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DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

BRIARWOOD TOWNHOMES

THIS DOCUMENT PREPARED BY:
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DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

BRIARWOOD TOWNHOMES

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR BRIARWOOD TOWNHOMES is made this 2nd day of April, 2024, by **ADJ BRIARWOOD, LLC,** a Florida limited liability company, which declares that the real property described on **Exhibit "A"** attached hereto and made a part hereof, which is owned by Declarant, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property and shall be binding upon Declarant and all parties having or acquiring any right, title or interest in the Property or any part thereof.

ARTICLE I

MUTUALITY OF BENEFIT AND OBLIGATION

Section 1. **Mutuality**. The covenants, restrictions and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns.

Section 2. **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

ARTICLE II

DEFINITIONS

A number of terms are defined within the body of this Declaration, and such terms, when used within this Declaration, shall have the meanings specified where defined herein. The following words, when used in this Declaration shall have the following meanings:

Section 1. **Act**. Section 720, Florida Statutes, as amended and supplemented from time to time.

Section 2. **Assessments**. All assessments which may be levied and assessed by the Association according to the provisions of Articles VII and VIII of this Declaration.

Section 3. **Association**. The Briarwood Townhomes Owners Association, Inc., a Florida corporation not-for-profit. This is the Declaration to which the Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Association make reference. Copies of the Articles and Bylaws are attached as **Exhibits "B"** and **"C"**, respectively.

Section 4. **Board**. The Board of Directors or other legally recognized governing body of the Association.

Section 5. **INTENTIONALLY DELETED.**

Section 6. **Common Area**. All real property (including easements, licenses and rights to use real property) that is more particularly described in Article III, Section 2 of this Declaration, together with all personal property located within or appurtenant to any Common Area. All of the Common Area shall be owned initially by Declarant until conveyed and transferred to the Association as provided in this Declaration; thereafter, the Common Area shall be owned by the Association and not by the Owners. Notwithstanding the foregoing, upon recordation of the Plat, the Association shall be responsible for all maintenance of the Common Area regardless of ownership, as more particularly provided in Article V, Section 1 below.

Section 7. **Community Systems**. Any and all television (cable, satellite or otherwise), telecommunication, internet access, alarm/monitoring, utility or other lines, conduits, wires, satellites, amplifiers, towers, antennae, equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances not now known) installed by Declarant, an affiliate of Declarant, any other entity in which Declarant or an affiliate of Declarant may have an interest (financial or otherwise) or any third party expressly granted the rights by Declarant to provide Community Systems within the Property or pursuant to any grant of easement or authority by Declarant and serving the Common Area and/or more than one Lot.

Section 8. **Conservation Easement.** That certain Conservation Easement granted by the Declarant to the SJRWMD (defined in Article V, Section 2.6.B.) and recorded in the public records of the County, as the same may be amended from time to time. The Conservation Easement encumbers the lands as more particularly described and shown on the Plat or as otherwise subsequently approved by SJRWMD and recorded in the public records of the County in accordance with the District Permit (defined in Section 31 below). The Owner's use of any portion of the Property encumbered by the Conservation Easement shall be governed and regulated by the provisions of the Conservation Easement and Article V, Section 2.9 of this Declaration.

Section 9. **County**. Duval County, Florida, being the county in which the Property is located.

Section 10. **Declaration**. This Declaration of Covenants and Restrictions for Briarwood Townhomes, as amended from time to time, together with any Supplementary Declarations or amendments hereto, which may be recorded among the public records of the County.

Section 11. **Declarant**. ADJ Briarwood, LLC, and its successors and such of its assigns as to which the rights of Declarant hereunder are specifically assigned. Declarant may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of Declarant as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to ADJ Briarwood, LLC, as Declarant of the Property is not intended and shall not be construed to impose upon ADJ Briarwood, LLC, any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from ADJ Briarwood, LLC, and develop and resell the same.

Section 12. **FDEP**. The State if Florida Department of Environmental Protection, or any agency or department that is the successor thereto.

Section 13. **Home**. Any improved portion of the Property located within a Lot and intended for use as a residential dwelling, including without limitation, any detached residential dwellings, condominium units, townhouse units, apartment units, duplexes or other attached residential dwellings.

Section 14. **Improvements**. All structures or artificially created conditions and appurtenances thereto of every type and kind located within the Property, including, but not limited to, as and if applicable, buildings and all support and ancillary structures thereto, walkways, paths, recreation areas and facilities and ancillary structures, berms, fountains, sprinkler systems, streets and roadways, driveways and parking areas, fences, walls, landscaping, poles, signs, mailboxes, street lights and signs and any alterations, repair or replacement of any of the foregoing.

Section 15. **Institutional Mortgage**. Any mortgage held by an Institutional Mortgagee on any property within the Subdivision.

Section 16. **Institutional Mortgagee or Institutional Lender**. Any lending institution owning a first mortgage encumbering any Lot within the Property, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company or any subsidiary thereof licensed to do business in the State of Florida or qualified to make mortgage loans in the State of Florida, national banking association chartered under the laws of the United States of America, or any "secondary mortgage market institution," including the Federal National Mortgage Association ("FNMA"), Government National Mortgage Association ("GNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage on any portion of the Property securing any such loan; any

pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration, the Federal Housing Administration or the Department of Housing and Urban Development or such other lender as is generally recognized in the community as an institutional lender; or Declarant, its successors and assigns.

Section 17. **Interest.** The maximum non-usurious interest rate allowed by law on the subject debt or obligation; if no such rate is designated by law, then eighteen percent (18%) per annum.

Section 18. **Legal Fees.** All fees for attorney and paralegal services incurred in connection with negotiations, mediation, arbitration, litigation or preparation for same (whether or not such an action is commenced) through and including all trial and appellate levels and post-judgment or collection proceedings, and all costs incurred with respect to the matters set forth above.

Section 19. **Lot**. Each platted lot located within the Property which is designated by Declarant by recorded covenant or deed restriction for single family residential use. No Lot shall include any portion of the Common Area owned in fee simple by the Association.

Section 20. **Lot Improvements**. Any Improvement addressed in Article IX, Section 5 that requires ARC review and approval.

Section 21. **Member.** Any member of the Association which shall be each Owner of the fee simple title to a Lot within the Property.

Section 22. **Operating Expenses.** All operating expenses of the Association as defined and described in Article VII, Section 2 of this Declaration.

Section 23. **INTENTIONALLY DELETED.**

Section 24. **Owner**. The record fee simple owner or owners of any Lot.

Section 25. **Plat**. The subdivision plat for Briarwood Townhomes, recorded in Map/Plat Book 82, pages 126 through 131, inclusive, of the public records of the County, and such additional subdivision plats as may be recorded with respect to any additional Property as may be added in accordance with the provisions of Article IV, Sections 2 and 3 of this Declaration.

Section 26. **Property or Subdivision Parcel**. The real property described on the attached **Exhibit "A"** and such additions and deletions thereto as may be made in accordance with the provisions of Article IV, Sections 2 and 3 of this Declaration.

Section 27. **Rules and Regulations**. The rules and regulations promulgated from time to time by the Board in accordance with the terms of this Declaration.

Section 28. **Special Assessments.** Assessments defined in Article VII, Section 2.3, of this Declaration.

Section 29. **Subdivision**. The Briarwood community, as more particularly described in Article III of this Declaration.

Section 30. **Subdivision Documents**. In the aggregate, this Declaration, the Articles, the Bylaws, the Plat, any Rules and Regulations promulgated by the Association and any and all amendments and Supplementary Declarations, all as may be further amended and/or supplemented from time to time.

Section 31. **Supplementary Declaration**. Any instrument executed by Declarant which, when recorded in the official records of the County, shall: (a) commit additional property, if any, to the provisions of this Declaration, and shall be the only method of committing such additional property to the provisions of this Declaration, (b) withdraw any portion(s) of the Property from the effect of this Declaration, (c) designate portion(s) of the Property or additional property as Common Area hereunder, or withdraw lands from the Common Areas within the Property, and/or (d) be for such other purposes as are provided in this Declaration. A Supplementary Declaration may also be used to add additional covenants, restrictions, reservations, regulations, burdens, liens and easements

upon the Property or any portion thereof, remove any existing covenant, restriction, reservation, regulation, burden, lien or easements from the Property or any portion thereof and/or declare certain properties to be or not to be Common Area. The Association shall join in the execution of any Supplementary Declaration at the request of Declarant but such joinder shall not be required to make any such Supplementary Declaration effective. The Owners shall not be required to join in the execution of any Supplementary Declaration but shall nevertheless be bound thereby.

Section 32. **Surface Water or Stormwater Management System**. A system which is designed and constructed or implemented within the Property to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to SJRWMD permit number 189437-1 (as amended, modified or extended, the "District Permit"), and pursuant to Chapter 62-330, F.A.C. or regulations of similar import. For purposes of this Declaration, the Surface Water or Stormwater Management System shall be deemed to be a part of the Common Area.

Section 33. **Tenant**. Any person other than an Owner who has possessory rights in or to any Lot or who is otherwise in possession of a Lot or any portion thereof.

Section 34. **Turnover Date**. The date on which control of the Association shall be transitioned from Declarant to the Owners, which date shall be determined by Declarant at its election but not later than that date required by Section 720.307, Florida Statutes.

Section 35. **Zoning Code**. The applicable zoning, land development or land use law, ordinance or code adopted by the City of Jacksonville, Duval County, Florida.

ARTICLE III

DESCRIPTION OF SUBDIVISION:

Section 1. **General Plan of Development**. The Subdivision comprises the Property encompassing, or which will encompass, Lots and Common Area, as more particularly defined by this Declaration and, in addition, lands which Declarant may add, but shall in no way be obligated to add, by one or more Supplementary Declaration(s). The Property initially declared hereunder is described in **Exhibit "A"** attached hereto. The Subdivision is intended to comprise Ninety-six (96) Homes, each Home located on a single Lot, together with the Common Area, all in accordance with, but subject to, the terms of the Subdivision Documents. Notwithstanding the foregoing, Declarant hereby reserves the right to modify its plan of development of the Subdivision (including, without limitation, the right to modify the site plan and the right to change the recreational facilities, amenities, product types and number of Homes to be constructed) and/or the right to add land to or to withdraw land from the Subdivision. Therefore, in the event Declarant modifies its plan of development of the Subdivision and/or adds land to or withdraws land from the Subdivision, it is hereby acknowledged by each Owner that the number of Lots, the layout of Lots and/or the size of Lots within the Subdivision may change. Declarant's general plan of development further contemplates that the Homes to be constructed within the Subdivision shall be whatever types of structures Declarant may choose which and which shall be deemed in conformance with this Declaration. Declarant's general plan of development may also include whatever facilities and amenities Declarant considers in its sole judgment to be appropriate, as well as any changes thereto.

Additional Property will become a part of the Subdivision if, and only if, Declarant in its sole discretion adds Additional Property to the Subdivision by recording a Supplementary Declaration to such effect. Declarant hereby reserves an easement for ingress and egress and for utilities and drainage over, under and across the Common Area for the benefit of any Additional Property; provided however, no such easement may be granted upon any portion of the Property that lies directly beneath a Home.

Declarant expressly reserves the right as to the Property to (i) commence construction and development of the Property if and when Declarant desires; (ii) develop the Property upon such timetable as Declarant, in its sole discretion, chooses; and (iii) modify the plan of development of the Property (including, without limitation, the right to modify the site plan and master plan of the Subdivision, the right to change the recreational facilities and amenities, and the right to change the product types and number of Homes to be constructed within the Subdivision)

in such manner as Declarant in its sole discretion, chooses. Nothing contained herein shall be construed as obligating Declarant to construct the Subdivision according to the present plan of development nor as obligating Declarant to declare any Additional Property to be Property.

Section 2. **Common Area**. The Common Area shall consist of: (a) the property indicated on the Plat and supplementary Plat(s), if any, as Common Area or as property or easements reserved for, dedicated or granted to the Association or reserved by the Declarant and to eventually be conveyed to the Association, and all Improvements constructed thereon whether by Declarant or the Association, but not owned or maintained by a public or private utility company or other entity; (b) any easements assigned or granted by Declarant to the Association or property or facilities conveyed by Declarant to the Association, including without limitation the Conservation Easement; and (c) any other property designated as Common Area in this Declaration or any Supplementary Declaration. The Common Area shall be used for those purposes as set forth in this Declaration or the Plat and supplementary Plat(s), if any, and include, as applicable, landscaping, irrigation, signage, lakes, drainage, preserves, conservation areas, open space, buffer, storm water management, irrigation, recreational and roadways (if private) as well as other proper purposes by the Association and the Owners and their family members, guests, invitees and Tenants in accordance with the Subdivision Documents. Common Area may not be altered, modified, removed or replaced by Owners or their family members, guests, invitees or Tenants.

Such portions of the Common Area upon which Declarant and/or the Association has constructed or hereafter constructs Improvements shall be kept and maintained for use in a manner consistent with the nature of such Improvements located, or to be located, thereon. Declarant and the Association reserve the right, but shall not be obligated, to construct additional facilities upon the Common Area. Declarant's decision as to whether to construct additional facilities and the construction thereof shall be in the sole discretion of Declarant. The Association's decision as to whether to construct additional facilities and the construction thereof shall be in the sole discretion of the Association.

In the event of any doubt, conflict or dispute as to whether any portion of the Property is or is not Common Area under this Declaration, Declarant may, without the consent of the Association or then existing Owners, record in the public records of the County, a Supplementary Declaration resolving such issue and such Supplementary Declaration shall be dispositive and binding. After Declarant no longer owns any portion of the Property, the Association may, without the consent of the existing Owners, record the aforesaid Supplementary Declaration, which shall have the same dispositive and binding effect.

Section 3. **Community Systems**. Declarant or the Association shall have the right to enter into one or more agreement(s) ("Bundled Service Agreements") for receipt of television (via cable, satellite or otherwise), entertainment, telecommunication, internet monitored alarm and/or other services (collectively, "Bundled Services") for Homes in the Subdivision. Any and all costs and expenses incurred by the Association under or pursuant to any Bundled Service Agreements entered into by Declarant or the Association for Bundled Services will be assessed against all Lot Owners. It is contemplated that there may be features and services that are or will be available in addition to and not part of the Bundled Services (each, an "Optional Service"). Notwithstanding anything to the contrary contained in this Declaration, the costs and expenses charged to the Association under the Bundled Services Agreements shall be apportioned equally, but only amongst those Homes with respect to which the Association is being charged under or pursuant to the Bundled Services Agreement except to the extent, if any, that any Owner elects to receive an Optional Service (being a service not automatically received by all Owners entitled to receive Bundled Services pursuant to the Bundled Services Agreements). Each Owner who receives an Optional Service, if any, shall be responsible for paying for the costs thereof. The foregoing shall in no way obligate Declarant or the Association to enter into any Bundled Services Agreement.

