Declarant, or contractors approved by Declarant, from using Dwelling Units as models or offices. No mobile homes shall be permitted on the Property. The Multi-Use Lots may be used for multiple Dwelling Units, as permitted by applicable ordinances, or for Limited Commercial Purposes as defined herein. "*Limited Commercial Purposes*" shall mean the use of any Multi-Use Lot for any and all equine related activities, whether carried on on a commercial basis or otherwise, including, but not limited to, riding academies, stables for hire, boarding and training facilities, veterinary facilities, breeding operations, and show rings.

Section 2.4 **Minimum and Maximum Square Footage.** The ground floor of any single story Dwelling Unit erected on a Lot, or any freestanding non-attached Dwelling Unit erected on a Multi-Use Lot, shall not be less than 2,800 square feet of living area. A two-story Dwelling Unit erected on a Lot, or a freestanding non-attached two story Dwelling Unit erected on a Multi-Use Lot, shall have a minimum first floor living area of 1,800 square feet. No Dwelling Unit shall exceed 10,500 square feet of living area. Attached Dwelling Units erected on Multi-Use Lots (duplexes, quadraplexes, apartments, or townhomes) shall be not less than 2,000 square feet of living area. Living area must be heated and cooled and excludes garages, open porches, decks, and atriums, whether or not heated and cooled. The minimum and maximum roof pitch and fascia width shall be determined by the ARB. Each Dwelling Unit, with the exception of a Dwelling Unit on a Multi-Use Lot, shall contain a garage providing space for at least two (2) automobiles. Each Dwelling Unit on a Multi-Use Lot shall contain

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a garage providing space for at least one (1) automobile.

Section 2.5 **Subdivision - Multi Units.** With the exception of the Multi-Use Lots, only one Dwelling Unit may be erected on each Lot, although an additional garage apartment or detached guest house may be permitted by the ARB. No Lot, with the exception of Multi-Use Lots, may be subdivided, except to increase the size of an Owner's property upon which a single Dwelling Unit is constructed. Multi-Use Lots may be subdivided, by replatting, submission to condominium ownership, or as otherwise permitted by local ordinances, without the consent of any Owner except for the Owner of the Multi-Use Lot being so subdivided, except that the Multi-Use Lots may not be so subdivided as to result in more than a total of eight Lots. By the acceptance of a Deed conveying a Lot subject to this Declaration, each Owner acknowledges Declarant's right to subdivide the Multi-Use Lots, and consents to any request or application of Declarant consistent therewith. An Owner may, by recording an instrument to that effect in the Public Records of Marion County, Florida, combine two or more Lots for a single home site, whereupon the combined property will be deemed a single Lot for all purposes. Declarant shall have the right to modify the Plat to make adjustments to Lot boundary lines if the Owners of the affected Lots consent. Declarant may make other adjustments to the Plat if Owners are not materially affected or if all Owners who would be materially affected consent to the modification. Owners shall not unreasonably withhold their consent to an adjustment, and consent shall be deemed given if an Owner does not object in writing to a request for the Owner's consent. Declarant may also replat a Lot or Lots and convert all or a portion of the same to Common Areas, or to other legal purposes, without the consent of the other Owners, whereupon such platted Lot or Lots shall no longer be deemed a "Lot".

Section 2.6 **No Temporary or Accessory Structures.** No portable, storage, temporary or accessory buildings, sheds or structures, or tents, shall be erected, constructed or located upon any Lot for storage or otherwise, without the prior written consent of the ARB; provided, however that this prohibition shall not apply to shelters used by the Declarant or a licensed contractor during the construction of any Dwelling Unit.

Section 2.7 **Livestock and Animal Restrictions.** No animal shall be kept or maintained on any Lot except conventional household pets (dogs, cats, birds or fish) and only in such number as not to constitute a hazard, nuisance or annoyance to the Owners of adjoining Lots, and horses and cattle only in such numbers that do not exceed one animal to each acre of improved pasture on the Lot, and does not result in overgrazing of all or any portion of the Lot. Goats, pigs, sheep and other livestock are prohibited. The ARB shall have the exclusive authority to determine whether the number and manner of keeping conventional household pets constitutes a hazard, nuisance, or annoyance to the Owner of adjacent Lots and to determine whether the number and manner of keeping horses and cattle has resulted in overgrazing of a Lot. Such permitted animals shall be kept on the Owner's Lot and shall not be allowed off the premises of the Owner's Lot except under restraint and in the company of the Owner, a member of the Owner's family or servant. No permitted pet shall be allowed to make noise in a manner or of such volume as to annoy or disturb other Owners. For purposes of this Section a mare and foal, or cow and calf, shall be deemed one animal until the foal or calf is weaned.

Section 2.8 **Restriction on Activity.** No noxious or offensive activity shall be conducted or permitted to exist upon any Lot or in any Dwelling Unit, nor shall anything be done or permitted to exist on any Lot or in any Dwelling Unit that may be or may become an annoyance or private or public nuisance. No Lot, driveway, or Common Area shall be used for purposes of vehicle repair or maintenance. This restriction shall not apply to activities conducted by the Declarant in the construction, sale or maintenance of improvements upon the Property.

Section 2.9 **Restrictions on Walls, Fences or Hedges.** No wall, fence or hedge shall be erected, placed, altered, maintained, or permitted to remain on any Lot unless and until the height, type, location, and surrounding landscaping have been approved by the ARB in accordance

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with Article 7 hereof. The foregoing shall not preclude the use of the Multi-Use Lots for Limited Commercial Purposes, and the presence thereon of animals in excess of one (1) animal to each acre of improved pasture on the Multi-Use Lot, so long as said numbers do not exceed those reasonable in light of the Limited Commercial Purposes. The determination of the Declarant as to what is reasonable hereunder shall be conclusive. No wall or fence may be painted or altered in appearance from the appearance approved by the ARB without subsequent ARB approval. No chainlink, barb wire, hog wire, chicken wire, or similar fencing will be permitted, except that the ARB may permit vinyl fencing in the Rear Yard of a Lot adjacent to the Dwelling Unit, and may permit otherwise approved fencing to be backed with field wire. No fence shall be allowed to exceed the height of five (5') feet on any Lot. All boundary fencing is to be four (4) board black (creosote or pressure treated) fencing, painted with black fence paint to provide uniformity in color and appearance. All fences shall be setback 10 feet from the Lot line except where adjacent Common Areas exist. Yard or interior cross or paddock fencing may be three (3) or four (4) board black (creosote or pressure treated fencing) painted black. All hedges must be neatly trimmed.

Section 2.10 Wastewater Restrictions. No mobile home storage tank or other similar container shall be permitted to exist on any Lot. The location of all septic tanks and drainfields and the incorporation of the same into the landscaping, must be approved by the ARB.

Section 2.11 Garages. Each Dwelling Unit, except those located on a Multi-Use Lot, shall have an attached or detached garage designed for storage of at least two (2) automobiles. Each Dwelling Unit on a Multi-Use Lot shall have an attached or detached garage designed for storage of at least one (1) automobile. Garages must be maintained operational for the storage of automobiles, boats, or other motor vehicles. In order to maintain a harmonious appearance, no garage doors on any Dwelling Unit may face an adjacent public or private right-of-way. The garage doors of a detached garage may face a public or private right-of-way only if the detached garage is located in the Rear Yard and is approved by the ARB. Garage doors shall be opaque and shall remain closed except when in actual use to allow ingress and egress into the garage.

Section 2.12 Swale Maintenance. The Declarant has constructed a Surface Water or Storm Water Management System, including a drainage swale, upon certain Lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time. Each Owner of the Lot upon which a portion of the Surface Water or Storm Water Management System is located shall be responsible for maintenance, operation, and repair of any drainage swales on their Lot. Maintenance, operation, and repair shall be the exercise of practices such as mowing and erosion control, which allows the swales to provide drainage, water storage, conveyance or other storm water management capabilities as permitted by the water management district. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales, including by accumulation of grass clippings or other debris, is prohibited. No alteration of the drainage swales shall be authorized and any damage to any swale, whether caused by natural or human induced phenomena, shall be repaired, and the drainage swale returned to its former condition as soon as possible by the Owner of the Lot upon which the drainage swale is located. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; construct or alter any water control structure; or any other construction to modify the Surface Water Management System Facilities. If the Property includes a wetland mitigation area, as defined by the Southwest Water Management District, or wet detention pond, no vegetation in those areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the Southwest Water Management District. Construction and maintenance activities which are consistent with the design and permit conditions approved by the Southwest Water Management District and any Environmental Resource Permit may be conducted without specific written approval from the Southwest Water Management District.

Section 2.13 Insect and Fire Control and Trash Removal. In order to implement effective insect,

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reptile, rodent, and fire control, the Association and its agents shall have the right, but not the duty, to enter upon any Lot, such entry to be made by personnel with tractors or other suitable devices for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, grass or other unsightly growth, which in the opinion of the Association detracts from the overall beauty, setting and safety of the Property. Such entrance for the purpose of mowing, cutting, clearing, or pruning shall not be deemed a trespass but shall be deemed a license coupled with an interest. The Association and its agents may likewise enter upon such land to remove any trash which has collected on such Lot or Dwelling Unit without such entrance and removal being deemed a trespass. The provisions in this section shall not be construed as an obligation on the part of the Association to mow, clear, cut or prune any Lot nor to provide garbage or trash removal services. The costs incurred by the Association in exercising its right under this Section shall constitute a Special Assessment against the Owner of the Lot or Dwelling Unit and shall in every respect constitute a lien on the Lot or Dwelling Unit as would any other assessment by the Association. No such entry shall be made without prior written notice mailed to the last known address of the Owner advising him that unless corrective action is taken with ten (10) days the Association will exercise its right to enter the Property pursuant to this Section.

Section 2.14 Clothes Lines. No exterior clothes lines or drying areas shall be permitted except removable clothes lines or drying areas which shall be erected only during daylight hours, and only in the Rear Yard of any Lot.

Section 2.15 Exterior Antennas, etc. No exterior antennas, satellite dishes or similar equipment shall be permitted on any Residential Lot or Dwelling Unit thereon, except that satellite dishes of less than eighteen (18) inches in diameter may be installed on Dwelling Units if approved, including as to location, by the ARB.

Section 2.16 Exterior Paint. No paint may be used on the exterior of any Dwelling Unit in a color other than the color of exterior paint used in the original construction of the Dwelling Unit, without the prior written consent of the ARB.

Section 2.17 Signs. With the exception of the Multi-Use Lots, no commercial sign or other sign shall be erected or maintained on any Lot or Dwelling Unit within public view except as may be required by legal proceedings. Such prohibition shall apply to commercial real estate signs advertising a particular Lot or Dwelling Unit for sale or for rent, except for a single commercial real estate sign not exceeding 18" x 30" may be displayed on any Lot without the prior permission of the ARB. Property identification and like signs exceeding a combined total of more than one (1) square foot may not be erected (or affixed to a Dwelling Unit) without the written permission of the ARB. Campaign or political signs are permitted so long as the same do not exceed 18 inches by 30 inches. No homesite may display, however, more than one sign for any individual political candidate and campaign or political signs may not be displayed more than three weeks prior to the election to which the signs are related and must be removed within one week after said election. These restrictions shall not apply to restrict the Declarant from erecting such signs as the Declarant deems in its sole discretion to be necessary to assist the Declarant in selling any Lot or Dwelling Unit. Notwithstanding the foregoing, Multi-Use Lots used for Limited Commercial Purposes may have a single sign, approved as to color and design by the ARB, and be located as approved by the ARB.

