

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
WEST END VILLAS AT NOCATEE

THIS DOCUMENT PREPARED BY:

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**DECLARATION
OF
COVENANTS AND RESTRICTIONS
FOR
WEST END VILLAS AT NOCATEE**

THIS DECLARATION is made this 30th day of June, 2021 by **SONOC COMPANY, LLC**, a Delaware limited liability company the "Developer"), which declares that the real property described on **Exhibit "A"** attached hereto and made a part hereof (the "Property"), which is owned by the Developer, 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, as such term is defined by Section 2.8 hereof, and shall be binding upon the Developer, the Association, 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 1.1 **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 1.2 **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

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association**. West End Villas at Nocatee Homeowners Association, Inc., a Florida corporation not-for-profit and its successors and assigns. 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 hereto and made a part hereof as **Exhibit "C"** and **Exhibit "D"**, respectively.

Section 2.2 **Board**. The Board of Directors of the Association.

Section 2.3 **Common Area**. All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which is owned by the Developer or by the Association, and which the Developer has designated for the common use of the Owners by reference thereto in this Section 2.3 or by recording a Supplementary

Declaration, pursuant to the terms of Section 4.3 hereof. The Common Area initially designated by the Developer shall consist of the real property (and interests therein) more particularly described on **Exhibit "B"** attached hereto and made a part hereof together with all improvements constructed therein by Developer, but not owned or maintained by a public or private utility company.

Section 2.4 **Developer**. SONOC Company, LLC, a Delaware limited liability company and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer 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 the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to SONOC Company, LLC as the Developer of the Property is not intended and shall not be construed, to impose upon SONOC Company, LLC any obligations, legal or otherwise, for the acts or omissions of third parties who purchase lots or parcels within the Property from SONOC Company, LLC and develop and resell the same.

Section 2.5 **Limited Common Area**. The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the paved road surface (as it may exist from time to time) and between the rear Lot line and the nearest shore line of any lake contiguous to or within forty (40) feet of the Lot, within the area bounded by the extension of the side Lot lines, together with any portion of the Property contiguous to a Lot which, as a result of the natural configuration of the Property, is primarily of benefit to such Lot. Any question concerning the boundary of a Limited Common Area shall be determined solely by the Board.

Section 2.6 **Lot**. Any platted residential lot or any other parcel of real property located within the Property, on which one or more single family dwellings have been or could be constructed as part of a multifamily building. No Lot shall include any portion of the Common Area.

Section 2.7 **Owner**. The record owner or owners of any Lot.

Section 2.8 **Property or Subdivision**. 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 Sections 3.2 and 3.3 of this Declaration.

Section 2.9 **Unit**. A single-family dwelling located on a Lot as part of a multifamily building.

Section 2.10 **The Work**. The initial development of all or any portion of the Property as a residential community by the construction and installation of streets, buildings, and other improvements, and the sale, lease, or other disposition of the Property in parcels. Such term is to be broadly construed to include any and all activities, uses, structures, and improvements necessary, convenient, or desirable to accomplish such construction and disposition.

Section 2.11 **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 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.

ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION:
ADDITIONS AND DELETIONS

Section 3.1 **No Implied Extension of Covenants.** Each Owner and each tenant of any improvements constructed on any Lot, 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 3.2 hereof 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 the Developer to subject any other property now or hereafter owned by the Developer 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 3.2 hereof.

Section 3.2 **Additional Lands.** Developer 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 substantially contiguous to the Property then subject to this Declaration (for purposes of this Section 3.2, property separated only by public or private roads, water bodies, golf courses, or open space, or which may be reasonably integrated into the overall development of the Property shall be deemed substantially 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 the Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer 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 3.3 **Withdrawal of Lands.** With the consent and joinder of Owners holding a majority of the votes in the Association, the Developer 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 the Developer'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 St. Johns County, Florida, a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn. Notwithstanding anything to the contrary contained herein, the Developer may elect to convey all or a portion of the Property to the Tolomato Community Development District (the "CDD") and, at Developer's option, Developer may withdraw such portions of the Property to be conveyed to the CDD from this Declaration and from any Common Area designation under this Declaration. Such withdrawal of land from this Declaration shall be evidenced by recording a Supplementary Declaration in the

public records of St. Johns County, Florida, which shall specifically reference the land to be withdrawn.

ARTICLE IV **COMMON AREA RIGHTS**

Section 4.1 **Conveyance of Common Area**. Developer agrees that all of the Common Area owned by Developer shall be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record, on or before the date which is one hundred twenty (120) days after the Developer shall no longer own any Lot, and the Association shall accept such conveyance or assignment. 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.

Section 4.2 **Owners' Easement of Enjoyment**. Each Owner shall have a nonexclusive, perpetual right and easement of enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to, and shall pass with, the title to the land of such Owner, subject to the following:

- (a) The right of the owner of the Common Area, with the consent of the Developer (if different from such owner) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility;
- (b) All provisions of this Declaration, any plat of all or any parts of the Property, and all applicable governmental restrictions;
- (c) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;
- (d) The right of the Association to charge reasonable admission charges for the use of specific portions of the Common Area by Owners and other parties;
- (e) The rights of the Developer under Section 4.3 to add to or withdraw land from the Common Area;
- (f) Easements, restrictions, agreements and other matters of record; and
- (g) The right of the Association to convey, mortgage, or otherwise encumber any or all of the Common Area.

The foregoing easement of enjoyment in favor of the Owners shall not be construed to create or imply any other easements or rights not expressly created by this Declaration, it being the intent hereof to limit the Owners' rights of use of specific portions of the Common Area to only the intended purposes of such portions of the Common Area. For example, the creation of each Owner's right to drain such Owner's Lot into the portions of the Common Area included within the Surface Water or Stormwater Management System, does not create any right of access by any Owner to such

portions of the Common Area over any other Owner's Lot or other privately owned portions of the Subdivision.

Section 4.3 **Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area.** Notwithstanding anything to the contrary contained in this Declaration, the Developer shall have the right, in its sole discretion, to designate land, easements, use rights and personal property owned by the Developer as Common Area, provided only that such land shall be located within the Property or substantially contiguous to the Property (for purposes of this Section 4.3, property separated only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous). For so long as the Developer shall own any portion of the Property, the Developer may, at any time, withdraw, or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect any Lot, or materially and adversely affect access, visibility, or drainage to or from any Lot, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Lot which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of St. Johns County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.3 hereof, or subsequently designated as such by the Developer pursuant to Section 2.3 hereof and this Section 4.3, even if the Developer consents or acquiesces to the use of such land by the Owners. In the event any land, easements, use rights, or personal property owned by the Association shall be withdrawn from the Common Area pursuant to this Section 4.3, upon the Developer's written request, the Association shall promptly execute and deliver to the Developer any and all deeds, bills of sale, assignments or other conveyance documents as may be necessary or appropriate to effectuate the withdrawal of such Common Area.

Section 4.4 **Maintenance of Common Area and Compliance with Applicable Permits.** The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Area and any improvements and landscaping (except utilities owned and maintained by public or private utility companies providing water, sewer, electrical, fire protection, cable television, telephone, or similar utilities to the Property, or any portion thereof) situated on the Common Area, if any. In addition, the Association may maintain certain landscaping located within or adjacent to the right of way of certain off-site roadways. The Association shall maintain all lakes, drainage areas, drainage easement, and control structures and shall preserve and protect all current and future conservation areas (including, without limitation, any wetland or conservation areas created or enhanced before or after control over the Association has been turned over from the Developer to the Owners) and littoral zones located within, adjacent, or in near proximity to the Property in accordance with the terms and provisions of any conservation easements and all permit requirements and conditions contained in applicable dredge and fill, consumptive use, surface water permits, or any other applicable permits issued by the United States Army Corps of Engineers ("ACOE"), Florida Department of Environmental Protection ("FDEP"), St. Johns River Water Management District ("SJRWMD"), and St. Johns County, Florida (the "County"), and all statutes, rules, regulations and requirements pertaining to surface water management, drainage and water quality promulgated by the SJRWMD, the FDEP, and all other

local, state and federal authorities having jurisdiction. The Association shall maintain those portions of the Common Area designated by applicable permit or other instrument as conservation tracts, stormwater management tracts or similar designations, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction. The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance of other surface water, or stormwater management capabilities as permitted by the SJRWMD. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by the SJRWMD. All maintenance obligations of the Association shall be performed as ordered by the Board, and all or any portion of the cost of such maintenance incurred by the Association pursuant to this Section 4.4, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 4.5 **Easement for Maintenance, Access and Drainage Purposes.** The Developer hereby grants to the Association, and its respective successors, assigns, agents, and contractors, an easement in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of access to and maintenance of the Common Area, including the Surface Water or Stormwater Management System, or other portions of Property to be maintained by Association, in accordance with the requirements of this Declaration or as provided by law (including, without limitation under Article VI below). The Association shall have a perpetual non-exclusive easement over all areas of the Surface Water or Stormwater Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is part of the Surface Water or Stormwater Management System, at reasonable times and in a reasonable manner, to operate, maintain or repair such system or as required by the SJRWMD permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire Surface Water or Stormwater Management System. No person shall alter the drainage flow of the Surface Water or Stormwater Management System, including buffer areas or swales, without the prior written approval of the SJRWMD. The easement granted hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, or enjoyment of any improved portion of the Property. Further, in the event that any portion of the Property shall be damaged or altered in any way as the result of the exercise of the easement rights granted hereby, such portions of the Property shall be immediately restored to the condition that existed immediately prior to such damage or alteration by the party exercising such rights.