ARTICLE IV

PROPERTY SUBJECT TO THIS DECLARATION:

Section 1. **No Implied Extension of Covenants**. Each Owner and each Tenant, by becoming an Owner or Tenant, shall be deemed to have agreed that (a) the Property described on Exhibit A and such additional property as may be annexed pursuant to Section 2 below shall be the only Property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting or requiring Declarant to subject any other property now or hereafter owned by Declarant to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 2 below.

Section 2. **Additional Lands**. Declarant may, but shall not be obligated to, subject additional land to this Declaration (or to the assessment provisions of this Declaration) from time to time, provided only that (a) any additional land subjected to this Declaration (or its assessment provisions) shall be contiguous to the Property then subject to this Declaration (for purposes of this Article IV, Section 2, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous), and (b) the Owners of property within additional lands made subject to this Declaration (or its assessment provisions) shall be and become subject to this Declaration (or its assessment provisions), and shall be responsible for their pro rata share of common expenses for which assessments may be levied pursuant to the terms of Article VII of this Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of the County, a Supplementary Declaration executed by Declarant with respect to the lands to be added. Declarant reserves the right to supplement this Declaration to add land to the scheme of this Declaration (or its assessment provisions) pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of land within the Property.

Section 3. **Withdrawal of Lands**. With the consent and joinder of Owners holding a majority of the votes in the Association, Declarant may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property from the terms and effect of this Declaration. Upon Declarant's request, the consent and joinder of each and every Owner to such withdrawal shall not be unreasonably withheld. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of the County a Supplementary Declaration executed by Declarant with respect to the lands to be withdrawn.

ARTICLE V

COMMON AREA RIGHTS; EASEMENTS

Section 1. **Conveyance of Common Area**. Upon recordation of the Plat, the Association shall be deemed to have accepted responsibility for the Common Areas dedicated thereby. Declarant agrees that fee simple title to all of the Common Area owned by Declarant shall be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record, and such conveyance or assignment shall be deemed accepted by the Association. Upon the recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds. Any such conveyance shall not however, impair in any way Declarant's rights and easements as set forth in this Declaration.

At the time of conveyance of the Common Area or any portion thereof, the Association shall be deemed to have accepted fee simple title to the Common Area, together with the personal property and Improvements appurtenant thereto, if any. The Association has accepted the Common Area and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Common Area and the personal property and Improvements appurtenant already dedicated to the Association and to be conveyed to the Association hereafter. IN THAT REGARD, THE ASSOCIATION AND EACH OWNER KNOWINGLY AND VOLUNTARILY RELINQUISHES AND WAIVES, AND DECLARANT EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES (EXPRESS OR IMPLIED) AS TO THE COMMON AREA AND PERSONAL PROPERTY AND IMPROVEMENTS WHETHER ARISING FROM CUSTOM, USAGE OR TRADE, COURSE OF CONDUCT, COURSE OF DEALING, CASE LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR ANY INTENDED OR PARTICULAR PURPOSE. TO THE EXTENT THAT BY LAW OR OTHERWISE ANY OF THE WARRANTIES RELINQUISHED, WAIVED OR DISCLAIMED CANNOT BE RELINQUISHED, WAIVED OR DISCLAIMED, IN WHOLE OR IN PART, ALL SECONDARY, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE SPECIFICALLY EXCLUDED AND DISCLAIMED (INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM CLAIMS OF PROPERTY DAMAGE, LOSS OF USE, PERSONAL INJURY OR EMOTIONAL DISTRESS).

Commencing upon the date this Declaration is recorded, and notwithstanding that title thereto has not yet been conveyed to the Association, the Association shall be responsible for the maintenance of the Common Area in a continuous and satisfactory manner without cost to the general taxpayers of the County. The Association shall be responsible for the payment of real estate taxes, if any, against the Common Area including taxes accruing on any Improvements and any personal property thereon from and after the date this Declaration is recorded.

The Owners (including Declarant as to Lots owned by it) shall have no personal liability for any damages: (i) for which the Association is legally liable, or (ii) arising out of, relating to or in connection with the existence or use of any Common Area or any other property required to be maintained by the Association.

Subject to the foregoing, Declarant may mortgage any or all portions of the Common Area or finance construction and development expenses provided that the mortgagee recognizes the rights of Owners under this Declaration and neither the Association nor any Owner is personally liable for paying the mortgage. In such event, neither the Association nor the Owners shall be required to join in or be entitled to consent to such mortgage. The Common Area shall be released from any such mortgage no later than the date same is conveyed to the Association.

Section 2. **Grant and Reservation of Easements.** Declarant hereby reserves and grants the following perpetual, nonexclusive easements over and across the Property as covenants running with the Property for the benefit of the Owners, the Association and Declarant as hereinafter specified for the following purposes:

2.1. Utility and Services Easements. All of the Property shall be subject to a non-exclusive, perpetual easement providing for or otherwise allowing: (i) installation, service, repair and maintenance of the equipment required to provide utility services, other than Community Systems to the Common Area and the Lots, and which equipment includes, but is not limited to, wires, pipes, conduits, junction boxes, transformers, meters, cable television lines, telephone lines and other such facilities for power, lights, telephone, gas, water, sewer, irrigation and drainage, and (ii) governmental services, including, but not limited to, police, fire, mail, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

2.2. Easement for Encroachment. All of the Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of such Owner's Home or appurtenant Improvements installed by Declarant such as stucco, a fence or underground footer now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Declarant shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or such Owner's designees.

2.3. Easement to Enter Upon Lots. An easement or easements for ingress and egress in favor of the Association, including the Board or the designee of the Board, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or repair in accordance with the Subdivision Documents, including, by way of example, the making of such repairs, maintenance or reconstruction as are necessary for the Common Area and to maintain any Lot in the event the Owner thereof fails to do so.

2.4. Easement over Common Area. An easement of enjoyment in favor of all Owners, their family members, guests, invitees and Tenants in and to the Common Area which shall be appurtenant to and shall pass with a deed or title to every Lot in the Property, subject to the following:

A. the right of the Association to suspend the right to use the Common Area of any Owner and such Owner's family members, guests, invitees and Tenants for any period during which Assessments against such Owner's Lot remain unpaid, subject to the notice and hearing provisions in Article XIII, Section 1 herein;

B. the right of the Association to grant permits, licenses and easements over the Common Area for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property;

C. compliance by every person who uses any of the Common Area subject to the provisions of the District Permit and the Conservation Easement; and

D. all provisions set forth in the Subdivision Documents.

2.5. Easement for Roof Overhang. An easement or easements to provide for the roof overhang of a Home in favor of the Owner thereof, including rights of access for persons or equipment necessary to maintain, repair and replace such roof overhang.

2.6. Surface Water or Stormwater Management System Easement.

A. Blanket Surface Water or Stormwater Management System Easement. The plan for the development of the Property includes the construction of a Surface Water or Stormwater Management System, which may include, without limitation, retention lakes, swales, conduits, weirs, pipes and/or berms and access easements to the Surface Water or Stormwater Management System as may be shown on the Plat or otherwise dedicated. Declarant hereby reserves for itself, its successors and assigns, and grants to the Association and its designees, a perpetual, nonexclusive easement over and across all areas of the Surface Water or Stormwater Management System for the drainage of stormwater from the Property. Portions of the Surface Water or Stormwater Management System may be located entirely within Lots.

B. Surface Water or Stormwater Management System Maintenance. Except as specifically set forth herein to the contrary, the Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Such maintenance shall include the exercise of practices which allow the Surface Water or Stormwater Management System to provide drainage, water storage, conveyance or other stormwater management capabilities in accordance with all the permits, statutes, rules and regulations pertaining to surface water management, drainage and water quality promulgated by the United States Army Corps of Engineers ("ACOE"), FDEP, St. Johns River Water Management District ("SJRWMD") and all other local, state and federal authorities having jurisdiction.

The Association shall maintain and control the water level and quality of the Surface Water or Stormwater Management System and the bottoms of any retention lakes or drainage easements which retain or hold stormwater on a regular basis. The Association shall have the power, as may be required by any applicable governmental entity, to control and eradicate plants, fowl, reptiles, animals, fish and fungi in and on any portion of the retention lakes or drainage easement. The Association shall (i) maintain all shoreline vegetation and the grade and contour of all embankments to the water's edge (as it may rise and fall from time to time) irrespective of ownership of such land, (ii) keep the grass, plantings and other lateral support of the embankments in a clean and safe manner, and (iii) prevent erosion and shall remove trash and debris as it may accumulate in the system, from time to time. In order to provide adequate assurance that the Surface Water or Stormwater Management System will adequately function, appropriate maintenance procedures, including but not limited to the following, shall be followed:

(1) The Association shall inspect or cause to be inspected all inlets and control structures for vandalism, deterioration or accumulation of sand and debris.

(2) The Association shall assure that all debris or sand shall be removed from the inlets and control structures and any orifice system.

(3) The Association shall inspect and repair or cause to be inspected and repaired all skimmer boards around control structures as necessary.

C. Surface Water or Stormwater Management System Maintenance Easement. The Association is granted a perpetual, nonexclusive easement for ingress and egress, at all reasonable times and in a reasonable manner, over and across the Surface Water or Stormwater Management System and over and across any portion of a Lot which is a part of the Surface Water or Stormwater Management System or upon which a portion of the Surface Water or Stormwater Management System is located, to operate, maintain and repair the Surface Water or Stormwater Management System as required by the District Permit. Such right expressly includes the right to cut any trees, bushes or shrubbery, to make any gradings of soil, construct or modify any berms placed along the rear of any Lots as part of the Surface Water or Stormwater Management System or take any other action reasonably necessary, following which Declarant or the Association shall restore the affected property to its original condition as nearly as practicable; provided, however, that Declarant or the Association shall not be required to replace or repair fences, walks, structures, landscaping or other improvements which are removed or damaged. Declarant or the Association shall give reasonable notice of its intent to take such action to all affected Owners, unless, in the opinion of Declarant or the Association, an emergency exists which precludes such notice. The right granted herein may be exercised at the sole option of Declarant or the Association and shall not be construed to obligate Declarant or the Association to take any affirmative action in connection therewith. The Owners of Lots adjacent to or containing a portion of the retention areas are granted a perpetual, nonexclusive easement for ingress and egress over and across

the Surface Water or Stormwater Management System for the purpose of providing maintenance and erosion control to the embankments of such retention areas.

D. Improvements. No docks, bulkheads or other structures, permanent or temporary, shall be constructed on, over or under any portion of the Surface Water or Stormwater Management System without the prior written consent of the Association and the approval of the ARC or Declarant, which consent or approval may be withheld for any reason. Any improvements to the Surface Water or Stormwater Management System permitted by the Association and installed by the Owner shall be maintained by such Owner in accordance with the maintenance provisions of this Declaration. All improvements to the Surface Water or Stormwater Management System may also require the prior written approval of the SJRWMD. After receiving the approval of the Association, Owner shall be solely liable for obtaining all governmental permits necessary or convenient to construct such Improvement.

E. Use and Access. Declarant and the Association shall have the right to adopt reasonable Rules and Regulations from time to time in connection with the use of the surface waters of any portion of the Surface Water or Stormwater Management System, and shall have the right to deny such use to any person who, in the opinion of Declarant or the Association, may create or participate in a disturbance or nuisance on any part of the Surface Water or Stormwater Management System. The use of such surface waters by the Owners shall be subject to and limited by the Rules and Regulations of Declarant and the Association, all permits issued by governmental authorities and any rights granted to other persons pursuant to the Rules and Regulations of Declarant and the Association. No gas or diesel driven watercraft shall be operated on any portion of the Surface Water or Stormwater Management System, including retention lakes. Swimming is strictly prohibited in the retention lakes.

F. LIABILITY. NEITHER DECLARANT NOR THE ASSOCIATION SHALL HAVE ANY LIABILITY WHATSOEVER TO OWNERS, GUESTS, TENANTS OR INVITEES IN CONNECTION WITH THE RETENTION LAKES AND DRAINAGE FACILITIES OR ANY PART OF THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM. EACH OWNER, FOR ITSELF AND ITS GUESTS, TENANTS OR INVITEES, RELEASES DECLARANT AND THE ASSOCIATION FROM ANY LIABILITY IN CONNECTION THEREWITH.

DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING BUT NOT LIMITED TO LIFEGUARDS, FOR THE RETENTION LAKES AND/OR ANY PORTIONS OF THE COMMON AREA. ANY INDIVIDUAL USING THE RETENTION LAKES AND/OR ANY PORTIONS OF THE COMMON AREA SHALL DO SO AT HIS OR HER OWN RISK AND HEREBY HOLDS DECLARANT AND THE ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS (INCLUDING, WITHOUT LIMITATION, THOSE FROM PROPERTY DAMAGE, INJURY AND/OR DEATH) ARISING FROM SUCH USE.

NEITHER DECLARANT, THE ASSOCIATION NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, RETENTION AREA, CANAL, CREEK, MARSH AREA, STREAM OR OTHER WATER BODY WITHIN OR ADJACENT TO THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR ENTITY AS REFERENCED HEREIN. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID AREAS SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF A DEED TO, OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ALL LIABILITY RELATED TO ANY CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS, POISONOUS SNAKES AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES CONTAINED WITHIN OR ADJACENT TO THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

ALL PERSONS ARE HEREBY NOTIFIED THAT BANKS AND SLOPES ASSOCIATED WITH THE SURFACE WATER AND STORMWATER MANAGEMENT SYSTEM OR OTHER WATERBODIES WITHIN CERTAIN AREAS OF THE PROPERTY MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY THEIR ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT WITHIN THE PROPERTY, ALL OWNERS OR USERS OF SUCH

PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION OR TOPOGRAPHY OF ANY BANKS, SLOPES OR BOTTOMS ASSOCIATED WITH THE SURFACE WATER AND STORMWATER MANAGEMENT SYSTEM OR OTHER WATERBODIES WITHIN OR NEAR THE PROPERTY.

THE PROPERTY HAS BEEN OR WILL BE DEVELOPED IN ACCORDANCE WITH REQUIREMENTS OF THE DISTRICT PERMIT OR ANY PERMIT ISSUED BY THE ACOE. THE ACOE AND DISTRICT PERMITS ARE OR WILL BE OWNED BY THE ASSOCIATION AND THE ASSOCIATION HAS THE OBLIGATION TO ASSURE THAT ALL TERMS AND CONDITIONS THEREOF ARE ENFORCED. THE ASSOCIATION SHALL HAVE THE RIGHT TO BRING AN ACTION, AT LAW OR IN EQUITY, AGAINST ANY OWNER VIOLATING ANY PROVISION OF THE PERMITS.

