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Nicholas Thomas, Clerk Circuit Court Gadsden Co

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR SAN BONITA ESTATES

This Declaration of Covenants, Conditions, Restrictions and Easements (hereafter "Declaration") is made and executed this 19 day of December, 2006, by San Bonita Estates, LLC, a Florida limited liability company, whose address is 1949 Raymond Diehl Road, Tallahassee, Florida 32308 (hereafter "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that certain property located in Gadsden County, Florida, and more particularly described in **Exhibit "A"** attached hereto and by reference made a part hereof.

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

ARTICLE I-DEFINITIONS

Section 1. "Association" shall mean and refer to San Bonita Estates Homeowners Association, Inc., a Florida non-profit corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in **Exhibit "A"** attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Space Tracts" shall mean and refer to all real property, easement rights (including the improvements related thereto), the areas shown on the Plat of San Bonita Estates (defined below) as Common Space Tract "A", Common Space Tract "B", Common Space Tract "C" and Common Space "D" and any easements for access, drainage and storm water drainage owned by the Association for the common use and enjoyment of the Owners and entranceway improvements to the Subdivision such as signage, a gate and landscaping.  
Unrecorded Additional real property may be conveyed to the Association for the common use and enjoyment of the Owners as the Properties are developed.

Section 4. "Declarant" shall mean and refer to San Bonita Estates, LLC, its successors, and assigns provided such successors or assigns acquire more than one unimproved Lot from the Declarant for the purpose of development and such successors or assigns receive a written assignment of Declarant's rights hereunder.

Section 5. "Lot" shall mean and refer to each numbered lot as depicted on the Plat of San Bonita Estates (as defined below) and each lot which is created by the subdivision of a lot as depicted on the Plat of San Bonita Estates. The Declarant shall have the right to modify and change the boundary lines to any Lot as long as the Declarant owns the Lot.

Section 6. "Maintenance" shall mean and refer to the exercise of reasonable care to keep landscaping, lighting, drainage, signage, Common Space Tracts, Conservation Easement Tracts and other related improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "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 the Properties, and will include contract sellers, but will not include those holding title merely as security for performance of an obligation.

Section 9. "Plat of San Bonita Estates" shall mean and refer to the plat of San Bonita Estates which is to be recorded in the Public Records of Gadsden County, Florida. The Plat of San Bonita Estates may be modified by the further subdivision of the Lots.

Section 10. "Subdivision" shall mean and refer to the real property described in **Exhibit "A"** and the subdivision thereof as shown on the Plat of San Bonita Estates and as further subdivided and all additions to such property as may be brought within the jurisdiction of the Association.

Section 11. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee for the Subdivision as identified herein.

Section 12. "Conservation Easements" shall mean and refer to the areas shown on the Plat of San Bonita Estates as Conservation Easement.

Section 13. "Drainage Easements" shall mean and refer to the areas shown on the Plat of San Bonita Estates as Drainage Easement.

Section 14. "Access Easements" shall mean and refer to the areas shown on the Plat of San Bonita Estates as Access Easement.

Section 15. "Utility Easements" shall mean and refer to the areas shown on the Plat of San Bonita Estates as Utility Easements.

#### ARTICLE II-MEMBERSHIP IN THE ASSOCIATION AND VOTING RIGHTS

Section 1. Every owner of a Lot shall be a member of the Association. Membership will be appurtenant to and may not be separated from ownership of a Lot.

Section 2. The Association shall have two classes of voting members:

Class A. The Class A members will all be Owners, with the exception of Declarant, and will be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in a given Lot, all such persons will be members and the vote for that Lot is to be exercised as they may determine among themselves. In no event will more than one vote be cast with respect to any Lot owned by Class A members.

Class B. The Class B member will be Declarant, who is entitled to exercise ten (10) votes for each Lot owned. Class B membership will cease and be converted to Class A membership when Ninety percent (90%) of the Lots are owned by persons or entities other than the Declarant, or when Declarant elects to terminate Class B membership, whichever first occurs.

Section 3. A copy of the Articles of Incorporation of the Association is attached hereto as **Exhibit "B"** and a copy of the Bylaws of the Association is attached hereto as **Exhibit "C"**.

#### ARTICLE III-ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments. Declarant covenants for each Lot within the Subdivision, and each Owner of a Lot is hereby deemed to covenant by acceptance

Directors of the Association. The first annual assessment will be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association will fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of the due date thereof and will fix the dates on which such amounts become due. Notice of the annual assessments will be sent to every Owner subject to the assessments. Except as otherwise determined by the Board of Directors of the Association, annual assessments shall be due and payable on January 1 of each year. The Association will, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessment against a specific Lot has been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date is deemed to be in default and will bear interest from the due date at the highest rate permitted by law, but in no event greater than eighteen (18) percent per annum. The Association shall be entitled to collect from the Owners all legal costs, including a reasonable attorney's fee, incurred by the Association in connection with or incident to collection of any assessment or in connection with the enforcement of the lien resulting therefrom. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Space Tracts or abandonment of the Owner's Lot.

Section 9. Subordination of Assessment Lien to Mortgages. The assessment lien provided for under this Declaration is subordinate to the lien of any first mortgage. A sale or transfer of any Lot will not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, will extinguish the assessment lien as to payments that become due prior to the sale or transfer. No sale or transfer will relieve such Lot from being subject to liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Rights of Declarant. Notwithstanding anything to the contrary contained herein, Declarant shall be exempt from the payment of assessments against Lots owned by Declarant and held for sale in the normal course of business.

#### ARTICLE IV-PROPERTY RIGHTS

Section 1. Every Owner shall have a right and easement of enjoyment in and to the Common Space Tracts that shall be appurtenant to and shall pass with the title to such Lot, subject to the following provisions:

- (a) The right of the Association to suspend an Owner's voting rights and right to the use of recreational facilities by an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for a period not exceeding sixty (60) days for any infraction of the published rules and regulations of the Association.
- (b) The right to dedicate or transfer all or any part of the Common Space Tracts to any municipality, public agency, authority, or utility for the purposes and subject to the conditions as may be agreed on by the members. No dedication or transfer will be effective unless an instrument executed by two-thirds of each class of members agreeing to such dedication or transfer has been duly recorded.

#### ARTICLE V- USE RESTRICTIONS

The Subdivision is to be occupied and used only as follows:

Section 1. Each Lot shall be used as a single-family dwelling and for no other purpose.

Section 2. No building other than a single-family dwelling shall be constructed on any Lot which contains less than one thousand and eight hundred (1,800) square feet of living area, exclusive of porches, patios, terraces, storage areas and garages. However, one (1) accessory