Section 2.18 Exterior Maintenance. Each individual Owner shall have the responsibility to maintain the exterior of their respective Dwelling Unit. Failure to maintain the exterior of the Dwelling Unit in reasonable condition, as determined by the ARB shall constitute a Non-Monetary Default pursuant to Section 6.2 entitling the Association to levy a fine. In addition to the foregoing, the Association shall have the right, but not the duty, to provide maintenance to any exterior areas visible from the roads or adjacent Lots, including repairs to walls and roofs, painting, landscaping and lawn maintenance. The Association shall have the right to make reasonable repairs and perform reasonable maintenance in its sole discretion, after ten (10)

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days written notice to an Owner of a Dwelling Unit to perform maintenance and failure by the Owner to perform said maintenance. Any and all costs incurred by the Association in performing repairs and maintenance under this Section shall be paid out by the Owner. If the Owner fails to pay, then the Association shall have the right to impose a Special Assessment against said Owner to pay for the cost of repairs and replacements. Such Assessment shall in every respect constitute a lien on the Lot or Dwelling Unit as would any other Assessments by the Association. The Association shall have the right to enter upon any Lot or upon the exterior of any Dwelling Unit for the purpose of providing repairs and maintenance as provided in this Section, and any such entry by the Association or its agent shall not be deemed a trespass. No such entry shall be made without prior written notice mailed to the last known address of the Owner advising him that unless corrective action is taken within ten (10) days the Association will exercise its right to enter the Property pursuant to this Section.

Section 2.19 Allowable Trim and Decoration. No Owner or tenant of an Owner shall install shutters, awnings, or other decorative exterior trim, except small exterior decorations such as address plates and name plates, which shall not exceed the sign limitations set forth in Section 2.17 above, without the prior written consent of the ARB. All other outside decorations and ornaments, whether affixed to the Dwelling Unit or placed elsewhere on the Lot, are prohibited, unless approved by the ARB. This restriction shall not apply to seasonal decorations from two weeks prior to the holiday to which the decorations are related until one week after said holiday, and to a single flag pole which may not, however, extend higher than the roof of the Dwelling Unit.

Section 2.20 Window Tinting. No reflective foil or other material, or tinted glass shall be permitted on any windows except for tinted glass approved by the ARB.

Section 2.21 Unit Air Conditioners. No air conditioning units may be mounted to windows or walls unless the location, method of installation and appearance has been approved in writing by the ARB. It is the intention of this provision to authorize the ARB to approve or disapprove such air conditioning units in its sole discretion, on purely aesthetic grounds or any other grounds. All other air conditioning units shall be located in the Rear Yard or Side Yard and shall be effectively screened by plant matter or opaque fencing approved by the ARB.

Section 2.22 Interior Maintenance. Each individual Owner shall have the responsibility to maintain the interior of their respective Dwelling Unit. In the event the interior of said Dwelling Unit is damaged in such fashion so as to create a health or safety hazard to adjoining Dwelling Units or to create a nuisance and such damage is not repaired within thirty (30) days from the occurrence of the damage, then in such an event, the Association shall have the right to make reasonable repairs, after at least ten (10) days written notice to the Owner of the extent of the repairs and when they will be made, to the interior of such Dwelling Unit or take steps to secure the Dwelling Unit to remove or correct the health or safety hazard and shall be entitled to make a Special Assessment against the Owner of the Dwelling Unit for the costs of such repairs. Such Assessment shall in every respect constitute a lien on the Lot or Dwelling Unit as would any other Assessment by the Association.

Section 2.23 Tree Removal Restrictions. No living tree larger than eight inches (8") in diameter at Diameter Breast Height (DBH) (4.5 feet above ground level) shall be cut down, destroyed or removed from the Property without the prior approval of the ARB. All requests for approval of tree removal shall be submitted to the ARB along with the plans showing generally the location of such tree(s). This restriction shall not apply to the Declarant in the course of construction, sales or maintenance of improvements upon the Property. Anyone violating the provisions of this Section will be required to replace such tree(s) with tree(s) of like kind, size and condition within thirty (30) days after demand by the Association. If the Owner fails or refuses to replace the tree(s) as demanded, the Association will cause suitable replacements to be planted and the cost thereof shall be a lien against the Lot of the Owner. The Owner grants the Association, its agents and employees, an easement for ingress and egress over

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and across said Lot to enable it to comply with this Section.

Section 2.24 **Driveways.** All driveways which connect to the street of Estates at Cotton Plant, said street being maintained by the Association, must be constructed in the following manner:

2.24.1 That portion of any driveway which is constructed in the road right-of-way must be constructed and paved in accordance with Marion County Land Development Code Appendix B, LDC Detail 19.

2.24.2 No driveway may be less than twelve feet (12') nor more than twenty feet (20') wide except for parking areas.

2.24.3 The connection of all driveways to the street must be made so that the surface of the driveway is lower than the street and the connection of the driveway to the street must be constructed in a fashion to assure that the driveway slopes away from the street at a rate sufficient to provide that the driveway is at least six inches (6") lower than the street at a point midway between the edge of the street and the boundary line of the Lot served by the driveway.

2.24.4 All construction of driveways set forth above, must be in accordance with accepted building and engineering standards. All driveways must be constructed of asphalt, concrete, pavers or other surface approved by the ARB. Each Owner shall be responsible for the maintenance of the driveways serving his or her Lot in good condition so that they do not become unsightly or cause damage to the street, swales, ditches, or Common Areas of Estates at Cotton Plant.

2.24.5 The location of driveways servicing Lots 1 through 12, and 18 through 23, shall require the approval of both the ARB and the Marion County Engineering Department.

Section 2.25 **Vehicles.** All automobiles and vans constructed as private passenger vehicles with permanent rear seats and side windows, and other vehicles manufactured and used as private passenger vehicles, shall be parked within the Property overnight within an enclosed garage unless all spaces for private passenger vehicles within the enclosed garage are occupied by a private passenger vehicle, commercial vehicle, recreational vehicle, camper, trailer, travel trailer, mobile home or boat. No motorcycle, boat, trailer, camper, travel trailer, recreational vehicle, mobile home, or other powered or non-powered vehicle, other than a private passenger vehicle, may be parked or maintained on any Lot, or within the Common Areas, other than on a Multi-Use Lot, except within an enclosure or screened in a fashion approved by the ARB. The restrictions set forth herein shall not apply to any Multi-Use Lot to the extent the same is used for Limited Commercial Purposes, or to the extent the same has constructed thereupon in excess of one Dwelling Unit. The foregoing restrictions shall not be deemed to prohibit the temporary parking of commercial vehicles while providing services to the Property. All vehicles parked on the Property must be in good condition, and no vehicle which is unlicensed or cannot operate under its own power shall remain on the Property for more than twenty-four (24) hours, and no major repair of any vehicle shall be made on the Property.

Section 2.26 **Construction on Lots.** All exterior construction and landscaping of any Dwelling Unit shall be completed before any person may occupy the same. All construction on any Dwelling Unit shall be completed within twelve (12) months from the issuance of the building permit for that Dwelling Unit. All construction on any Lot shall be at that Lot Owner's risk and that Lot Owner shall be responsible for any damage to Common Areas, utilities, public rights-of-way, sidewalks, or curbing resulting from construction on such Lot. Repairs of construction damage must be made within thirty (30) days.

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Section 2.27 Recreational Equipment. All permanent recreational equipment, including but not limited to swing sets, swings, sandboxes, and trampolines, shall be located in the Rear Yard unless approved by the ARB. It is intended that the ARB will approve the installation of suitable equine related equipment in Front and Side Yards. Any other recreational equipment shall be kept within the Dwelling Unit except when in use, except for a single basketball pole and hoop which may be erected adjacent to the driveway serving the Dwelling Unit.

Section 2.28 Grassed Areas and Yards. All Lots shall, upon completion of a Dwelling Unit and prior to any person occupying the Dwelling Unit, be fully landscaped and grassed in accordance with plans submitted to, and approved by, the ARB. The ARB will determine the area of the yard that must be sodded. This area must be sodded with grass approved by the ARB, and shall be serviced by an inground irrigation system approved by the ARB simultaneously with the landscaping plan. The lawn shall be comprised of grass only and shall be cut and edged next to all concrete, asphalt and other non-lawn surfaces. All areas of a Lot that are not sodded, landscaped, or left natural as approved by the ARB must be grassed. All grass shall be of a type approved by the ARB. Grassed areas will be regularly mowed, and will be appropriately watered, fertilized, and treated for grass destroying pests, including insects, fungus, weeds, and disease in a manner designed to insure healthy growth, color and appearance. Decorative rock yards, paved yards, or yards in which the principal ground cover is other than grass are specifically prohibited. No artificial shrubbery, trees, or other artificial vegetation or landscaping, or potted shrubbery, trees, or vegetation shall be permitted outside the Dwelling Unit, except that live shrubbery, trees, or other vegetation in uniformly designed and attractive pots may be displayed on porches, patios, or at the entrance areas of a Dwelling Unit. All shrubbery shall be regularly trimmed, fertilized, watered, and treated for pests as needed to assure the health and attractive condition of the shrubbery. All non-lawn areas shall be kept free from excessive weeds or unsightly undergrowth or brush. The Owner's maintenance and care obligations as set forth herein shall apply to all portions of the Lot including any easements located on or adjacent thereto, including front, side, and rear road and utility easements. Each Owner shall maintain the portions of his Lot lying between the Owner's Lot and the pavement of any adjacent paved street, including culverts.

Section 2.29 Irrigation. All landscaped areas, excluding grassed areas maintained as pasture, shall be serviced by inground irrigation systems.

Section 2.30 Vacant Lots. The grassy areas of any vacant Lots shall be kept regularly mowed and trimmed, and all areas of vacant Lots shall be kept free of trash, debris, and unsightly or noxious weeds or underbrush. The Association shall have the right, but not the duty, to provide such maintenance to vacant Lots, after ten (10) days notice to the Owner of a vacant Lot to perform such maintenance and failure by the Owner to perform said maintenance. Any and all costs incurred by the Association in performing maintenance under this Section shall be paid by the Owner.

Section 2.31 Pools. No above-ground pools are permitted within the Property. However, pools may have a wall-out-of-ground not to exceed a maximum of sixteen inches (16") in height. All in-ground pools shall include a paved patio extending from the Dwelling Unit and completely surrounding the pool and shall be located in the Rear Yard. All pool enclosures, including screening, must be approved by the ARB.

Section 2.32 Set-back Requirements and Building Location. All Dwelling Units shall be set back at least as far as required by the County Building and Zoning Code, or any setbacks as shown on the face of the plat. All setbacks must be maintained in a natural condition and landscaped with natural materials. Notwithstanding the foregoing, minimum setbacks shall be as follows:

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- 2.32.1 Front Setback60 feet (from front lot line)
- 2.32.2 Side Setback 20 feet (from lot line)
- 2.32.3 Rear Setback 25 feet (from lot line)
- 2.32.4 Driveway Setback 3 feet (from side lot line)

Section 2.33 Storage. No items may be stored on a Lot outside a Dwelling Unit or approved building including, without limitation, scrap metal, junk or salvage materials, items or articles whether the same be in the form of wrecked or junked vehicles, appliances, furniture, equipment, building materials, boxes of any kind, or lawn tools, supplies, lawn mowers, and equipment. All tools, supplies, mowers, and equipment, including garden hoses and sprinklers, shall be stored by an Owner out of view, except when in use.