Section 4.6 **Utility and Drainage Easements.** The Developer reserves certain rights as provided herein for the benefit of itself and utility companies designated by Developer to service the Property, an easement over, upon and under the Property and the specific easement areas shown on the plat of the Property. The Developer shall have the unrestricted right, without the approval or joinder of any other person or entity, to designate the use and to alienate, release or otherwise assign the easements, except to the extent such easements have been dedicated to governmental authorities or public utility companies. The easements may be used to construct, maintain and operate water mains, drainage ditches, sewer lines and other suitable installations for drainage and sewage disposal, or for the installation, maintenance, transmission and use of electricity, gas, telephone, water and other utilities, provided such use of the easements shall not unreasonably interfere with

continued use and occupancy of any Unit by an Owner.

ARTICLE V
PROPERTY RIGHTS AND USE RESTRICTIONS AND RIGHTS AND EASEMENTS
RESERVED BY DEVELOPER

Section 5.1 **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 and for parking for such model homes during the development and sale of Lots within the Property. 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, reduced in size, or combined with another Lot without the prior written consent of the Developer. Assessments for common expenses attributable to any Lot which may be subdivided or combined pursuant to this Section 5.1 shall be reallocated by the Developer, in its sole discretion, at the time written consent for such subdivision is given by the Developer.

Section 5.2 **No Detached Buildings.** No detached 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 Developer.

Section 5.3 **Setbacks.** Front, rear and side building setbacks for all dwellings and related structures shall be as established by the Architectural Criteria.

Section 5.4 **Easement Areas.** No dwelling shall be erected within any easement area shown on any plat of all or any portion of the Property.

Section 5.5 **Measurement of Setbacks.** All setbacks shall be measured in accordance with the Planned Unit Development Ordinance applicable to the Property.

Section 5.6 **Landscaping and Irrigation.** Landscaping and irrigation shall be installed on each Lot in accordance with the requirements of the Architectural Criteria.

Section 5.7 **Motor Vehicles and Boats.** No watercraft (including without limitation, boats and jet skis), recreation vehicles (including golf carts, campers, and motor homes), mobile homes, house trailers, trailers of every description (including boat trailers) or other motor vehicles, except four wheel passenger automobiles, shall be placed, parked or stored upon any Lot, nor shall any maintenance or repair be performed upon any such items upon any Lot, except within a building/garage, or otherwise screened, so as to be totally isolated from public view. Street parking and parking within any Common Area is prohibited; provided that, subject to rules and regulations established by the Developer of the Association, motor vehicles may be parked within Common Areas designated as parking areas by the Developer or the Association. All Owners and their guests must park their vehicles in such Owners' driveway or within a garage and not on any other portion of a Lot or other parcel within the Property. Commercial vehicles shall not be parked within the Property within public view on a regular basis. Construction trailers may be parked only with the prior written consent of the Developer and in an area designated by the Developer. Notwithstanding any provision of this Section 5.7 to the contrary, the Board of Directors shall have the authority to grant permission for the temporary parking of recreational vehicles on a case by case basis, provided

that in no event shall any recreational vehicle be parked on any Lot for more than seven (7) consecutive days.

For purposes of this Section, "commercial vehicles" shall mean a truck, motor home, bus or van of greater than three-quarter (3/4) ton capacity or any vehicle, including a four wheel passenger automobile, with a sign displayed on any part thereof advertising any kind of business or within which any commercial materials and/or tools are visible. The determination of the Board as to whether or not a certain motor vehicle is a "commercial vehicle" shall be dispositive. The restrictions on the parking of commercial vehicles contained in this Section shall not apply to the temporary parking of construction vehicles for construction, repair or maintenance services to a Lot, for providing pick-up and delivery services, or any vehicles of the Developer.

Section 5.8 **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, radio, or internet 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 5.9 **Antenna**. The installation of all aerials, antennae or satellite dishes shall be subject to the approval of the Developer in accordance with the Architectural Criteria imposed by the Developer or the Association from time to time and applicable law.

Section 5.10 **Lakes**. Only the Developer and the Association shall have the right to pump or otherwise remove any water from any lake adjacent to or near to the Subdivision for the purpose of irrigation or other use, or to place any refuse in such lake or lakes. The Developer shall have the sole and absolute right (but no obligation) to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. No boats shall be permitted to be operated on any lake except as may be permitted by the Board. No swimming shall be permitted in any lake. Lots which now or may hereafter be adjacent to or include a portion of a lake (the "lake parcels") shall be maintained so that such grass, planting or other lateral support to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Association. Further, all shoreline vegetation, including cattails and the like, shall be maintained and controlled by the Owner of any lake parcel pursuant to the requirements of Section 5.10 hereof. If the Owner of any lake parcel fails to maintain the embankment or shoreline vegetation as part of its landscape maintenance obligations in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such lake parcel to perform such maintenance work which may be reasonably required, all at the expense of the Owner of such lake parcel pursuant to the provisions of Article VI of this Declaration. Title to any lake parcel shall not include ownership of any riparian rights associated therewith. No docks, bulkheads or other structures shall be constructed on such embankments unless and until same shall have been approved by the Developer. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with use of the surface waters of any lake adjacent to or nearby the Subdivision. The Association shall have the right to deny such use to any person who in the opinion of the Association

may create or participate in the disturbance or nuisance on any part of the surface waters of any such lake. The use of the surface waters of any such lake shall be subject to rights granted to other persons pursuant to the rules and regulations of the Association.

Section 5.11 **Trees**. Except in connection the initial development of the Property by the Developer, no tree or shrub, the trunk of which exceeds six (6) inches in diameter one (1) foot above the ground, shall be cut down, destroyed or removed from a Lot without the prior express written consent of the Developer.

Section 5.12 **Artificial Vegetation**. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the Developer.

Section 5.13 **Signs**. No sign of any kind shall be displayed to the public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the Developer.

Section 5.14 **Lighting**. No exterior lighting shall be permitted which alters the residential character of the Subdivision. Holiday lighting and decorations shall be permitted to be placed upon the exterior portions of a Residential Dwelling Unit and upon a Lot in a tasteful, respectful manner (as determined by the Board) during a period commencing on Thanksgiving and continuing through January 10 of the following year, after which such lighting and decorations shall be removed. Lighting and decorations for any holiday other than that referenced above shall be permitted commencing fifteen (15) days prior to said holiday and continuing for five (5) days following said holiday, after which time said lighting and decorations shall be removed. The Board may establish standards for holiday lighting and decorations, and may require the removal of any lighting that creates a nuisance.

Section 5.15 **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. The Board shall have the right to adopt rules governing the ownership and maintenance of pets. Each Owner shall be responsible for cleaning up after such Owner's pet, including without limitation, the prompt removal of excrement from all portions of the Property.

Section 5.16 **Fences**. Except as approved by the Developer, no fence, wall or other barrier shall be constructed upon any Lot or any other portion of the Property. Any fence installed in conjunction with the initial construction of a home on any Lot or Limited Common Area shall be maintained in a state of good repair and replaced as necessary by the Owner of the applicable Lot. Further, no such fence may be removed or altered without the approval of the Developer pursuant to Article IX hereof.

The Owners of Lots adjacent to any fences installed or to be installed by or on behalf of Developer, the Association and/or the Tolomato CDD and located from time-to-time on or about Tracts "D", "E", "F", and "G" and on or about the rear Lot lines of Lots 16 through 34, as shown on the plat of Town Center West End Phase 2, recorded in Map Book 108, pages 49 through 53, of the public records of St. Johns County, Florida (each individually, a "Fence Tract"), shall, at each such Owner's sole cost and expense, maintain the area of the Fence Tract which bounded by such fence and the extension of the side and/or rear lot lines (as applicable) of the applicable Lot to such fence and/or wall in accordance with the requirements for the maintenance of Lots and Limited Common Areas as set forth in this Declaration. The Owners specifically acknowledge and agree that such fences may be located within some Lot boundaries, and that the Tolomato CDD and Association has an easement for such fences and such fence may not be removed without the Association's written consent. Subject to the terms and provisions of this Declaration, such Owners may also, at each such Owner's sole cost and expense, construct, maintain, repair and replace a fence along the side and/or rear lot lines (as applicable) of its Lot which abuts the fence installed by or on behalf of Developer, the Association, or the Tolomato CDD within a Fence Tract; provided that the Developer, the Association or the Tolomato CDD may remove (without any liability to any Owner, including, without limitation, any costs associated with reinstalling or relocating any fence) all or any portion of such fences installed by an Owner as is reasonably necessary to perform any construction, installation, repair, maintenance or replacement work within a Fence Tract. Developer hereby grants to each Owner of a Lot adjacent to a Fence Tract a non-exclusive, revocable easement for the purposes of maintaining the Fence Tract and installing a fence within a Fence Tract as described in this paragraph.

The Developer hereby grants to the Association and the Tolomato CDD and their successors, assigns, agents, and contractors, a perpetual non-exclusive easement in, on, over and upon such portions of the Property as may be reasonably necessary for the purpose of installing, maintaining, repairing, and replacing such fences, including, without limitation, the right to enter upon any portion of any Lot for such purpose.

The Association shall, at the Association's costs and expense (but subject to reimbursement through the assessments levied under this Declaration), maintain, repair and replace as necessary (as reasonably determined by the Association) any fencing installed by or on behalf of Developer, the Association and/or the Tolomato CDD on or about Tracts "D", "E", "F", and "G" and on or about the rear Lot lines of Lots 16 through 34, as shown on the plat of Town Center West End Phase 2, recorded in Map Book 108, pages 49 through 53, of the public records of St. Johns County, Florida (the "West End Phase 2 Plat").

