

Section 2. Computation of Base Assessment. At least 90 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 4 hereof. The Base Assessment shall be levied equally against all Units and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves and CDD monetary requirements. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Units subject to assessment under Section 7 below on the first day of the fiscal year for which the budget is prepared and the number of Units reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Article II, the Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's sole discretion. Any such subsidy and the nature thereof shall be conspicuously disclosed as a line item in the Common Expense budget and shall be made known to the membership. The payment of such subsidy in any year shall, under no circumstances, obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the Base Assessment for the following year to each Owner at least 60 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Voting Members representing at least 75% of the total Class "A" votes in the Association and 75% of the total number of Voting Members, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members as provided for special meetings in the Bylaws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Computation of Neighborhood Assessments. At least 90 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration or the Bylaws, specifically authorizes the Board to assess certain costs as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association and, in such case, any additional costs shall be added to such budget. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood.

The Units in the Townhouse Neighborhood shall have a Neighborhood Assessment to cover the costs associated with such maintenance of the items listed below (all such items are Townhouse Neighborhood Expenses), as may be revised from time to time by the Board and as may be more specifically set forth in the budget (after the termination of the Class B membership, such items are subject to change pursuant to a majority vote of the Unit Owners in the Townhouse Neighborhood or Neighborhood Committee, if one is established):

- Back-flow preventer maintenance;
- Painting of stucco;
- Stucco maintenance (e.g. cracking);
- Roof maintenance;
- Pressure washing of the Units; and
- Landscaping, mulching, irrigation and the maintenance thereof for all property located within the Townhouse Neighborhood

\*Painting of the exterior front door to the Units, regular maintenance of the doors (including the locks), door frames, windows and window frames shall be the sole responsibility of the Owners.

\*All such maintenance obligations mentioned above shall be performed at such times as deemed appropriate by the Board.

Neighborhood Expenses shall be allocated equally among all Units within the benefited Neighborhood; provided, if so specified in a Supplemental Declaration applicable to such Neighborhood or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner of a Unit in the Neighborhood at least 60 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by a majority of the Owners of Units in the Neighborhood to which the Neighborhood Assessment applies; provided, however, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Neighborhood, which petition must be

submitted to the Board within 10 days after delivery of the notice of assessments. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year then, until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Reserve Budget and Capital Contribution. The Board shall annually prepare reserve budgets for both general and Neighborhood purposes which take into account the

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number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments or Neighborhood Assessments, as appropriate, over the budget period.

(a) Initial Contributions to the Association. Upon every initial transfer of record title to a Lot after the date of recording of this Declaration, a contribution shall be made by, or on behalf of, the purchaser to the Association. Upon the initial transfer of a Lot by Declarant, the contribution shall be the amount equal to three (3) months' Common Assessments applicable to a Lot for that year. Where any Lot is sold by Declarant to a Merchant builder, Declarant may, by reference thereto in a contract for sale, deed of conveyance or separate instrument, waive the initial contribution for that Lot until resale by the Merchant Builder, at which time such amount will be due from the purchaser from the Merchant Builder. The initial contribution upon the sale of each Lot by Declarant or a Merchant Builder shall, notwithstanding anything to the contrary in this Declaration, be utilized by the Association for operations, maintenance and acquisition of personal property in the year of receipt and succeeding years until exhausted. If utilized for operations, such contribution shall be utilized solely to reduce the difference payable by Declarant, if received prior to Turnover. Declarant, its parents, subsidiaries, affiliates and assigns, shall be exempt from payment of the contribution required by this Section. The contribution required by this section shall constitute an Assessment against the Lot and shall be subject to the same lien rights and other rights of collection applicable to other Assessments under this Article. No representation or warranty is made by Declarant as to the

...representation under this Article. No representation or warranty is made by Declarant or the Association that, on the date of Turnover, any funds will be available as a result of such contributions.

(b) Improvement Contribution. Upon every transfer of record title to a Lot, except for the initial conveyance by Declarant or a Merchant Builder, at which time the contribution under Section 4.A is due, a contribution equal to three (3) months Common Assessments shall be made to a segregated account for the benefit of the Association after Turnover. Subsequent to the Turnover, the accumulated contributions shall be used for repairs, renovations, or improvements to the common Area(s). To the extent the Association makes any claim against Declarant or its appointed directors for Common Area conditions, the amount within the improvement contribution account at Turnover shall be credited against any obligation of Declarant pertaining to such Common Area(s). This Section 4a & 4b may not be amended without the Declarant's written consent, in its sole and absolute discretion.

Section 5. Special Assessments. In addition to other authorized assessments, the Association or ascendant CDD may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood, if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

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Section 6. Specific Assessments. The Board shall have the power to levy Specific Assessments against a particular Unit or Units constituting less than all Units within the Community or within a Neighborhood, as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items or services to the Unit or occupants thereof upon request of the Owner, pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscaping, maintenance, etc.)

service, pool cleaning, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the Bylaws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their licensees, invitees or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying in Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles; the Bylaws and rules; provided the Board gives the Voting Member from such Neighborhood prior written notice and an opportunity to be heard before levying any such assessment.

Section 7. Date of Commencement of Assessments; Due Dates. All annual assessments shall be payable annually, in advance. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit. At the option of the Board, the payment of assessments may be changed to a more frequent basis. The due date of any Special Assessment or Specific Assessment provided for herein shall be set in the resolution authorizing such assessment.