Section 2.34 Household Garbage and Yard Trash. The Association shall be responsible for selecting a garbage franchisee who will be contracted on an annual basis or subject to annual review with an annual termination provision for unsatisfactory service. The Association will contract with only one garbage franchisee to service the Property and each Dwelling Unit must use and pay for garbage services provided by the garbage franchisee selected by the Association or must personally transport trash and garbage to a landfill or garbage box. So long as the Association has contracted with a garbage franchisee, no Lot Owner may use any other third party garbage franchisee to haul garbage or trash from that Owner's Lot, except for the removal of lawn waste by a tree removal or landscaping service. No Lot or any other part of the Property shall be used or maintained as a dumping ground for rubbish of any kind except as set forth herein. Trash, garbage or other waste shall be bagged, tied, and kept in covered sanitary containers in the garage, or at the rear of the Dwelling Unit out of sight from the street within an approved fenced area. On those days and only on those days when garbage pickup or trash pickup are made at the Lot, the Owners shall place their garbage (bagged and tied) on their Lot and adjacent to the street for pickup not earlier than sundown prior to the day of pickup. All receptacles will be removed from the curbside not later than sundown of the day of pickup. In the event trash or garbage must be collected from a receptacle servicing more than one Lot to meet the requirements of a collection company or agency, all trash and garbage shall be in plastic bags and tied securely before being placed in the receptacle. In no event shall trash or garbage be placed outside the receptacle. Nothing contained herein shall prohibit the Declarant, or any builder of a Dwelling Unit, from maintaining receptacles, or sites for the collection of trash, or debris, which receptacles or sites do not otherwise comply with this section, on a Lot or on the Properties during construction of improvements to the Properties or construction of a Dwelling Unit.

Section 2.35 Containers and Fuel Tanks. All garbage and trash containers, bottled gas tanks, water softeners and tanks for irrigation wells shall be located in the garage or, subject to approval of the ARB, in the Rear Yard or a Side Yard adjacent to the Dwelling Unit. Any such garbage or trash containers, bottled gas tanks, or water softeners and tanks for irrigation wells located in the Rear Yard or Side Yard shall be located adjacent to the Dwelling Unit and shall be installed underground or within an area screened by a wall, hedge, landscaping or fence which is not visible from any street or adjoining property. Any such screened area shall be constructed or landscaped in such a manner as to be inaccessible to dogs or other animals and shall be in form and of a material approved by the ARB.

Section 2.36 Gardens and Prohibited Plants. Vegetable gardens may be grown only in the Rear Yard and shall constitute an area of no more than three hundred (300) square feet. The cultivation and maintenance of poisonous and illegal plants is prohibited.

Section 2.37 Lighting and Utilities. All exterior lighting on any Lot or Dwelling Unit must be designed and erected so as to avoid annoyance to any other Owner, and to avoid unreasonable illumination of any other portion of the Properties except the Lot upon which the lighting is erected. The ARB shall have sole authority to determine whether exterior lighting constitutes an annoyance or unreasonably illuminates other portions of the Property. This provision shall not apply to

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street lighting installed by the Declarant, the Association, or any governmental entity. All utilities existing on or across a Lot shall be underground.

Section 2.38 Driveways. All driveways shall be constructed in accordance with Section 2.24. The Portion lying within the Lot shall be constructed of concrete, asphalt, pavers or other surfaces approved by the ARB, and shall extend from the pavement of a street adjacent to the Lot to the garage constructed on the Lot. Driveways shall not be painted unless approved by ARB.

Section 2.39 Mail Boxes. No mail box or paper box or other receptacle of any kind for use in the delivery of mail, newspaper, or magazines, or similar material shall be erected by an Owner unless the size, location, design, and type of material for said boxes or receptacles shall have been approved by the ARB and said boxes shall display only the name of the Owner and the street number of the Lot. Nothing may be added or attached to the mail box, paper box, or post supporting the same, including without limitation, flags, signs, flowers, decorations, numbers, and license plates.

Section 2.40 Leases. All leases of a Dwelling Unit shall be restricted to residential use. All leases shall be in writing and shall provide that the Declarant shall have the right to terminate the lease upon default by the tenant in observing any provisions of this Declaration. Each lease shall contain the following provision:

The lessee hereby acknowledges that this lease is subject to the Declaration of Covenants and Restrictions for Estates at Cotton Plant, that lessee has read the same and agrees to be bound thereby, and that failure to comply with the same may result in certain remedies being applicable to lessee including, without limitation, termination of this lease without further notice, and personal liability of lessee and lessor for damages, including reasonable attorneys fees.

(In the event the foregoing language is not contained in any such lease, then the foregoing language is hereby incorporated therein by reference.) In the event a lessee or a lessee's invitee, guest, or licensee of a Dwelling Unit occupies the same without a written lease, the occupancy thereof shall constitute an acceptance of this Declaration and agreement to be bound thereby subject thereto. No lease shall be for a term of less than three months. The Declaration shall have the right to collect attorneys fees against any occupant or tenant and the owner of the Dwelling Unit in the event that legal proceedings must be instituted against such occupant or tenant for his eviction or for enforcement of the Declaration. The Declarant are exempt from the provisions of this section.

Section 2.41 Lot Septic Systems and Well. Each Lot will be serviced by a private well and septic system. Wells and septic systems shall meet all County and State requirements.

Section 2.42 Motorized Vehicles. With the exception of motorized vehicles used in the regular maintenance and upkeep of a Lot, and motorized vehicles used on the private roadways within the Property, no motorized vehicle may be used within one hundred (100') feet of the Equestrian Easement, as defined in Section 3.9 below, in such a fashion as is likely to frighten or disturb horses. The Association shall have the authority to determine when violations of this restriction have occurred and may levy fines for the enforcement of the same pursuant to Article 6.

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**ARTICLE 3.
PROPERTY SUBJECT TO THIS DECLARATION
ANNEXATIONS; PROPERTY RIGHTS**

- Section 3.1** **The Property.** The Property as heretofore defined and any improvements now or hereinafter constructed thereon, shall be held, transferred, sold, conveyed and occupied subject to this Declaration.
- Section 3.2** **Annexation.** Additional land adjacent to the Property may be annexed to the Property by the Declarant without the consent of the Owners provided that if any Mortgage encumbering any Lot is guaranteed or insured by the Federal Housing Administration (FHA) or the Veterans Administration (VA), then consent of the FHA and/or the VA to such annexation must be obtained, and provided the annexation does not change the general nature or character of the subdivision. Upon annexation of said additional land, the Owners of Lots within the land so annexed for all intents and purposes shall be deemed to be Members of the Association in accordance with the provisions of this Declaration, with the right to use the Common Areas identified herein, or identified within the supplemental declaration referred to hereafter, upon the same terms and conditions as initial Members of the Association. The Owners of the Lots shall be subject to its rules, regulations, Articles and Bylaws in the same manner and with the same effect as the original Owners, and shall have the same rights and obligations granted by this Declaration as the original Owners. When land is annexed, the Declarant shall file a supplemental declaration in the Public Records of the County, which supplemental declaration shall reference this Declaration and shall contain the legal description of the land annexed. In the event of annexation as set forth herein any portion of the Property then owned by the Declarant or Association may be designated as Common Areas for the use and benefit of the Members. For example, upon annexation the Declarant may convert a Lot within the original Property, or a portion thereof, to be a Common Area to provide ingress and egress to the land annexed. In addition, in the event of annexation the Declarant may identify any of the property annexed as a Multi-Use Lot hereunder, subject only to the restriction that any such Lot identified as a Multi-Use Lot must be adjacent to an existing Multi-Use Lot, or a Common Area adjacent to an existing Multi-Use Lot, and may not be adjacent to a non-Multi-Use Lot, or a Common Area adjacent to a non-Multi-Use Lot.
- Section 3.3** **Owner's Easements of Enjoyment.** Every Owner shall have a non-exclusive perpetual right and easement of enjoyment in and to the Common Areas, if any, which right and easement shall be appurtenant to and shall pass with the title to every Lot subject to the following provisions:
- 3.3.1** any limitations or conditions set forth in the deed, grant of easement, license, this Declaration, or other conveyance or agreement creating the right of the Association in and to that portion of the Common Areas; and
- 3.3.2** the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective unless an instrument, signed by Members representing a majority of the votes of the membership, agreeing to such dedication or transfer has been recorded; and
- 3.3.3** the right of the Association to implement reasonable rules, regulations, and restrictions which shall apply uniformly to each Owner, for the use of the Common Areas.
- Section 3.4** **Maintenance Easements.** The Association shall have a non-exclusive perpetual right and easement on every Lot for the purpose of maintaining the Common Areas and providing such other services to the Owners as are authorized or permitted by this Declaration, which

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right and easement is assignable. The easement granted herein shall not entitle the Association to enter any Dwelling Unit unless specifically authorized by other provisions of this Declaration.

- Section 3.5** **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 Southwest Florida Water Management System 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 Southwest Florida Water Management District.
- Section 3.6** **Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the Owner's respective Lot.
- Section 3.7** **Construction and Sales.** There is hereby reserved to the Declarant, its designees, successors and assigns (including without limitation its agents, sales agents, representatives and prospective purchasers of Lots), easements over the Common Areas, if any, for construction, utilities lines, display, maintenance, sales, parking and exhibit purposes in connection with the erection of improvements and sale and promotion of Lots within the Property and for ingress and egress to and from and parking for construction sites at reasonable times, provided, however, that such use shall terminate upon the sale of all Lots.
- Section 3.8** **Utility Easements.** To the extent that permits, licenses and easements over, upon or under the Common Areas are necessary so as to provide utility services and roads to the Property, or for such other purposes reasonably necessary or useful for the proper maintenance and operation of the Property, each Owner and his heirs, successors and assigns, do hereby designate and appoint the Declarant (and the Association, upon termination or conversion of the Class B membership) as his agents and attorneys-in-fact with full power in his name, place and stead, to execute instruments creating, granting or modifying such easements; provided, however, that such easements shall not unreasonably interfere with the intended use of the Common Areas, if any.
- Section 3.9** **Equestrian Easement.** There is hereby reserved to the Declarant, to each Owner, and to each Permitted User an easement to, over, and upon the portion of the Common Open Space designated for equestrian uses by the Association, and all portions of each Lot lying within twenty (20) feet of a right-of-way line depicted on the Plat (the "*Equestrian Easement*"). The Equestrian Easement as so designated may be used by the Declarant, Owners, or Permitted Users for horseback riding, bike riding, walking, jogging or related activities, subject to such rules, regulations and restrictions for such use promulgated by the Association. Motorized vehicles shall not be permitted in the Equestrian Easement, except as required to perform upkeep and maintenance therein. Any user of the Equestrian Easement, by virtue of using the easement reserved herein, agrees to indemnify and hold harmless Declarant, Association and any Owner from any and all claims, damages, causes of action, suits or other matters arising out of, or related to, the user's use of the easement herein, or presence on the Property which is subject to this easement. All such users accept the risk of, and responsibility for, injuries, claims, and damages arising out of activities of the kind and nature contemplated hereby. Without limiting the foregoing, each Owner, by acceptance of a Deed to a Lot, agrees to, prior to making use of, or permitting any guest, tenant, invitee, or other Permitted User to make use of, the Equestrian Easement, execute or cause said Third Party to execute a written waiver of release in form approved by the Association as a pre-condition to use of the Equestrian Easement. The Association may, in

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addition to promulgating a form waiver and release, also promulgate reasonable rules and regulations for use of the Equestrian Easement. Any user of the Equestrian Easement, by use thereof, acknowledges receipt of the following warning.

WARNING

UNDER FLORIDA LAW, AN EQUINE ACTIVITY SPONSOR OR EQUINE PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO, OR THE DEATH OF A PARTICIPANT IN EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISKS OF EQUINE ACTIVITIES.

Section 3.10 **Right to Vacate.** Declarant retains the right to vacate, alter, or amend the Common Areas, including vacation of the Plat with regard to any Common Area, as is necessary or advisable in Declarant's discretion to facilitate the platting of adjacent properties, and access to adjacent property, and annexation of the same to the Property pursuant to Article 3, Section 3.2.

ARTICLE 4.

MEMBERSHIP AND VOTING RIGHTS

Section 4.1 **Membership in Association.** Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. For purposes of this Section the Owner of a Multi-Use Lot may have multiple memberships in the Association in accordance with Section 1.18 above (i.e., the Owner of a Multi-Use Lot with a quadruplex on the same shall have four memberships in the Association).