No Owner shall damage, destroy or otherwise interfere with any such fences. As to any damage or injury to such fences caused by an Owner, or his/her family, guests, invitees, contractors or agents, such Owner shall reimburse the Association for the repair costs incurred by the Association within fifteen (15) days of receipt of an invoice therefor. The Association shall have the right to place a lien on an Owner's Lot in accordance with the terms of this Declaration for the failure to pay the costs of such work within such fifteen (15) day period.

Section 5.17 **Compliance with Laws**. All Owners and other occupants of the Property shall at all times comply with all zoning, environmental, land use, marketing and consumer protection ordinances, statutes and regulations applicable to the Property or to any improvements constructed

thereon, as well as all governmental rules, regulations, statutes and ordinances applicable to each Owner in connection with operation of improvements located within the Property. Without limiting the generality of the foregoing, no approval granted pursuant to the provisions of this Declaration shall excuse any Owner from complying with any and all applicable zoning or land use laws.

Section 5.18 **Unit Restrictions**. Following completion of the Work, a Unit Owner may not cause or permit any alteration or modification to be made to the structural components, roof, or exterior appearance of his Unit (except as authorized or required by this Declaration), including without limitation, the installation of window air conditioners, nor make any additions to the exterior of his Unit without the prior written approval of the Association, except that an Owner shall replace broken windows and doors with windows or doors of the same style and equal or greater quality as originally installed as part of the Work. Since the routine landscaping maintenance for the Lots on which a Unit is located shall be the responsibility of the Association, no material modifications shall be made to the landscaping plan established by the Developer without the prior written approval of the Association.

Section 5.19 **Reservation of Right to Release Restrictions**. If a building or other 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, the Developer shall have the right to waive or release the violation, variance, or encroachment without the consent and joinder of any person so long as the Developer, in the exercised 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 Lots and the overall appearance of the Property. In addition, in each instance where a structure has been erected, or the construction thereof is substantially advanced, in such a manner that some portion of the structure encroaches upon the boundary of any Lot, Developer reserves for itself the right to release such Lot from the encroachment and to grant an exception to permit the encroachment by the structure over the Lot line, without the consent or joinder of any person, irrespective of who owns the burdened Lot or easement area, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots and the overall appearance of the Property. Upon the granting of such a release to an Owner, copies of such grants shall be forwarded to adjacent Owners and shall be binding upon all subsequent Owners of each of the affected Lots.

Section 5.20 **Easements for Ingress, Egress, Utilities and Drainage**. The Developer reserves for itself, its successors, assigns and designees, a right-of-way and perpetual, nonexclusive easement for ingress and egress and to construct, maintain and use utilities, electric, telephone and street lighting poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ways and structures, or other public conveniences or utilities, on, in and over, (i) any portion of the Common Area; and (ii) any area designated as an easement, private street or right-of-way area on any plat of all or any portion of the Property.

Section 5.21 **Drainage Flow**. Drainage flow shall not be obstructed or diverted from drainage easements. The Developer or the Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to be necessary to maintain reasonable aesthetic standards relative to the Property and surrounding properties. These easements include the right to cut any trees, bushes or shrubbery, make any grading of the land, or to

take any other reasonable action necessary to install utilities and to maintain reasonable aesthetic standards, but shall not include the right to disturb any permanent improvements erected upon a Lot which are not located within the specific easement area designated on the plat or otherwise reserved in this Declaration. All Lots shall at all times be graded so as to comply with the Neighborhood Grading Plan approved by St. Johns County, Florida and all permits issued by the St. Johns River Water Management District.

Section 5.22 **Future Easements.** Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any portions of the Property owned by Developer. In addition, Developer hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Area so long as Developer shall own any portion of the Property. The easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Area.

Section 5.23 **Reserved Easements.** The Developer reserves for itself, the Association, and their respective agents, employees, successors or assigns, easements, in, on, over and upon each Lot and the Common Area as may be reasonably necessary for the purpose of installing, enhancing, creating, preserving, maintaining or improving roadways, landscaped areas, conservation areas, wetland areas, lakes, ponds, hammocks, wildlife preserves or other Common Areas.

Section 5.24 **Mailboxes.** If the Property does not utilize a centralized mail delivery system (e.g., clustered-type mailboxes), a mailbox shall be constructed on each Lot in compliance with the applicable Architectural Criteria, and such mailbox shall constitute the sole location for the delivery of mail to the occupants of such Lot. If cluster-type mailboxes are installed by the Developer on the Property, such cluster-type mailboxes shall be owned and maintained by the Association, at the Association's sole cost and expense. The Board shall have the right to establish, modify and enforce policies and procedures for the use of such cluster-type mailboxes, which shall include, without limitation, a charge for replacement mailbox keys.

Section 5.25 **Subdivision Development Activities of Developer.** During the time that Developer shall be engaged in the construction of roadways, utilities and other infrastructure within the Property, Developer reserves the right to enter upon each Lot for the purpose of clearing trees and vegetation, and the excavation and filling of areas (including permitted jurisdictional wetlands) that in the judgment of the Developer need to be cleared and filled for the installation of utilities, proper grading of right-of-way areas, or for aesthetic reasons. All areas to be disturbed on any Lot shall be filled with suitable fill material to an elevation equal to or higher than the existing grade. All work performed by the Developer or its contractors on all Lots pursuant to this Section 5.25 shall be performed in accordance with all applicable construction and environmental permits. The Developer shall indemnify, defend and hold harmless each Owner from and against any and all claims, liability or damages arising in connection with any clearing or filling activities conducted by the Developer on each such Owner's lot.

Section 5.26 **Sidewalks.** Any Owner of a Lot developing a Residential Dwelling Unit on such Lot shall construct any sidewalk on or in front of such Lot, in accordance with the subdivision construction plans submitted to and approved by St. Johns County, Florida. Such sidewalk shall be completed prior to the issuance of a certificate of occupancy for such Lot.

Section 5.27 **Hazardous Materials**. No Owner shall cause or permit any “Hazardous Substances” (as defined below) to be generated, placed, held, stored, used, located or disposed of on the Property, except for Hazardous Substances commonly and legally used for household cleaning purposes and subject to compliance with all applicable laws, statutes, codes, ordinances and rules and regulations. “Hazardous Substances” shall mean any hazardous wastes and toxic substances, including, without limitation, those regulated under the Resource Conservation and Recovery Act of 1976, as amended in 1984; (42 U.S.C. Sec. 6901 et seq.); the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended in 1986; (42 U.S.C. Sec. 9601 et seq.); the Federal Toxic Substances Control Act; (15 U.S.C. Sec. 2601 et seq.); the Clean Air Act; (42 U.S.C. Sec. 7401 et seq.); the Pollutant Spill Prevention and Control Act; (F.S. Chapter 376 et seq.); and any other state, federal or local statutes or ordinances pertaining to environmental contamination, together with all rules, regulations, orders and the like, applicable to the same.

Section 5.28 **Trash**. No rubbish, trash, garbage or other waste material shall be kept or stored on any Lot, except for in trash receptacles which shall not be visible from any portion of the Common Area or any other Lot. Except as may be permitted by the Board, trash receptacles shall be placed curbside no earlier than 5:00 P.M. of the day prior to pick-up by garbage and trash removal services, and shall be removed from curbside no later than 10:00 P.M. of the day of pick-up. Developer reserves the right, but is not obligated, to impose (and modify from time-to-time) and enforce rules and regulations relating to trash receptacles and the trash collection procedures for the Property. This Section shall not apply to construction sites; provided that construction sites shall be kept in a neat and orderly condition.

Section 5.29 **Clothing Lines**. No clothing lines, clothing or any other items shall be hung, dried or aired in a manner which is visible from any portion of the Common Area or any other Lot.

Section 5.30 **Firearms**. The discharge of firearms within the Property is prohibited. No firearms are allowed within the Common Area unless the firearm is carried by a certified law enforcement officer. The term “firearms” includes “BB” guns, “airsoft” guns, and any other guns (toy or otherwise) which shoot a projectile, regardless of size. Notwithstanding anything in this Declaration, the Articles or the Bylaws to the contrary, the Association shall not be obligated to take any action to enforce this Section.

Section 5.31 **Intersections**. All Lots located at street intersections shall be landscaped and maintained so as to permit safe sight across street corners. No fence, wall, hedge or shrub shall be placed, planted or permitted to remain where it would create traffic or sight problems.

Section 5.32 **Leasing**. For purposes of this Declaration, “leasing” is the exclusive occupancy of a Residential Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit. All leases for Residential Dwelling Units shall (i) be in writing; (ii) have a term of at least twelve (12) months; (iii) lease the Residential Dwelling Unit in its entirety (e.g. separate rooms within the same Residential Dwelling Unit may not be separately leased); and (iv) include a provision by which the lessee agrees to be bound by the terms and conditions of this Declaration and any rules and regulations of the Association. Any Owner leasing its Residential Dwelling Unit shall remain responsible for the terms and conditions of this Declaration and any rules and regulations of the Association.

Section 5.33 **Pools**. No pools, Jacuzzis, or spas (above-ground, in ground or otherwise) shall be erected, constructed or installed on any Lot.

Section 5.34 **Air Conditioning Units**. No window air conditioning units may be installed on any Lot. All air conditioning units shall be screened from view from the Common Area and other Lots.

Section 5.35 **On-Site Fuel Storage**. No on-site storage of gasoline, fuels or other flammable or explosive matters shall be permitted on any Lot, except that up to five (5) gallons of gasoline may be stored on a Lot for emergency purposes and operation of lawn equipment.

Section 5.36 **Play Equipment**. Except as may be permitted by the Board, all bicycles, tricycles, scooters, skateboards and other play equipment, wading pools, baby strollers and similar items shall be stored so that such items are not visible from any portion of the Common Area or any other Lot. No basketball hoops or goals may be installed on any Lot.