Section 8. Liens for Assessments. Upon recording of a Notice of Lien, there shall exist a perfected lien for unpaid assessments on the respective Unit prior and superior to all other liens, except all taxes, bonds, assessments and other levies which by law would be superior thereto; a lien or charge of any first mortgage of record (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value, but subject to the limitations of Section 9 hereof. Such lien, when delinquent, may be enforced by suit, judgment and foreclosure. The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which a Unit is owned by the Association following foreclosure: no right to vote shall be exercised on its behalf; no assessment shall be levied on it; and each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged against such Unit had it not been acquired by the Association as a

result of foreclosure. Suit to recover a money judgment for unpaid common expenses and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. After notice and hearing, the Board may temporarily suspend the voting rights and right to use the Common Area of a Member while such Member is in default in payment of any assessment.

Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of such charges as a debt and also to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners.

All payments shall be applied first to costs and attorneys' fees, then to interest, then to delinquent assessments, then to any unpaid installments of the annual assessment, special assessments and individual assessments which are not the subject matter of suit in the order of their coming due, and then to any unpaid installments of the annual assessment, special assessments or individual assessments which are the subject matter of suit in the order of their coming due.

Section 9. Subordination of the Lien to First Mortgages; Mortgagees' Rights. The lien for assessments provided for herein shall be subordinate to the lien of any first mortgage placed upon a Unit prior to the recording of a notice of lien for the unpaid assessment. However, a first mortgagee shall become liable for all assessments which become due and payable subsequent to the sale or transfer of the Unit pursuant to a decree of foreclosure, or pursuant to a deed given in lieu of foreclosure, or any other proceeding in lieu of foreclosure. A first mortgagee, upon written request, shall be entitled to written notification from the Association of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days.

Section 10. Declarant's Assessments. For any assessment year, notwithstanding anything herein to the contrary, Declarant shall have the option, in its sole discretion, to either:

- (a) pay Assessments on the Units owned by it, or
- (b) not pay Assessments on any Units and in lieu thereof, for such assessment year, pay the Association's actual operating expenses incurred (either paid or payable) exclusive of capital improvement costs, reserves, depreciation and amortization. The amount so determined shall then be reduced by revenues earned (either received or receivable) from all sources (including, without limitation, Assessments, interest, fines, working capital and similar contributions made by Unit purchasers, and incidental income) and any surplus carried forward from the preceding year(s).

In computing the annual amount to be funded by the Declarant as aforesaid, revenues and expenses shall not be segregated or earmarked by type of Assessment or type of Common Area, or by Neighborhood but, instead, shall be taken as a whole.

Also, depreciation and capital asset acquisition shall not be deemed a cost or expense for purposes of this Section and Declarant shall not be deemed to have in any manner guaranteed or obligated itself as to the types or levels of any inventory of good or equipment existing at any time.

For any assessment year, Declarant may from time to time change the option (or combination thereof) under which Declarant is making payments to the Association by written notice to such effect to the Association. When all Units within the Community are sold and conveyed to purchasers, neither Declarant nor its affiliates shall have further liability of any kind to the Association for the payment of Assessments, deficits or contributions, The Declarant's rights under this Section may be assigned by it in whole or in part and on an exclusive or non-exclusive basis.

~~Section 11. Exempt Property.~~ The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, Specific Assessments, and Special Assessments:

- (a) all Common Area;
- (b) any property dedicated to and accepted by any governmental authority or public utility; included but not limited to the CDD
- (c) any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Unit which is subject to assessment (in which case the Unit shall not be exempted from assessment); and
- (d) any property owned by a Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

~~Section 12. Initial Recreation Capitalization Fee.~~ The first purchaser of each Unit at the time of closing of the conveyance from the Declarant to the purchaser shall pay the Declarant a one-time recreation capitalization fee to reimburse Declarant for costs associated with construction of the amenities. The Declarant may waive this requirement for some Units, if the first purchaser is a Builder and the Builder becomes unconditionally obligated to collect and pay the recreation capitalization fee upon the subsequent sale of each Unit to an end purchaser. No representation or warranty is made by Declarant that, upon the expiration of the Class B Control Period, any funds will be turned over to the Association from the recreation capitalization fees paid to the Declarant.

## ARTICLE IX ARCHITECTURAL STANDARDS

The Board of Directors shall have the authority and standing on the behalf of the

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Association, to enforce in courts of competent jurisdiction decisions of the Architectural Review Committee (the "Committee"), established by this Article. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any lands subject to this Declaration.

Section 1. The Architectural Review Committee. The Board of Directors shall appoint the Committee which shall consist of at least three (3), but no more than five (5) Persons;

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however, the Declarant retains the right to appoint all members of the Committee until one hundred percent (100%) of the Units have been developed and conveyed to purchasers in the normal course of development and sale. The Committee shall have exclusive jurisdiction over all exterior painting, original construction, modifications, additions or alterations made on or to existing Units pursuant to the Architectural Standards. Moreover, the Committee shall have the right to revise, amend and update the Architectural Standards by a majority vote of the Committee, in order to respond to future changes. Upon revising, amending or updating the Architectural Standards, the Committee shall provide notice of the changes to the Board of Directors and the Association, and the Committee will make the corresponding changes in the Architectural Standards.

Section 2. Architectural Standard. On behalf of the Board, the Committee shall prepare and promulgate design and development guidelines and review procedures entitled Architectural Standards, which shall include the payment by each Unit Owner of a review fee not to exceed \$25.00. All proposed construction, modifications, additions and improvements by Owners, builders and developers who seek to engage in development of or construction upon all or any portion of the community shall be in strict compliance with the Architectural Standards and this Article. Moreover, no painting of the exterior of a Unit by an Owner, no construction, which term shall include within its definition staking, clearing, excavation, grading and other site work, and no fencing, screening, plantings or removal of plants, trees or shrubs shall take place except in strict compliance with the Architectural Standards and this Article.

Section 3. Variances. Pursuant to the Architectural Standards, the Committee upon a majority vote of the Committee has the right to grant variances from the Architectural Standards to individual owners.

standards to individual owners, builders or developers of all or any portion of the community.