Section 4.2 **Voting Rights in Association.** The Association shall have two (2) classes of Voting Membership.

Class A. Class A. Members shall be all Owners, with the exception of, until conversion from Class B Membership, the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant who shall be entitled to five (5) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership three (3) months after ninety percent (90%) of all Lots in all phases of Estates at Cotton Plant that will ultimately be operated by the Association have been conveyed to Owners other than the Declarant. At such time the Class B Member shall be deemed a Class A Member entitled to one (1) vote for each Lot in which they hold the interest required for Membership under Article 4, Section 4.1.

ARTICLE 5.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.1 **Creation of the Lien and Personal Obligation for Assessments.** The Declarant for each Lot within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay Assessments to the Association, such Assessments to be established and collected as hereinafter provided. The Assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the

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person who was the Owner of such Lot at the time the Assessment fell due.

Section 5.2 **Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property, and for the improvement and maintenance of the Common Areas including, but not limited to, the Surface Water and Storm Water Management System and for enforcement of the Declaration.

Section 5.3 **Maintenance.** The Association shall maintain the Common Areas and shall assume all of Declarant's responsibility to the County, its governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Common Areas or the Property including, but not limited to, roads and water distribution systems, or any Surface Water or Storm Water Management System, and shall indemnify and hold Declarant harmless with respect thereto. Nothing contained herein shall obligate the Association, or otherwise make it responsible for, initial construction of improvements required by the County.

Section 5.4 **Fixing Common Assessment.** The Board of Directors of the Association shall be authorized to assess the Members in such amount as they shall determine necessary:

- 5.4.1 to maintain, repair, improve, reconstruct and replace the Common Areas and any temporary Surface Water or Storm Water Management System, operate the Association, perform other maintenance, repairs, or services authorized or permitted by the Declaration; and
- 5.4.2 to provide for the maintenance of improvements, including, but not limited to, irrigation systems and landscaping lying within public or private rights-of-way; and
- 5.4.3 to install such safety devices and signs as the Board of Directors shall approve along any streets or walkways; and
- 5.4.4 to provide for the installation, maintenance, repair, improvement and replacement of all improvements located within the easements granted to the Association in Article 3; and
- 5.4.5 to otherwise achieve those purposes set forth in Section 5.2 above, as determined to be necessary or advisable by the Board of Directors, and to provide funds necessary to pay all Common Expenses.

The Common Assessment shall be allocated among the Owners, including the Declarant, on the basis of Lots held by each Owner as a portion of the total of Lots held by all Owners. Notwithstanding the foregoing, for so long as Declarant is a Class B Member, the Declarant shall have the option, in its sole discretion, to (i) pay Assessments on the Lots owned by it, or (ii) not to pay Assessments on any Lots and in lieu thereof to fund any resulting deficit in the Association's operating expenses not produced by Assessments receivable from Owners other than the Declarant. The deficit to be paid under option (ii), above, shall be the difference between (i) actual operating expenses of the Association (exclusive of capital improvement costs, reserves and management fees) and (ii) the sum of all monies receivable by the Association (including, without limitation, Assessments, interest, late charges, fines, rent and incidental income) and any surplus carried forward from the preceding year(s). The Declarant may from time to time change the option stated above under which the Declarant is making payments to the Association by written notice to such effect to the Association. When all Lots within the Property are sold and conveyed to purchasers, other than the Declarant, the Declarant shall have no further liability of any kind to the Association for the payment of Assessments, deficits or contributions.

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The Common Assessment, determined and allocated as set forth above, shall be fixed at such times, and shall be payable in such installments, as the Board may approve.

Section 5.5 Assessments for Capital Improvements. In addition to the Common Assessment authorized above, the Association may levy, in any assessment year, an Assessment applicable to that year for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, or within the easements granted to the Association in Article 3, including fixtures and personal property related thereto. Any such Assessment shall have the assent of a majority of the votes of the membership who are voting in person or by proxy at a meeting duly called for this purpose. Notwithstanding the foregoing, the levy of any Assessment pursuant to this provision which would exceed, for each Owner, the total amount of the prior year's Common Assessment, will require a majority vote of all Non-Declarant Owners.

Section 5.6 Notice and Quorum for any Action Authorized under Sections 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.4 and 5.5 shall be sent to all Members not less than fourteen (14) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty percent (30 %) of the votes of the membership shall constitute a quorum. If the required quorum is not present another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be twenty-five (25%) of the votes of the membership. The Association may call as many such subsequent meetings as necessary to obtain an authorized quorum. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting, without written notice.

Section 5.7 Uniform Rate of Assessment. The Common Assessment, and any Reconstruction Assessment and Capital Improvement Assessment, must be fixed at a uniform rate for all Lots, except as to undeveloped Lots owned by the Declarant pursuant to Section 5.4 above, and may be collected on a monthly, semi-annual, quarterly or annual basis as determined by the Board of Directors. It is the intention hereof that the Owner of a Multi-Use Lot may pay multiple Assessments. If, for example, the Multi-Use Lot is unimproved, or has a single Dwelling Unit on it, the Owner shall pay Assessments as the Owner of a single Lot. If, for example, the Multi-Use Lot has a quadraplex on it, the Owner thereof shall be assessed as if the Owner owned four Lots.

Section 5.8 Date of Commencement of Assessments; Due Dates. The Assessments provided for in this Article shall commence as to all Lots on the first day of the month next following the conveyance of the Common Area or the conveyance of the first Lot to an Owner other than Declarant, whichever shall occur first. The First Common Assessment shall be adjusted according to the number of months remaining in the calendar year. Written notice of the Common Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as to third parties as of the date of its issuance.

**ARTICLE 6.
COLLECTION OF ASSESSMENTS**

Section 6.1 Monetary Defaults and Collection of Assessments.

6.1.1 Late Fees and Interest. If any Assessment is not paid within ten (10) days after the due date, the Association shall have the right to charge the defaulting Owner a late

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fee of ten (10%) percent of the amount of the Assessment, or Ten (\$10.00) Dollars, whichever is greater, plus interest at the highest rate of interest allowable by law from the due date until paid. If there is no due date applicable to any particular Assessment, then the Assessment shall be due ten (10) days after written demand by the Association.

- 6.1.2 Acceleration of Assessments.** If any Owner is in default in the payment of any Assessment owed to the Association for more than thirty (30) days after written demand by the Association, the Association upon written notice to the defaulting Owner shall have the right to accelerate and require such defaulting Owner to pay to the Association Assessments for the next twelve (12) month period, based upon the then existing amount and frequency of assessments. In the event of such acceleration, the defaulting Owner shall continue to be liable for any increases in the Common Assessments, for all Special Assessments, and for all other Assessments payable to the Association.
- 6.1.3 Lien for Assessments.** The Association has a lien on each Lot for unpaid Assessments owed to the Association by the Owner of such Lot, and for late fees and interest, and for reasonable attorneys' fees incurred by the Association incident to the collection of the Assessments or enforcement of the lien, and all sums advanced and paid by the Association for taxes and payment on account of superior mortgages, liens or encumbrances in order to preserve and protect the Association's lien. The lien is effective from and after recording a lien in the public records in the County, stating the legal description of the Lot, the name of the record Owner, and the amount due as of the recording of the claim of lien. A recorded claim of lien shall secure all sums set forth in the claim of lien, together with all Assessments or other monies owed to the Association by the Owner until the lien is satisfied. The lien is in effect until all sums secured by it have been fully paid or until the lien is barred by law. The claim of lien must be signed and acknowledged by an officer or agent of the Association. Upon payment in full of all sums secured by the lien, the person making the payment is entitled to a satisfaction of the lien.
- 6.1.4 Collection and Foreclosure.** The Association may bring an action in its name to foreclose a lien for Assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid Assessments without waiving any claim of lien. The applicable Owner shall be liable to the Association for all costs and expenses incurred by the Association in connection with the collection of any unpaid Assessments, and the filing, enforcement, or foreclosure of the Association's lien, including reasonable attorneys' fees and all sums paid by the Association for taxes and on account of any other mortgage, lien, or encumbrance in order to preserve and protect the Association's lien. The Board is authorized to settle and compromise the Association's lien if the Board deems a settlement or compromise to be in the best interest of the Association.
- 6.1.5 Subordination of Lien.** The lien of the Association for Assessments or other monies shall be subordinate and inferior to the lien of any first mortgage of record held by an institutional lender. An institutional lender shall refer to any bank, bank holding company, trust company, or subsidiary thereof, savings and loans association, savings bank, federal national mortgage association, insurance company, union pension fund, mortgage company, an agency of the United States government, or the Declarant. Any person who obtains title to a Lot pursuant to the foreclosure of a first mortgage of record held by an institutional lender, or any Mortgagee who accepts a deed to a Lot in lieu of foreclosure of the first mortgage of record held by an institutional lender shall not be liable for any Assessments or for other monies owed to the Association which are chargeable to the former Owner of the Lot and which became due prior to acquisition of title as a result of the

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foreclosure or deed in lieu thereof, unless the payment of such funds is secured by a claim of lien recorded prior to the recording of the foreclosed or underlying mortgage. The unpaid Assessments or other monies are Common Expenses collectable from all of the Owners, including such acquirer and his successors and assigns. The new Owner, from and after the time of acquiring such title, shall be liable for payment of all future Assessments as may be assessed to the Owner's Lot. Any person who acquires a Lot, except through foreclosure of a first mortgage of record or acquiring title by sale, gift, devise, operation of law or by purchase at a judicial or tax sale, shall be liable for all unpaid Assessments and other monies due and owing by the former Owner to the Association; provided, however, that this obligation shall not be applicable to loans insured by the Federal Housing Administration or guaranteed by the Veterans Administration, if the applicable statutes, rules or regulations of the FHA or VA prohibit such liability.

6.1.6 Unpaid Assessments Certificate. Within fifteen (15) days after written request by any Owner or any Mortgagee holding or making a mortgage encumbering any Lot, the Association shall provide the Owner or Mortgagee a written certificate as to whether or not the Owner of the Lot is in default with respect to the payment of Assessments or with respect to compliance with the terms and provisions of this Declaration, and any person or entity who relies on such certificate in purchasing or in making a mortgage loan encumbering any Lot shall be protected thereby.

6.1.7 Application of Payments. Any payments made to the Association by any Owner shall first be applied towards any sums advanced and paid by the Association for taxes and payment on account of superior mortgages, liens or encumbrances which may have been advanced by the Association in order to preserve and protect its lien; next toward reasonable attorneys' fees incurred by the Association incidental to the collection of Assessments and other monies owed to the Association by the Owner or for the enforcement of its lien; next towards interest on any Assessments or other monies due to the Association, as provided herein; and next towards any unpaid Assessments owed to the Association in the inverse order that such Assessments were due.

Section 6.2 Non-Monetary Defaults. In the event of a violation by any Owner or any tenant of an Owner, or any person residing with them, or their employees, guests, or invitees, (other than the non-payment of any Assessment or other monies) of any of the provisions of this Declaration, the Articles, the Bylaws or the rules and regulations of the Association, the Association shall notify the Owner and any tenant of the Owner of the violation, by written notice. If such violation is not cured as soon as practicable and in any event within fourteen (14) days after such written notice, or if the violation is not capable of being cured within such fourteen (14) day period, if the Owner or tenant fails to commence and diligently proceed to cure completely such violation as soon as practicable within fourteen (14) days after written notice by the Association, or if any similar violation is thereafter repeated, the Association may, at its option take any one or all of the following actions:

6.2.1 Impose a fine against the Owner or tenant as provided in Section 6.3 of this Article;

6.2.2 Commence an action to enforce the performance on the part of the Owner or tenant, or for such equitable relief as may be necessary under the circumstances, including injunctive relief;

6.2.3 Commence an action to recover damages;

6.2.4 take any and all actions reasonably necessary to correct such failure, which action may include, where applicable, but is not limited to, removing any addition, alteration, improvement or change which has not been approved by the Association, or performing any maintenance required to be performed by this Declaration.