Section 5.37 **Window Coverings**. All windows on any Residential Dwelling Unit which are visible from any Common Area or other Lots shall have window coverings which have a white or off-white backing or blend-in with the exterior color of the Residential Dwelling Unit. Reflective window coverings are prohibited. Temporary storm shutters are permitted but shall not be installed more than forty-eight (48) hours before hurricane or tornado warnings are issued by the local emergency management agency. The temporary storm shutters shall be removed either: (i) three (3) days after the hurricane warnings issued by the local emergency management agency are lifted; or (ii) if damage to a Residential Dwelling Unit has occurred, the latter of (a) fifteen (15) days after a hurricane affects the Property, or (b) immediately after repairs have been completed on the Residential Dwelling Unit.

Section 5.38 **No Solicitation**. No solicitation shall be allowed at any time within the Property, except by the Developer or its successors, assigns or designees during the marketing or the sale of Lots or houses.

Section 5.39 **Guests, Tenants and Invitees**. Each Owner shall be responsible for the actions of family members, guests, employees, agents, tenants or other invitees, and shall ensure that such individuals comply with this Declaration, the Articles, the Bylaws and the rules and regulations of the Association. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his/her act, neglect or carelessness or by that of any family members, guests, employees, agents, tenants or other invitees.

Section 5.40 **Conservation Areas**. As used in this Section, the term "conservation areas" means any land within the Property (or annexed into the Property as provided in this paragraph) designated or identified, at any time and from time-to-time, on a plat, by any permit or approval issued by any applicable governmental authority, or by Developer, in Developer's sole and absolute determination, as a conservation area, buffer area, or upland or wetland preservation, enhancement or creation area. Developer may, at any time and from time-to-time, evidence the designation of any land as part of the conservation areas under this Section and/or annex any land which is contiguous to the Property then subject to this Declaration (for purposes of this Section 5.40, property separated

only by public or private roads, water bodies, golf courses, or open space shall be deemed contiguous) into the Property subject to this Declaration and into the conservation areas under this Section by the recording in the public records of St. Johns County, Florida of a Supplementary Declaration executed by the Developer (without the consent and joinder of the Association or any other Owner). Each Owner and the Association acknowledge and agree that the conservation areas may provide mitigation or otherwise be a condition or requirement for the development of the Property and/or any other lands outside of the Property.

Subject to all applicable laws, permits, approvals, and recorded conservation easements, at any time and from time to time, Developer shall have the right to specifically define, amend, revise or modify (including, without limitation, removing land from the conservation areas and making any other uses of such land) the boundaries of the conservation areas or any portion thereof, and Developer's determination of the boundary and the extent of any conservation areas shall be dispositive for all purposes. At any time and from time-to-time, Developer shall have the right to execute and record an instrument which shall specifically define or amend the boundary and the extent of any conservation areas.

Developer hereby reserves for itself, and its agents, employees, contractors, successors, assigns and designees, a perpetual easement, in, on, over, under and through the conservation areas for the purposes of ingress and egress and to perform any work, installations, maintenance, replacements, monitoring or other activities required under any current or future permits or approvals affecting the conservation areas.

The Association shall cooperate with Developer as to Developer's permitting of the Property or any other lands so as to allow the inclusion of the conservation areas or any portion thereof selected by Developer in Developer's permits, including, without limitation, executing and promptly delivering to Developer (no later than five (5) days after request therefor) any permit applications, consents, conservation easements or other documents as may be required by Developer. The Association shall be deemed to have assumed any assignment of any or all rights and/or obligations (including, without limitation, the obligation to perform any creation, enhancement, preservation, monitoring or maintenance work and/or the obligation to be the operation and maintenance entity under any permit or approval) under any current or future permits or approvals affecting the conservation areas which are assigned by Developer to the Association. Without limitation of the automatic nature of such assignment and assumption, within ten (10) days of request from the Developer to the Association, the Association shall execute and deliver to Developer any instruments as may be required by the Developer or any governmental authority to confirm such assignment and assumption.

Upon the recordation of any deed or deeds conveying the conservation areas or any portion thereof to the Association, with or without the consent or joinder of the Association and regardless of whether or not such conservation areas have been designated as Common Area hereunder, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds, subject to all covenants, easements, restrictions and other matters of record.

Notwithstanding anything in the Declaration to the contrary, (i) the rights of Developer under this Section 5.40 are personally held by the named Developer set forth in the first paragraph of this Declaration and may only be assigned by a recorded assignment executed by such named Developer (or any specific assignee of such named Developer as described in this paragraph) which specifically

references the assignment of this Section 5.40, (ii) the terms and provisions of this Section 5.40 shall not be amended or terminated without the consent and joinder of such named Developer (or any specific assignee of such named Developer as described in this paragraph) and any attempt to do so shall be void *ab initio*, and (iii) the terms and provisions of this Section 5.40 shall control over any inconsistent terms and provisions otherwise set forth in this Declaration.

Section 5.41 **Flags and Flagpoles**. Any Owner may erect a freestanding flagpole no more than twenty (20) feet high on any portion of the Lot if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, applicable county or municipal ordinances. Furthermore, and notwithstanding any provision in this Declaration to the contrary, any Owner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and one portable, removable official flag, in a respectful manner, not larger than four and one-half feet (4.5) by six (6) feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag.

Section 5.42 **Garage Sale, Yard Sale, Estate Sale**. In no event may any Owner conduct a garage sale, yard sale, estate sale or similar sale on any portion of the Property, unless such sale is sponsored and approved in advance by the Association.

Section 5.43 **Platting and Additional Restrictions**. The Developer shall be entitled at any time, and from time to time, to plat or replat all or any part of the Property, and to file any covenants and restrictions, or amendments to this Declaration, with respect to any portion or portions of the Property owned by the Developer, without the consent or joinder of any other party.

ARTICLE VI
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 6.1 **Exterior Maintenance**. The Association shall, the cost of which shall be included in the Annual Assessments described in Article VII hereof, (i) replace the roof of each Unit, and (ii) paint and repaint the exterior building surfaces of each Unit. The Association shall perform its obligations under this Section 6.1 at the intervals and accordance to the customary standards established by the Association from time to time.

Section 6.2 **Services**. The Association may obtain and pay for the services of any person or entity to manage its affairs to the extent it deems advisable and may contract for such other personnel as the Association determines are necessary, convenient, or desirable for the proper operation of the Property or the performance of the Association's responsibilities hereunder, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom it contracts. Without limitation, the Association may obtain and pay for legal and accounting services necessary, convenient, or desirable in connection with the operation of the Property or the enforcement of this Declaration or the Association's Articles, Bylaws or rules and regulations. The Association may contract with others to furnish trash collection, insurance coverage, building maintenance, or other services or materials, to all of the Lots. Nothing herein shall be deemed to require the Association to provide such services.

Section 6.3 **Personal Property**. The Association may acquire, hold, and dispose of tangible and intangible personal property, subject to such restrictions as from time to time may be contained in the Association's Articles and Bylaws.

Section 6.4 **Rules and Regulations**. The Association from time to time may adopt, alter, amend, rescind, and enforce reasonable rules and regulations governing the use of the Lots and any Common Area, or any combination, so long as such rules and regulations are consistent with the rights and duties established by this Declaration, the Articles and Bylaws as they from time to time may be amended. The validity of the Association's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property as a residential community. The rules and regulations initially shall be promulgated by the Board and may be amended by a majority vote of the Board, provided that no rule, regulation, decision, or other action that reasonably may have the effect of waiving, lessening, impairing, or otherwise interfering with the scope or enforcement, or both, of any restriction imposed upon the property by this Declaration shall be effective.

Section 6.5 **Implied Rights**. The Association may exercise any other right, power, or privilege given to it expressly by this Declaration, the Articles or Bylaws and every other right, power, or privilege so granted or reasonably necessary, convenient, or desirable to effectuate the exercise of any right, power, or privilege so granted.

Section 6.6 **Access by Association**. The Association has a right of entry onto the exterior of each Lot located thereon to the extent reasonably necessary to discharge its rights of exterior maintenance, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted, by this Declaration. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever circumstances permit. Entry into a Unit may not be made without the consent of its Owner or occupant, except pursuant to court order or other authority granted by law except in the event of an emergency and only then to the extent necessary to prevent personal injury or property damage to the Common Area or any Unit. No Owner shall withhold consent arbitrarily to entry by the Association for the purpose of discharging any duty or right of exterior maintenance if such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. The Association's right of entry may be exercised by its agents, employees, contractors, and managers, and by the agents, or employees of any such contractor or manager.

ARTICLE VII **COVENANTS FOR ASSESSMENTS**

Section 7.1 **Assessments Established**. For each Lot owned within the Property, Developer covenants, and each Owner of any Lot by acceptance of a deed or other conveyance of record title to such Lot, whether or not it is so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association:

- (a) Annual Assessments, as defined in Section 7.2 of this Article;
- (b) Special assessments, as defined in Section 7.4 of this Article;

(c) Specific assessments against any particular Lot that is established pursuant to any provisions of this Declaration; and

(d) All excise or sales taxes, if any, that from time to time may be imposed upon all or any portion of the assessments authorized by this Declaration.

All of the foregoing, together with interest thereon from the due date at the highest lawful rate and all costs and expenses of collection, including reasonable attorneys' fees for pretrial preparation, trial and appeal, are a continuing charge on the land secured by a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, also is the personal obligation of the person who was the Owner of such Lot when such assessment fell due. Such personal obligation for delinquent assessments does not pass to an Owner's successors in title, however, unless assumed expressly in writing. No Owner may avoid liability for the assessments by waiver of rights use, or by non-use of, the Common Areas or by abandonment.

