

Prepared by:  
JBL Properties, Ltd.  
2425 West Nine Mile Road, Suite 7  
Pensacola, Florida 32534

STATE OF FLORIDA     }

COUNTY OF ESCAMBIA }

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
VIZCAYA**

THIS DECLARATION made and entered as of the 19<sup>th</sup> day of May, 2004, by JBL PROPERTIES, LTD., an Alabama limited partnership (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Escambia County, Florida, which is more particularly described as Lots 1-43, Vizcaya, as recorded in Plat Book 17 Page 91, of the Public Records of Escambia County, Florida.

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to that certain homeowners' association to be organized by Declarant, and to which each Owner of a Lot shall be a member, as provided in Article VI hereof.

Section 2. "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, as well as the contract vendee under a contract for deed, but excluding those persons having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property described above, presently owned by Declarant.

Section 4. "Lot" shall mean and refer to any plot of land designated as such upon any recorded plat that includes the Properties. A "Lot" for building purposes may be portions of two or more Lots designated on the recorded plat of the Properties.

Section 5. "Declarant" shall mean and refer to JBL Properties, Ltd., and its successors and assigns.

## ARTICLE II RIGHTS OF DECLARANT

Declarant shall have the right, but not the obligation, (a) to cause to be installed and operated the street lighting serving the Properties, (b) to cause to be established a Municipal Services Benefits Unit (MSBU) Street Lighting District for the operation and maintenance of such street lighting, and (c) to cause to be constructed within any easement or common area, within the Properties, entry markers, monuments, fences, landscaping, irrigation systems, illumination and similar improvements beneficial to the aesthetic appeal of the Properties. Declarant shall have no obligation to repair, maintain or operate any improvements it may cause to be erected or constructed hereunder.

## ARTICLE III ARCHITECTURAL CONTROL

No building, fence, sign, wall, mailbox, sidewalk or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to and approved in writing by the Architectural Control Committee as to harmony of exterior design and location in relation to the surrounding structures and topography, and compliance with the intent of these restrictions. In the event that the Architectural Control Committee, or a member designated by it, fails to approve or disapprove such plans and specifications within thirty (30) days after plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Without limitation, the plans submitted to the Architectural Control Committee shall show the elevation and other matters above set forth on the front, rear and both side walls of the structure, including location of windows. No tree or large bush shall be planted or cut down without prior approval of the Architectural Control Committee. The Architectural Control Committee shall consist of R. Bruce Worley, Jackie P. Melvin and Charlie Edgar (reserving to Declarant the right to change the composition of such Committee from time to time), and shall continue to exist until disbanded by the Declarant. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant, nor be liable to any person for their actions (or failures to act) pursuant hereto.

An Owner acquiring a Lot shall expect that the Architectural Control Committee will deny approval to a proposed building or other improvements if the location, type and style are not compatible with the existing use of homes in the Properties. IN ORDER TO MINIMIZE THE COST AND EXPENSE OF ARCHITECTS AND ENGINEERS ON PLANS WHICH ARE LATER DENIED BY THE ARCHITECTURAL CONTROL COMMITTEE, OWNERS OF LOTS ARE INVITED TO SUBMIT PRELIMINARY PLANS OR IDEAS FOR THEM TO THE ARCHITECTURAL CONTROL COMMITTEE, SO THAT OWNERS WILL INCUR THE LEAST EXPENSE POSSIBLE ON DESIGNED WHICH ARE FOUND TO BE UNACCEPTABLE BY THE ARCHITECTURAL CONTROL COMMITTEE.

The Architectural Control Committee shall have the right, at any time and from time to time, to waive any violation of these restrictions if it, in its sole discretion, determines that the violation is insubstantial and does not adversely affect the value of any other Lot in the Properties.

#### **ARTICLE IV BUILDING SETBACK LINES**

The front lot line setback of the residence on any Lot shall be no less than the setback lines shown on, or described in, the recorded plat; but the Architectural Control Committee may require a greater setback or, if it determines that a variance will not diminish the value of other Lots, it may waive the front lot line setback.

Eaves or other overhangs and chimneys shall not be considered a part of the building for the purpose of side setback compliance. Eaves, overhangs, steps, open porches and decks, and other like building improvements shall not be considered a part of the building for purposes of front lot line setback and rear lot line setback.

The Architectural Control Committee, in its sole discretion, may permit the erection of a building on a portion of one (1) Lot or on portions of contiguous Lots, and the building sites may be smaller in area than the Lots, provided that the covenants and restrictions otherwise herein contained are not otherwise violated.