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All expenses incurred by the Association in connection with the correction of any failure, plus a service charge of ten (10%) percent of such expenses, and all expenses incurred by the Association in connection with any legal proceedings to enforce this Declaration, including reasonable attorneys' fees, shall be assessed against the applicable Owner as a Special Assessment and shall be due upon written demand by the Association. The Association shall have a lien for any such Special Assessment and any interest, costs or expenses associated therewith, including attorneys' fees incurred in connection with such Special Assessment, and the Association may take such action to collect such Special Assessment or foreclose said lien as in the case and in the manner of any other Assessment as provided above. Any such lien shall only be effective from and after the recording of a claim of lien in the Public Records of the County.

Section 6.3 **Fines.** The amount of any fine shall be determined by the Board, and shall not exceed One Hundred Dollars (\$100.00) per violation. For continuing violations each day the violation is in existence may be considered a separate violation. In such event, the fine may be levied on the basis of each day of the continuing violation, with a single notice and opportunity for hearing, except that no such fine for a continuing violation shall exceed Fifty Dollars (\$50.00) a day (with no cap on the aggregate amount of said fine). Any fine shall be imposed by written notice to the Owner or tenant, signed by an officer of the Association, which shall state the amount of the fine, the violation for which the fine is imposed, and shall specifically state that the Owner or tenant has the right to contest the fine by delivering written notice to the Association within fourteen (14) days after receipt of the notice imposing the fine. If the Owner or tenant timely and properly objects to the fine, the Board shall appoint a committee of at least three (3) Members who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or the sister of an officer, director or employee of the Association, to conduct a hearing within thirty (30) days after receipt of the Owner's or tenant's objection, and shall give the Owner or tenant not less than fourteen (14) days' written notice of the hearing date. At the hearing, the committee shall conduct a reasonable inquiry to determine whether the alleged violation in fact occurred, and that the fine imposed is appropriate. The Owner or tenant shall have the right to attend the hearing and to produce evidence on its behalf. The committee shall ratify, reduce or eliminate the fine and shall give the Owner or tenant written notice of its decision. Any fine shall be due and payable within fourteen (14) days after written notice of the imposition of the fine, or if a hearing is timely requested within fourteen (14) days after written notice of the committee's decision. Any fine levied against an Owner shall be deemed a Special Assessment, and if not paid when due all of the provisions of this Declaration relating to the late payment of Assessments shall be applicable. If any fine is levied against a tenant and is not paid within fourteen (14) days after same is due, the Association shall have the right to evict the tenant pursuant to Section 6.6 of this Article.

Section 6.4 **Negligence.** An Owner shall be liable and may be assessed by the Association for the expense of any maintenance, repairs or replacement rendered necessary by his act, neglect or carelessness, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Lot or Dwelling Unit or the Common Areas.

Section 6.5 **Responsibility of an Owner for Occupants, Tenants, Guests and Invitees.** Each Owner shall be responsible for the acts and omissions, whether negligent or willful, of any person residing in his Dwelling Unit, and for all employees, guests, and invitees of the Owner or any such resident, and in the event the acts or omissions of any of the foregoing shall result in any damage to the Common Areas, or any liability to the Association, the Owner shall be assessed for same as in the case of any other Assessment, limited where applicable to the extent that the expense or liability is not met by the proceeds of insurance carried by the Association. Furthermore, any violation of any of the provisions of this Declaration, of the Articles, or the Bylaws, by any resident of any Dwelling Unit, or any guest or invitee of an

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Owner or of any resident of a Dwelling Unit shall also be deemed a violation by the Owner, and shall subject the Owner to the same liability as if such violation was that of the Owner.

Section 6.6 **Right of Association to Evict Tenants, Occupants, Guests, and Invitees.** With respect to any tenant or any person present in any Dwelling Unit or any portion of the Property, other than an Owner and the members of his immediate family permanently residing with him in the Dwelling Unit, if such person shall materially violate any provision of this Declaration, the Articles or the Bylaws, or shall create a nuisance or an unreasonable and continuous source of annoyance to the residents of the Property, or shall willfully damage or destroy any Common Areas or personal property of the Association, then upon written notice by the Association such person shall be required to immediately leave the Property and if such person does not do so, the Association is authorized to commence an action to evict such tenant or compel the person to leave the Property and, where necessary, to enjoin such person from returning. The expense of any such action, including attorneys' fees, may be assessed against the applicable Owner as a Special Assessment, and the Association may collect such Special Assessment and have a lien for same as elsewhere provided. The foregoing shall be in addition to any other remedy of the Association.

Section 6.7 **No Waiver.** The failure of the Association to enforce any right, provision, covenant or condition which may be granted by this Declaration, the Articles or the Bylaws, shall not constitute a waiver of the right of the Association to enforce such right, provision, covenant, or condition in the future.

Section 6.8 **Rights Cumulative.** All rights, remedies and privileges granted to the Association pursuant to any terms, provisions, covenants, or conditions of this Declaration, the Articles or the Bylaws, shall be deemed to be cumulative, and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the Association thus exercising the same from executing such additional remedies, rights or privileges as may be granted or as it might have by law.

Section 6.9 **Enforcement By or Against other Persons.** In addition to the foregoing, this Declaration may be enforced by Declarant or the Association, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this Declaration shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this Declaration. In addition to the foregoing, any Owner shall have the right to bring an action to enforce this Declaration against any person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no Owner shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any person, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees.

**ARTICLE 7.
ARCHITECTURAL REVIEW**

Section 7.1 **Composition of Architectural Review Board.** The Declarant, acting in his own name or Declarant's appointed agent, shall constitute the Architectural Review Board (referred to herein as "ARB"). At such time as Declarant in his sole and absolute discretion shall determine, Declarant may, in lieu of continuing to serve as the ARB, transfer the authority to serve in that capacity to the Association. At such time Declarant in his sole and absolute discretion transfers such authority to the Association, the Association shall create a committee which shall thenceforth be and constitute the ARB.

Section 7.2 **Large Homes.** It is the intention of the Developer to require stricter standards for large

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homes within the development. Owners are hereby placed on notice, therefore, that design standards may be different, and more strenuous, for larger homes, and specific ARB approval will be required for any Dwelling Unit which is located on two (2) or more Lots.

Section 7.3 **Scope of Review.** No buildings, fence, wall, outbuilding, landscaping or other structure or improvement shall be erected, altered, added onto or repaired upon any portion of the Property without the prior written consent of the ARB provided however that improvements erected, altered, added onto or repaired by Declarant shall be exempt from the provisions of this Article 7. Nothing contained herein shall require that the ARB approve improvements of the interior structures which improvements are not visible or apparent from the exterior of the structure. The ARB's approval shall include, but not be limited to, assuring that the improvements comply with individual Lot grading guidelines established by the ARB.

Section 7.4 **Submission of Plans.** Prior to the initiation of construction upon any Lot, the Owner thereof shall first submit to the ARB a complete set of plans and specifications for the proposed improvement, including site plans, landscape plans, floor plans depicting room sizes and layouts, exterior elevations, approximate ground floor elevation in relation to the existing (natural) grade, specifications of materials and exterior colors, and any other information deemed necessary by the ARB for the performance of its function. In addition the Owner shall submit the identity of the individual or company intended to perform the work and a projected commencement and completion date.

Section 7.5 **Plan Review.** Upon receipt by the ARB of all of the information required by this Article 7, the ARB shall have thirty (30) days in which to review said plans. The proposed improvements will be approved if, in the reasonable opinion of the ARB (i) the improvements will be of an architectural style and material that are compatible with the other structures in the Property; (ii) the improvements will not violate any restrictive covenant or encroach upon any easement or building set back lines; (iii) the improvements will not result in the reduction in property value or use of adjacent property (iv) the individual or company intended to perform the work is acceptable to the ARB; and (v) the improvements will be substantially completed, including all cleanup, within twelve (12) months of issuance of a building permit. The ARB's approval shall include, but not be limited to, assuring that the improvements comply with individual Lot grading guidelines established by the ARB. In the event that the ARB fails to issue its written approval within 30 days of its receipt of the last of the materials or documents required to complete the Owner's submission, the ARB's approval shall be deemed to have been granted without further action.

Section 7.6 **Contingent Approval.** In the exercise of its sole discretion the ARB may require the Owner to provide assurances that the improvements will be completed in accordance with the approved plans.

Section 7.7 **Maintenance.** All buildings, fences, walls, outbuildings, landscaping, or other structures or improvements approved by the ARB shall be maintained in accordance with the Plans submitted to the ARB, and in good condition as determined by the ARB. Without limiting the foregoing, all landscaping shall be maintained in a healthy condition. Any failure to maintain any such buildings, fence, wall, outbuilding, landscaping, or other structures or improvements in accordance with the approval obtained from the ARB, and in reasonable condition as determined by the ARB, shall constitute a Non-Monetary Default hereunder pursuant to 6.2, entitling the Association to pursue the remedies set forth therein.

Section 7.8 **Non-conforming Structures.** If there shall be a material deviation from the approved plans in the completed improvements, such improvements shall be in violation of this Article 7 to the same extent as if erected without prior approval of the ARB. The Association, ARB or any Owner may maintain an action at law or in equity for the removal or correction of the non-conforming structure and, if successful, shall recover from the Owner in violation all costs, expenses and fees incurred in the prosecution thereof.

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Section 7.9 **Immunity of ARB Members.** No individual member of the ARB shall have any personal liability to any Owner or any other person for the acts or omissions of the ARB if such acts or omissions were committed in good faith and without malice. The Association shall defend any action brought against the ARB or any member thereof arising from acts or omissions of the ARB committed in good faith and without malice. Any approval given by the ARB, whether written, spoken, or implied, shall not constitute or imply compliance with this Declaration or any governmental regulations. Without limiting the foregoing, each Owner is hereby informed that any construction of impervious areas on a Lot, including Dwelling Units, (barns, driveways, sidewalks, etc.) In excess of 12,770 square feet shall require separate approvals from the County and the Southwest Florida Water Management District, in addition to standard governmental approvals.

Section 7.10 **Address for Notice.** Requests for approval or correspondence with the ARB shall be addressed to the attention of the "Estates at Cotton Plant ARB", c/o James T. Mastin, 5700 SW 34th Street, Suite 324, Gainesville, FL 32608, and mailed or delivered to the principal office of the Declarant at that address, or such other address as may be designated from time to time by the ARB and the Declarant. No correspondence or request for approval shall be deemed to have been received until actually received by the ARB in form satisfactory to the same.

Section 7.11 **Variations.** The ARB may authorize variations in compliance with the architectural provisions, and all of the use restrictions, of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Any variance granted for the use restriction set forth in Article 2 must, before becoming effective, be approved by a two-thirds (2/3) vote of the Membership of the Association. Such variations must be evidenced in writing. If such variations are granted in writing and approved in writing by the ARB, no violation of the covenants, conditions, and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variations were granted. The granting of such a variance shall not, however, operate to waive any of the terms or provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variations, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting its use of the premises including, but not limited to, zoning ordinances and setback requirements and requirements imposed by any governmental or municipal authority.

Section 7.12 **Attorneys Fees and Costs.** For all purposes necessary to enforce or construe this Article the ARB and the Declarant, shall be entitled to collect reasonable attorneys fees, costs and other expenses from the Owner whether or not judicial proceedings are involved. If such fees, costs or expenses are not paid by the Owner to the Declarant within fifteen (15) days of Declarant providing to Owner a written notice thereof, the Declarant may levy a special assessment in the amount of said fees, costs, and expenses against such Owner which special assessment shall constitute a lien on the Owner's Lot pursuant to Section 6.1 and shall be collectible as set forth in this Declaration.