Section 7.2 **Purpose of Assessments.** The annual assessments ("Annual Assessments") levied by the Association shall be used for the purposes of management and accounting fees, taxes, insurance, utility charges relating to the Common Area (and to any other lands and improvements maintained by the Association), to fund the obligations of the Association set forth in this Declaration, to promote the recreation, health, safety, and welfare of the residents and occupants within the Property, and for all other purposes reasonably contemplated by the provisions of this Declaration the Articles, the Bylaws, or any cost sharing or similar agreement to which the Association may become a party. Annual Assessments shall also be used for the maintenance and repair of the Surface Water or Stormwater Management System, including, but not limited to, work within retention areas, drainage structures, and drainage easements. Further, Annual Assessments may be levied to fund reasonable reserved for deferred maintenance of, or non-recurring expenses related to, the Common Area, including, without limitation, the Surface Water or Stormwater Management System. The maintenance responsibility of the Association payable through assessment of the Owners shall specifically include, but not be limited to, the perpetual maintenance of all retention ponds, drainage swales, and all other drainage and stormwater management structures and improvements. Assessments collected by the Association to fund reserves shall be separately accounted for, it being the requirement of this Declaration that such funds shall be exclusively for deferred maintenance of, or non-recurring expenses related to, the Common Area including the Surface Water or Stormwater Management System.

Section 7.3 **Amount.**

(a) Until December 31 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$2,580.00 per Lot. The Board may fix the annual assessment at an amount not in excess of such maximums.

(b) Commencing with the fiscal year beginning January 1 of the year immediately following the conveyance of the first Lot to an Owner and each year thereafter, the Board, at its annual meeting next preceding such date, and each respective January 1 thereafter, may set the amount of the maximum Annual Assessment for the following year for each Lot, provided that the maximum annual assessment may not be increased more than fifteen percent (15%) above the maximum Annual Assessment for the previous year unless otherwise approved by the Board.

(c) The amount of the Annual Assessment shall be fixed by the Board at least 30 days before the beginning of each fiscal year and shall be payable in one or more installments as determined by the Board without interest so long as not more than fifteen (15) days delinquent. Written notice of such assessment shall be given to every Owner; but the failure to give such notice will not invalidate any otherwise proper assessment. In the absence of Board action to the contrary at least 30 days before the beginning of any fiscal year, the Annual Assessment then in effect will continue for such fiscal year.

Section 7.4 **Special Assessments**. In addition to the Annual Assessment, the Association may levy in any assessment year a special assessment (“Special Assessment”) applicable to that year for any purpose relating to permissible or required activities of the Association pursuant to this Declaration, the Articles, or any cost sharing or similar agreement to which the Association is or may become a party.

Section 7.5 **Specific Assessments**. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration, the Articles or Bylaws, including any indemnity, or by contract express or implied, or because of any act or omission of any Owner or occupant of such Owner's Lot or arising by reason of any Owner's failure to properly maintain the exterior of his Unit or Lot, or failure to maintain adequate insurance as required herein, also may be assessed by the Association against such Owner's Lot after such Owner fails to pay it when due and such default continues for thirty (30) days after written notice.

Section 7.6 **Commencement of Annual Assessment**. The obligation to pay Annual Assessments of each Owner, other than the Developer, shall commence upon issuance of a Certificate of Occupancy for a completed Unit located on such Lot to such Owner. The first Annual Assessment against any Lot shall be prorated according to the number of months then remaining in the fiscal year. The Association shall furnish to any interested person a certificate signed by an officer of the Association setting forth whether the Annual Assessment against a specific Lot has been paid and, if not, its unpaid balance. To defray its costs, the Association may impose a reasonable, uniform charge for issuing such certificates. A properly executed certificate of the Association as to the status of assessments on a Lot is binding on the Association as of the date of issuance. Annual Assessments and all other assessments against a Lot shall be collected monthly, quarterly or annually as determined by the Board.

Section 7.7 **Lien for Assessment**. All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien on such Lot in favor of the Association. Such lien is subject and inferior to the lien for all sums secured by any first mortgage held by an institutional lender (“First Mortgage”) encumbering such Lot. Except for liens for all sums secured by such First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Declaration, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors, or either, of the existence of the Association's lien and its priority. The Association may, but is not required to, record a notice of lien to further evidence the lien established by this Declaration as to any Lot against which the Annual Assessment is more than thirty (30) days delinquent.

Section 7.8 **Remedies of the Association.** Any assessment not paid within thirty (30) days after its due date bears interest at the rate of eighteen (18%) per annum, not to exceed the maximum rate from time to time permitted under the laws of the State of Florida. Further, the Association may impose a late fee of up to Twenty-Five and No/100 Dollars (\$25.00) for each delinquent assessment payment. The Association may bring an action at law against any Owner personally obligated to pay such assessment, or foreclose its lien against such Owner's Lot. No Owner may waive or otherwise escape liability for the Association's assessments by non-use of the Common Area, or common services provided by the Association or by abandonment of such Owner's Lot. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien, or its priority.

Section 7.9 **Foreclosure.** The liens for sums assessed pursuant to this Article may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property from time to time may be foreclosed in State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including interest, late fees and reasonable attorneys' fees for pretrial preparation, trial and appeal. All such costs and expenses are secured by the lien foreclosed. Such Owner also is required to pay to the Association any assessments against the Lot that become due during the period of foreclosure, which also are secured by the lien foreclosed and shall be accounted and paid as of the date the Owner's title is divested for foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding or conveyance in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as an owner', but for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction of the foreclosure may enter a personal judgment against the Owner or such deficiency, in its sound judicial discretion.

Section 7.10 **Homesteads.** By acceptance of a deed or other conveyance of title to any Lot, the Owner of each Lot is deemed to acknowledge conclusively that the Annual Assessment established by this Article is for the improving and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

Section 7.11 **Subordination of Lien.** The lien for the assessments provided in this Article is subordinate to the lien of any First Mortgage. Sale or transfer of any Lot does not affect the assessment lien, except that the sale or transfer pursuant to a mortgage foreclosure or any proceeding or conveyance in lieu thereof, extinguishes the assessment lien as to payment that becomes due before such sale or transfer. No such sale or transfer relieves such Lot from liability for assessment thereafter becoming due, or from the Association's lien. The Association shall report to the holder of any First Mortgage encumbering a Lot, any assessments remaining unpaid for more than 30 days and shall give such holder thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against such Lot, provided such First Mortgage holder has previously given the Association written notice of its mortgage, designating the Lot encumbered by a proper legal description and stating the address to which notices shall be given.

Section 7.12 **Capitalization of Association.** In addition to the other assessments to be paid pursuant to this Article VII, upon each and every conveyance to any party (the "Buying Party," specifically excluding a builder acquiring a Lot from the Developer to build a home thereon) of any Lot upon which a residential dwelling has been completed, the Buying Party shall contribute to the capital of the Association an amount equal to \$125.00, or such other amount as determined by the

Board from time to time (the “Capital Contributions”). This amount shall be collected at the closing of the purchase and sale of the applicable Lot and shall be disbursed to the Association. In no event shall the Developer be obligated to contribute to the capital of the Association pursuant to this Section 7.12. All Capital Contributions disbursed to the Association shall be accounted for separately on the books and records of the Association. During the Development Period, as such term is hereafter defined, the Capital Contributions disbursed to the Association shall be used only for repairs, replacements and deferred maintenance within the Property. Subsequent to the Development, such Capital Contributions may be used by the Association for any purpose authorized or contemplated by this Declaration.

Section 7.13 **Developer's Assessments**. Notwithstanding any provision of this Declaration to the contrary, during the Development Period (as defined below) the Lots and other portions of the Property owned by the Developer shall not be subject to any assessments of any description levied by the Association or to any lien for such assessments. During the Development Period, and in lieu of payment of any assessments to the Association, the Developer shall pay the balance of the actual operating expenses of the Association (excluding the cost of funding deferred maintenance and reserve accounts) remaining after the levying of and payment of assessments due from Owners other than the Developer pursuant to assessments levied by the Board pursuant to this Declaration. The Developer shall be obligated to fund such balance only as the expenses are actually incurred by the Association during the Development Period. The Development Period shall begin upon the conveyance of the first Lot in the Property to an Owner other than the Developer and shall continue until the first to occur of (i) the date that the Developer shall no longer have the right to appoint a majority of the Board; or (ii) the date that the Developer shall notify the Association that it will no longer pay for operating deficits of the Association. Upon termination of the Developer's agreement to pay operating deficits, the Developer shall become obligated to pay assessments on Lots owned by it within the Property on the same basis as other Owners. In no event shall the Developer be obligated to pay for operating deficits of the Association after the Developer no longer owns any Lots within the Property.

Section 7.14 **Area Assessments**. The Board may establish and levy Annual Assessments and/or Special Assessments to fund specific services authorized by the Board from time to time which shall benefit only specific portions of the Property (the “Area Assessments”). The Area Assessments shall be levied against only those portions of the Property that received the benefit of such services and shall be allocated among only those portions of the Property that receive the benefit of such services and shall be allocated among only the Owners of those Lots located within such portions of the Property, based upon the allocations established by Section 7.3 above. The boundaries of the portion of the Property that are deemed to receive the benefit of the Area Assessments authorized by this Section 7.14 shall be determined by the Board in its sole discretion.