Section 4. Safe Rooms. All single-family houses within the Properties have been or will be constructed with a safe-room as required by the Nocatee Development Order approved by St. Johns County pursuant to Resolution No. 2001-30, as amended. These rooms have been or will be designed and constructed to withstand a minimum wind load of 150 mph. Owners shall not modify or alter the safe-room in any way that would negate the designed function. Owners are cautioned not to rely on the protection of a safe-room if conditions could exceed the design capacity. In the threat of any major storm event, Owners should be aware of instructions from the local government including the County Emergency Management office. There may be circumstances that require all Owners to evacuate the area.

## ARTICLE X INSURANCE AND CASUALTY LOSSES

Section 1. Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a loss. The Association shall have the authority to and interest in insuring any privately or publicly owned property for which the Association has

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maintenance or repair responsibility. Such property shall include, by way of illustration and not limitation, any insurable improvements on or related to parks, rights-of-way, medians, easements and walkways which the Association is obligated to maintain. If blanket "all-risk" coverage is not generally available at reasonable cost, then the Association shall obtain fire and extended coverage, including coverage for vandalism and malicious mischief. The face amount of the policy shall be sufficient to cover the full replacement cost of the insured property. The cost of such insurance shall be a Common Expense to be allocated among all Units subject to assessment as part of the annual Base Assessment. In addition, the Association may, upon request of a Neighborhood Village, and shall, if so specified in a Supplemental Declaration

applicable to the Neighborhood Village, obtain and continue in effect adequate blanket "all-risk" property insurance on all insurable improvements within such Neighborhood Village, if reasonably available. If "all-risk" property insurance is not generally available at reasonable cost, then fire and extended coverage may be substituted. Such coverage may be in such form as the Board of Directors deems appropriate. The face amount of the policy shall be sufficient to cover the full replacement cost of all structures to be insured. The costs shall be charged to the Owners of Units within the benefited Neighborhood Village as a Neighborhood Village Assessment. All policies shall provide for a certificate of insurance to be furnished to each Member insured, to the Association, and to the Neighborhood Village Association, if any.

The Association also shall obtain a public liability policy on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on its behalf. If generally available at reasonable cost, the public liability policy shall have at least a \$1,000,000.00 combined single limit as respects bodily injury and property damage, and at least a \$3,000,000.00 limit per occurrence and in the aggregate.

Except as otherwise provided above with respect to property within a Neighborhood Village, premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment. However, premiums for insurance on Limited Controlled Facilities may be included in the Neighborhood Village Assessment of the Neighborhood Village(s) benefited unless the Board reasonably determines that other treatment of the premiums is more appropriate.

The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the required coverage. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Village Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance the Bylaws, that the loss is the result of the negligence or willful conduct of one or more Owners or occupants, then the Board may specifically assess the full amount of such deductible against the Unit of such Owner or occupant, pursuant to Article VIII, Section 6.

All insurance coverage obtained by the Association shall:

(a) be written with a company authorized to do business in Florida which holds a Best's rating of A or better and is assigned a financial size category of IX or larger as

established by A.M. Best Company, Inc., if reasonably available or, if not available, the most nearly equivalent rating which is available;

(b) be written in the name of the Association as trustee for the benefited parties, Policies on the Common Area shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood Village shall be for the benefit of the Neighborhood Village Association, if any, the Owners of Units within the Neighborhood Village, and their Mortgagees, as their interests may appear;

(c) vest in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss;

(d) not be brought into contribution with insurance purchased by individual Owners, occupants or their Mortgagees; and

(e) have an inflation guard endorsement, if reasonably available. If the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the St. Johns County, Florida, area.

The Board shall use reasonable efforts to secure insurance policies containing endorsements that:

(a) waive subrogation as to any claims against the Association's Board, officers, employees and its manager, the Owners and their tenants, servants, agents and guests;

(b) waive the insurer's rights to repair and reconstruct instead of paying cash;

(c) preclude cancellation, invalidation, suspension or non-renewal by the insurer on account of anyone or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(d) exclude individual Owners' policies from consideration under any "other insurance" clause; and

(e) require at least 30 days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

The Association shall also obtain, as a Common Expense, worker's compensation insurance and employer's liability insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

The Association also shall obtain, as a Common Expense, a fidelity bond or bonds, if generally available at reasonable cost, covering all persons responsible for handling Association funds. The Board shall determine the amount of fidelity coverage in its best business judgment

but, if reasonably available, shall secure coverage equal to not less than one-sixth (1/6) of the annual Base Assessments on all Units plus reserves on hand. Bonds shall contain a waiver of all defenses, based upon the exclusion of persons serving without compensation, and shall require at least 30 days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

Section 2. Owners Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry blanket "all-risk" property insurance on its Unit(s) and structures thereon, providing full replacement cost coverage less a reasonable deductible, unless either the Neighborhood Village in which the Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, he shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX of this Declaration. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

Additional recorded covenants applicable to any Neighborhood Village may establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Units within such Neighborhood Village and the standards for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction to all or any part of the Community covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Voting Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct.

Any damage to or destruction of the common property of any Neighborhood Village Association shall be repaired or reconstructed unless the Unit Owners representing at least 75% of the total vote of the Neighborhood Village Association decide within 60 days after the damage

of the Board of Directors of the Neighborhood Village Association decide within 60 days after the damage or destruction not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension

shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area or common property of a Neighborhood Village Association shall be repaired or reconstructed.

(c) If determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Neighborhood Village Association shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association or the Neighborhood Village Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood Village Association, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

Section 5. Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors shall, without a vote of the Voting Members, levy Special Assessments against those Unit Owners responsible for the premiums for the applicable insurance coverage under Article VIII, Section 5 above.