**ARTICLE 8.
EASEMENT RESERVED TO DECLARANT**

Section 8.1 **Easement over Common Areas.** For so long as Declarant is the Owner of any Lot, the Declarant hereby reserves unto itself the right to grant easements over, upon, under and across all Common Areas, including, but not limited to, the right to use the said Common Areas to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, cable television, water or other public conveniences or utilities, drainage and the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and

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safe public convenience or utility installation or to provide for drainage and to maintain reasonable standards of health, safety and appearance and the right to locate wells, pumping stations, lift stations and tanks; provided, however, that said reservation and right shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 8.2 **Establishment of Easements.** All easements, as provided for in this Article, shall be established by one or more of the following methods, to wit:

- 8.2.1** by a specific designation of an easement on the recorded Plat of the Property;
- 8.2.2** by a reservation of specific statement provided for an easement in the deed of conveyance of a given Lot or Dwelling Unit; or
- 8.2.3** by a separate instrument, said instrument to be subsequently recorded by the Declarant.

**ARTICLE 9.
COVENANTS AGAINST PARTITION AND
SEPARATE TRANSFER OF MEMBERSHIP RIGHTS**

Recognizing that the full use and enjoyment of any Lot is dependent upon the right to the use and enjoyment of the Common Areas and the improvements made thereto, and that it is in the interest of all of the Owners that the right to the use and enjoyment of the Common Areas be retained by the Owners of Lots, it is therefore declared that the right to the use and enjoyment of any Owner in the Common Areas shall remain undivided, and such Owners shall have no right at law or equity to seek partition or severance of such right to the use and enjoyment of the Common Areas. In addition, there shall exist no right to transfer the right to the use and enjoyment of the Common Areas in any manner other than as an appurtenance to and in the same transaction with, a transfer of title to a Lot. Any conveyance or transfer of a Lot shall include the right to use and enjoyment of the Common Areas appurtenant to such Lot subject to reasonable rules and regulations promulgated by the Association for such use and employment, whether or not such rights shall have been described or referred to in the deed by which said Lot is conveyed. The Declarant shall convey the Declarant's interest in the Common Areas to the Association.

**ARTICLE 10.
AMENDMENTS TO DECLARATION**

Section 10.1 **General Amendments.** So long as Declarant owns any Lot Declarant shall have the sole and absolute right, subject only to the limitations of Section 10.2, to amend these Declarations. Thereafter, this Declaration may be amended only by the affirmative vote or written consent of the Members having not less than two-thirds (2/3) of the votes of the Membership. No amendment shall be permitted, however, which changes the rights, privileges and obligations of the Declarant without the prior written consent of the Declarant. Nothing contained herein shall affect the right of the Declarant to make whatever amendments or Supplemental Declarations are otherwise expressly permitted hereby without the consent or approval of any Owner or Mortgagee.

Section 10.2 **Additional Requirements for Amendments.** Any amendment to this Declaration which alters the surface water or storm water management system, beyond maintenance in its original condition, including the water management provisions of the Common Areas, must have the prior written approval of the Southwest Florida Water Management District, notwithstanding any other provisions contained herein.

**DECLARATION OF COVENANTS AND RESTRICTIONS
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ARTICLE 11.

SURFACE WATER OR STORM WATER MANAGEMENT SYSTEM

- Section 11.1 Responsibility for 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 systems to provide drainage, water storage, conveyance or other surface water or storm water management capabilities as permitted by the Southwest Florida 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 systems shall be as permitted, or as modified, or as approved by the Southwest Florida Water Management District.
- Section 11.2 Enforcement.** The Southwest Florida Water Management District shall have the right to enforce, by proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the surface water or storm water management system.
- Section 11.3 Additional Requirements for Amendments.** Any amendment to this Declaration which alters the surface water or storm water management system, beyond maintenance in its original condition, including the water management provisions of the Common Areas, must have the prior written approval of the Southwest Florida Water Management District, notwithstanding any other provisions contained herein.
- Section 11.4 Dissolution of the Association.** If the Association is dissolved or otherwise ceases to exist, all Owners shall be jointly and severally responsible for operation of maintenance of the Surface Water Management System Facilities in accordance with the requirements of any Environmental Resource Permit, unless and until an alternate entity assumes responsibility as approved by Southwest Water Management District

ARTICLE 12.

GENERAL PROVISIONS

- Section 12.1 Enforcement.** The Association, the Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- Section 12.2 Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.
- Section 12.3 Duration.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be revoked after the initial forty (40) year period upon the vote of not less than sixty-five percent (65%) of the Members and by Mortgagees holding first mortgages on not less than fifty percent (50%) of the Lots. Any revocation must be recorded.
- Section 12.4 Right of Association to Merge.** The Association retains the right to merge with any other property owner's association. This right shall be exercised by the recordation of an amendment to this Declaration recorded among the Public Records of the County, which amendment shall set forth a legal description of the Property to which this Declaration, as amended shall apply. The amendment shall further have attached to it a resolution of this Association and the property owner's association with which a merger is to take place, and such resolution shall be certified by the Association Secretary thereof and shall state:

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12.4.1 That a meeting of the Association was held in accordance with its Bylaws.

12.4.2 That a two-thirds (2/3) vote of the Membership approve the merger.

The foregoing certificates, when attached to the amendment, shall be deemed sufficient to establish that the appropriate procedure was followed in connection with the merger.

Section 12.5 FHA/VA Approval. If any mortgage encumbering any Dwelling Unit is guaranteed or insured by the Federal Housing Administration or by the Veterans Administration, then upon written demand to the Association by either such agency, the following action, if made by Declarant or if made prior to the completion of seventy-five percent (75%) of the Dwelling Units which may be built with the Property, must be approved by either such agency: (i) any annexation of additional property; (ii) any mortgage, transfer or dedication of any Common Area; (iii) any amendment to this Declaration, the Articles or the Bylaws, if such amendment materially and adversely affects the Owners or materially and adversely affects the general scheme of development created by this Declaration; provided, however, such approval shall specifically not be required where the amendment is made to add any property specifically identified in this Declaration, or to correct errors or omissions, or is required to comply with the requirements of any Institutional Lender or is required by any governmental authority; or (iv) any merger, consolidation or dissolution of the Association. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any such action to Declarant or to the Association within twenty (20) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval may be conclusively evidenced by a certificate of Declarant or the Association that the approval was given or deemed given.


Section 12.6 Transfer of Assets to Local Government. The Association may, upon a two-thirds vote of the Members, transfer all assets of the Association, including Common Areas, to the local government having jurisdiction over the same. Any such transfer may require that conditions of the local government entity be met prior to said transfer, including conversion of Association property to standards and conditions required by the local government.

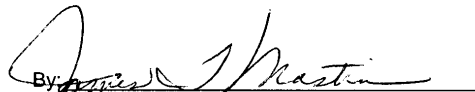
Section 12.7 Litigation. In any litigation arising out of, or relating to, these Covenants and Restrictions, the prevailing party shall be entitled to recover its reasonable costs and attorneys' fees.

DATED this 16th day of January, 2004.

Signed and delivered in our presence as witnesses:


Print Name: BRENDA C. BIBB


Print Name: JENNIFER A. VOLKMAR

By: 
JAMES T. MASTIN
Its: Manager

**STATE OF FLORIDA
COUNTY OF MARION**

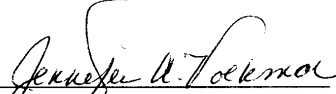
The foregoing **DECLARATION OF COVENANTS AND RESTRICTIONS FOR ESTATES AT**

DECLARATION OF COVENANTS AND RESTRICTIONS
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ESTATES AT COTTON PLANT

COTTON PLANT, was acknowledged before me by JAMES T. MASTIN, MANAGER OF SOUTHWELL LAND COMPANY, L.L.C., who is,

Personally known to me, OR
 Produced _____ as identification.

Dated: this 16th day of January, 2004.


Print Name _____

Notary Public, State of Florida
Commission Number _____
Commission Expires _____

JENNIFER A. VOLKMAR
Notary Public, State of Florida
My comm. expires January 1, 2007
Comm. No. DD 167134

RETURN TO:

GAYLE DAVIDSON, DEVELOPMENT REVIEW COORDINATOR
MARION COUNTY ENGINEERING DEPT.
412 S. E. 25th AVENUE
OCALA, FL 34471-2337

ARTICLES OF RESTATEMENT
OF
ARTICLES OF INCORPORATION
OF

THE ESTATES AT COTTON PLANT PROPERTY OWNER'S ASSOCIATION, INC.

In compliance with the requirements of the laws of the State of Florida, the undersigned hereby file these Articles of Restatement of the Articles of Incorporation of The Estates At Cotton Plant Property Owner's Association, Inc., restating in their entirety the Articles of Incorporation of The Estates at Cotton Plant Property Owner's Association, Inc., filed on January 15, 2003, and assigned Document Number N03000000530, and pursuant to Florida Statutes §617.1007 state:

- A. The name of the corporation is "*The Estates At Cotton Plant Property Owner's Association, Inc.*"
- B. The Articles of Incorporation of The Estates At Cotton Plant Property Owner's Association, Inc. are restated in their entirety as follows:
- C.

ARTICLE 1.
Name

The name of the Corporation is Estates at Cotton Plant Property Owner's Association, Inc., hereinafter called the "*Association*" and whose address is 5700 SW 34th Street, Suite 234, Gainesville, FL 32608.

ARTICLE 2.
Registered Agent

The name of the Registered Agent is James T. Mastin and the Registered Office is 5700 SW 34th Street, Suite 324, Gainesville, FL 32608.

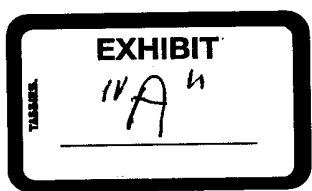
ARTICLE 3.
Definitions

All definitions in the Declaration of Covenants and Restrictions for The Estates at Cotton Plant (the "*Declaration*") to which a copy of the Articles are attached as Exhibit "A", are incorporated herein by reference and made a part hereof.

ARTICLE 4.
Purpose and Definitions

Section 4.1 Purpose. The primary purpose of this Association is to create an entity to provide a forum for discussion and communication among the Owners of property in Estates at Cotton Plant and to facilitate and assure the maintenance and operation of such property as may be subjected to the

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terms of the Declaration pursuant to its terms, including but not limited to the roadways and drainage facilities.

Section 4.2 Nonprofit Character of Association. The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members. The Association shall make no distributions of income to its Members, Directors or Officers.

**ARTICLE 5.
Powers**

The Association shall have all the powers and duties reasonably necessary to operate and maintain the Association including the following:

- Section 5.1** To exercise all the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration as recorded in the Public Records of Marion County, Florida, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length.
- Section 5.2** To establish, collect, and disburse assessments to be used for the maintenance and upkeep of the Common Areas, roadways, and the storm water and surface water drainage facilities located within Estates at Cotton Plant.
- Section 5.3** To establish reasonable rules and regulations for the use of the Common Areas.
- Section 5.4** To manage, operate, maintain, repair and improve the Common Areas and any storm water or surface water management facility areas located within Estates at Cotton Plant or any property owned by another third party for which the Association by rule, regulation, Declaration or contract has a right or duty to provide such services. The Association shall operate, maintain, and manage the surface water or storm water management systems in a manner consistent with the Southwest Florida Water Management District requirements and applicable district rules, and shall assist in the enforcement of the Declaration which relate to the surface water or storm water management system.

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**ARTICLE 6.
Membership**

The Declarant and every Owner of a Lot as defined in the Declaration shall be a member of the Association. Except for the Declarant, membership shall be appurtenant to and may not be separated from ownership of any Lot. All members agree to be bound by the terms and provisions of these Articles of Incorporation and such Bylaws and operating procedures as may be promulgated by the Association from time to time.