Section 7.15 **Alley Owner Assessments**. Notwithstanding anything in the Declaration to contrary, in addition to, and without limitation of any Area Assessments, the cost of maintaining, repairing, paving, and replacing and all other costs and expenses related to Arlot Lane, Upton Lane, and Wilkes Lane, as shown on the Town Center West End Phase 2 Plat (the “Alleys”) (including, without limitation, taxes, assessments and insurance thereon) shall be funded by an annual and/or special assessments levied by the Association (the “Alleys Assessment”) against the Owners of Lots 71 – 106, as shown on the Town Center West End Phase 2 Plat (collectively, the “Alley Owners”). The Alleys Assessment shall be equally split among each of the Alley Owners and collected by the

Association on a periodic basis as determined by the Board of Directors from time-to-time. The obligation to pay the Alleys Assessment shall commence upon the issuance of a Certificate of Occupancy for a completed Unit located on a Lot subject to the Alleys Assessment. Sections 7.7, 7.8, and 7.9 of the Declaration shall apply to the Alleys Assessment.

ARTICLE VIII **OBLIGATIONS OF OWNERS**

Section 8.1 **Exterior Maintenance and Alterations.**

(a) **Generally.** Except for the Association's express roof replacement and painting obligations under Section 6.1 above, each Owner shall be responsible for maintaining, repairing and replacing his/her Unit, Lot and any improvements located thereon (including, without limitation, maintaining, repairing and replacing any landscaping, hardscaping, and irrigation improvements located on such Owner's Lot) in good condition and repair and in a well-kept appearance and in accordance with this Declaration and any rules and regulations of the Association. Without limitation of the foregoing, each Owner shall maintain and repair (i) the roof over his/her Unit in good condition and repair (each Owner acknowledges that the Association is only obligated to replace the roof in accordance with Section 6.1 above); and (ii) all exterior surfaces of his/her Unit in a neat, attractive and orderly appearance, condition and manner (including, without limitation, periodic pressure washing and cleaning of all windows, shutters, and all other exterior surfaces of the Unit). In connection with each Owner's obligation to maintain, repair and replace the landscaping, hardscaping, and irrigation improvements located on such Owner's Lot, (i) no weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot or Limited Common Area, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere within the Property; and (ii) all Lots and adjacent Limited Common Areas and any improvements placed thereon, shall at all times be maintained by the respective Owners of such Lots in a neat, attractive and orderly appearance, condition and 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. If any Owner fails to maintain his/her Unit, Lot and any improvements located thereon in accordance with this Declaration and any rules and regulations of the Association, then the Association may provide maintenance upon any Lot or Limited Common Area requiring same, when necessary in the opinion of the Association's Board of Directors. Each affected Owner shall have twenty (20) days within which to perform the required maintenance after being notified in writing by the Association that such maintenance is necessary before the Association undertakes the maintenance. Further, in the event that any landscaped or natural areas shall be removed or altered without approval pursuant to Article IX hereof, the Developer and the Association shall have the right to require that the applicable Owner restore such areas, and such obligation may also be enforced in accordance with the provisions of Article V hereof. During construction of each home or other improvements, the Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot. By rule adopted by the Board from time to time, the Board may specify the location for construction entrances and routes through the Property which shall be used by all parties participating in construction activities within the Property. Further, by rule adopted by the Board from time to time, the Board may specify exclusive locations for concrete washouts and similar uses occurring in connection with all such construction activities.

(b) Driveways and Sidewalks. Each Lot Owner shall be responsible for maintenance of the driveway serving his Lot.

(c) Lots. Each Owner shall, at such Owner's expense, maintain, repair and replace all glass surfaces and screening, doors, electric and plumbing equipment, air conditioning and heating units, and any other equipment, structures, improvements, additions, or attachments installed by an Owner. All maintenance and repair shall be performed by each Owner at regular intervals as shall be necessary to keep his/her Lot and Unit in an attractive condition and in substantially the same condition and appearance as existed at the time of completion of the work, subject to normal wear and tear that cannot be avoided by normal maintenance. If any Owner refuses or fails to timely maintain, repair, or replace, as the case may be, any exterior portion of his/her Lot or Unit required to be maintained by such Owner pursuant to this Section 8.1, following fifteen (15) days prior written notice from the Association to the Owner specifying the required maintenance or repair items, the Association may maintain, repair, or replace the portion of the Lot or Unit specified in the notice from the Association at such Owner's expense and the cost thereof shall be specifically assessed against such Owner's Lot as provided in Article VII of this Declaration.

(d) Alterations. An Owner may not cause or permit any material alteration in the exterior appearance of such Owner's Lot or Unit, including without limitation, the color of exterior surfaces of the improvements thereon, without the prior written approval of the Association.

Section 8.2 Insurance and Casualties. The following insurance requirements and provisions for casualties shall apply to each of the Units:

(a) Each Owner shall keep his Unit insured to the maximum insurable replacement value against loss or damage by fire or other hazards covered by a standard extended coverage endorsement and such other risks as from time to time are customarily covered with respect to improvements similar in construction, location and use as his Unit. Each Owner shall provide the Association with a certificate of insurance within fifteen (15) days of the issuance of the policy and within fifteen (15) days of each renewal thereof. Failure of an Owner to carry the insurance required herein shall permit the Association, following ten (10) days' notice to the Owner, to obtain the required insurance coverage and to specifically assess the Owner for the cost thereof, including a reasonable fee for placing the insurance.

(b) Such policies shall provide that insurance proceeds payable on account of loss of, or damage to a Unit shall be payable solely to the owner's mortgagee, if any, and the Owner except in the case of damage to more than one (1) contiguous Unit(s) in which case the damage shall be adjusted with the applicable insurance company or companies by the Association and the proceeds shall be payable to the Association, as trustee for the Owner(s) of the Units damaged and the Owner's mortgagee, if any. Such insurance proceeds shall be applied to repair or restoration of the Property as hereinafter provided. All such insurance policies shall provide that coverage may not be cancelled without first giving the Association, and Unit mortgagee, if any, thirty (30) days prior written notice of cancellation. All such policies shall contain, if obtainable without an increase in cost, a waiver of the right of subrogation against any Lot Owner, members of the Lot Owners family, the Association, its officers, agents and employees, as well as a waiver of the pro rata clause and no other insurance clause.

(c) In the event of damage or destruction by fire or other casualty to any portion of the Property covered by insurance payable to the Association as trustee for the Owners, the Board of Directors shall, with the concurrence of applicable holders of first mortgages, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as good condition as existed immediately prior to the casualty. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency. The Board of Directors shall obtain bids from at least two reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance and payment bond for the repair, construction or rebuilding of such building or buildings. In the event that insurance proceeds are insufficient to pay all the costs of so repairing or rebuilding the affected buildings, the Board of Directors shall levy a special assessment for the deficiency amount against all Owners of the damaged Units in such proportions as the Board of Directors shall deem fair and equitable. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners in such proportion as the Board of Directors deem fair and equitable in the light of the damage sustained by such residences. Such payments shall be made to all such owners and their mortgagees as their interests may appear.

(d) In the event of damage or destruction to a Unit by fire or other casualty, the proceeds of which are payable to a Unit Owner and applicable mortgagee, the damaged Unit shall be repaired or restored to its pre-existing condition as soon as reasonably practical. The affected Lot shall be promptly restored to a clean and orderly condition subsequent to any such damage or destruction.

ARTICLE IX **ARCHITECTURAL CONTROL**

Section 9.1 **Architectural Review and Approval**. No landscaping, improvement or structure of any kind, including without limitation, any building, house, fence, wall, screen enclosure, swimming pool, spa, ornamental statute, flag pole, play structure, satellite dish, well, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Lot, or upon the Common Area, nor shall any addition, change or alteration therein or thereof be made, unless and until the contractor, builder, person or entity responsible for the construction and/or installation of any such landscaping, improvement or structure (or any addition, change, or alteration there to) and the plans, specifications and location of the same have been submitted to, and approved in writing by the Developer or the Developer's designee. All plans and specifications, which without limitation shall include all exterior colors and materials, 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 Architectural Criteria, as such term is hereafter defined, which may be imposed from time to time by the Developer. All plans and specifications submitted for review shall be evaluated for total effect and may be disapproved by the Developer solely for aesthetic reasons, in the Developer's sole and absolute discretion. No approval of plans and specifications for improvements constructed upon any Lot shall be construed to establish precedent or otherwise obligate the Developer to approve applications involving similar designs proposed for other Lots. It shall be the burden of each Owner to supply two (2) sets of completed plans and specifications to the Developer and no plan or specification shall be deemed approved unless a written approval is granted by the Developer to the Owner submitting

same. The Developer shall approve or disapprove plans and specifications properly submitted within twenty (20) business 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 Developer to the Owner submitting same.

Section 9.2 **Review Procedures.** The Developer shall have the following rights with respect to architectural review and approval conducted in accordance with this Article:

(a) To promulgate, amend, eliminate or replace architectural criteria applicable to architectural review to be conducted by the Developer which shall be applicable to all or any portions of the Property (the "Architectural Criteria"). The Owner acknowledge that different portions of the Property may have different architectural themes, and that the Developer may promulgate and implement different sets of Architectural Criteria for different portions of the Property. Any amendment of the Architectural Criteria shall be consistent with the provisions of this Declaration. Notice of any amendment to the Architectural Criteria, which shall include a verbatim copy of such amendment, shall be delivered to each member of the Association. The delivery to each member of the Association of notice and a copy of any amendment to the Architectural Criteria shall not, however, constitute a condition precedent to the effectiveness or validity of such amendment. It shall not be necessary for the Architectural Criteria, or any amendment thereto, to be recorded.