Section 6. Master Insurance. Notwithstanding anything to the contrary contained herein, for so long as the Declarant controls the Board of Directors, the Declarant reserves the right to include the insurance obligations of the Association within a master insurance program controlled by the Declarant.

controlled by the Declarant (or its affiliates) and upon doing so, the insurance obligations provided for under this Declaration shall be deemed satisfied.

## ARTICLE XI CONDEMNATION

Section 1. General. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows: If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least 75% of the total Class "A" votes in the Association, shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Article X, Sections 3 and 4 regarding funds for the repair of damage or destruction shall apply.

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If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

## ARTICLE XII USE RESTRICTIONS

Section 1. Residential Use. No commercial use of a Unit which shall be inconsistent with applicable zoning laws and regulations shall be permitted unless approved by the Board of Directors in writing.

Section 2. Nuisances. No activity shall be permitted to exist or operate in a Unit which constitutes a nuisance or is detrimental to the Community or to any other Unit within the Nocatee master planned community.

Section 3. Unlawful Use. The Association and the Owners shall comply with all applicable laws, zoning ordinances, orders, rules, regulations or requirements of any governmental agency relating to the Community.

Section 4. Insurance. No Owner shall permit anything to be done or kept in or on his Unit or the Common Area and/or Limited Controlled Facility which increases the rate of insurance, or results in the cancellation of insurance, on the Common Area and/or Limited Controlled Facility.

Section 5. Pets. Unit Owners shall not keep in any Unit animals, wildlife, livestock, reptiles or poultry of any kind, other than domesticated household birds and fish, house dogs or domesticated house cats. All animals shall be leashed (if outdoors) or kept within the Unit and shall not be permitted to roam free. The Association may restrict the walking of pets to certain areas. Owners who walk their pets on Common Areas must clean up after their pets. Commercial activity involving pets, including, without limitation, boarding, breeding, grooming or training is not allowed. The ability to keep a pet is a privilege, not a right. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the owner, upon written notice, may be required to remove the pet from the Community. Pets may not be left unattended or leashed in yards or garages or on porches or lanais. Pursuant to rules and regulations, the Board may further regulate pets, including but not limited to number and type of pets.

Section 6. Signs. No sign, advertisement or notice of any type or nature whatsoever may be erected or displayed upon any Unit, Common Area and/or Limited Controlled Facility unless expressed prior written approval of the size, shape, content and location has been obtained from the Board of Directors, which approval may be withheld in its discretion. Notwithstanding the foregoing, the Declarant shall be permitted to post and display advertising signs on the Property and the Board of Directors may erect reasonable and appropriate signs on any portion of the Common Area and/or Limited Controlled Facility.

Section 7. Exterior Lighting. Except as may be installed initially by Declarant, no spotlights, seasonal and special effect lighting, floodlights or similar high intensity lighting shall be placed or utilized upon any Unit which in any way will allow light to be reflected on any other Unit or the improvements thereon or upon the Common Area, Limited Controlled Facility or any pan thereof without the prior written approval of the Committee and in accordance with the Architectural Standards. Low intensity lighting which does not disturb the Owners or other occupants shall be permitted.

Section 8. Traffic Hazards. Nothing shall be erected, constructed, planted or otherwise placed in the Community subsequent to the initial construction of improvements in the Community by Declarant which creates a traffic hazard or blocks the vision of motorists upon any of the streets, roads or intersections of the Community.

Section 9. Service Yards. All garbage receptacles, gas meters, air conditioning, heating, pool equipment, materials and supplies, and other equipment placed or stored outside must be concealed from view from roads and adjacent Community in accordance with the Architectural Standards. No Unit Owner may erect any structure or improvement that will deny or impede the Association's access to the Unit Owner's yard.

Section 10. Antennas, Other Devices. No exterior radio or television antenna, satellite dish or other receiver transmitting device or any similar exterior structure or apparatus may be erected or maintained unless approved by the Committee, pursuant to the Architectural Standards; provided, however, each Owner may maintain a satellite dish provided the satellite dish complies with location guidelines adopted by the Committee.

Section 11. Temporary Structures. No temporary structure, such as a trailer, tent, shack, barn, shed or other outbuilding shall be permitted at any time, other than:

- (a) Temporary structures during the period of actual construction; and
- (b) Tents or other temporary structures for use during social functions.

Section 12. Water Supply and Sewerage. No septic tanks shall be permitted within the Community. No wells shall be installed, unless permitted by the Committee pursuant to the Architectural Standards and provided the Unit Owner obtains all governmental approvals.

Section 13. Fuel Storage Tanks. No fuel or gas storage tanks shall be permitted; however, an Owner may keep and maintain a small gas tank for gas barbecues, fireplaces and hot tubs, provided they are maintained in accordance with the Architectural Standards.

Section 14. Parking and Garages. Owners shall park only in their garages, in the driveways servicing their Unit, or in appropriate parking spaces designated by the Board. Garage doors shall be kept closed except when automobiles are entering or leaving the garage. Only the number of cars exceeding occupied garage spaces shall be parked on the driveway.

Section 15. Soliciting. No soliciting will be allowed at any time within the Community.

Section 16. Trees. Pursuant to the Architectural Standards, no trees shall be cut or removed without approval of the Committee.

Section 17. Fences and Walls; Clotheslines. No fences, screens (including but not limited to pool screen cages), invisible pet fences or walls shall be erected unless in accordance with the Architectural Standards. Furthermore, Unit Owners shall not erect or maintain any clotheslines. Notwithstanding anything to the contrary contained herein pool screen cages shall only be bronze in color.