FURTHER, ANY OWNER OWNING A LOT WHICH CONTAINS OR IS ADJACENT TO JURISDICTIONAL WETLANDS OR CONSERVATION AREAS AS ESTABLISHED BY THE ACOE OR SJRWMD OR BY THE CONSERVATION EASEMENT SHALL BY ACCEPTANCE OF TITLE TO THE LOT BE DEEMED TO HAVE ASSUMED THE OBLIGATION TO COMPLY WITH THE REQUIREMENTS OF THE APPLICABLE PERMITS AS THE SAME RELATE TO SUCH OWNER'S LOT AND SHALL AGREE TO MAINTAIN SUCH JURISDICTIONAL WETLANDS AND CONSERVATION AREAS IN THE CONDITION REQUIRED UNDER THE APPLICABLE PERMITS. IN THE EVENT THAT AN OWNER VIOLATES THE TERMS AND CONDITIONS OF THE APPLICABLE PERMITS AND FOR ANY REASON DECLARANT OR THE ASSOCIATION IS CITED THEREFORE, THE OWNER AGREES TO INDEMNIFY AND HOLD DECLARANT AND THE ASSOCIATION HARMLESS FROM ALL COSTS ARISING IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION ALL COST AND ATTORNEYS' FEES, AS WELL AS ALL COSTS OF CURING SUCH VIOLATION. NO PERSON SHALL ALTER THE DRAINAGE FLOW OF THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM OR ANY PORTION OF THE JURISDICTIONAL WETLANDS OR CONSERVATION AREAS, INCLUDING WITHOUT LIMITATION, ANY BUFFER AREAS, SWALES, TREATMENT BERMS OR SWALES, WITHOUT THE PRIOR WRITTEN APPROVAL OF THE SJRWMD OR ACOE, AS APPLICABLE.

G. Wetlands, Jurisdictional Land Swales. This Declaration is subject to the rights of the State of Florida over portions of the Property that may be considered wetlands, marshes, sovereignty or jurisdictional lands, and every Owner shall obtain any permit necessary prior to undertaking any dredging, filling, mowing, improving, landscaping or removal of plant life existing on his or her Lot. Further, certain Lots may be improved with swales constructed within Lots that are contiguous to any jurisdictional lands. The Owners thereof shall not remove or modify the swales without the consent of the applicable governmental entities. Any Owner who alters or otherwise modifies any swale, including mowing, shall repair and restore any such swale to be in full compliance with the applicable Permits, at such Owner's sole cost and expense, and shall indemnify and hold Declarant and the Association harmless from such violation.

H. Rights of the SJRWMD. Notwithstanding any other provisions contained elsewhere in this Declaration, the SJRWMD shall have the rights and powers enumerated in this paragraph. The SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration, the District Permit or the Conservation Easement that relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System and the Conservation Easement. Any repair or reconstruction of the Surface Water or Stormwater Management System or the Conservation Easement shall be as permitted, or if modified, as approved in writing by the SJRWMD. No person shall alter the drainage flow of the Surface Water or Stormwater Management System, including any buffer areas, if any, swales, treatment berms or swales, without prior written approval of the SJRWMD. Any amendment to this Declaration that alters the Surface Water or Stormwater Management System, beyond maintenance in its original condition including the water management portions of the Common Area, must have prior written approval of the SJRWMD. In the event that the Association is dissolved, prior to such dissolution, all responsibility relating to the Surface Water or Stormwater Management System must be assigned to and accepted by an entity approved in writing by the SJRWMD.

I. Indemnity. Declarant may be required to assume certain duties and liabilities for the maintenance of the Surface Water or Stormwater Management System or drainage system within the Property under the Plat or any supplementary Plat, permits or certain agreements with governmental agencies. The Association further agrees that subsequent to the recording of this Declaration, it shall hold Declarant harmless from all suits, actions, damages, liabilities and expenses in connection with loss of life, bodily or personal injury or property damage arising out of any occurrence in, upon, at or from the maintenance of the Surface Water or Stormwater Management System occasioned in whole or in part by any action, omission of the Association or its agents, contractor, employees, servants or licensees but not excluding any liability occasioned wholly or in part by the acts of

Declarant, its successors or assigns. Upon completion of construction of the Surface Water or Stormwater Management System or drainage system Declarant shall be deemed to have assigned all its rights, obligations and duties thereunder to the Association. The Association shall assume, and be deemed to have assumed, all such rights, duties and liabilities and shall indemnify and hold Declarant harmless therefrom.

J. Declarant's Rights. Declarant, its successors and assigns, shall have the unrestricted right, without approval or joinder of any other person or entity: (i) to designate the use of, alienate, release or otherwise assign the easements shown on the Plat or any supplementary Plats of the Property or as described herein, (ii) to plat or replat all or any part of the Property owned by Declarant, and (iii) to widen or extend any right of way shown on the Plat or supplementary Plat, if any, of the Property or convert a Lot to use as a right of way, provided that Declarant owns the lands affected by such change. Owners of Lots subject to easements shown on the Plat or any supplementary Plats of the Property shall acquire no right, title or interest in any of the cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over or under the easement area. The Owners of Lots subject to any easements shall not construct any Improvements on the easement areas, alter the flow of drainage or install landscaping on such areas with hedges, trees or other items that might interfere with the exercise of the easement rights. Any Owner who constructs any Improvements on such easement areas shall remove the Improvements upon written request of Declarant, the Association or the grantee of the easement.

2.7. Plat Easement(s). The Plat and/or supplementary Plat(s), if any, may contain additional easements not discussed herein, granted in favor of the Association or others, for the specific purposes as described therein.

2.8. Easement for Community Systems. Notwithstanding anything to the contrary in this Declaration, Declarant and its affiliates, and its and their designees shall have a perpetual exclusive easement over, across, upon and under the Common Area and the Lots for the installation, operation, maintenance, repair, replacement, alteration and expansion of Community Systems.

2.9. Conservation Easement. The Conservation Easement severely limits the use that any person may make of any part of the Property encumbered thereby, and each person who ever hereafter acquires any interest in any part of the Property agrees and acknowledges that it is aware of and shall strictly comply with the Conservation Easement.

Section 3. **Delegation of Use**. Any Owner may delegate, in accordance with the Bylaws such Owner's right of enjoyment to the Common Area to the members of such Owner's family or to Tenants who have possessory rights in and to such Owner's Home, subject to the Subdivision Documents. An Owner may not delegate to any person a right to use any Common Areas unless such person then has the right to possess the Owner's Home and Lot.

Section 4. **Recognition of Easements**. Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes and consents to the easements reserved and/or granted with respect to the Property under this Declaration or any other Subdivision Document.

Section 5. **Assignments; Additional Easements**. The easements reserved hereunder may be assigned by Declarant or the Association in whole or in part to any city, county or state government or agency thereof, any duly licensed or franchised public utility or any other designee of Declarant. Declarant shall have and hereby reserves the right to grant and/or reserve additional easements over, under and upon the Property or portions thereof (including the portion of Lots where no physical structure of the Home is located) which may be necessary or desirable by Declarant. The Owners hereby authorize Declarant and/or the Association to execute, on their behalf and without any further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration.

ARTICLE VI

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION; BOARD; DURATION OF THE ASSOCIATION

Section 1. **Membership and Voting Rights**. Membership in the Association, and the voting rights of the Members, shall be established and terminated as set forth in the Articles and Bylaws. Each Member shall be entitled to the benefit of, and be subject to, the provisions of the Subdivision Documents.

Section 2. **Board**. The Association shall be governed by the Board which shall be appointed, designated or elected, as the case may be, as set forth in the Articles and Bylaws.

Section 3. **Duration of the Association**. The duration of the Association shall be perpetual, as set forth in the Articles. In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the surface water or stormwater management system must be transferred to and accepted by an entity which complies with Rule 62-330.310, F.A.C., and Applicant's Handbook Volume I, Section 12.3, and be approved in writing by the SJRWMD, Florida Department of Environmental Regulation or other governmental authority having jurisdiction prior to such termination, dissolution or liquidation.

ARTICLE VII

COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS; COLLECTION OF ASSESSMENTS; COLLECTION BY DECLARANT; CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

Section 1. **Affirmative Covenant to Pay Assessments and Special Assessments**. In order to: (a) fulfill the terms, provisions, covenants, conditions, restrictions, reservations, regulations, burdens, liens and easements contained in the Subdivision Documents; and (b) maintain, operate and preserve the Common Area for the use, safety, welfare and benefit of the Members and their family members, guests, invitees and Tenants, there is hereby imposed upon each Lot and each Owner the affirmative covenant and obligation to pay to the Association, commencing from and after the first conveyance of a Lot from Declarant as evidenced by the recordation of a deed in the public records of the County (in the manner herein set forth), all Assessments which are imposed by the Association to provide for payment of the Operating Expenses and reserves, and all Special Assessments. Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot within the Property, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments in accordance with the provisions of the Subdivision Documents. Declarant shall have no obligation to pay any Assessments on any Lot which it owns during the Guarantee Period.

Section 2. **Operating Expenses; Reserves; Special Assessments**.

2.1. The following expenses of the Association are hereby declared to be Operating Expenses which the Association is obligated to assess and collect, and which the Owners are obligated to pay as provided herein or as may be otherwise provided in the Subdivision Documents: (1) any and all taxes and tax liens which may be assessed or levied at any and all times against the Common Area, the Community Systems or against any and all personal property or Improvements thereon; (2) all charges levied for Community Systems or other utilities providing services for the Common Area or to Owners on a bulk basis, such as water, gas, electricity, telephone, cable television, telecommunication services, home monitoring, sanitation, sewer and any type of utility or any other type of service charge which is not separately billed to an Owner; (3) the premiums on policies of insurance contemplated to be paid hereunder including, but not limited to, liability and casualty insurance for the Common Area and directors and officers liability insurance for the officers and directors of the Association; (4) any sums necessary for the maintenance and repair of the Common Area and all Improvements located thereon; (5) administrative and operational expenses of the Association and the ARC; (6) all sums necessary for the maintenance and repair of the Surface Water or Stormwater Management System to be maintained by the Association, including but not limited to work within retention areas, drainage structures and drainage easements; and (7) any and all expenses deemed to be Operating Expenses by the Association and/or under this Declaration.

2.2. Reserves for replacements are specifically excluded from Operating Expenses. The Board may, if it so determines, include reserves in the Association's annual budget.

2.3. In addition, any expense of the Association which is not an Operating Expense shall be the subject of a Special Assessment. Expenses which are required to be the matter of Special Assessment include, by way of example but not by way of limitation, the following: the cost of reconstructing, replacing or improving the Common Area or any portion thereof or Improvements thereon; any casualty loss affecting the Association or the

Common Area to the extent such loss exceeds the insurance proceeds, if any, receivable by the Association as a result of such loss; any judgment against the Association (or against a Director or Directors if and to the extent such Director is, or such Directors are, entitled to be indemnified by the Association therefor pursuant to the Articles) to the extent such judgment exceeds the insurance proceeds, if any received by the Association as a result of such judgment, or an agreement by the Association (or such Director or Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or such Director or Directors) to the extent such settlement exceeds the insurance proceeds, if any, received by the Association as a result of such settlement agreement; and Legal Fees incurred by the Association in connection with litigation (whether incurred for the preparation, filing, prosecution or settlement thereof or otherwise), except Legal Fees incurred by the Association in connection with the collection of Assessments or other charges which Owners are obligated to pay pursuant to the Subdivision Documents or the enforcement of the use and occupancy restrictions contained in the Subdivision Documents. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Assessment. Any Special Assessments assessed against Lots and the Owners thereof shall be paid by such Owners in addition to any other Assessments and shall be assessed in the same manner as the Assessment.

Section 3. **Establishment of Liens.** Each Assessment against a Lot, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, shall be the personal obligation of the Owner of such Lot. Any and all Assessments made by the Association in accordance with the provisions of the Subdivision Documents with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Lot against which each such Assessment is made. Said lien shall be effective only from and after the time of the recordation amongst the public records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. In the event an Institutional Mortgagee of record obtains title to a Lot as a result of foreclosure of its Institutional Mortgage or deed in lieu of foreclosure, such acquirer of title, its successors or assigns, shall be liable for Assessments to the maximum extent provided by Section 720.3085(2)(c), Florida Statutes, as amended from time to time, and shall not be liable for any greater share of Assessments pertaining to such Lot or chargeable to the former Owner thereof which became due prior to the acquisition of a deed or title as a result of the foreclosure or deed in lieu thereof, unless the Assessment against the Lot in question is secured by a claim of lien for Assessments that is recorded prior to the recordation of the Institutional Mortgage which was foreclosed or with respect to which a deed in lieu of foreclosure was given.

Section 4. **Collection of Assessments.** In the event any Owner shall fail to pay any Assessment, or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

4.1. To accelerate the entire amount of any Assessment for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

4.2. To advance on behalf of the Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Owner(s) is (are) liable to the Association and the amount or amounts of monies so advanced, together with Interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association from the Owner(s) and Parcel Owner(s) and such advance by the Association shall not waive the default.

4.3. To file an action in equity to foreclose its lien at any time after the effective date thereof as provided in Section 3 above. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property. By taking such action, the Association shall not be precluded from seeking a remedy under Section 4.4 below.

4.4. To file an action at law to collect said Assessment plus Interest and all costs of collection thereof including, but not limited to, Legal Fees, without waiving any lien rights or rights of foreclosure of the Association. By taking such action, the Association shall not be precluded from seeking a remedy under Section 4.3 above.

4.5. To charge Interest on such Assessment from the date it becomes due, as well as a late charge of Twenty-Five and No/100 Dollars ($25.00) to defray additional collection costs.

4.6. To suspend the use rights of the Owner(s) in default to the Common Area, subject to the Notice and Hearing provisions in Article XIII, Section 1 herein.

4.7. To suspend the right of the Owner(s) in default to vote on any matter on which Owners have the right to vote if such Owner is delinquent in payment of Assessments or Special Assessments for more than ninety (90) days.

Section 5. **Rights of Declarant and Institutional Mortgagees to Pay Assessments and Receive Reimbursement**. Declarant and any Institutional Mortgagee(s) shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Lot(s). Further, Declarant and any Institutional Mortgagee shall have the right, but not the obligation, jointly or individually, and, at their sole option to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Association in the event the same are overdue and when lapses in policies or services may occur. Declarant and any Institutional Mortgagee paying overdue Operating Expenses on behalf of the Association will be entitled to immediate reimbursement from the Association plus Interest and any costs of collection including, but not limited to Legal Fees, and the Association shall execute an instrument in recordable form acknowledging such reimbursement obligation(s) and deliver the original of such instrument to each Institutional Mortgagee who is so entitled to reimbursement and to Declarant if Declarant is entitled to reimbursement.

Section 6. **Collection by Association**. Subject to the provisions of Article VIII below, the Association shall initially collect all assessments and other sums due the Association. Each Owner will receive one or more statements annually or each quarter, as applicable, from the Association which lists the amounts owed to the Association.