(b) To require submission of two (2) complete sets of all plans and specifications for any improvement or structure of any kind requiring review and approval pursuant to this Article. The Developer may also require submission of samples of building materials proposed for use on any Lot, and may require tree surveys to show the effect of the proposed improvements on existing tree cover, and such additional information as reasonably may be necessary for the Developer to completely evaluate the proposed structure or improvement in accordance with this Declaration and applicable Architectural Criteria.

(c) To approve or disapprove in accordance with the provisions of this Article, any improvements or structures of any kind, or any change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot, and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon.

(d) To adopt a schedule of reasonable fees for processing requests for architectural 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 Developer.

(e) To require each Owner to deposit a reasonable sum (the "Construction Deposit") with the Association to secure such Owner's compliance with the terms of this Declaration and all plans and specifications approved in accordance with this Article.

(f) To assign to the Association, all or any portion of Developer's rights of architectural review as reserved by this Article.

Section 9.3 **Variance.** The Developer, in its sole and absolute discretion, may (but shall not be obligated to) authorize variances from compliance with any architectural provisions of this Declaration or applicable Architectural Criteria when deemed appropriate by the Developer, such as,

without limitation, 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 the Developer and no such variance shall be deemed approved or otherwise implied unless and until such written evidence shall have been delivered to the applicable Owner. If such a variance is 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 is 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 or Building Site and particular provisions of this Declaration or applicable Architectural 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.

Section 9.4 **Assignment**. The Developer reserves the right to assign its reserved rights under this Article to the Association, who upon such assignment shall automatically assume all of the Developer's obligations under this Article with respect to the rights assigned. Upon such assignment, the Association shall be authorized to form an Architectural Review Board ("ARB"), who shall serve at the pleasure of the Board. The ARB shall thereafter be authorized to exercise all rights of architectural control authorized by this Article. Notwithstanding anything in this Declaration to the contrary, the terms and provisions of this Article may not be altered, amended, or terminated without the written consent and joinder of the Developer.

Section 9.5 **Limited Liability**. IN CONNECTION WITH ALL REVIEWS, ACCEPTANCES, INSPECTIONS, PERMISSIONS, CONSENTS OR REQUIRED APPROVALS BY OR FROM THE DEVELOPER AS CONTEMPLATED BY THIS ARTICLE, THE DEVELOPER, THE ARB AND THE ASSOCIATION SHALL NOT BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON ON ACCOUNT OF ANY CLAIM, LIABILITY, DAMAGE OR EXPENSE SUFFERED OR INCURRED BY OR THREATENED AGAINST AN OWNER OR SUCH OTHER PERSON AND ARISING OUT OF OR IN ANY WAY RELATED TO THE SUBJECT MATTER OF ANY SUCH REVIEWS, ACCEPTANCES, INSPECTIONS, PERMISSIONS, CONSENTS OR REQUIRED APPROVALS, WHETHER GIVEN, GRANTED OR WITHHELD BY THE DEVELOPER, THE ARB OR THE ASSOCIATION.

ARTICLE X **PARTY WALLS**

Section 10.1 **General Rules of Law to Apply**. Each wall or fence built as a part of the Work upon the Property and placed on the dividing line between Lots is a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage caused by intentional, willful, or negligent acts or omissions apply.

Section 10.2 **Sharing of Repair and Maintenance**. The cost of reasonable repair, maintenance and replacement of a party wall and the foundation or footing supporting any party wall shall be shared by the Owners who make use of the wall or foundation in proportion to such use. In the event that any Owners should fail to refuse or perform or pay for any maintenance, repairs, or

restorations as required by this Article, the adjoining party wall Owner shall have the following remedy, in addition to any other remedies provided by the laws of the State of Florida:

(a) The affected Owner may serve written demand upon the delinquent Owner, demanding that the maintenance, repairs, or restoration be made within thirty (30) days after service of the demand. The demand shall be deemed to have been served if it is hand delivered to the delinquent Owner, or mailed to the delinquent Owner at the mailing address of the Lot owned by the delinquent Owner, by certified or registered mail, postage prepaid, and deposited in the United States Mail.

(b) After expiration of the thirty (30) days following service of the demand if the delinquent Owner has failed or refused to make the demanded maintenance, repairs or restorations, the affected Owner may cause such maintenance, repairs or restorations to be made. In such event the delinquent Owner shall be indebted to the affected Owner, for the expense of the maintenance, repairs or restorations, and any damage sustained by the Unit or loss or expense incurred by the affected Owner by reason of such failure to timely maintain or restore and such affected Owner shall have a lien against the delinquent Owner's Lot for the full amount of such indebtedness, together with interest at the maximum rate allowed by the laws of the State of Florida. No lien under this provision shall be acquired until a claim of lien is recorded. The form and substance of the claim of lien shall be as similar, as practicable as that provided by the Florida Construction Lien Law. Thereafter, the rights and duties and remedies of the respective Owners shall be those as provided to an Owner and a lien claimant under the Florida Construction Lien Law, including but not limited to the rules contained in the statute for discharge of liens, duration of liens, and transfer of liens to security. No lien acquired under the provisions shall be superior to or effective against any bona fide purchaser or mortgagee who shall have acquired their interest of record prior to the recordation of a claim of lien in accordance with this provision.

Section 10.3 **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty and is not repaired by the Owner as required herein, any Owner of a Lot abutting the wall may restore it; and, if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration in proportion to their use, all without prejudice to the right of any such Owner to call for larger contribution from the others under any rule of law regarding liability for negligent, willful, or intentional act or omissions.

Section 10.4 **Weatherproofing.** Notwithstanding any other provision of this Article, an Owner who by his negligent, willful, or intentional act causes any other Unit or party wall to be exposed to the elements, or to infestation by termites or other injurious agencies, shall bear the whole cost of furnishing the necessary protection against such elements or agencies and of repairing all resulting damage.

Section 10.5 **Right to Contributions Runs with Land.** The right of any Owner to contribution from any other Owner under this Article is appurtenant to the Lots affected and shall pass to and bind each such Owner's successors in title.

Section 10.6 **Easement.** In the event that there shall be located within any party walls pipes, vents, outlets, or other structures serving one or more Lot or Units, the Owner of each Lot so served shall have and enjoy a perpetual easement for the maintenance and use of any such pipe, vent, outlet or other structure.

ARTICLE XI
UTILITY PROVISIONS

Section 11.1 **Water System**. The central water supply system provided for the service of the Property shall be used as sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located within the Property. Each Owner shall pay water meter charges of the supplier thereof and shall maintain and repair all portions of the water lines serving such Owner's Lot or lines which are located between the water meter and Unit on the Lots. No individual potable water supply system or well for consumptive purposes or irrigation purposes shall be permitted on any Lot without the prior written consent of the Developer.

In its efforts to conserve water, St. Johns County has required the use of reclaimed water (treated wastewater), to irrigate all landscaped areas in Nocatee, including the parks, school yards, residential and commercial property, green belt areas and common areas. The use of reclaimed water to irrigate the Property will help conserve the domestic potable water supply. Reclaimed water is not potable and therefore not suitable for consumption. The water quality standards for reclaimed water, imposed upon the JEA, who is providing reclaimed water to Nocatee, are established by various governmental regulatory agencies, and the standard may change from time to time. In no event shall the Developer, its affiliated or any of their respective employees, agents, or consultants, be liable for any damage or personal injury caused by reclaimed water.

Section 11.2 **Sewage System**. The central sewage system provided for the service of the Property shall be used as the sole sewage system for all buildings and improvements located within the Property. Each Owner shall maintain and repair all portions of the sewer lines serving such Owner's Lot or lines which are located between the sewer clean-out structure and the Owner's Unit, and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal services made by the operator thereof. No sewage shall be discharged onto the open ground or into any wetland, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed within the Property.

Section 11.3 **Solid Waste Recycling**. Each Owner shall participate in any available solid waste recycling program instituted by the Developer, St. Johns County, Florida, or the solid waste collection provider. Solid waste collection receptacle pads may be constructed within the Property and shall be designed so as to include space for recycling bins compatible with the applicable recycling program collection equipment.

Section 11.4 **Utility Services**. It shall be the responsibility of each Owner to make direct arrangements with the suppliers of electricity, water, sewer, and any other utility services for service to the portions of the Property owned by such Owner.

Section 11.5 **Cable Television, Radio or Other Communication Lines**. The Developer reserves for itself, and its successors and assigns, a perpetual, exclusive easement for the installation, maintenance and operation of cables for the transmission of cable television, radio, or other electronic communications of any form, on, in, and over (i) any area designated as an easement, private street, or right of way on any plat of all or any portion of the Property, and (ii) any portion of the Common Area. All cables located within the Property shall be installed and maintained

underground. For purposes of this Section 11.5, the term "cables" shall include without limitation, all wire, coaxial, fiber optic, or other cable types intended for the transmission of electronic communications.

ARTICLE XII.
NOTICE OF PERMIT REQUIREMENTS

12.1 Jurisdictional Areas and Permits. THE PROPERTY HAS BEEN OR WILL BE DEVELOPED IN ACCORDANCE WITH REQUIREMENTS OF PERMIT NUMBER 87432-374, ISSUED BY THE SJRWMD (THE "PERMIT"), AS SUCH PERMIT MAY BE AMENDED FROM TIME TO TIME. THE PERMIT IS OR WILL BE OWNED BY THE DEVELOPER AND/OR THE ASSOCIATION AND THE DEVELOPER AND/OR THE ASSOCIATION HAVE THE OBLIGATION TO ASSURE THAT ALL TERMS AND CONDITIONS THEREOF ARE ENFORCED. THE DEVELOPER AND THE ASSOCIATION SHALL HAVE THE RIGHT TO BRING AN ACTION, AT LAW OR IN EQUITY, AGAINST ANY OWNER VIOLATING ANY PROVISION OF THE PERMIT.