**ARTICLE 7.
Voting Rights**

The voting rights in the Association shall be as follows:

Section 7.1 The Declarant, until ninety percent (90%) of the Lots within the Subject Property have been sold, shall be entitled to five (5) votes for each Lot owned.

Section 7.2 Each Owner of a Lot shall be entitled to one (1) vote for each Lot owned. When one or more persons holds an interest in any Lot, all such persons shall be members of the Association, but in no event shall more than one vote be cast with respect to any single Lot. In the event all of the Owners of a Lot cannot agree on any vote, no vote shall be cast for such Lot; provided, however, that the Association may conclusively rely on the vote cast by any of the Owners of a Lot as being authorized by all such Owners unless the Association has been notified in writing to the contrary by one or more such Owners.

Section 7.3 Three (3) months after ninety percent (90%) of all the Lots in all phases of Estates at Cotton Plant have been conveyed to Owners other than the Declarant, the number of votes to which the Declarant is entitled shall be reduced to one (1) vote per Lot owned by the Declarant.

**ARTICLE 8.
Board of Directors**

The affairs of the Association shall be managed by a Board of Directors consisting of not less than three nor more than five persons who need not be members of the Association. The first Board shall consist of three Directors. Thereafter, the number of Directors may be increased to a maximum of five by a majority vote of the Board of Directors.

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The first election of Directors shall be held between twelve (12) months and thirteen (13) months after the filing of the Articles of Incorporation with the Secretary of State. Three Directors shall be elected at this first election, each for a term of one year. At each annual meeting thereafter, for so long as the Declarant has four Lots for each Lot owned pursuant to Section 7.1 above, the number of Directors equal to that of those whose terms have expired shall be elected for a one year term. At the annual meeting following the reduction in the Declarant's voting rights to one vote per Lot owned by Declarant pursuant to Section 7.3 above, the number of Directors equal to those who have terms that have expired shall be elected for staggered terms determined by the Board of Directors. For example, one Director for a one year term, one Director for a two term, and one Director for a three year term. At each annual meeting thereafter the number of Directors equal to that of those whose terms have expired shall be elected, each for a 3 year term. At the expiration of any term, any Director may be re-elected. The Directors shall be elected by the vote of a majority of the Members entitled to vote thereon at a meeting at which a quorum of the Members are present.

The Directors named in these Articles shall serve until the first election of Directors, and any vacancies in their number occurring before the first election shall be filled by the remaining Directors. The names and addresses of the members of the first Board of Directors who shall hold office until their successors are elected and have qualified, or until removed, are as follows:

<u>Name</u>	<u>Address</u>
JAMES T. MASTIN	5700 SW 34 th Street, Suite 324 Gainesville, FL 32608
DEAN SAUNDERS	1023 Brighton Way Lakeland, FL 33813
TIM D. HAINES	125 NE First Avenue, Suite 1 Ocala, FL 34470

At any time a Lot in the Subject Property is owned by Declarant (or its specific assignee of the right granted herein) the Declarant shall be entitled to appoint one (1) member of the Board of Directors, the balance of the Board of Directors to be elected as noted above.

**ARTICLE 9.
Assessments**

The Directors are required to establish a Common Assessment to be levied against each Lot sufficient to maintain, extend or improve the Common Areas and any other areas which

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are maintained or partially maintained by the Association, any surface water or storm water management systems located within the Subject Property, or otherwise necessary to pay Common Expenses. The Directors shall notify any Owner of the amount of the then Common Assessment upon written request, along with an explanation for the determination of the Common Assessment in such detail as the Directors determine. The amount of the Common Assessment may be changed by the Directors as frequently as deemed necessary by them to assure that the amount of the Common Assessment is sufficient to pay all Common Expenses or otherwise satisfy all obligations of the Association. The Assessment so established may be levied and collected annually, quarterly or monthly, either in arrears or in advance, at the sole discretion of the Directors.

The Directors may, in their complete and sole discretion, propose a special assessment against the Lots for one time and/or extraordinary expenses associated with the maintenance, extension or improvement of the Common Areas of the Subject Property. The Directors shall give each member notification of the proposed Special Assessment, and the time and location for the meeting of the Directors and members for consideration of the special assessment (which shall be in Marion County, Florida) not less than fourteen (14) or greater than sixty (60) days prior to the scheduled special meeting of the members. At the special meeting the special assessment (or any revised special assessment provided that the total amount is not greater than the proposed special assessment sent with the notice of the meeting) may be adopted by an affirmative vote of at least sixty percent (60%) of the votes then entitled to be cast.

The Directors shall establish a separate account for the deposit of all funds collected pursuant to this Article, and shall not place any other funds, regardless of source, in said account. All funds so deposited shall be disbursed only for improvements to, and extensions or maintenance of, the Common Areas, roadways, and drainage retention areas within Estates at Cotton Plant costs and expenses of operating and maintaining the Association, or for purposes otherwise authorized by the Declarations, or the Board of Directors. The Directors shall keep separate records of all assessments made and collected pursuant to this Article, and all the monies deposited into, and disbursed from the account referred to above, and shall make said records available, at reasonable hours and in a reasonable manner, to any Member of the Association requesting access to same.

The assessments collected by the Association in accordance with the provisions of this Article shall also be used, to the extent required, for the maintenance and repair of the surface water or storm water management systems, including but not limited to work within retention areas, drainage structures and drainage easements.

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ARTICLE 10.
Dissolution

In the event of the dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust, or other organization to be used for such similar purposes. Notwithstanding any other provisions contained within this Article, the Association may be dissolved only as provided in the Declaration, the Bylaws of the Association, and the laws of the State of Florida. In the event of the termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or storm water management systems located within Estates at Cotton Plant must be transferred to and accepted by an entity which would comply with any requirements of the Southwest Florida Water Management District prior to such termination, dissolution or liquidation.

ARTICLE 11.
Duration

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

ARTICLE 12.
Amendments

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

- Section 12.1 Notice of Amendment.** Notice of the subject matter of a proposed amendment shall be included in the written notice of any meeting at which a proposed amendment is considered.
- Section 12.2 Adoption of Resolution.** A resolution for the adoption of a proposed amendment may be proposed either by the Board of Directors or by twenty-five percent (25%) of the Members of the Association entitled to vote thereon.
- Section 12.3 Adoption of Amendment.** Adoption of the amendment will require the affirmative vote of three-fourths of the votes entitled to be cast at that time.

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Section 12.4 Restrictions on Amendment. No amendment to these Articles of Incorporation affecting in any way the ownership, maintenance or operation of any surface water or storm water management system in Estates at Cotton Plant shall be effective without the written consent of the Southwest Florida Water Management District.

ARTICLE 13.
Subscribers

The names and street addresses of the subscribers and incorporators to these Articles of Incorporation is the same as listed in Article 2 hereof.

ARTICLE 14.
Officers

The Board of Directors shall elect the President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board of Directors shall from time to time determine.

The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

- **JAMES T. MASTIN** **President**
- **DEAN SAUNDERS** **Vice President**
- **JAMES T. MASTIN** **Secretary**
- **JAMES T. MASTIN** **Treasurer**

ARTICLE 15.
Bylaws

The original Bylaws of the Association shall be adopted by a majority vote of the Directors. Thereafter, the Bylaws of the Association may be amended, altered or rescinded at a regular or special meeting of the Members by a majority of the votes then entitled to be cast at a meeting at which a majority of the votes then entitled to be cast are present or represented. Any amendments to Bylaws shall be binding on all members of the Association.

ARTICLE 16.
Indemnification of Officers and Directors

The Association shall and does hereby indemnify and hold harmless Declarant and every Director and ever officer, their heirs, executors and administrators, against all loss, cost and

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expenses reasonably incurred in connection with any action, suit or proceeding to which he may be made a part by reason of his being or having been a Director or Officer of the Association, including reasonable counsel fees, except as to matters wherein he shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to, and not exclusive of, all other rights to which such Director or Officer may be entitled.

ARTICLE 17.

Transaction in Which Directors or Officers are Interested

No contract or transaction between the Association and one or more of the Directors or Officers, or between the Association and any other corporation, partnership, association, or other organization including without limitation, the Declarant, or an affiliate of the Declarant, or a corporation in which one or more of its Officers or Directors are Officers or Directors of this Association shall be invalid, void or voidable solely for this reason, or solely because the Officer or Director is present at, or participates in, meetings of the Board or committee thereof which authorized the contract or transaction, or solely because said Officers' or Directors' votes are counted for such purposes. No Director or Officer of the Association shall incur liability by reason of the fact that said Director or Officer may be interested in any such contract or transaction.

Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction.

CERTIFICATE

The undersigned President, Secretary, and sole member of the corporation certify that the amendment set forth in the foregoing Articles of Restatement require member approval.

The undersigned President, Secretary, and sole member of the corporation certify that Southwell Land Company, LLC is the sole member of the corporation entitled to vote on the foregoing Articles of Restatement and that at a duly noticed and held meeting of the corporation adopted, on January 15, 2004, the foregoing Articles of Restatement and that all votes of the membership were cast in favor of the Articles of Restatement and said vote was sufficient for approval.

IN WITNESS WHEREOF, for the purposes of restating in their entirety the Articles of Incorporation of The Estates At Cotton Plant Property Owner's Association, Inc., previously filed with the Secretary of State, and with the intention that these Articles of Restatement supersede the original Articles of Incorporation and all prior amendments thereto, the undersigned President and Secretary of the corporation, and its sole member, have executed and certified these Articles of

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ARTICLES OF RESTATEMENT
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Restatement of Articles of Incorporation of The Estates At Cotton Plant Property Owner's Association, Inc. this 16th day of January 2004.



JAMES T. MASTIN, PRESIDENT

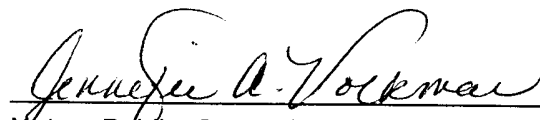
ATTEST:



JAMES T. MASTIN, SECRETARY

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was sworn to and subscribed before me this 16th day of January, 2004, by **JAMES T. MASTIN, as President and Secretary of The Estates At Cotton Plant Property Owner's Association, Inc.**, who is personally known to me.



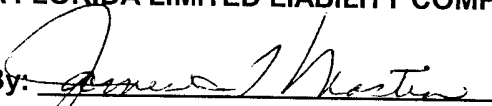
Notary Public, State of Florida
Print Notary Name _____
My commission expires _____
Commission number _____

JENNIFER A. VOLKMAR
Notary Public, State of Florida
My comm. expires January 1, 2007
Comm. No. DD 167134

CERTIFICATE

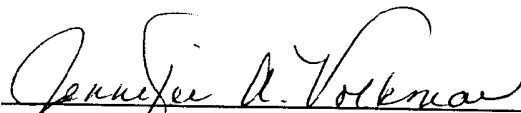
The undersigned, the sole Member of The Estates At Cotton Plant Property Owner's Association, Inc., hereby certifies that at a duly noticed and held meeting of the Members of The Estates At Cotton Plant Property Owner's Association, Inc., the undersigned, as the sole Member thereof, cast all votes of the Members of The Estates At Cotton Plant Property Owner's Association, Inc. in favor of the amendment and restatement of the Articles of Incorporation as set forth above, on January 16th, 2004.

**SOUTHWELL LAND COMPANY, LLC,
A FLORIDA LIMITED LIABILITY COMPANY**

By: 
JAMES T. MASTIN, MANAGER

**STATE OF FLORIDA
COUNTY OF MARION**

The foregoing instrument was sworn to and subscribed before me this 16th day of January, 2004, by **JAMES T. MASTIN, as Manager of Southwell Land Company, LLC, a Florida Limited Liability Company, the sole member of The Estates At Cotton Plant Property Owner's Association, Inc.,** who is personally known to me.