Section 18. Motor Vehicles, Trailers, Etc. Recreational vehicles, including but not limited to boats, watercrafts, boat trailers, mobile homes, trailers (either with or without wheels), motor homes, vans over fourteen (14) feet in length, tractors, trucks in excess of three-fourths (3/4) ton, all-terrain vehicles, commercial vehicles of any type, campers, motorized campers, motorized go-carts or any other related transportation device may only be stored outside or on any Unit a maximum of 8 hours but not over night, unless fully garaged. Moreover, no recreational vehicle shall be parked on any portion of the Common Area or Limited Controlled Facility unless such areas are specifically designated for recreational parking. The Association may make reasonable rules regarding the use of mopeds and motorcycles in the Community. No Owner or other occupant of the Community shall repair or restore any vehicle of any kind upon or within the Community, except for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility. Vehicles shall be parked only within Units on paved surfaces and shall not block sidewalks or bike paths and to the extent the Unit contains a garage, the Unit Owners must park their car(s) in the garage when not in use. Parking by Owners within street rights-of-way is prohibited and the Association is authorized to tow vehicles parked in violation hereof. Overnight parking in street rights-of-way by non-Owners shall be prohibited.

Section 19. Recreation Equipment. All basketball courts, backboards, volleyball nets, swing sets, sandboxes and other outdoor recreational equipment shall be installed, maintained or used only in accordance with the Architectural Standards.

Section 20. Lawns and Landscaping. All landscaping to be performed by an Owner with respect to the Owner's Unit must be approved by the Architectural Review Committee. Further, no gravel, blacktop or paved parking strips shall be installed or maintained by any Owner adjacent to and along the street. No trash, debris or refuse pile shall be placed or remain on a Unit.

Section 21. Subdivision. No Unit shall be further subdivided except upon express written consent of the Board of Directors of the Association, and in accordance with applicable subdivision regulations.

Section 22. Conservation Areas. No person may alter the Conservation Areas, including but not limited to all wetlands and upland buffer areas, from their natural and/or permitted conditions provided in the Architectural Standards.

permitted condition; provided, however, the Association and Declarant may remove all exotic or nuisance vegetation as permitted under the St. Johns River Water Management District (**SJRWMD**) permit pertaining to the Community, or restore any Conservation Area as set forth in any restoration plan contained in a conservation easement created for the Conservation Areas.

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Exotic vegetation may include, but is not limited to, melaleuca, Brazilian pepper, Australian pine, Japanese climbing fern or any other species currently listed by the Florida Exotic Pest Plant Council. Nuisance vegetation may include cattails, primrose willow and grapevine.

Section 23. Leases. In order to maintain a community of congenial Owners who are financially responsible and thus protect the value of the Units, the leasing and rental of Units by any Owner shall be subject to the following provision, which provision each Unit Owner covenants to observe: (i) no Owner may lease his or her residence for a period less than month without the prior written approval of the Board, which approval is subject to the Board's sole and absolute discretion; (ii) the Unit Owner must first submit to the Board a copy of the fully executed lease for its approval, to determine whether the term is correct; (iii) the lease must specifically state that the tenant lets the Unit subject to the terms and conditions of this Declaration and if the Unit Owner fails to pay the Assessments required hereunder, the Association may collect from the tenant the outstanding Assessments, provided the amount of the Assessments does not exceed the rental amount for the Unit.

Section 24. Boating. The Unit Owners shall not operate or use any boats on any of the lakes located in the Community.

Section 25. Fishing. Unit Owners may only fish along the shoreline and bank located adjacent to the Unit Owner's Unit.

Section 26. Window Treatments. All window coverings shall be lined with white or off-white lining on the side exposed to the public, unless otherwise approved by the Board of Directors.

Section 27. Garage. All garage doors must be closed when not in use. No Unit Owner may convert his or her garage to living space, an office or workshop.

**ARTICLE XIII  
DECLARANT'S RIGHTS**

(a) Declarant's Rights. The Declarant and its successors or assigns will undertake the work of constructing Units and related amenities on the Lots and improvements on the Common Areas. The completion of that work and the sale, rental and other disposal of Lots is essential to the establishment and welfare of the Community as a community. As used in this, Section and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of completed Units. In order that said work may be completed and the Community established as a fully occupied Community as rapidly as possible, no Owner or the Association shall do anything to interfere with the Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration or the Articles or By-Laws shall be understood or construed to:

(i) Prevent the Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any property owned by them or on any Common Areas whatever they determine to be necessary or advisable in connection with the completion of said work, including without limitation, the alteration of its construction plans and designs as the

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Declarant deems advisable in the course of development (all models or sketches showing plans for future development of The Community may be modified by the Declarant at any time and from time to time, without notice); or

(ii) Prevent the Declarant, its successors or assigns, or its or their contractors, subcontractors or representatives, from erecting, constructing and maintaining on any property owned or controlled by the Declarant or on any Common Areas, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing The Community as a Community and disposing of the same by sale, lease or otherwise; or

(iii) Prevent the Declarant, its successors or assigns, or its or their contractors or subcontractors or representatives, from conducting on any property owned or

controlled by the Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements within The Community and of disposing of Lots therein by sale, lease or otherwise; or

(iv) Prevent the Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of improvements to be constructed as part of The Community.

The Declarant expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as the Declarant owns any property in The Community; provided, no such easement shall structurally weaken or otherwise interfere with the use of the Common Area by Owners. Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sales of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area and Lots owned by Declarant such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model Units, and sales offices and the Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use any Lot owned by the Declarant, as models and sales offices, respectively and to utilize such facilities exclusively from time to time. Any or all of the special rights and obligations of the Declarant may be transferred to other parties, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records of St. Johns County, Florida. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any property in any manner whatsoever.

The Declarant expressly reserves the right to retain one or more Units in the Community as a guest house(s), to be used and enjoyed by the Declarant, its affiliates, employees, invitees and licensees for any lawful purpose.