ARTICLE VIII

METHOD OF DETERMINING ASSESSMENTS AND ALLOCATION OF ASSESSMENTS

Section 1. **Determining Amount of Assessments**. The total anticipated Operating Expenses and reserves for each calendar year shall be set forth in the budget ("Budget") prepared by the Board as required under the Subdivision Documents. Each Lot shall be assessed its pro rata portion of the total anticipated Operating Expenses and reserves, which shall be the "Assessment" as to each Lot. Operating Expenses and reserves shall be divided by the total number of Lots planned for the Subdivision, but subject to change in accordance with this Declaration. Notwithstanding anything in the Subdivision Documents to the contrary, only a "Lot" and the Owner thereof shall be obligated to pay Assessments. Further, any Assessment for Legal Fees incurred by the Association for lawsuits shall be deemed an Operating Expense which is properly the subject of Special Assessment and not the subject of an Assessment, except the Legal Fees incurred by the Association in connection with the collection of assessments or other charges which Owners are obligated to pay pursuant to the Subdivision Documents or the enforcement of the use and occupancy restrictions contained in the Subdivision Documents.

Section 2. **Assessment Payments**. Assessments, exclusive of Special Assessments, shall be payable quarterly, in advance, on the first (1st) day of each fiscal quarter. Notwithstanding the foregoing, the Board has the right to change the method and frequency of the payments of Assessments. Assessments, and the amount or frequency of payments thereof, may be adjusted from time to time by the Board due to changes in the Budget or in the event the Board determines that an Assessment or any installment thereof is either less than or more than the amount actually required.

Section 3. **Special Assessments**. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine. Notwithstanding the foregoing, the levying of any Special Assessment after the Turnover Date shall require the affirmative assent of at least two-thirds (2/3) of all Members represented in person or by proxy at a meeting called and held in accordance with the Bylaws; provided, however, the Board acting alone and without the consent of Members may levy Special Assessments for the following: i) in the event of a casualty loss to repair and replace Common Area which is not insurable (e.g.,

landscaping, fencing, etc.), not insured, under insured or where insurance coverage was denied by the insurance carrier after the casualty loss; ii) to obtain funds to cover insurance deductibles in the event of a casualty loss; and iii) any Special Assessment authorized by Article VII, Section 2.3 herein. Prior to the Turnover Date, a Declarant-controlled Board may make a Special Assessment without such vote of the Members. Special Assessments are not included in the guarantee set forth in Section 5 below.

Section 4. **Liability of Owners for Lot Assessments.** By the acceptance of a deed or other instrument of conveyance of a Lot in the Property, each Owner thereof acknowledges that each Lot and the Owners thereof are jointly and severally liable for their own Lot Assessments and their applicable portion of any Special Assessments, as well as for any and all other Assessments for which they are liable, as provided for herein. Such Owners further recognize and covenant that they are jointly and severally liable with the Owners of all Lots for the Operating Expenses (subject to any specific limitations provided for herein such as, but not limited to, the limitation with respect to matters of Special Assessment and the limitations on the liability of Institutional Mortgagees and their successors and assigns). Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner, for such Owner and such Owner's heirs, executors, successors and assigns, that in the event any Owner fails or refuses to pay such Owner's Lot Assessment or any portion thereof, or such Owner's respective portion of any Special Assessment or any other Assessment, then the other Owners may be responsible for increased Lot Assessments or Special Assessments or other Assessments due to the nonpayment by such other Owner, and such increased Lot Assessment or Special Assessment or other Assessment can and may be enforced by the Association and Declarant in the same manner as all other Assessments hereunder as provided in the Subdivision Documents.

Section 5. **Declarant's Obligation for Assessments and Optional Declarant Deficit Funding.** To the extent permitted by Florida law and as specified in Section 720.308(1)(b) of the Act, during the time which Declarant has the right to control the Board, Declarant may satisfy the obligation for Assessments on completed Homes which it owns either by paying Assessments in the same manner as any other Owner or by funding the Budget deficit. The Budget deficit is the difference between (i) the amount of Assessments levied on Completed Homes owned by Owners other than Declarant, and (ii) the amount of the Association's actual expenditures during the fiscal year, excluding contributions to reserves and excluding Special Assessments arising as a result of any unusual loss or liability. Unless Declarant otherwise notifies the Board in writing at least thirty (30) days before the beginning of the fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year. Regardless of Declarant's election, Declarant's Assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be quantified with proof of invoices, etc. After Declarant's right to control the Board terminates, Declarant shall pay Assessments on completed Homes which it owns in the same manner as any other Owner. Declarant's rights under this Section 5 do not constitute a guarantee of Assessments or Operating Expenses under and as described in Section 720.308(2) of the Act.

Section 6. **Working Fund Contribution.** Each Owner who purchases a Lot shall pay to the Association, at the time legal title is conveyed to such Owner, a "Working Fund Contribution" in the amount of Two Hundred and 00/100 Dollars ($200.00). Working Fund Contributions are not advance payments of Assessments and shall have no effect on future Assessments, nor will they be held in reserve. To ensure that the Association will have sufficient cash available to pay for start-up expenses, Operating Expenses and other expenses, Declarant may from time to time advance to the Association the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant advances the Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Contribution to be paid by such Owner to the Association pursuant to this Section 7 shall be paid directly to Declarant in reimbursement of the advance, instead of to the Association. Working Fund Contributions (whether paid by Owner or advanced by Declarant) may also be used to offset Operating Expenses.

Section 7. **Declarant Subsidies.** Except as may be limited by applicable law, Declarant may (at its sole election): subsidize the Budget of the Association as provided below by making voluntary contributions in amounts determined by Declarant in Declarant's sole discretion. During the period of time that Declarant is offering Homes for sale in the Subdivision and/or based on the number of Homes owned by Owners other than Declarant, Declarant may seek to keep Assessments lower than they otherwise may be by subsidizing the Budget of the Association by making voluntary contributions in amounts determined by Declarant. The amount of any such voluntary contributions may vary from time to time or may be discontinued and/or recommenced by Declarant from time to time. The determination to subsidize the Budget of the Association, the amount of any such voluntary contribution, the discontinuance and/or recommencement of any such voluntary contributions shall all be made by Declarant in Declarant's sole discretion and in no event shall Declarant have any obligation whatsoever to make any

such voluntary contributions. Each Owner shall be solely responsible to review the Budget of the Association then in effect to determine if and to what extent Declarant is making any voluntary contributions to subsidize the Budget and thus lower the Assessments payable by the Owners that would otherwise by higher based on the Operating Expenses of the Association.

Section 8. **Waiver of Use.** No Owner, other than Declarant, is exempt from personal liability for Assessments duly levied by the Association. No Owner may avoid the obligation to pay Assessments by attempting to waive the use and enjoyment of the Common Area and the facilities thereon or by abandonment of such Owner's Home.

ARTICLE IX

ARCHITECTURAL CONTROL

Section 1. **Declarant Exempt.** The provisions of this Article IX, Sections 2 through 9, shall not be operative against Declarant for any period of time when Declarant owns any of the Lots.

Section 2. **Architectural Review Committee.** The site development, design and architectural review and control functions of the Association shall be administered and performed by the Architectural Review Committee ("ARC"), which shall consist of three (3) or five (5) members, none of whom are required to be Members of the Association. The Board of Directors of the Association shall have the right to appoint all of the members of the ARC. A majority of the ARC shall constitute a quorum to transact business at any meeting of the ARC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARC. Any vacancy occurring on the ARC because of death, resignation or termination of service of any member thereof shall be filled by the Board of Directors. If the ARC does not function or exist, for whatever reason at any time hereafter, then all of the functions otherwise to be performed by the ARC shall be performed by the Association as a whole.

Section 3. **Powers and Duties of the ARC.** The ARC shall have the following powers and duties:

3.1. To require submission to the ARC of two (2) complete sets of all preliminary and final plans and specifications for any improvement or structure of any kind requiring review and approval of the ARC pursuant to this Article IX. The ARC may also require submission of samples of building materials, surveys and such additional information as reasonably may be necessary for the ARC to completely evaluate the proposed structure or improvement in accordance with the Subdivision Documents and applicable use restrictions and design criteria established by Declarant.

3.2. To approve or disapprove in accordance with the provisions of this Article IX, any improvements or structures of any kind, and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon. All decisions of the ARC may, but need not be, evidenced by a certificate in recordable form executed under seal by the President or any Vice President of the Association. Any party aggrieved by a decision of the ARC shall have the right to make a written request to the Board, within thirty (30) days of such decision, for a review thereof. The determination of the Board upon review of any such decision shall be dispositive.

3.3. To adopt a schedule of reasonable fees for processing requests for ARC approval of proposed improvements. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the ARC.

Section 4. **Compensation of ARC.** The Board may, at its option, pay reasonable compensation to any or all members of the ARC, provided however, for so long as a majority of the Board of Directors shall be appointed by Declarant, no member of the ARC may be compensated.

Section 5. **Architectural Review and Approval.** No Lot Improvement of any kind, including without limitation, any building, addition, pool, play set or play equipment, fence, wall, screen enclosure, sewer, drain, disposal system, landscape device or object, driveway or other structure or Improvement shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, alteration, replacement or removal thereof be made unless and until the plans, specifications and location of the same have been submitted to and approved in writing by the ARC. All plans and specifications shall be evaluated as to visual and acoustical privacy and as to the harmony of external design and location in relation to surrounding structures, topography, existing trees and other

natural vegetation and as to specific conformance with use restrictions or architectural criteria which may be imposed from time to time by Declarant or the Association with respect to any particular portion of the Property. Any Owner desiring to make any Lot Improvement shall supply two (2) sets of completed plans and specifications to the ARC and no plan or specification shall be deemed approved unless a written approval is granted by the ARC to the Owner submitting same. The ARC shall approve or disapprove plans and specifications properly submitted within thirty (30) days of each submission. Any change or modification to an approved plan shall not be deemed approved unless a written approval is granted by the ARC to the Owner submitting same.

Section 6. **Security Deposit for Improvements**. Upon any Owner's submittal to the ARC for approval of any Lot Improvements as required in Section 5 above, the ARC, at its discretion, may also require the Owner's payment to the Association of a security deposit in an amount not to exceed Five Thousand and No/100 Dollars ($5,000.00) to cover costs of incidental damage caused to the Common Area, adjacent Homes or Lots or any property (real or personal) by virtue of any such Lot Improvement. The ARC shall have the sole and absolute discretion to determine whether a security deposit is required for the Lot Improvements being requested. The Association shall not be obligated to place the security deposit in an interest bearing account. The Owner shall be entitled to the return of the security deposit upon: (i) such Owner's written notice to the ARC that the Lot Improvements covered by the security deposit have been completed in accordance with the plans and specifications as approved by the ARC; and (ii) the ARC's confirmation of satisfactory completion of such Lot Improvements; provided, however, should any incidental damage be caused to any part of the Common Area by virtue of such Owner's construction of Lot Improvements, the security deposit shall not be returned to Owner until such damages have been repaired. In the event that Owner has not repaired such damages to the Common Area to the satisfaction of the ARC, Association shall have the right (but not the obligation), after five (5) days' notice to the Owner, to repair such incidental damage and to retain the security deposit, or such portion thereof, to offset the costs of such work. In addition, the Owner hereby agrees to indemnify and reimburse the Association for all reasonable costs expended by the Association in excess of the security deposit, including Interest and Legal Fees, if any, incurred in connection therewith. Should any incidental damage be caused to an adjacent Lot or Home by virtue of such Owner's construction of any Lot Improvements, the Owner of the adjacent Lot (the "Adjacent Lot Owner") shall, at their sole option: (a) remedy such damage and submit to the Association a receipt, invoice or statement therefor for reimbursement from the security deposit held by the Association; or (b) allow the offending Owner to repair such damage to the Lot or Home at the offending Owner's sole cost and expense, and upon receipt by the Association of written notice from the Adjacent Lot Owner that such incidental damage has been repaired, the offending Owner shall be entitled to a return of the security deposit being held by the Association, if any.

Notwithstanding anything contained in this Section to the contrary, the Association's return of the security deposit for any such Lot Improvements shall be based solely on considerations set forth above. The Association's return of the security deposit does not and shall not be construed to constitute a determination by members and representatives of the ARC, Declarant and/or the Association of the structural safety, approval or integrity of any Lot Improvement, conformance with building or other codes or standards or the proper issuance of governmental permits and approvals for any Lot Improvement.

Section 7. **Meetings of the ARC**. The ARC shall meet from time to time as necessary to perform its duties hereunder. The ARC may from time to time, by resolution unanimously adopted in writing, designate an ARC representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARC except for granting variances pursuant to Section 11 below. In the absence of such designation, the vote of any two (2) members of the ARC shall constitute an act of the ARC.

Section 8. **No Waiver of Future Approvals**. The approval of the ARC of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant. Similarly, denial by the ARC of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to approve or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

Section 9. **Inspection of the Work**. Inspection of work on any Lot Improvement and correction of defects therein shall proceed as follows:

9.1. The Owner shall notify the ARC in writing upon the completion of any Lot Improvement submitted and approved under this Article.

9.2. Within thirty (30) days after receipt of such written notice, the ARC may inspect or cause the inspection of such Lot Improvement. If the ARC determines such Lot Improvement is not in substantial compliance with the approved plans, the ARC shall deliver written notice to the Owner specifying the noncompliance and requiring the Owner's remedy thereof within fifteen (15) days.

9.3. If the Owner fails to timely remedy the noncompliance, the ARC shall deliver written notice of such failure to the Board. The Board shall thereafter verify the noncompliance, the nature thereof and the estimated cost of correcting or removing the same, and shall deliver to the Owner written notice of the Board's determination. Within thirty (30) days of the date of the Board's determination, the Owner shall remedy or remove the noncompliance. If the Owner does not timely comply with the Board's ruling, the Board, at its option, may remove the Lot Improvement, remedy the noncompliance or proceed in court to compel compliance, and the submitting Owner shall be liable for reimbursement to the Association, upon demand, for all expenses incurred hereunder, including Interest and Legal Fees. If such expenses are not promptly paid to the Association by the Owner, the Board shall levy an Assessment against such Owner and said Assessment shall constitute a lien upon the Owner's Lot and Home with the same force and effect as liens for Operating Expenses.

9.4. If, for any reason, notification is not given to the submitting Owner of acceptance within thirty (30) days after receipt of said written notice of completion from the submitting Owner, the Lot Improvement and/or alteration shall be deemed to be in compliance with said approved plans.