In the event of destruction of any buildings, the type, size, shape and location of any reconstructed building shall be similar substantially to the building being replaced, which replacement or repair shall be performed promptly and diligently.

#### **ARTICLE V GENERAL RESTRICTIONS**

Section 1. No Lot shall be used except for single-family residential purposes; provided, however, that Declarant reserves the right to use any residence that it constructs as a model unit(s) or sales center. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached, single-family dwelling not to exceed two (2) stories in height.

Section 2. No one- (1) story dwelling shall be erected on any Lot having a living area of less than one thousand six hundred (1,600) square feet, and no dwelling with more than one (1) story of living area shall have a first floor living area of less than one thousand (1,000) square feet and a total living area of less than one thousand six hundred (1,600) square feet. All square footages shall be exclusive of open porches, carports or garages.

Section 3. No exploration or drilling for oil, gas or other minerals shall be permitted or allowed on any Lot and no Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other unsightly objects or waste.

Section 4. No noxious or offensive trade or activity shall be carried on or permitted upon any Lot, nor shall anything be done on any Lot, which may become a nuisance or annoyance to Owners of the Properties.

Section 5. Permitted animals, not to exceed two (2) per Lot, as not to be an annoyance to any Lot Owner in the Properties. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other ordinary domestic household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 6. Cars may be parked for only a temporary period in the public right-of-way. No wrecked car or similar equipment shall be stored or parked in view of other residences in the Properties.

Section 7. No satellite dish shall be constructed or allowed to remain on any Lot unless it is so concealed as not to be unsightly or visible from other Lots. No external television antennas visible from a public street shall be allowed on Lots. No antenna may be constructed at any time without written permission of the Architectural Control Committee.

Section 8. Each Owner shall diligently maintain his or her building, all fencing abutting his or her property, yard, landscaping and other property in a neat, clean and attractive manner; any repairs thereto shall be performed with diligence.

Section 9. No fencing shall be allowed in the Properties except wood, PVC or brick fencing, which fencing shall not exceed six (6) feet in height and shall not be placed closer to the front lot line than the residential structure (exclusive of any enclosed garage or parking facility) erected on such Lot.

Section 10. All garbage containers shall be kept in a safe and sanitary manner, and shall be placed in a non-visible area at all times except when being serviced for pickup.

Section 11. No sign of any kind shall be displayed to the public view on any Lot except one (1) sign, not to exceed six (6) square feet, advertising the property for sale or rent; provided, however, Declarant may erect and maintain not more than one (1) sign on each Lot that it owns (exclusive of signage at any sales center or at the entrance to the subdivision) not exceeding four (4) feet by eight (8) feet, advertising such Lot for sale, and such additional signage as may be required by governmental authorities.

Section 12. No mobile living facility or structure of a temporary character shall ever be used as a residence.

Section 13. Utility, drainage or other easements shall not be fenced in any manner that will prohibit access and use. Drainage easements shall not be obstructed in any way that will alter the natural and normal flow of drainage.

Section 14. No one shall change the natural contours of the land causing undue and harmful flow of surface water drainage to adjoining property owners. In order to facilitate

natural surface water drainage, it may be necessary for the developer to contour each Lot to provide a continuous drainage pattern from Lot to Lot and from each Lot to the street. These drainage patterns shall not be altered.

Section 15. No outside clothes lines visible from the street or an adjacent Lot, or other items detrimental to the appearance of the Properties, shall be permitted on any Lot.

Section 16. No boats, trailers, motor homes, campers or other recreational vehicles shall be parked on any Lot unless done in such a manner as to not be visible from the street.

Section 17. Recreation equipment or materials (including, but not limited to basketball standards or goals) shall not be erected or permitted to be maintained on any Lot in a manner where such is visible from a public street.

## ARTICLE VI HOMEOWNERS ASSOCIATION

Declarant will cause the formation of Vizcaya Homeowners' Association which shall, among other things, own, maintain, operate and repair those improvements that Declarant may erect or construct pursuant to Article II hereof (including the acceptance of the easements or common area described therein).

All Owners shall be members of the Association, and the MSBU described in Article II hereof, and each Owner, by acceptance of a deed to such Lot, whether or not so expressed in such deed, is deemed to covenant and agree to pay to the Association's annual general assessments or charges as herein described and the fees imposed by the MSBU. All such assessments, together with interest thereon as provided below, the cost of collection thereof, including reasonable attorney's fees, shall, as hereinafter provided, be the personal obligation of the Owner of such Lot at the time such assessment becomes due.