Each Owner on his, her or its own behalf and on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns acknowledges and agrees that the completion of the development of The Community may occur over an extended period of time

and that incident to such development and the construction associated therewith the quiet use and enjoyment of The Community and each Lot therein may be temporarily interfered with by the development and construction work occurring on those Lots owned by the Declarant or its successors and assigns and each Owner, on such Owner's own behalf and on behalf of such Owner's heirs, assigns, personal representatives, successors, mortgagees, lienors and assigns does hereby waive all claims for interference with such quiet enjoyment and use as a result of the development and construction of the balance of The Community. Each Owner, on such Owner's own behalf and on behalf of such Owner's heirs, personal representatives, successors, mortgagees, lienors and assigns agrees that the development, construction and completion of the balance of The Community may interfere with such Owner's original and existing views, light and air and diminish the same and each such Owner on such Owner's behalf and on behalf of such Owner's heirs, assigns, personal representatives, successors, mortgagees, lienors and assigns does hereby release the Declarant and its successors in interest and others involved from all claims that they may have in connection therewith.

Section 2. Common Areas.

(a) So long as the Declarant owns land in the Community for development or for sale in the ordinary course of business:

(i) Declarant may in its sole discretion, set aside, convey, lease, grant an easement, license or other use right to real property to the Association within or without the Community for such purposes as may be expressed in the instrument of conveyance, lease or grant of easement, license or other use right. The Association must accept from Declarant any such conveyance, designation, dedication, lease, grant of easement or license, or grant of other use right. No such real property shall be considered to be Common Areas until actually so conveyed, designated, dedicated by platting, leased or a grant of easement, license or other use right is created by a written instrument. The written instrument shall also provide when the area(s) of land are designated, dedicated, conveyed, leased, licensed or a use right is granted to the Association.

(ii) The Association shall not accept from any Person other than Declarant a conveyance, dedication, lease, grant of license or grant of use right except upon the prior written consent of the Declarant or the Board of Directors after the Declarant is no longer selling Units in the ordinary course of business of developing said Units.

(iii) Declarant shall have the right and the power to regulate and control the external design and appearance of the Common Areas in such a manner as Declarant deems appropriate as to promote a quality environment which will preserve the value of the Units and to foster the attractiveness and functional utility of the Community as a place to live.

(iv) Any type use of the Common Areas shall be subject to the prior written approval of Declarant or the Board of Directors after the Declarant is no longer selling Units in the ordinary course of business or developing said Units.

(v) Declarant shall have the right in its sole discretion to grant easements, licenses or use rights for the Common Areas to Persons that are not Members. The

Board of Directors shall have the right to grant easements, licenses and use rights for the Common Areas to Persons that are not Members after the Declarant is no longer selling Units in the ordinary course of business or developing said Units.

(b) Prior to any conveyance, designation, dedication, lease or grant of easement, license or other use right by Declarant to the Association of any property, Declarant shall have the right to charge reasonable fees for the use of such property; thereafter, the right to use such property may be subject to reasonable rents, fees and other charges in favor of the Association; in any event, rents, fees and other charges required to be paid to Declarant under the leases, grants, license or contracts creating the use right shall continue to be paid.

(c) Any real property conveyed, leased or the use of which has been granted by Declarant or any third party to the Association as Common Areas is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of Members, their guests and tenants unless otherwise provided by the Declarant.

(d) No nuisance or obnoxious or offensive activity shall be conducted or permitted on any Common Areas. So long as Declarant owns any Unit located in the Community for development or for sale in the ordinary course of business, the Declarant shall have the right and the power in the exercise of its reasonable discretion to determine what activities or uses constitute nuisances or obnoxious or offensive activity and thereafter the Board of Directors of the Association shall make such determination. Nothing shall be done within the Common Areas which may be or become a nuisance to Residents or Members.

(e) Neither the execution and recordation of this Declaration, nor the creation of the Association or other entity, nor the recordation of any other instrument subjecting any land in the Community to protective covenants and restrictions shall obligate or require Declarant or any other Person to grant any right, power, duty or privilege of any nature or kind to the Association or other entity; or obligate or require Declarant to perform any act permitted under this Declaration or to enforce any covenants, condition, restriction or other provision thereof.

(f) The Declarant and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of the Community for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any Improvements or facilities on the Common Areas or elsewhere in the Community as the Declarant and its affiliates, employees and agents, as appropriate, elect to effect. Further, the Declarant and its affiliates, guests and invitees shall have right to use the Common Areas for sales, customer parking, displays and signs during the period of construction and sale of any of the land owned by the Declarant and its affiliates within the Community, including the operation of a sales office. All of the foregoing shall apply notwithstanding the fact that the Association holds title to the applicable Common Areas as of any relevant time.

### Section 3. Enforcement and Inaction.

(a) So long as the Declarant owns land in the Community for development or for sale in the ordinary course of business, Declarant shall have the right and power, but not the

obligation, to enforce the covenants, conditions, restrictions and other provisions imposed by this Declaration by any proceeding at law or in equity against any Person violating or attempting to violate such provision, to restrain any violation or attempted violation of such provisions, to require performance of such provisions, to recover damages for violations of such provisions, to levy against the land to enforce any lien created by this Declaration, and to delegate or assign either exclusively or non-exclusively any or all of its rights, powers, duties or privileges hereunder to the Association, or to an Owner, or to any other Person. In the event Declarant expends any sum of money to enforce the covenants, conditions, restrictions and other provisions imposed by this Declaration, the Association shall immediately reimburse the Declarant for such expenditure. Failure by Declarant, or by the Association or any other Owner or any other Person to enforce any of such provisions shall in no event be deemed a waiver of their right to do so thereafter. After Declarant no longer owns any land in the Community for development or sale in the ordinary course of business, the Association shall have the right and power to enforce the covenants, conditions, restrictions and other provisions imposed by this Declaration.