Notary Public, State of Florida
Print Notary Name _____
My commission expires _____
Commission number _____

**JENNIFER A. VOLKMAR
Notary Public, State of Florida
My comm. expires January 1, 2007
Comm. No. DD 167134**

CERTIFICATE OF ACCEPTANCE BY REGISTERED AGENT

JAMES T. MASTIN, whose address is 5700 SW 34th Street, Suite 324, Gainesville, FL 32608, the initial registered agent named in the Articles of Incorporation to accept service of process of The Estates at Cotton Plant Property Owner's Association, Inc., organized under the laws of the State of Florida hereby accepts such appointment as registered agent at the place designated in this certificate.

Dated this 16th day of January, 2004.



JAMES T. MASTIN

RETURN TO:

GAYLE DAVIDSON, DEVELOPMENT REVIEW COORDINATOR
MARION COUNTY ENGINEERING DEPT.
412 S. E. 25th AVENUE
OCALA, FL 34471-2567

BYLAWS

THE ESTATES AT COTTON PLANT PROPERTY OWNER'S ASSOCIATION, INC.

ARTICLE 1.

Name and Location

The name of the corporation is The Estates at Cotton Plant Property Owner's Association, Inc. hereinafter referred to as the "Association". The principal office of the corporation shall be located at 5700 SW 34th Street, Suite 324, Gainesville, FL 32608, but meetings of members and Directors may be held at such places within the State of Florida, County of Marion, as may be designated by the Board of Directors.

ARTICLE 2.

Definitions

The "Definitions" contained in the Declaration of Covenants and Restrictions for Estates at Cotton Plant to which these Bylaws are attached as Exhibit B and recorded in the Public Records of Marion County, Florida, are incorporated herein by reference and made a part hereof.

ARTICLE 3.

Meetings of Members

Section 3.1 Annual Meeting. The annual meeting of the members shall be held at least once each calendar year in or about January on a date and at a time to be determined by the Board of Directors, for the purpose of electing the Board of Directors and transacting any other business as may be authorized by the members.

Section 3.2 Special Meetings. Special meetings of the members may be called at any time by: (a) the President; (b) by the Board of Directors; or (c) upon written request of the members who are entitled to vote fifty-one percent of all the votes of the Association.

Section 3.3 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary, or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen days before such meeting (provided, however, in the case of an emergency, four days' notice will be deemed sufficient) to each member entitled to vote thereat, addressed to the members' address last appearing on the books for the Association, or supplied by such member to the Association for the purpose of notice. Unless otherwise notified in writing of a different address, each member's address shall be deemed to be the address appearing on the Marion County Property Appraiser's records at the time the notice is sent.

Section 3.4 Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, thirty percent (30%) of the votes of the Association shall constitute a quorum for any action, except as otherwise provided in the Articles of

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Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting, and reschedule the meeting without notice other than announcement at the meeting, and at any such re-scheduled meeting a quorum shall consist of twenty five percent (25%) of the votes of the Association, and if at said re-scheduled meeting a quorum does not exist the Members present shall have the power to adjourn the meeting and re-schedule the meeting without notice other than an announcement of the meeting, as often as necessary until a quorum of twenty five percent (25%) shall be present or be represented.

- Section 3.5** **Proxies.** At all meetings of members, each member entitled to vote may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot. No individual who is not a member of the Board of Directors may collect more than five (5) proxies.
- Section 3.6** **Location.** Meetings shall be held at such place convenient to the Members as designated by the Board of Directors.
- Section 3.7** **Minutes.** The Association shall maintain minutes of each meeting of the membership and of the Board of Directors, and the minutes shall be kept available for inspection by any member during normal business hours.
- Section 3.8** **Decorum.** No officer, director or Owner attending any of said meetings will be permitted to use profanity at or during said meetings. No Owner will be permitted to abuse, discipline, reprimand, or harass any of the officers, directors, or employees of the Association verbally or otherwise. Complaints in writing will receive the immediate attention of the Board. Fines and assessments as published by the Declarant may be levied for a violation.

ARTICLE 4.

Board of Directors; Selection; Term of Office

- Section 4.1** **Number.** The affairs of this Association shall be managed by a Board of Directors consisting of not less than three nor more than five persons who need not be members of the Association. The first Board shall consist of three Directors. Thereafter, the number of Directors may be increased to a maximum of five by a majority vote of the Board of Directors.
- Section 4.2** **Term of Office.** The first election of Directors shall be held between twelve (12) months and fifteen (15) months from filing the Articles of Incorporation with the Secretary of State, at a meeting of the members called for that purpose. Three Directors shall be elected at this first election, each for a term of one year. At each

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annual meeting thereafter, for so long as the Declarant has five votes for each Lot owned pursuant to Article 7 of the Article of Incorporation, the number of Directors equal to that of those whose terms have expired shall be elected for a one year term. At the annual meeting following the reduction in the Declarant's voting rights to one vote per Lot owned by Declarant pursuant to Article 7 of the Articles of Incorporation, the Directors shall be elected for staggered terms of from one to three years determined by the Board of Directors. For example, one Director for a one year term, one Director for a two term, and one Director for a three year term. At each annual meeting thereafter the number of Directors equal to that of those whose terms have expired shall be elected, each for a 3 year term. Any Director may serve consecutive terms. In addition, at and after the Declarant has assigned to the other members the right to vote on any matters pertaining to the Association, the Developer as Declarant, and whether or not Declarant has any other vote by virtue of owning a Lot, shall have the right to name, appoint and remove one member of the Board of Directors and, from time to time, the successor of such member.

Section 4.3 **Removal.** A Director, other than a Director named by Declarant pursuant to Section 4.2, may be removed from the Board with or without cause, by a majority vote of the members of the Association entitled to vote or by the Declarant until such time as Declarant transfers the right to vote to other members. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. Directors who resign may not be reinstated.

Section 4.4 **Compensation.** No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.5 **Action Taken Without a Meeting.** The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

**ARTICLE 5.
Nomination and Election of Directors**

The nomination and election of Directors shall be conducted as follows:

Section 5.1 **Nomination.** Nomination for election to the Board of Directors may be made from the floor at the annual meeting, or by a nominating committee established by the Board of Directors in advance of the annual meeting. Any member may nominate himself for a position on the Board of Directors.

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Section 5.2 **Election.** Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5.3 **Current Account Status.** All Directors and those Homeowners exercising a vote must maintain at all times a current account status with Association concerning all assessments and charges.

**ARTICLE 6.
Meeting of Directors**

Section 6.1 **Regular Meetings.** Regular meetings of the Board of Directors shall be held at least annually at such place and hour as may be fixed, from time to time, by resolution of the Board.

Section 6.2 **Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors after not less than three days' notice to each Director or by Declarant.

Section 6.3 **Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 6.4 **Notices.** Notices of all Board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each Board meeting must be mailed or delivered to each Member at least 7 days before the meeting, except in an emergency. At such time as the Association has more than 100 Members, the Board may adopt reasonable alternatives to posting or mailing of notice for each Board meeting, including publication of notice or provision of as schedule of Board meetings.

Section 6.5 **Vacancies.** Except as to vacancies occurring by removal of a Director by the members or removal of a Director by the Declarant under Section 4.2 of Article 4, vacancies on the Board of Directors occurring between annual meetings shall be filled by the remaining Directors. Any such appointed Director shall hold office until his successor is elected by the members. A vacancy caused by resignation or removal of a Director appointed by the Declarant shall be filled by the Declarant appointing a replacement.

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Section 6.6 **First Meeting.** The first meeting of the newly elected Board of Directors shall be held at such place as shall be fixed by the members at the meeting at which the Directors were elected, and no further notice of the first meeting shall be necessary.

**ARTICLE 7.
Powers and Duties of the Board of Directors**

Section 7.1 **Powers.** The Board of Directors shall have the powers reasonably necessary to operate and maintain the Association including, but not limited to, the following:

- 7.1.1 Adopt and publish rules and regulations governing the personal conduct of the members and their guests at meetings and to establish penalties and/or fines for the infraction thereof;
- 7.1.2 Suspend the right to use of the Common Areas of a member during any period in which such member shall be in default in the payment of any assessment levied under the Declaration. Such rights may also be suspended after notice and hearing, for a period not to exceed ninety (90) days for infraction of published rules and regulations;
- 7.1.3 Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration;
- 7.1.4 Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three consecutive regular meetings of the Board of Directors.

Section 7.2 **Duties.** It shall be the duty of the Board of Directors to cause the Association to perform the purposes for which it was formed including, but not limited to, the following:

- 7.2.1 Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members;
- 7.2.2 Supervise all officers, and agents of this Association, and to see that their duties are properly performed;
- 7.2.3 Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

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**ARTICLE 8.
Officers and Their Duties**

- Section 8.1** **Enumeration of Officers.** The officers of this Association shall be a President who shall at all times be a member of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.
- Section 8.2** **Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.
- Section 8.3** **Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or be otherwise disqualified to serve. An individual may serve consecutive terms without limit.
- Section 8.4** **Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.
- Section 8.5** **Resignation and Removal.** Any officer may be removed from office, with or without cause, by the Board or by the Declarant. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- Section 8.6** **Vacancies.** A vacancy in any office may be filled by appointment by the Board or by the Declarant. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.
- Section 8.7** **Multiple offices.** The offices of President and Treasurer may be held by the same person. No person shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to Section 8.4 of this Article.
- Section 8.8** **Duties.** The duties of the officers are as follows:
- 8.8.1** **President.** The President shall preside at all meetings of the members and Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments and shall co-sign checks and promissory notes.

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- 8.8.2 Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such other duties as required by the Board.
- 8.8.3 Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall co-sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year if required by the Board of Directors or Declarant; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members (upon request). The Board of Directors may charge a reasonable fee for copies, unless prohibited by Florida law.

**ARTICLE 9.
Committees**

The Board of Directors shall appoint committees as deemed appropriate in carrying out its purpose.

**ARTICLE 10.
Books and Records**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association during normal business hours, where copies may be purchased at reasonable cost.

**ARTICLE 11.
Corporate Seal**

The Association shall have a seal in circular form having within its circumference the words:

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THE ESTATES AT COTTON PLANT PROPERTY OWNER'S ASSOCIATION, INC.,
A NOT FOR PROFIT CORPORATION, FLORIDA
2004

ARTICLE 12.
Amendments

Section 12.1 Requirement. These By-Laws may be amended at a regular or special meeting of the members by a three-fourths majority vote of the votes then entitled to be cast or by the Declarant. Said amendments may be voted on at a meeting at which three-fourths of the votes entitled to then be cast are present or represented.

Section 12.2 Conflict. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE 13
Miscellaneous.

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, the undersigned Secretary of the Association certifies that these Bylaws have been duly adopted by the Directors of the Association.

**THE ESTATES AT COTTON PLANT PROPERTY
OWNER'S ASSOCIATION, INC.**

By: 

JAMES T. MASTIN, Secretary

**STATE OF FLORIDA
COUNTY OF MARION**

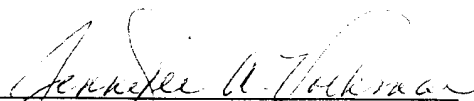
I HEREBY CERTIFY that on this 16th day of January, 2004, personally appeared before me JAMES T. MASTIN, to me personally known, and she acknowledged before me that she executed the foregoing Bylaws for the uses and purposes therein expressed.

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IN WITNESS WHEREOF, I have hereunto set my hand and official seal in said County and State the day and year above written.



Printed Name: _____

Notary Public State of Florida

My Commission Expires:

Personal Knowledge
 Identification Produced
Type of Identification _____

**JENNIFER A. VOLKMAR
Notary Public, State of Florida
My comm. expires January 1, 2007
Comm. No. DD 167134**