Section 10. **Limitation on Liability.** Neither the ARC, any member thereof, any duly authorized ARC representative, the Association nor Declarant shall be liable for any loss, damage or injury arising out of or in any way connected with the performance of the ARC duties hereunder, unless due to the willful misconduct or bad faith of a member in which event only that member shall incur any liability. The ARC's review and approval or disapproval of plans submitted to it for any proposed Lot Improvement shall be based solely on considerations of the overall benefit or detriment to the Subdivision. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes or standards, and no member or representative of the ARC or the Association, nor Declarant, shall be liable for the safety, soundness, workmanship, materials or usefulness for any purpose of any such Lot Improvement or alteration proposed by the plans. By submitting a request for review and approval by the ARC, an Owner shall be deemed to have and does automatically agree to indemnify, defend and hold harmless the ARC, the Association and Declarant (and each of their respective officers, directors, partners, affiliates, members and representatives) from and against any and all claims, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, Interest and Legal Fees) arising from, relating to or in any way connected with any Lot Improvement for which such request was submitted. Furthermore, any approval by the ARC does not excuse Owner from also obtaining approvals from all applicable governmental authorities.

Section 11. **Variance**. Declarant and the ARC may authorize variances from compliance with any architectural provisions of this Declaration or applicable design criteria when circumstances such as topography, natural obstructions, hardships or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by an authorized representative of Declarant or ARC, as applicable. If such a variance was granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions of this Declaration or applicable design criteria covered by the variance, nor shall it effect in any way an Owner's obligation to comply with all governmental laws and regulations, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

ARTICLE X

MAINTENANCE AND REPAIR OBLIGATIONS

Section 1. **By the Association**.

1.1. The Association, at its expense, shall be responsible for the operation, maintenance, repair and replacement of all of the Improvements and facilities located over, through and upon the Common Area, including, without limitation, the Surface Water or Stormwater Management System, as otherwise provided herein

(except public utilities and Community Systems, to the extent same have not been made Common Area). Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Common Area as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Common Area, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

1.2. The Association shall be responsible for the maintenance, repair and replacement of all private streets, drives, roads and roadways, if any, located upon the Common Area, and the Association hereby reserves the right to enter upon any and all parts of the Common Area and Lots for such purpose. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of all city, County, SJRWMD or municipal properties which are located within or in a reasonable proximity of the Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Property, including the right to enhance the landscaping in any public right of way.

1.3. The Association shall be responsible for the maintenance, repair and replacement of any common lighting located within the Property; provided, however, the Association shall not be responsible for the maintenance, repair and replacement of any lighting provided by any governmental or private electric utility.

1.4. In accordance with the provisions of this Declaration, the Association shall operate, maintain and repair the Surface Water or Stormwater Management System in accordance with the District Permit. Any repair or construction of the Surface Water or Stormwater Management System shall be as permitted or, if modified, as approved by SJRWMD. The Association hereby reserves the right to enter upon the Common Area and the Lots for the purpose of operating, maintaining, repairing and replacing the Surface Water or Stormwater Management System over, through and upon the Property. The Association shall be responsible for all costs associated with all cleaning, maintenance, repairs and replacement of any portion of the Surface Water or Stormwater Management System necessary to maintain the system in its original condition and use and as required by the District Permit. In the event the Association fails to maintain the Surface Water or Stormwater Management System in accordance with this Declaration, the District Permit and/or any other permit or permission issued by governmental agency having jurisdiction over the Surface Water or Stormwater Management System, as any of the same may be amended from time to time, then SJRWMD or other authority that issued or granted an applicable permit or permission shall have the right to commence an action against the Association, including, without limitation, monetary penalties and injunctive relief, to compel the Association to maintain the portions of the Surface Water or Storm Water Management System for which the Association is responsible in accordance with this Declaration, the District Permit or such other permit or permission. The registered agent for the Association shall retain a copy of the District Permit and any other permit or permission referenced herein for the Association's benefit. Neither the Association nor any Owner shall alter the slopes, contours or cross sections of the lakes, lake banks and littoral zones or chemically, mechanically or manually remove, damage or destroy any plants in any of the littoral zones, except upon the written approval from the applicable governmental authority. The Association shall be responsible for maintaining the required survivorship and coverage of the planted littoral areas to ensure the ongoing removal of prohibited and invasive non-native plant species from these areas and to comply with all governmental regulations applicable to the lakes, lake banks and littoral zones.

1.5. The Association shall maintain and care for all landscaped and grassed areas and any common irrigation system installed within the Common Area and each Lot (with the exception of any areas which are enclosed by any fence, wall or similar structure or landscaping designed to restrict access to such portion of the Lot). "Maintenance and care" within the meaning of this Section 1.5 shall include irrigating, mowing, edging, fertilizing, trimming of trees and landscaping and spraying of lawns, all to the level of care so that, at a minimum, the initial landscaping for the Lot provided by Declarant shall be maintained, or as otherwise deemed appropriate by the Association, and replacement of sod, trees and landscaping (including, without limitation, replacement of any dead or dying trees) so that, at a minimum, the initial landscaping provided by Declarant is maintained. If an Owner plants trees and/or landscaping on his or her Lot, such Owner shall be responsible for the maintenance, repair and replacement of same.

1.6. Any property designated as open space, buffer, preserve area, conservation or wetland area on any plat, permit or other document recorded in the public records of the County shall be preserved and maintained by the owner of such property in a natural open condition. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, buffer, preserve area or conservation area, and

such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

1.7. The Association, by action of its Board, may make minor and insubstantial alterations and Improvements to the Common Area having a cost not in excess of Five Thousand Dollars ($5,000). All other alterations and Improvements must first be approved in accordance with the procedures for approving a Special Assessment as set forth in Article VIII, Section 3 of this Declaration. No alteration or Improvement may be made to the Common Area which materially and adversely affects the rights of the Owner of any Lot to the enjoyment of such Owner's Lot or the Common Area unless the Owner and all mortgagees holding recorded mortgages on such Lot consent thereto in writing.

1.8. All expenses incurred by the Association in connection with the services, operation, maintenance, repair and replacement described in this Section 1 are Operating Expenses, payable by each Owner under the provisions of this Declaration concerning Assessments, except for those described in Section 1.6 above, and provided however, that should the maintenance, repair or replacement provided for in this Section 1 be caused by or result from the negligence of or misuse by an Owner, such Owner's family, guests, servants, invitees or Tenants, such Owner shall be responsible therefor and the Association shall have the right to levy an Assessment against such Owner's Lot and said Assessment shall constitute a lien upon the appropriate Lot and Home with the same force and effect as liens for Operating Expenses.

1.9. The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Subdivision.

1.10. Notwithstanding anything to the contrary in this Section 1, if the Association undertakes any maintenance or repair obligation that is otherwise the responsibility of the Association because of damage that results in majority or greater part due to or related to the negligence or misconduct of an Owner (or any of an Owner's family, guests, invitees or Tenants), then the Association shall treat the costs of undertaking such maintenance or repair obligations shall be treated as expenses for which a Special Assessment may be levied pursuant to Article VII, Section 2.3 of this Declaration.

Section 2. **By the Owners.**

2.1. Except as provided in Section 1 above, each Owner shall maintain and care for the sod, lawns and landscaping which are encompassed within that Owner's Lot, including, without limitation, any irrigation system installed thereon, which is for the sole use and benefit of the Owner's Lot. "Maintenance and care" within the meaning of this Section 2.1 shall include irrigating, mowing, edging, fertilizing, trimming of trees and landscaping and spraying of lawns, all to the level of care deemed appropriate by the Association, and replacement of sod, trees and landscaping (including, without limitation, replacement of any dead or dying trees). The Owner of each Lot must keep and maintain the Lot, the Improvements and the Lot Improvements, including all equipment and appurtenances, in good order, condition and repair, and must perform promptly all maintenance and repair work within, upon and outside of such Owner's Home which, if omitted, could adversely affect the Subdivision, the Owners or the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot, Improvements, Lot Improvements and Home. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structures constructed in, upon, above or below the Lot, and physical items attached or connected to such structures that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Home. Without limiting the generality of the foregoing, the Owner of each Lot shall keep all drainage structures (such as catch basins) located on the Owner's Lot clear of grass, leaves and other debris. Additionally, the painting, caulking and maintenance of the exterior surface of the walls, doors, windows and roof of the physical structures of the Home shall be performed by Owner, and the exterior surface of such walls, doors, windows and roof shall at all times be maintained in a good and serviceable condition with no damage or other defect therein by the Owner. The Owner of a Lot further agrees to pay for all utilities (including, without limitation, those provided by the Community Systems), such as telephone, cable or satellite television, telecommunication systems, home monitoring, water (including water associated with irrigation, other than for a common irrigation system, if any), sewer, sanitation, electric, etc., that may be separately billed or charged to each Home. The Owner of each Lot shall be responsible for insect and pest control within the Home and the Lot.

2.1.1 Party Walls. Each common wall shared by two Lots shall be a party wall for the perpetual benefit of and use by the Owners of each respective Lot. Each such Lot and Owner is hereby granted an easement for the existence of the party wall to the extent it encroaches on the adjoining Lot, whether encroachment exists as a result of initial construction, reconstruction or natural settling or shifting. Except as otherwise provided herein, each Owner shall bear the responsibility to repair and maintain the unfinished surface of the exterior portion of the party wall which is located within his residence. Both Owners shall equally share the cost of repair and maintenance of the structural and interior portions of the party wall. However, if either Owner's negligence or willful misconduct causes damage to the party wall, such Owner shall bear the entire cost of repair. Each Owner shall have the right to enter the adjacent Lot, including the residence located thereon, where necessary in connection with the repair or maintenance of a party wall, upon reasonable prior notice to the affected Owner(s) and at reasonable times and an easement for same is hereby created. Any repair or reconstruction shall utilize substantially similar materials, design and location as originally existed. No openings may be cut in the party wall or structural changes made thereto, unless agreed upon by Owners sharing the party wall.

2.2. The Owner of each Lot shall take no action or otherwise interfere with the Association's maintenance and care of the sod, lawns and landscaping encompassed within the Owner's Lot. The Owner shall not install any new sod, lawn, landscaping or trees, nor shall they alter or modify any sod, lawn, landscaping or trees, without the prior consent and approval of the Association.

2.3. Declarant may have constructed one or more drainage swales upon each Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time. The Association shall be responsible for the maintenance, operation and repair of the swales on the Lot, and each Lot Owner shall cooperate with and not interfere with the Association obligations regarding drainage swales. Each Lot Owner shall not interfere with or do anything which impairs the ability of the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the SJRWMD. No Lot Owner shall fill, excavate, construct fences or otherwise obstruct the surface water flow in the swales. No alteration of the drainage swale shall be authorized and any damage to any drainage 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(s) of the Lot(s) upon which the drainage swale is located.

2.4. The Owner of each Lot shall maintain, repair and replace as needed any fencing on their Lot, clean, maintain and repair the driveway on their Lot and keep the sidewalk located on and/or adjacent to their Lot clean and free from any stains, trash, debris and/or impediments to pedestrian traffic.

2.5. Each Owner of a Lot abutting or including any portion of the Surface Water and Stormwater Management System shall be responsible for maintaining and repairing the portion of the water bank and slopes on his or her Lot.

2.6. In addition to the above, the Owner of each Home shall be responsible to fix leaks in and otherwise maintain and repair the roof of such Owner's Home; replace any dead or obviously dying trees on their Lot; and maintain, repair and replace any fences on their Lot, except as otherwise provided in Section 1.4 above. The Owner of each Home shall also clean, maintain and repair the driveway located on its Lot and keep the sidewalks located on its Lot clean and free from any impediments to pedestrian traffic.

2.7. If a Home is damaged by fire or other casualty, its Owner shall properly and promptly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Home unless otherwise authorized by the Board and shall be otherwise subject to all provisions of Article IX hereof.

2.8. Each Owner shall keep such Owner's Home insured in an amount not less than its full insurable value against loss or damage by fire or other hazards. Evidence of such coverage shall be furnished to the Association promptly upon the Board's request.

2.9. If an Owner fails to comply with the foregoing provisions of this Section 2, the Association may proceed in court to compel compliance. Further, if the failure to comply relates to the Owner's obligations to maintain insurance, the Association shall be entitled, although not obligated, to obtain the required coverage itself and to levy on the offending Owner an Assessment equal to the cost of premiums, and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

2.10. If a failure to comply with the provisions of this Section 2 relates to the Owner's obligation to maintain and care for the Home, landscaping or any other area required to be maintained and cared for by the Owner, then, in addition to the exercise of all other remedies, the Association or Declarant shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the Lot of the Owner for the purpose of performing the maintenance and care referred to, set forth and described in the notice and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance and care. Any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility under this Declaration or any of the other Subdivision Documents shall be determined in the sole discretion of the Association or Declarant.

Section 3. **Damage to Improvements on a Lot**. The Owner of any Home which has suffered damage may apply to the ARC for approval for reconstruction, rebuilding or repair of the Improvements which suffered damage. If the obligation for repair falls upon the Association, ARC approval will not be required prior to the commencement of such work, so long as the exterior appearance of the Improvements will be substantially similar to that which existed prior to the date of the casualty.

The owner or owners of any damaged building (including, without limitation, the Owner of a Lot and/or Home), the Association and the ARC shall be obligated to proceed with all due diligence hereunder and the responsible parties shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after the damage occurs, unless prevented by causes beyond his or her or their reasonable control.

Declarant shall be exempt from the provisions of this Section 3, provided that any such reconstruction, rebuilding or repairs made by Declarant shall be consistent, as to the exterior appearance, with the Improvements as they existed prior to the damage or other casualty.

ARTICLE XI

DAMAGE OR DESTRUCTION TO COMMON AREA

Damage to or destruction of all or any portion of the Common Area shall, notwithstanding any provision in this Declaration to the contrary, be handled as follows:

Section 1. **Determination to Repair or Rebuild**.

1.1. If insurance proceeds are sufficient to effect total restoration of damaged or destroyed Common Area, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.

1.2. If insurance proceeds are insufficient to effect total restoration of the Common Area, and the cost of restoration would require a Special Assessment against each Lot in an amount of Five Thousand Dollars ($5,000.00) or less (such amount is based on the value of the dollar in 2014 and shall be increased each year thereafter based upon increases in the Consumer Price Index), then the Association shall cause the Common Area to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Articles VII and VIII herein.

1.3. If the insurance proceeds are insufficient to effect total restoration of the Common Area and the cost of restoration of the Common Area would require a Special Assessment against each Lot in an amount greater than Five Thousand Dollars ($5,000.00) (such amount is based on the value of the dollar in 2014 and shall be increased each year thereafter based upon increases in the Consumer Price Index), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (i) to rebuild and restore either (a) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (b) in a manner less expensive, and in the event of (a) or (b) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (ii) to not rebuild and to retain available insurance proceeds. In the event it is decided that the damaged or destroyed Common Area shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away so as not to be a safety hazard or visual

nuisance and the land shall be fully sodded and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements shall not be effective without the prior written approval of Declarant (which approval shall be given, conditioned or withheld in Declarant's sole and absolute discretion) as long as Declarant owns any portion of the Property.