(b) The costs and reasonable attorneys' fees, including those resulting from any appellate proceedings, incurred by Declarant or the Association in any action against an Owner to enforce any provisions of this Declaration shall be a personal obligation of such Owner which shall be paid by such Owner and any amount which remains due and unpaid shall be a continuing lien upon the Owner's Unit collectible in the manner provided in Article VIII.

**ARTICLE XIV  
ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS**

Section 1. Compliance by Owners. Every Owner, Owner's family, guests, invitees, tenants and employees shall at all times comply with all Bylaws, Rules and Regulations, Community-Wide Standards, Architectural Standards, Use Restrictions, and with the covenants, conditions and restrictions set forth herein and in the deed to his Unit (as hereinafter referred to in this Article, the "Rules"). All violations shall be reported immediately to a member of the Board of Directors.

board. Disagreements concerning violations, including interpretation of the Rules, shall be presented to and determined by the Board of Directors, whose interpretation and whose remedial action shall control. In the event that an Owner fails to abide by the Rules, then he or she may be subject to any action, right of entry, fine, or other remedy contained in this Declaration. Each remedy shall be non-exclusive and in addition to all other rights and remedies to which the Declarant or the Association may be entitled. Failure by the Association to enforce any Rules or exercise any right or remedy contained herein shall not be deemed a waiver of the right to do so thereafter.

Section 2. Actions. The Board of Directors may bring an action at law and/or in equity (including an action for injunctive relief), or both, in the name of the Association to enforce the Rules. In such an event, the Association additionally shall be entitled to recover costs and attorneys' fees.

Section 3. Right of Entry. Violation of the Rules shall give the Association or its duly authorized agent the right to enter a Unit or any portion of the Common Area to summarily abate or remove, at the expense of the Owner, any structure, thing or condition which violates the Rules. The Association shall not be liable in any manner for trespass, abatement or removal,

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and all costs and fees incurred by the Association may be specifically assessed against the violating Owner and shall be treated as an Individual Assessment otherwise due the Association.

Section 4. Fines. The Board, in its sole discretion, may impose a fine or fines upon an Owner for failure to comply with the Rules, provided the following procedures are adhered to:

(a) Notice: The Association shall notify the Owner in writing of the non-compliance. Included in the notice shall be the date and time of the next Board meeting at which the non-compliance will be heard and considered. The notice of the non-compliance to the Owner shall provide, at a minimum, at least fourteen (14) days' notice prior to the Board meeting.

(b) Hearing: The noncompliance shall be presented at a Board meeting before a committee of at least three (3) members appointed by the Board, who are not officers, directors

or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee, where the Owners may protest any allegation of non-compliance and any imposition of fines. A written decision of the committee shall be submitted to the Owner not later than twenty-one (21) days after the Board meeting. The committee must approve, by a majority vote, the proposed fine or suspension, prior to it being imposed.

(c) Fines: The Board of Directors may impose fines against any Owner, tenant, guest or invitee.

(d) Payment of Fines: Fines shall be paid not later than thirty (30) days after notice of the imposition.

(e) Assessments: Fines shall be treated as an Individual Assessment otherwise due to the Association.

(f) Application: All monies received from fines shall be allocated as directed by the Board of Directors.

(g) Non-Exclusive Remedy: Any fine paid by the offending Owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner.

Section 5. Suspension of Use. The Board of Directors may suspend any Owner, tenant, guest or invitee's right to use any Common Area.

#### **ARTICLE XV ASSIGNMENT**

Any or all of the rights, powers, obligations, easements and estates reserved or given to the Declarant or the Association may be assigned by the Declarant or by the Association, as the case may be, to the Association, or the other assignee. Any assignment shall be made by appropriate instrument in writing, and any assignee shall expressly agree to assume the rights,

powers, duties and obligations contained herein, and the assignor shall be relieved and released of all responsibility hereunder.

## **ARTICLE XVI CONSERVATION AREAS**

Portions of the Community shall contain Conservation Areas created and shown on a plat of record, as required by the St. Johns River Water Management District (*SJRWMD*), and as more particularly identified on the Plat or pursuant to any conservation easements created pursuant to Section 704.06, Florida Statutes. All Owners are notified that portions of the Units may contain or lie adjacent to Conservation Areas and each Owner shall comply with all use restrictions created herein or pursuant to any conservation easements created for the Conservation Areas. The Association is charged with the duty of perpetually maintaining all Conservation Areas in accordance with the requirements contained in the St Johns River Water Management District permit pertaining to the Community and any subsequent conservation easements created. All expenses incurred in maintaining the Conservation Areas shall be deemed Common Expenses and the Unit Owners shall be responsible for paying same. The Association is further charged with the duty to perpetually maintain all markers and signage required by the St. Johns Water Management District permit governing the Community and the Association shall have a perpetual right and easement over the entire Community to maintain the Conservation Areas, and all markers and signs pertaining thereto.

## **ARTICLE XVII GENERAL PROVISIONS**

Section 1. Duration. The covenants, conditions and restrictions contained in this Declaration or any amendment thereto shall run with and bind the land and any Owner or lessee thereof, and shall inure to the benefit of and be enforceable by the Declarant, the Association, or the Owner of any land subject to this Declaration or any Supplemental Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded. The covenants, conditions and restrictions shall be automatically extended for successive periods often (10) years unless an instrument signed by the Owners of two-thirds (2/3) of the Units is recorded which changes or terminates the covenants, conditions and restrictions in whole or in part. However, no instrument which changes or terminates the covenants, conditions or restrictions shall be effective unless executed and recorded at least ninety (90) days in advance of the end of the initial or any extension period hereof, and unless written notice of the proposed instrument is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Amendment.