The general assessment levied by the Association annually shall be used exclusively for the purposes described above, and for other expenses related thereto as the Association deems necessary.

Each improved Lot (beginning with the first day of the month following substantial completion of the house) shall be assessed its proportionate share of the budgeted costs for the next ensuing year, together with any expenses in excess of the budget for the current year. Unimproved Lots shall not be subject to any assessments. During the period that Declarant controls the Association, Declarant shall be excused from paying its share of the operating expenses and assessments related to Lots that it owns; provided, during such period Declarant shall be obligated to pay the Association's operating expenses in excess of assessments received from other members.

By a two-thirds vote of the Board of Directors of the Association, the annual assessment shall be fixed on the basis set forth above; provided, however, that said annual assessment shall be sufficient to meet the Association's obligations as budgeted. The Board shall set the date such

annual assessment shall become due, and any assessment not paid within thirty (30) days from said date shall bear interest from the due date at a per annum percentage rate of twelve percent (12%). Upon any voluntary conveyance of a Lot, the grantor and grantee of such Lot shall be jointly and severally liable for all unpaid assessments pertaining to such Lot to the extent that such assessments accrue to the date of such conveyance, without prejudice, however, on the part of the grantee to recover from the grantor any amounts paid by the grantee, but the grantee shall be exclusively liable for assessments accruing after grantee becomes Owner.

The Association may bring an action at law against the Owner and/or other person(s) personally obligated to pay any assessment not paid within the due date thereof, and such persons who are personally liable for such assessments shall be responsible for interest as provided above and costs of collection, including a reasonable attorney's fee. No Owner may waive or otherwise escape liability for assessments provided for herein by the abandonment or transfer of such Owner's Lot or Lots, except as herein provided.

Any entity, its successors and assigns, obtaining title to a Lot as a result of foreclosure of a mortgage or vendor's lien or receiving a deed in lieu of foreclosure, shall not be liable for assessments which became due prior to the foreclosure or receipt of deed in lieu of foreclosure. Such unpaid share of assessment shall be deemed an expense of the Association to be collected as part of a future special assessment.

## ARTICLE VII GENERAL PROVISIONS

Section 1. Any Owner, the Association, Declarant or the Architectural Control Committee shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions and covenants imposed by the provisions of this Declaration, as well as all currently existing restrictive covenants affecting the development. Failure by the Architectural Control Committee, by the Association, by the Declarant 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, and the Architectural Control Committee, the Declarant and the Association shall have no duty or obligation to any Owner to take any action to so enforce these restrictions, conditions and covenants.

Section 2. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provision which shall remain in full force and effect.

Section 3. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be extended automatically for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by Owners of not less than ninety percent (90%) of the Lots, effective upon recordation of same in the public records of Escambia County, Florida; provided, no such amendment shall be adverse to the interests of the Declarant.

Section 4. If any Owner or occupant of any Lot shall violate any of these covenants and restrictions while in force and effect, it shall be lawful for Declarant to prosecute any

proceedings at law or in equity against any person violating or attempting to violate such covenants or restrictions and either to prevent them from doing so or to recover any damages for such violations. In the event that Declarant prevails in such action, the offending Owner shall be responsible to Declarant for Declarant's attorneys' fees and costs in prosecuting same.

Section 5. FHA/VA Approval. The following actions may require the prior approval of the Federal Housing Administration and/or the Veterans Administration: Annexation of additional properties and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the Declarant has executed this Declaration of Covenants, Conditions and Restrictions for the Properties this 19<sup>th</sup> day of May, 2004.

**DECLARANT:**

**JBL PROPERTIES, LTD.**, an Alabama limited partnership

By: JSBA, Inc., an Alabama close corporation and Managing Partner

By: Jackie P. Melvin  
Jackie P. Melvin

Its: Vice President

Signed, sealed and delivered in the presence of:

Stephanie Brighton  
Stephanie Brighton  
Sabrina Selby  
Sabrina Selby

STATE OF FLORIDA }

COUNTY OF ESCAMBIA }

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of May, 2004, by Jackie P. Melvin, Vice President of JSBA, Inc., an Alabama close corporation in its capacity as Managing Partner of JBL Properties, Ltd., an Alabama limited partnership, who is personally known to me.

(SEAL)



Sabrina Selby  
NOTARY PUBLIC  
My Commission Expires: June 23, 2004