Section 2. **Owner Responsibility.** Each Owner shall be liable to the Association for any damage to the Common Area not fully covered or collected by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of such Owner's family, Tenants, invitees and guests, both minors and adults.

Section 3. **Excess Funds.** In the event that the repairs and replacements were paid for by any Special Assessments as well as insurance proceeds and regular Assessments, then, if after the completion of and payment for the repair, replacement, construction or reconstruction there shall remain any excess in the hands of the Association, it shall be presumed that the monies disbursed in payment of any repair, replacement, construction, and reconstruction were first disbursed from insurance proceeds and regular Assessments and any remaining funds shall be deemed to be the remaining Special Assessments which shall be returned to the Owners by means of a prorata distribution in accordance with the collection of such Special Assessments.

ARTICLE XII

INSURANCE AND CONDEMNATION

The Association shall purchase and maintain the following insurance coverages subject to the following provisions, and the cost of the premiums therefor shall be a part of the Operating Expenses:

Section 1. **Casualty Insurance**. Property and casualty insurance in an amount equal to the then full replacement cost, exclusive of land, foundation, excavation and other items normally excluded from such coverage, of all Improvements and personal property which are owned by the Association and now or hereafter located upon the Common Area, which insurance shall afford protection against such risks, if any, as shall customarily be covered with respect to areas similar to the Common Area in developments similar to the Subdivision in construction, location and use.

Section 2. **Public Liability Insurance**. A comprehensive policy of public liability insurance naming the Association and Declarant, until Declarant no longer owns any Lot within the Property, as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Common Area and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars ($1,000,000.00) for damages incurred or claimed by any one person for any one occurrence; not less than Three Million Dollars ($3,000,000.00) for damages incurred or claimed by more than one person for any one occurrence; and for not less than Fifty Thousand Dollars ($50,000.00) property damage per occurrence with no separate limits stated for the number of claims, or in such other amounts as may be approved by the Board of Directors. The Association may also obtain worker's compensation insurance and other liability insurance including, but not limited to, insurance for lawsuits related to employment contracts in which the Association is a party, as it may deem desirable.

Section 3. **Fidelity Coverage**. Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Board and all others who handle and are responsible for handling funds of the Association shall be maintained in the form of fidelity bonds, which requirements shall be reasonably determined by the Board.

Section 4. **Directors' Coverage**. Adequate directors' and officers' liability coverage which coverage shall be effective from and after the date the Association is created.

Section 5. **Other Insurance**. The Board may obtain such other forms of insurance as the Board may determine and in such coverage amounts as the Board shall determine to be required or beneficial for the protection or preservation of the Common Area and any Improvements now or hereafter located thereon or in the best interests of the Association and/or its officers and directors.

Section 6. **Cancellation or Modification**. All insurance policies purchased by the Association shall provide that they may not be canceled (including for nonpayment of premiums) or substantially modified without at least ten (10) days prior written notice to the Association and to each first mortgage holder, if any, named in the mortgage clause.

Section 7. **Flood Insurance**. If determined appropriate by the Board or if required by an Institutional Mortgagee, a master or blanket policy of flood insurance covering the Common Area, if available under the National Flood Insurance Program, shall be purchased, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program or one hundred percent (100%) of the current replacement cost of all buildings and other insurable property located in the flood hazard area.

Section 8. **Waiver of Subrogation.** As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement of said persons, but only to the extent that such insurance proceeds are received in compensation for such loss.

Section 9. **Condemnation**. In the event the Association receives any award or payment arising from the taking of any Common Area or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent deemed advisable by the Board and approved by at least two-thirds (2/3) of the total voting interests, and the remaining balance thereof, if any, shall then be distributed pro rata to Owners and mortgagees of Lots as their respective interests may appear.

ARTICLE XIII

USE RESTRICTIONS AND RIGHTS AND EASEMENTS RESERVED BY DECLARANT

All of the Property shall be held, used and enjoyed subject to the following limitations and restrictions, and any and all additional Rules and Regulations which may, from time to time, be adopted by the Association, except as provided in Section 22 below:

Section 1. **Enforcement**. Failure of an Owner to comply with any limitations or restrictions in this Declaration or any of the Subdivision Documents or with any Rules and Regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. Without limiting the generality of the foregoing, an Owner shall also be responsible for the payment of any and all Legal Fees incurred by the Association in connection with the enforcement of this Declaration or any of the Subdivision Documents or with any Rules and Regulations promulgated by the Association, whether or not an action is actually begun. Any such Legal Fees shall be paid not later than thirty (30) days after written notice thereof and if not paid within such thirty (30) day period, shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

In addition to all other remedies, the Association may suspend, for a reasonable period of time, any or all of the rights of any or all of an Owner or an Owner's Tenants, guests or invitees to use Common Area and facilities (including, without limitation, the use of any services provided by Community Systems, if any); may suspend the voting rights of an Owner if such Owner is delinquent in payment of Assessments for more than ninety (90) days; and may levy reasonable fines against any Owner or any Owner's Tenant, guest or invitee for failure of such Owner, and/or such Owner's family, guests, invitees, Tenants or employees to comply with any of the Subdivision Documents, provided the following procedures are adhered to:

1.1. Notice. The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without notice of at least fourteen (14) days to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board (any such committee is an "enforcement committee") who are not officers, directors or employees of the Association, or the spouse, parent, child, brother or

sister of an officer, director or employee of the Association. If the enforcement committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. At the Association's option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine.

1.2. Hearing. Should the Owner still be in noncompliance after being found in violation by an enforcement committee, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty-one (21) days after said meeting.

1.3. Payment. A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

1.4. Fines. An Owner shall be responsible for all Legal Fees incurred in connection with the collection of a fine whether or not an action at law or in equity to collect or enforce said fine is commenced. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration.

1.5. Failure to Pay Assessments. Notice and Hearing, as provided in Sections 1.1 and 1.2 above, shall not be required with respect to the imposition of suspension of use rights or fines upon any Owner because of such Owner's failure to pay Assessments or other charges when due.

1.6. Access. Suspension of use rights to Common Area and/or Community Systems shall not impair the right of an Owner or Tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park.

1.7. Non-exclusive Remedy. The imposition of fines authorized by this Section shall not be construed to be an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any fine paid by an offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

Section 2. **Residential Use**. The Lots subject to this Declaration may be used for residential dwellings and for no other purpose except that one or more Lots may be used for model homes during the development and sale of Lots within the Property or other properties. No business or commercial building may be erected on any Lot and no business may be conducted on any part thereof. No Lot shall be divided, subdivided or reduced in size without the prior written consent of the Association. Assessments for common expenses attributable to any Lot which may be subdivided pursuant to this Section 2 shall be reallocated by the Association, in its sole discretion, at the time written consent for such subdivision is given by the Association.

Section 3. **Occupancy of Home**. The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988) ("Fair Housing Act"), which became effective in March, 1989, and as amended effective December 31, 1995, provides that communities cannot reject families with children. Therefore, neither Declarant nor the Association shall have the authority to prohibit children.

Section 4. **Leases**. No Home, or portion thereof, may be rented for a period of less than one (1) calendar month. All leases shall provide, and if they do not so provide then the leases shall be deemed to provide, that the Association shall have the right to terminate the lease upon default by the Tenant in observing any of the provisions of this Declaration, the Articles, the Bylaws, applicable Rules and Regulations or of any other agreement, document or instrument governing the Lots or Homes. The Owner of a leased Home shall be jointly and severally liable with such Owner's Tenant for compliance with the Subdivision Documents and to the Association to pay any claim for injury or damage to property caused by the negligence of the Tenant. Every lease shall be subordinate to any lien filed by the Association whether before or after such lease was entered into.

Within five (5) days following execution of a lease for a Home, but in no event later than occupancy of the Home by a Tenant, Owner shall: (a) notify the Association in writing with the name of the Tenant and all of Tenant's family members or others that will be occupying the Home, and (b) provide the Association with a true, correct and

complete copy of the lease agreement. In the event Owner fails to timely comply with the foregoing, such lease shall be null and void and of no further force or effect and Owner shall be in violation of this Declaration.

Section 5. **Increase in Insurance Rates**. No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Property not owned by such Owner.

Section 6. **Lot Coverage and Living Area**. The total ground area to be occupied by residential buildings and structures to be constructed upon the Property shall not exceed the requirements established by the Subdivision Documents or the Zoning Code. Each detached single family residence constructed upon a Lot shall contain a minimum number of square feet of heated and air conditioned living area as Declarant deems appropriate.

Section 7. **No Detached Buildings**. No garages, tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the prior written consent of the ARC or the Association.

Section 8. **Setbacks**. Front, rear and side building setbacks for all dwellings and related structures shall be as established by the Subdivision Documents or the Zoning Code. Any variation in the width of setbacks in any such documents shall be controlled by the more restrictive setback provision.

Section 9. **Easement Areas**. No dwelling shall be erected within any Common Area or easement area shown on the Plat or within any easement created, referred to in or reserved by the Subdivision Documents.

Section 10. **Parking and Vehicular Restrictions**. Parking upon the Property shall be restricted to the driveway and garage located upon each Lot and designated parking areas within the Common Area. Parking on streets that are owned and maintained by the applicable governing jurisdiction shall be subject to the local ordinances, regulations or guidelines in effect; no parking is permitted on any streets that are privately owned and maintained by the Association, except as otherwise specified by the Board in any adopted Rules and Regulations. No Owner shall keep any vehicle on any Lot in a manner which is deemed to be a nuisance by the Board. No Owner shall conduct repairs taking more than twenty-four (24) hours (except in an emergency or except within the garage of the Home with the garage door closed) or restorations of any motor vehicle, boat, trailer or other vehicle upon any Lot. No commercial vehicle, trailer, recreational vehicle, motor home, boat or boat trailer may be parked or stored on the Property except in the garage of a Home located upon a Lot or except as otherwise specified by the Board in any adopted Rules and Regulations. The Declarant and the Board have the sole authority to determine whether a vehicle is considered a commercial vehicle or otherwise violates the restrictions in this section. No bus or tractor-trailer or any other truck larger than a full-size pickup truck may be parked on the Property, except as otherwise specified by the Board in any adopted Rules and Regulations and except temporarily as in the case of a moving van or other such vehicle necessary to provide service to an Owner and with the exception of any vehicles necessary for any construction activity being performed by or on behalf of Declarant.

Section 11. **Nuisances**. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to any party. Any activity on a Lot which interferes with television, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. If a dispute or question arises as to what may be or become a nuisance, the issue shall be submitted to the Board, whose decision shall be dispositive of such dispute or question. No immoral, improper or unlawful use shall be made of any portion of the Property and all valid laws, zoning ordinances and regulations of governmental agencies having jurisdiction thereof shall be complied with.

Section 12. **Antennae**. No outside television, radio or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any portion of the Property or upon any improvements thereon, unless expressly approved in writing by the Association, except that this prohibition shall not apply to those satellite dishes that are expressly allowed by 47 C.F.R. Part 1, Subpart S. Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time, which presently includes satellite dishes that are one (1) meter in diameter or less. The Association is empowered to adopt, and amend from time to time, Rules and Regulations governing the types of antennae which may be permitted and restrictions relating to safety, location and maintenance of antennae. The Association may also adopt (and amend from time to time) and enforce reasonable Rules and Regulations limiting installation of permissible satellite dishes or antennae to certain specified locations, not visible from the street or neighboring

properties, and integrated with the Property and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such Rules and Regulations and provided the cost of complying with such Rules and Regulations would not unreasonably increase the cost of installation of permissible satellite dishes or antennae. Any permissible satellite dishes or antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. Further, any Owner desiring to install permissible satellite dishes or antennae may, but is not obligated to, submit plans and specifications for same to the ARC to ensure compliance with the Association's Rules and Regulations governing the types of permissible satellite dishes and antennae and restrictions relating to safety, location and maintenance of satellite dishes and antennae.

Section 13. **Signs**. No sign, display, poster, advertisement, notice, lettering or other advertising device of any kind whatsoever may be exhibited, displayed, inscribed, painted or affixed in public view of any portion of any building or other Improvement in the Property (including, without limitation, a Home) without the prior written consent of the Board, which consent may be given, withheld or conditioned in the sole and absolute discretion of the Board. Notwithstanding the foregoing, including, without limitation, signs such as "For Sale", "For Rent", "By Owner" or any other signs for the sale or renting of homes may be posted on an Owner's Lot, provided that (i) prior to the Turnover Date, Declarant has given its approval therefore, which approval shall not be unreasonably withheld, or (ii) from and after the Turnover Date, the Board has given its approval therefore, which approval shall not be unreasonably withheld. Any signs used by Declarant, any of Declarant's affiliates or any of their successors or assigns shall be exempt from this Section 13.

Section 14. **Animals**. Dogs shall be kept under control by each Owner at all times and leashed when outside the boundaries of the Owner's Lot. Animals shall be kept for the pleasure of Owners only and not for any commercial or breeding use or purposes. If, in the discretion of the Board, any animal shall become dangerous or an annoyance or nuisance to other Owners, or destructive of wildlife or property, such animal may not thereafter be kept on a Lot. Further, in the event any group of animals shall collectively become dangerous or an annoyance or nuisance to other Owners, or destructive to wildlife or property, the Board shall have the right to require the applicable Owner to reduce the number of animals kept on the Lot or to take such other remedial action as the Board shall specify. Under no circumstances shall a "Dangerous Dog" (as hereinafter defined) be permitted on the Property. As used in this Declaration, a "Dangerous Dog" is defined as a dog which meets any one (1) of the following criteria: (a) has aggressively bitten, attacked, endangered or inflicted severe injury on a human being at any time whether on or off the Property, (b) has severely injured or killed a domestic animal at any time whether on or off the Property, or (c) has, when unprovoked, chased or approached any person upon the streets, drives, roads, avenues, roadways and/or sidewalks, or any other portion of the Property, in a menacing fashion or apparent attitude of attack; provided, however, a dog shall not be a "Dangerous Dog" if the threat, injury, death or damage was sustained by a person who, at the time, was unlawfully on the Property (or any portion thereof), or, while lawfully on the Property (or any portion thereof), was tormenting, abusing or assaulting the dog or its owner or a family member; provided further, that no dog may be a "Dangerous Dog" if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

Section 15. **Trash and Other Materials**. No rubbish, trash, garbage, refuse, unsightly objects or other waste material shall be kept or permitted on the Lots or Common Area, or other portions of the Property, except in sanitary, self-locking containers located in appropriate areas (i.e., areas not visible from the street or any other Lot other than at times of scheduled trash pickup), and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, offensive, detrimental or a nuisance to Owners or to any other property in the vicinity thereof or to its occupants. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot or Common Area. All Lots and all portions of the Property and any improvements placed thereon shall at all times be maintained in a neat and attractive condition and landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake edge maintenance, all in a manner with such frequency as is consistent with good property management. No clothing or other household items shall be hung, dried or aired in such a way as to be visible from the Common Area or another Lot. No stripped vehicles, lumber or other building materials, grass, tree clippings, metals, scrap, automobile pieces or parts, refuse or trash shall be stored or allowed to accumulate on any portion of the Property (except when accumulated during construction by Declarant, during construction approved by the ARC or when accumulated by the Association for imminent pick-up and discard).