(a) By Declarant. Until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration for any purpose; provided, however, any such amendment shall not adversely affect title to any Unit unless the Owner shall consent thereto in writing and so long as said amendment is not unequivocally contrary to the overall, uniform scheme of development for the Community. Thereafter, the Declarant may unilaterally amend

this Declaration, if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) required by an institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make, purchase, insure or guarantee mortgage loans on the Units; or (iv) otherwise necessary to satisfy the requirements of any governmental agency; provided, however, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Owners. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than the Declarant, and the consent of the Declarant, so long the Declarant has an option to subject additional property to this Declaration pursuant to Article II, Section 2. In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the land records of St. Johns County, Florida; unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the property within the Community, which rules and regulations shall be consistent with the rights and duties established by this Declaration and the Architectural Standards. Such rules and regulations shall be binding on all Owners and occupants.

Section 4. Termination. Should the Members vote not to renew and extend this Declaration, the Common Area and/or Limited Controlled Facility controlled by the Association shall be transferred to a trustee appointed by the Circuit Court of St. Johns County, Florida, which trustee shall sell the Common Area free and clear of the limitations imposed hereby upon

terms established by a Circuit Court of St. Johns County, Florida. In such event, however, adequate provisions shall be made for the maintenance of any private water, sewer, streets or drainage facilities located within the Common Area, and such maintenance responsibility shall not become the responsibility of the City of Jacksonville or St. Johns County without the consent of each. The proceeds of a sale of the Common Area first shall be used for the payment of any debts or obligations constituting a lien on the Common Area, then for payment of any obligation incurred by the trustee in the operation, maintenance, repair or upkeep of the Common Area and/or Limited Controlled Facility. The excess proceeds, if any, shall be distributed among the Owners in proportion to each Owner's Common Expenses.

Section 5. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the Person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 6. Severability. Invalidation of anyone of these covenants or restrictions by judgment or court order shall not affect any other provision, which shall remain in full force and effect.

Section 7. Partition. The Common Area and Limited Controlled Facility shall remain undivided, and no Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners within the Community and without the written consent of all holders of all mortgages encumbering any portion of the property within the Community.

Section 8. Gender and Grammar. The singular, wherever used herein shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 9. Captions. The captions of each Article and Section hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

...ing ... of the ... articles of ... to which they refer.

Section 10. Conveyances of Common Area. The Association shall accept conveyances of Common Area as are made from time to time to the Association by Declarant.

Section 11. Security. The Association will strive to maintain Coastal Oaks as a secure residential environment. HOWEVER, NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL IN ANY WAY BE CONSIDERED GUARANTORS OF SECURITY WITHIN THE COMMUNITY AND NEITHER THE ASSOCIATION NOR THE DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD, THE DECLARANT AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING ENTITIES, ARE NOT GUARANTORS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO

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PERSONS, LOTS, UNITS AND TO THE CONTENTS OF UNITS AND FURTHER ACKNOWLEDGE THE ASSOCIATION, ITS BOARD, THE DECLARANT AND COMMITTEES ESTABLISHED BY ANY OF THE FOREGOING ENTITIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SECURITY MEASURES RECOMMENDED OR UNDERTAKEN.

Section 12. Notices and Disclaimers as to Water Bodies. NEITHER DECLARANT, THE ASSOCIATION NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OF SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY ...

RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK.

ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITAT OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE COMMUNITY 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 OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

Section 13. Notices and Disclaimers as to Community Systems. Declarant, its affiliated entity, the Association, their successors or assigns may enter into contracts for the provision of security services through any Community Systems. DECLARANT, ITS AFFILIATED ENTITY, THE ASSOCIATION, THEIR SUCCESSORS OR ASSIGNS DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH SECURITY SYSTEM OR SERVICES, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS NOTIFY AUTHORITIES OF FIRES OR OTHER OCCURRENCES, OR THE

... SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF PROPERTY RECEIVING SECURITY SERVICES THROUGH THE COMMUNITY SYSTEMS ACKNOWLEDGES THAT DECLARANT, ITS AFFILIATED ENTITY, THE ASSOCIATION, ANY SUCCESSOR OR ASSIGN ARE NOT INSURERS OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE UNIT AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES. It is extremely difficult and impractical to determine the actual damages, if any, which may proximately result from a failure on the part of a security service provider to perform any of its obligations with respect to security services and, therefore, every owner or occupant of property receiving security services through the Community Systems agrees that Declarant, its affiliated entity, the Association, any successor or assign assumes no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of security service or failure to respond to an alarm because of (a) any failure of the Owner's security system, (b) any defective or damaged equipment, device, line or circuit, (c) negligence, active or otherwise, of the security service provider or its officers, agents or employees, or (d) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the security service provider. Every owner or occupant of a Unit obtaining security services through the Community Systems further agrees for himself, his grantees, tenants, guests, invitees, licensees and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the system, or from negligence, active or otherwise, of the security service provider or its officers, agents, or employees, the liability, if any, of the Declarant, its affiliated entity, the Association, their successors or assigns for loss, damage, injury or death shall be limited to a sum not exceeding Two Hundred Fifty U.S. Dollars (\$250.00), which limitation apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise, or non-performance by an officer, agent or employee of Declarant, its affiliated entity, the Association, their successor or assign of any of same. Further, in no event will Declarant, its affiliated entity, the Association, their successors or assigns be liable for consequential damages, wrongful death, personal injury or commercial loss. In recognition of the fact that interruptions in cable television and other Community Systems services will occur from time to time, no person or entity described above shall in any manner be liable, and no user of any Community System shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in Community Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider of such services.

Section 14. Mortgagee Provisions. The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Community. The provisions of this Section apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein:

(a) Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the street address of the Unit to which its