Section 16. **Fences**. No fences or walls shall exceed six (6) feet in height and no chain link or similar style fence shall be allowed on any Lot. All fences, shall be black flat top aluminum open picket, or of a color and material approved in advance by the ARC. No fence or wall shall be built beyond the plane from the front corner of

the Home to the side lot lines. For corner Lots, no fence or wall on the side common to the street right of way shall extend forward of the rear corner of the Home. No fence on any Lot shall be installed closer than ten feet (10') from the rear lot boundary line or the top of the bank for Lots abutting lakes, canals or other bodies of water (the "Rear Fence Line"). On lots abutting lakes, canals or other bodies of water, no fence shall be placed beyond the top of the bank. Only black flat top aluminum, 4'0" high open picket, black metal fences shall be allowed along the Rear Fence Line and along the last sixteen feet (16') of each side Lot line leading to the Rear Fence Line. The remaining fencing on the side Lot lines of Lots abutting lakes, canals or other bodies of water may be either four (4) or six (6) feet, open picket, black metal or of a design and material approved in advance by the ARC, with the rear sixteen feet (16') transitioning from six (6) to four (4) feet leading to the Rear Fence Line, if applicable. The Owner assumes complete responsibility to maintain any fence on such Owner's Lot, including, but not limited to, trimming any grass, ivy or other plants from the fence. In the event the ARC approves the installation of a fence, it shall also have the right to require installation of landscaping, also subject to the ARC's approval, at the time the fence is installed.

Notwithstanding that an Owner has obtained the approval of the ARC to install a fence or landscape materials, as provided hereinabove, such installation shall be at the Owner's sole risk so long as Declarant has not yet begun or is engaged in the construction of a Home on an adjacent Lot. In the event such construction activity on an adjacent Lot causes damage to or destruction of such Owner's fence or landscape materials or any part thereof, the Owner on whose Lot the fence and/or landscaping has been damaged shall be required, at the Owner's expense, to repair or replace such fence and/or landscape materials in conformance with the requirements of the ARC's approval of the initial installation of the fence and/or landscape materials and Declarant shall have no liability for any such damage or destruction. Such repair or replacement shall commence as soon as construction on the adjacent Lot has been completed and shall be pursued to completion with due diligence. For purposes of this paragraph, the term "landscape materials" shall include landscape materials located on or adjacent to any property line of a Lot, including, by way of example and not of limitation, hedges, shrubs and trees, whether associated with a fence or not.

In addition, the installation of any fence placed upon any Lot is subject to any easements which run with the land. In the event that any fence is approved by the ARC and is permitted to cross any such easements, such approval is still subject to Owner first receiving written approval from the grantee of such easements and all other applicable governmental authorities. In the event the grantee of any such easement which runs with the land (i.e., utility provider or the County), its successors and/or assigns, requires the removal of any fence upon the Lot, then the Owner of said Lot shall, at the Owner's sole cost and expense, immediately remove the fence. The Owner of a Lot when installing any fence upon the Lot shall comply with all valid laws, zoning ordinances, codes, Rules and Regulations of all applicable governmental bodies, as applicable, in addition to the ARC approval required by Article IX hereof.

Section 17. **Oil and Mining Operations**. No oil drilling, oil development operations, oil refining, boring or mining operations of any kind shall be permitted upon or on any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 18. **Sewage Disposal**. No individual sewage disposal system shall be permitted on any of the Property, provided that a central sewage disposal system is being operated in accordance with the requirements of the governmental regulatory body having jurisdiction over said central system.

Section 19. **Water Supply**. No individual water supply system shall be permitted on any of the Property, provided that one or more central water supply systems are being operated in accordance with requirements of the governmental body having jurisdiction over said central system, except that wells are permitted for the irrigation of landscaping only, provided that a stain tank is installed in conjunction with the irrigation well.

Section 20. **Compliance with Laws**. All Owners and other occupants of the Property shall at all times comply with the terms of the Subdivision Documents and the Zoning Code, and all environmental, land use, marketing and consumer protection ordinances, statutes and regulations applicable to the Property or to any Improvements and Lot Improvements constructed thereon, as well as all governmental rules, regulations, statutes and ordinances applicable to each Owner in connection with the Property.

Section 21. **Reservation of Right to Release Restrictions**. If any Lot Improvement has been or is proposed to be erected within the Property in such a manner as to constitute a violation of, variance from or encroachment into the covenants and restrictions set forth in, or easements granted or reserved by, this Declaration,

Declarant or the Association shall have the right to waive or release the violation, variance or encroachment without the consent or joinder of any person so long as Declarant or Association, as applicable, in the exercise of its sole discretion, determines in good faith that such waiver or release will not materially and adversely affect the health and safety of Owners, the value of adjacent portions of the Property and the overall appearance of the Property.

Section 22. **Declarant Exemption and General Easement Reservation**. In general, the restrictions and limitations set forth in this Article XIII shall not apply to Declarant or to Lots owned by Declarant. Declarant shall specifically be exempt from any restrictions which interfere in any manner whatsoever with Declarant's plans for development, construction, sale, lease or use of the Property and to the Improvements thereon. Declarant shall be entitled to injunctive relief for any actual or threatened interference with its rights under this Article XIII in addition to whatever remedies at law to which it might be entitled. Declarant plans to undertake the work of constructing Homes and Improvements upon the Property and may undertake the work of constructing other buildings upon adjacent land or other property being developed or marketed by Declarant or its affiliates. The completion of the aforementioned work and the sale, rental and other transfer of Homes by Declarant and Declarant's affiliates are essential to the establishment and welfare of the Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners, the Association nor the ARC shall do anything whatsoever to interfere with any of Declarant's or Declarant's affiliates' activities relating to the constructing of Homes and Improvements upon the Property, the constructing of other buildings upon adjacent land or any other property being developed or marketed by Declarant or its affiliates, or the sale, rental and/or other transfer of Homes by Declarant or its affiliates. Declarant hereby reserves the right for itself and its employees, agents, licensees and invitees to come upon any and all portions of the Property (including, without limitation, the Common Area as well as any Lot regardless of whether it has been conveyed to an Owner) as may be necessary or convenient to enable Declarant to carry on its work and other activities including, without limitation, Declarant's development and construction of the Subdivision and the Homes therein.

Section 23. **Sidewalks**. Any Owner developing or constructing a home as an initial improvement on a Lot shall construct any sidewalk on such Lot in accordance with the Subdivision construction plans submitted to and approved by St. Johns County. Such sidewalk shall be completed prior to the issuance of a certificate of occupancy for the Home.

ARTICLE XIV

GENERAL PROVISIONS

Section 1. **Assignment of Permit Responsibilities and Indemnification**. In connection with the platting and development of the Property, Declarant assumed certain obligations in connection with the maintenance of the Surface Water or Stormwater Management System and the District Permit. Declarant hereby assigns to the Association, and the Association shall be solely responsible for, all of Declarant's obligations and responsibilities for maintenance of the Surface Water or Stormwater Management System pursuant to, and for compliance with, the District Permit. Further, the Association shall indemnify, defend and hold Declarant harmless from all suits, actions, damages, liability and expenses in connection with loss of life, bodily or personal injury or property damage, or any other damage arising from or out of an occurrence in, upon, at or resulting from the operation or maintenance of the Surface Water or Stormwater Management System, occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants or licensees.

Section 2. **Usage**. Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

Section 3. **Conflict with Other Subdivision Documents**. In the event of any conflict between the provisions of this Declaration and the provisions of the Articles and/or Bylaws and/or Rules and Regulations promulgated by the Association, the provisions of (i) this Declaration, (ii) the Articles, (iii) the Bylaws and (iv) the Rules and Regulations, shall control in that order.

Section 4. **Notices**. Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) each Owner, at the address of the person whose name appears as the Owner on the records

of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Home owned by such Owner; (ii) the Association, certified mail, return receipt requested, at 444 Seabreeze Boulevard, Suite 805, Daytona Beach, Florida 32118, or such other address as the Association shall hereinafter notify Declarant and the Owners of in writing; and (iii) Declarant, certified mail, return receipt requested, at 444 Seabreeze Boulevard, Suite 805, Daytona Beach, Florida 32118, or such other address or addresses as Declarant shall hereafter notify the Association of in writing, any such notice to the Association of a change in Declarant's address being deemed notice to the Owners.

Section 5. **Enforcement**. The covenants and restrictions herein contained may be enforced by Declarant (so long as Declarant holds an equitable or legal interest in any Lot and/or Home), the Association (provided that it follows the procedures set forth in Article XIII, Section 1 hereof), any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to reimbursement of all costs thereof including, but not limited to, Legal Fees, from the non-prevailing party. SJRWMD shall have the right to enforce, by a 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 Stormwater Management System.

Section 6. **Interpretation**. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of recreational facilities, if any, and Common Area. Article, Section and Paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

Section 7. **Severability**. In the event any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law. In the event that any court should hereafter determine that any provision of this Declaration is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

Section 8. **Certain Rights of Declarant**. Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Declarant shall be subject to the approval of the Association, the Owners or the provisions and requirements of this Declaration, although it is the intent of Declarant to create a community with a common scheme of development. Notwithstanding the other provisions of this Declaration, Declarant reserves for itself, and Declarant and its nominees shall have, the right to enter into and transact on the Property any business necessary to consummate the sale, lease or encumbrance of Homes or real property within or outside the Subdivision, including, but not limited to, the right to maintain models and a sales and/or leasing office, a construction office and/or a service office, place signs, employ sales, leasing, construction and service personnel, use the Common Area and show Homes, and Declarant further reserves the right to make repairs to the Common Area and to carry on construction activity for the benefit of the Property. Declarant, and its nominees, may exercise the foregoing rights without notifying the Association or the Owners. Any such models, sales and/or leasing office, construction office, service office, signs and any other items pertaining to such sales, leasing, construction or service efforts shall not be considered a part of the Common Area and shall remain the property of Declarant. In addition, Declarant hereby has, shall have and hereby reserves the right to enter upon the Common Area (including, without limitation, all drainage, lake maintenance, canal maintenance and utility easements whether located on a Lot or Common Area) in order for Declarant to final-out and/or close-out any and all approvals, permits, orders, conditions and/or requirements that have been issued or imposed by any governmental entity in connection with the development and construction of the Subdivision and all Improvements therein, and for Declarant to comply and adhere to the same, and such rights shall survive the Turnover Date and continue for such period of time as is necessary for Declarant to fully comply with all such governmentally issued approvals, permits, orders, conditions

and/or requirements. Without limiting the generality of the foregoing, in exercising any such rights, Declarant shall have the right to remove and/or relocate any and all items (including, without limitation, landscape materials, fences and/or other Improvements) that may be required to he removed and/or relocated to final-out and/or close-out any and all such approvals, permits, orders, conditions and/or requirements without compensation to the Association or the Owners. This Article XIV, Section 8 may not be suspended, superseded or modified in any manner by any amendment to this Declaration unless such amendment is consented to in writing by Declarant. This right of use and transaction of business as set forth herein and the other rights reserved by Declarant in the Subdivision Documents may be assigned in writing by Declarant in whole or in part. The rights and privileges of Declarant as set forth in this Section 8, are in addition to, and are no way a limit on, any other rights or privileges of Declarant under any of the Subdivision Documents.

Declarant shall also have the right, but not the obligation, to conduct inspections and tests from time to time of all or any portion of the Common Area in order to ascertain the physical condition of the Improvements and to determine if maintenance, repair or replacement of any such Improvement is necessary. If Declarant conducts any such tests or inspections, it shall pay all costs thereof and restore the affected portion of the Property to its condition immediately prior to the inspections and tests. Declarant shall have such rights of entry on, over, under, across and through the Property as may be reasonably necessary to exercise the rights described in this Section 8. Declarant's right of inspection shall exist whether or not the Turnover Date has occurred. In the event Declarant exercises its inspection right(s), it is acknowledged by the Association and all Owners that Declarant is performing any such inspection(s) for its own benefit and not for the benefit of the Association and/or the Owners and further, Declarant shall have no obligation to inform the Association and/or the Owners of the result of any such inspection.

ALL OWNERS, OCCUPANTS AND USERS OF THE SUBDIVISION ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY PERFORM, FROM TIME TO TIME, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE SUBDIVISION. BY THE ACCEPTANCE OF THEIR DEED OR TITLE OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE SUBDIVISION, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (I) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (II) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE), ANY PROPERTY WITHIN OR IN PROXIMITY TO THE SUBDIVISION WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (III) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (IV) ANY PURCHASE OR USE OF ANY PORTION OF THE SUBDIVISION HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING, AND (V) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE SUBDIVISION.

Section 9. **Disputes As To Use**. In the event there is any dispute as to whether the use of the Property or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything to the contrary herein contained, any use by Declarant of the Property shall be deemed a use which complies with this Declaration and shall not be subject to a contrary determination by the Board.

Section 10. **Amendment and Modification**. Any amendment to this Declaration which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of SJRWMD. This Declaration may be amended at any time by an instrument signed by the President or Vice President and the Secretary or Assistant Secretary of the Association, certifying that such amendment has been adopted by the written consent or vote of two thirds (2/3rds) of the Owners, which amendment shall become effective upon its filing in the public records of the County. Provided, however, that:

10.1. As long as Declarant is an Owner of any Lot or any portion of the Property, no amendment shall become effective without the written consent of Declarant.

10.2. Until the Turnover Date, all amendments or modifications shall only be made by Declarant without the requirement of the Association's consent, the consent of the Owners or the consent of any mortgagee so long as such amendments or modifications do not materially impair the common plan of development of the Subdivision; provided, however, that the Association shall, forthwith upon request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request. Notwithstanding the foregoing, until the Turnover Date, any amendments to this Declaration (including without limitation, the merger or consolidation of the Association with any other property owners association, the dedication of any part of the Common Area for public use and the conveyance, mortgaging or encumbrance of any part of the Common Area) must have prior written approval of the Federal Housing Administration ("FHA") or Veterans Administration ("VA") in accordance with the United States Department of Housing and Urban Development regulations, if the FHA or VA is the insurer of any mortgage encumbering a Lot and if any such prior approval is required by the FHA and/or VA.

10.3. Declarant specifically reserves the absolute and unconditional right (subject only to FHA or VA approval as set forth above, if required), so long as it owns any of the Property, to amend this Declaration without the consent or joinder of any party: (i) to conform to the requirements of any Institutional Mortgagee; (ii) to conform to the requirements of title insurance companies; (iii) to conform to the requirements of any governmental entity having control or jurisdiction over the Property; (iv) to clarify the provisions of this Declaration; or (v) in such other manner as Declarant may deem necessary or convenient.

10.4. Amendments for correction of scrivener's errors or other nonmaterial changes may be made by Declarant alone until the Turnover Date and by the Board thereafter and without the need of consent of the Owners.

10.5. Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant, the Association or of any Institutional Mortgagee under the Subdivision Documents without the specific written approval of such party affected thereby. In addition and notwithstanding anything to the contrary contained herein, no amendment to this Declaration shall be effective which shall eliminate or modify the provisions of this Article XIV, Section 10, and any such amendment shall be deemed to impair and prejudice the rights of Declarant.

10.6. A true copy of any amendment to this Declaration shall be sent certified mail by the Association to Declarant and to all Listed Mortgagees (as that term is defined hereinafter) holding a mortgage on any portion of the Property requesting notice. The amendment shall become effective upon the recording amongst the public records of the County of said amendment or any Supplemental Declaration to this Declaration which sets forth any amendment or modification to this Declaration.

Section 11. **Delegation**. The Association, pursuant to a resolution duly adopted by the Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board from time to time and whether or not related to Declarant.

Section 12. **Term**. This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Property and inure to the benefit of Declarant, the Association and the Owners and their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date of recording this Declaration amongst the public records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such fifty (50)-year term or any such ten (10)-year extension there is recorded amongst the public records of the County an instrument agreeing to terminate this Declaration signed by Owners owning two-thirds (2/3) of the Lots and Institutional Mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages held by Institutional Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the fifty (50)-year term or the ten (10)-year extension during which such instrument was recorded.

In the event this Declaration is terminated or the Association ceases to exist for any reason, the Owners shall be jointly and severally responsible for the costs to maintain and shall maintain the Common Area in the manner described herein. This provision shall survive the termination of this Declaration and shall run with the

Property in perpetuity. Any Owner may, however, petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association in the event of dissolution of the Association.

Section 13. **Rights of Mortgagees**.

13.1. Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Subdivision Documents and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Property. In addition, evidence of insurance shall be issued to each Owner and mortgagee holding a mortgage encumbering a Home upon written request to the Association.

13.2. Rights of Listed Mortgagee. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

A. Any condemnation, loss or casualty loss which affects any material portion of the Common Area;

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

C. Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot: and

D. Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform such Owner's obligations under the Subdivision Documents, including, but not limited to, any delinquency in the payment of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

13.3. Right of Listed Mortgagee to Receive Financial Statement. Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements of the Association for the prior fiscal year free of charge and the statement shall be furnished within a reasonable time following such request.

Section 14. **Approval of Association Lawsuits by Owners**. Notwithstanding anything contained herein to the contrary, in order to prevent the Board from incurring expenses not contemplated by the Subdivision Documents, the Association shall be required to obtain the approval of three-fourths (3/4) of the total voting interests (at a duly called meeting of the Owners at which a quorum is present) prior to engaging persons or entities for the purpose of suing or making, preparing or investigating any lawsuit or commencing any lawsuit other than for the following purposes:

14.1. the collection of Assessments;

14.2. the collection of other charges which Owners are obligated to pay pursuant to the Subdivision Documents;

14.3. the enforcement of the use and occupancy restrictions contained in the Subdivision Documents;

14.4. dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Common Area or to Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths [3/4] of the Owners); or

14.5. filing a compulsory counterclaim.

Section 15. **Compliance with Provisions**. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot except as elsewhere herein provided does consent and agree to, and shall be

conclusively deemed to have consented and agreed to, every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property. Declarant shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Declarant.

Section 16. **Security**. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. NOTWITHSTANDING THE FOREGOING, NEITHER DECLARANT NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE, IF ANY, WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE. ALL OWNERS AGREE TO HOLD DECLARANT AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DECLARANT NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY OR SAFETY WITHIN THE PROPERTY, AND NEITHER THE ASSOCIATION, DECLARANT NOR ANY SUCCESSOR DECLARANT GUARANTEES OR WARRANTS, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH MONITORING SYSTEM OR SECURITY SERVICE, IF ANY, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES, DAMAGE, INJURY, DEATH OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME. NEITHER THE ASSOCIATION, DECLARANT NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY LOT OR HOME, AND TENANTS, GUESTS AND INVITEES OF ANY OWNER ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DECLARANT AND ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT: (a) ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE), IF ANY, RECOMMENDED BY, OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY, DECLARANT OR THE ARC MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR (b) THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEM (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE) WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND THE COMMITTEE, DECLARANT AND ANY SUCCESSOR DECLARANT ARE NOT INSURERS OR GUARANTORS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS OR HOMES AND TO THE CONTENTS OF LOTS OR HOMES, AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD AND THE COMMITTEE, DECLARANT AND ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS, WARRANTIES AND/OR GUARANTIES, NOR HAS ANY OWNER, MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE), IF ANY, RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY OR THE SUBDIVISION.

Section 17. **Covenant Running With the Land**. All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lots and Homes and the Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of Declarant and subsequent Owner(s) of the Homes, Lots and Property or any part thereof, or interest therein, and their respective heirs, successors and assigns. However, the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, Tenants and occupants of the Lots and Homes, as applicable, shall be subject to and shall comply with the provisions of this Declaration, the Articles, Bylaws and applicable Rules and Regulations as they exist and may from time to time be amended. The acceptance of a deed of conveyance of a Lot, or the entering into a lease of or occupancy of a Home, shall constitute an adoption and ratification by such Owner, Tenant or occupant of the provisions of this Declaration, the Articles, Bylaws and applicable Rules and Regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

Section 18. **No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Common Area to the public, or for any public use.

Section 19. **NO REPRESENTATIONS OR WARRANTIES.** NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE COMMON AREA, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE OR IN CONNECTION WITH THE PROPERTY, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION.

Section 20. **Certain Reserved Rights of Declarant With Respect To Community Systems.** Without limiting the generality of any other applicable provisions of this Declaration, and without such provisions limiting the generality hereof, Declarant hereby reserves and retains to itself:

20.1. the title to any Community Systems and a perpetual exclusive easement over, under and across the Property for the placement and location thereof;

20.2. the right to connect, from time to time, the Community Systems to such receiving or intermediary transmission source(s) as Declarant may in its sole discretion deem appropriate, in location(s) on the Property as Declarant may determine in its sole discretion, including, without limitation, companies licensed to provide CATV or satellite service(s) in the County, for which service(s) Declarant shall have the right to charge any users a fee (which shall not exceed any maximum allowable charge provided for in the applicable ordinances of the County);

20.3. the continuing right to air conditioned space within and/or on the Common Area as Declarant may determine in its sole discretion to install, operate, maintain, repair and replace the equipment serving, providing or running the Community Systems, which location may include, without limitation, room(s) within any Improvements constructed on any part of the Common Area; and

20.4. the exclusive right to offer and provide from time to time to the Association, the Lots and the Lot Owners, any and all Bundled Services through the Community Systems.

Neither the Association nor any officer, director, employee, enforcement committee member or agent thereof (including any management company) shall be liable for any damage to property, personal injury or death arising from or connected with any act or omission of any of the foregoing during the course of performing any duty or exercising any right privilege (including, without limitation, performing maintenance work which is the duty of the Association or exercising any remedial maintenance or alteration rights under this Declaration) required or authorized to be done by the Association, or any of the other aforesaid parties, under this Declaration or otherwise as required or permitted by law.

Section 21. **Association and Declarant as Attorney-In-Fact.** Each Owner, by reason of having acquired ownership of a Lot, whether by purchase, gift, operation of law or otherwise, and each occupant of a Home, by reason of his or her occupancy, is hereby declared to have acknowledged and agreed to his or her automatic consent to any rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion made in, on or to the Subdivision by Declarant (hereinafter, collectively, the "Modifications") and, in respect thereto, each Owner of a Lot and occupant of a Home hereby designates the Association to act as agent and attorney-in-fact on behalf of such Owner or occupant to consent to any such Modification. If requested by Declarant, each Owner shall evidence his or her consent to a Modification in writing (provided, however, that any refusal to give such written consent shall not obviate the automatic effect of this provision). Further, each Owner, by reason of having acquired ownership of such Owner's Lot, hereby agrees to execute, at the request of Declarant, any document and/or consent which may be required by any government agency to allow Declarant and/or its affiliates to complete the plan of development of the Subdivision, as such plan may be hereafter amended, and each such Owner hereby further appoints Declarant as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of each such Owner, any and all of such documents and/or consents. This power of attorney is irrevocable and is coupled with an interest. The provisions of this Section 21 may not be amended without Declarant's prior written consent.

[Signature pages follow]

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed under seal this 2nd day of April, 2024.

Signed, sealed and delivered
in the presence of:

Print Name: Ethan Bullock
Address: ~~444 Seabreeze Blvd~~
Daytona Beach, FL 32118

Print Name: Tom Mehrgan
Address: ~~444 Seabreeze Blvd~~
Daytona Beach, FL 32118

ADJ BRIARWOOD, LLC, a Florida limited liability company

By: AJ-DJ Stokes, LLC, a Florida limited liability company,
its Manager

By: _____
Name: Anand Jobalia
Its: Manager

(CORPORATE SEAL)

STATE OF FLORIDA }
}SS
COUNTY OF Volusia)

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [___] online notarization, this 2nd day of April 2024, by Anand Jobalia, the Manager of AJ-DJ Stokes, LLC, a Florida limited liability company, the manager of **ADJ BRIARWOOD, LLC**, a Florida limited liability company, on behalf of the company. He is (check one) (___) personally known to me, or (___) has produced a _____ as identification.

FELICIA FONSECA
NOTARY PUBLIC
STATE OF FLORIDA
My Comm. Expires October 30, 2026
No. HH 323627

Print: Felicia Fonseca
NOTARY PUBLIC
State of Florida at Large
Commission # HH 323627
My Commission Expires: October 30, 2026

Signed, sealed and delivered
In the presence of:

Print Name: Ethan Bullock
Address: 444 Seabreeze Blvd
Daytona Beach, FL 32118

Print Name: Tom Mehegan
Address: 444 Seabreeze Blvd
Daytona Beach, FL 32118

BRIARWOOD TOWNHOMES OWNERS ASSOCIATION, INC., a Florida not for profit corporation

By: _____

Name: Anand Jobalia
Its: President

(CORPORATE SEAL)

STATE OF FLORIDA }
}SS
COUNTY OF Volusia)

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [__] online notarization, this 2nd day of April 2024, by Anand Jobalia, the President of **BRIARWOOD TOWNHOMES OWNERS ASSOCIATION, INC.**, a Florida not for profit corporation, on behalf of the not for profit corporation. He is (check one)(✓) personally known to me, or (__) has produced a _____ as identification.

FELICIA FONSECA
NOTARY
My Comm. Expires
October 30, 2026
No. HH 323627
PUBLIC
STATE OF FLORIDA

Print: Felicia Fonseca
NOTARY PUBLIC
State of Florida at Large
Commission # HH 323627
My Commission Expires: October 30, 2026

JOINDER AND CONSENT TO DECLARATION

The undersigned hereby certifies that it is the holder of a mortgage, lien or other encumbrance upon the property described in that certain Mortgage and Security Agreement to Secure Performance & Reimbursement Obligations recorded January 30, 2023, in Official Records Book 20566, Page 1035, of the Public Records of Duval County, Florida, and that the undersigned hereby joins in and consents to that certain Declaration of Covenants and Restrictions for Briarwood Townhomes (the "Declaration"), to which this Joinder and Consent to Declaration is attached, and agrees that its mortgage, lien or other encumbrance shall be subordinated to the Declaration.

Signed, sealed and delivered
in the presence of:

WITNESSES:

[signature]
Print Name: Jason H. Yowell
Address: 2207 Lonesage Way
Richmond, TX 77406

[signature]
Print Name: Emma Gordon
Address: 12911 Bramford Point Ln.
Houston, TX 77070

FLAGSTAR BANK, N.A, a national association, f/k/a **FLAGSTAR BANK, FSB**, a federally chartered savings bank

By: [signature]
Name: Drew C Szilagyi
Title: First Vice President
Date: 4-4-24

(seal)

STATE OF Texas }
}SS
COUNTY OF Harris)

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [__] online notarization, this 4th day of April, 2024, by Drew C Szilagyi, as First Vice President of **FLAGSTAR BANK, N.A.**, a national association, f/k/a **FLAGSTAR BANK, FSB**, a federally chartered savings bank, on behalf of the bank. He/She [✓] is personally known to me or [ ] has produced _____ as identification.

(NOTARY SEAL)

AVAN BLAIR
Notary Public, State of Texas
Comm. Expires 01-28-2026
Notary ID 7685196

[signature]
Print: Avan Blair
NOTARY PUBLIC
Notary Public, State of Texas
Commission # 7685196
My Commission Expires: 1-28-2026

JOINDER AND CONSENT TO DECLARATION

The undersigned hereby certifies that it is the holder of a mortgage, lien or other encumbrance upon the property described in that certain Mortgage, Security Agreement and Financing Statement recorded July 13, 2022, in Official Records Book 20358, Page 403, of the Public Records of Duval County, Florida, and that the undersigned hereby joins in and consents to that certain Declaration of Covenants and Restrictions for Briarwood Townhomes (the "Declaration"), to which this Joinder and Consent to Declaration is attached, and agrees that its mortgage, lien or other encumbrance shall be subordinated to the Declaration.

Signed, sealed and delivered
in the presence of:

WITNESSES:

Jennifer Grose
Print Name: Jennifer Grose
Address: 4220 Race Track Rd
St. Johns, FL 32259

Deborah McClure
Print Name: Deborah McClure
Address: 4220 Race Track Rd
St. Johns, FL 32259

D.R. HORTON, INC. - JACKSONVILLE, a Delaware corporation

By: _____ V.P.

Name: Philip A. Fremento

Title: Vice President

Date: 4/3/24

(seal)

STATE OF FLORIDA }

}SS

COUNTY OF ST. JOHNS)

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization, this 3 day of April, 2024, by Philip A. Fremento, as Vice President of **D.R. HORTON, INC. - JACKSONVILLE**, a Delaware corporation, on behalf thereof the corporation. He/She [X] is personally known to me or [ ] has produced _____ as identification.

(NOTARY SEAL)

DEBORAH E. MCCLURE
Commission # GG 967814
Expires July 10, 2024
Bonded Thru Budget Notary Services

Deborah McClure
Print: Deborah E. McClure
NOTARY PUBLIC
Notary Public, State of Florida
Commission # GG 967814
My Commission Expires: 7/10/24

EXHIBIT A

Legal Description of the Property

Briarwood Townhomes, according to plat thereof recorded in Plat Book 82, pages 126 through 131, inclusive, in the public records of Duval County, Florida