FURTHER, ANY OWNER OWNING A LOT OR BUILDING SITE WHICH CONTAINS OR IS ADJACENT TO JURISDICTIONAL WETLANDS OR CONSERVATION AREAS AS ESTABLISHED BY THE ACOE OR SJRWMD OR BY ANY APPLICABLE CONSERVATION EASEMENT, SHALL BY ACCEPTANCE OF TITLE TO THE LOT OR BUILDING SITE, BE DEEMED TO HAVE ASSUMED THE OBLIGATION TO COMPLY WITH THE REQUIREMENTS OF THE PERMIT AS THE SAME RELATE TO SUCH OWNER'S LOT OR BUILDING SITE AND SHALL AGREE TO MAINTAIN SUCH JURISDICTIONAL WETLANDS AND CONSERVATION AREAS IN THE CONDITION REQUIRED UNDER THE PERMITS. IN THE EVENT THAT AN OWNER VIOLATES THE TERMS AND CONDITIONS OF THE PERMITS AND FOR ANY REASON THE DEVELOPER OR THE ASSOCIATION IS CITED THEREFOR, THE OWNER AGREES TO INDEMNIFY, DEFEND AND HOLD THE DEVELOPER AND THE ASSOCIATION HARMLESS FROM ALL CLAIMS, LIABILITIES AND COSTS ARISING IN CONNECTION THEREWITH, INCLUDING WITHOUT LIMITATION ALL COSTS 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, AS APPLICABLE.

ARTICLE XIII
ASSOCIATION INSURANCE

Section 13.1 **Common Area Insurance.** The Association shall maintain a policy or policies to insure the Common Area improvements and personal property located therein from loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and other casualty, such coverage to be in an amount sufficient to cover at least 80% of the full replacement cost (subject to such deductible amounts as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard and shall be in such form as the Board deems appropriate.

Section 13.2 **Public Liability Coverage.** The Association shall obtain comprehensive general liability coverage insuring the Association against any and all claims and demands made by any person for injuries received in connection with the operation and maintenance of the Common Areas and improvements located thereon, or for any other risk insured against by such policies which the Association, in its sole discretion, determines to insure against. Each policy purchased by the Association shall have limits of not less than \$1,000,000.00 covering all claims for personal injury and property damage arising out of a single occurrence. The liability coverage shall include protection against liability for non-owned and hired automobiles, and liability for hazards related to usage. In addition, the coverage shall include protection against liability that results from actions related to employment contracts in which the Association is a party. All such policies will name the Association (and Developer until all Common Area is conveyed to the Association pursuant to Section 4.1 above), as their respective interests may appear, as insured parties under such policy or policies. The original of each policy shall be held by the Board or in the office of the insurance trustee.

Section 13.3 **Premiums.** Premiums on policies purchased by the Association pursuant to this Article XIII shall be collected as part of the Annual Assessments on all Owners. If the amount of a premium is increased because a Unit or its appurtenances is misused or abandoned, then the Owner of such Unit shall be liable for the amount of such increase.

Section 13.4 **Policy Cancellation.** All insurance policies purchased by the Association shall require the insurer to notify, in writing, the Association or the designated insurance trustee, if any, at least ten (10) days before it cancels or substantially changes the coverage.

Section 13.5 **Association as Agent.** The Association is hereby irrevocably appointed agent for each Owner and for the mortgagee or other lienor of a Unit, and for each owner of any other interest in the Property, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

ARTICLE XIV
GENERAL PROVISIONS

Section 14.1 **Developer's Reserved Rights re: Easements.** Notwithstanding any provision of this Declaration to the contrary, the Developer shall have the right to specifically define or amend the boundaries or extent of any easement, license, or use right reserved or granted pursuant to the terms

hereof. At any time, the Developer shall have the right to execute and record an instrument which shall specifically define or amend the boundary and extent of any such easement, license or use right, or the Developer may specifically define or amend such boundaries by the designation thereof on one or more recorded plats of portions of the Property. The Developer's determination of the boundary and extent of any easement, license or use right reserved or granted pursuant to this Declaration in accordance with this Section 11.1, shall be dispositive for all purposes; provided nothing contained in this Section 11.1 shall authorize the Developer to take any action that would have a material and adverse effect on any improved portion of the Property.

Section 14.2 **Remedies for Violations.**

14.2.1 If any Owner or other person shall violate or attempt to violate any of the covenants or restrictions set forth herein or any other rules and regulations of the Association, it shall be lawful for the Association, the Developer or any Owner (i) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant; or (ii) to maintain any proceeding against those so violating or attempting to violate any such covenant for the purpose of preventing or enjoining all or any such violations, including mandatory injunctions requiring compliance with the provisions of this Declaration. The ACOE and the 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 and/or jurisdictional wetlands or conservation areas subject to the control of the ACOE or SJRWMD. In the event litigation shall be brought by any party to enforce any provisions of this Declaration, the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party or parties, reasonable attorneys' fees for pre-trial preparation, trial, and appellate proceedings. The remedies in this section shall be construed as cumulative of all other remedies now or hereafter provided or made available elsewhere in this Declaration, or by law.

14.2.2 Pursuant to Florida Statute 720.305, the Association may impose a fine or fines against an Owner as set forth in such statute, as may be amended from time to time. 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 14.3 **Severability.** Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 14.4 **Additional Restrictions.** No Owner, without the prior written consent of the Developer, may impose any additional covenants or restrictions on any part of the Property, but the Developer may include in any contract or deed hereafter made and covering all or any part of the Property, any additional covenants or restrictions applicable to the Property so covered which are not inconsistent with and which do not lower standards established by this Declaration.

Section 14.5 **Titles.** The addition of titles to the various sections of this Declaration are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge,

change, or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 14.6 **Termination or Alterations**. The covenants, restrictions, easements and other matters set forth herein shall run with the title to the Property and be binding upon each Owner, the Developer, the Association, and their respective successors and assigns for a period of fifty (50) years, and shall be automatically renewed for successive ten (10) year periods unless terminated as herein provided. The Owners holding two-thirds (2/3) or more of the total votes of the Association may alter, amend or terminate these covenants provided, however, that so long as the Developer owns any land within the Property or if the amendment or termination affects the Developer's reserved easements rights under this Declaration, no such termination or amendment shall be effective without the written consent and joinder of the Developer. Further, until such time as the Developer shall no longer holds a majority of the votes in the Association, subject to the requirements of Section 720.3075(5) Florida Statutes or any other statute of similar import, the Developer shall have the unilateral right to amend this Declaration without the consent or joinder of any other party in any manner which does not materially and adversely affect the value of any Lot or other building parcel located within the Property. 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 mitigation or preservation areas and the water management portions of the Common Area, must have the prior written approval of the SJRWMD. Any amendment to this Declaration which amends the responsibilities or obligations of the parties with respect to the ACOE Permit, must have prior written approval of ACOE. This Declaration may not be terminated unless adequate provision for transferring perpetual maintenance responsibility for the Surface Water or Stormwater Management System obligation to the then Owners of the Lots is made, and said transfer obligation is permitted under the then existing requirements of the SJRWMD or its successors and the County or any other governmental body that may have authority over such transfer. In the event that the Association is dissolved, prior to such dissolution, all responsibility relating to the Surface Water or Stormwater Management System and the Permits must be assigned to and accepted by an entity approved by the ACOE and SJRWMD. Any amendment to this Declaration shall be executed by the Association and/or the Developer, if applicable, and shall be recorded in the current public records of St. Johns County, Florida.

Section 14.7 **Assignment of Permit Responsibilities and Indemnification**. In connection with the platting and development of the Property, the Developer may assume certain obligations in connection with the Permits. The Developer may at any time assign to the Association, and the Association shall accept, the Permits and all of the Developer's obligations and responsibilities for compliance with the Permits. Following such assignment the Association shall indemnify, defend and hold the Developer harmless from all suits, enforcement actions, damages, liability and expenses in connection with any violation of the Permits occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants or licensees.

Section 14.8 **Conflict or Ambiguity in Documents**. To the extent of any conflict, ambiguity, or inconsistency between this Declaration, the Articles, or the Bylaws, the terms of this Declaration shall control both the Articles and Bylaws.

Section 14.9 **Usage**. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 14.10 **Chapter 720, Florida Statutes**. To the extent of any conflict or ambiguity between the provisions of this Declaration and the provisions of Chapter 720, Florida Statutes, as the same may be amended from time to time, the provisions of Chapter 720, Florida Statutes shall control.

Section 14.11 **Effective Date**. This Declaration shall become effective upon its recordation in the public records of St. Johns County, Florida.

Section 14.12 **Recreational Facilities**. All playgrounds and other recreational facilities furnished by the Developer or the Association shall be used at the risk of the user, and neither the Developer nor the Association shall be liable to any person for any claim, damage or injury occurring thereon or related thereto. Each Owner hereby releases and agrees to indemnify, defend and hold the Developer, the Association, and their respective members, partners, shareholders, directors, officers, employees and agents harmless with respect to any claims, demands, losses, costs, fees, expenses and causes of action related to, or in any way pertaining to, use of any recreational facilities furnished by the Developer or the Association (including, without limitation, anything alleged to relate to any alleged sole or comparative negligence by the Developer or the Association).

Section 14.13 **Disclaimers as to Water Bodies**. NEITHER THE DEVELOPER, THE ASSOCIATION, NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY ADJACENT TO OR WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY 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 HOLD HARMLESS THE LISTED PARTIES 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 ALLIGATORS, POISONOUS SNAKES, AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES AND NATURAL AREAS WITHIN 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 LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF THE PROPERTY MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT OR OTHER PORTION OF THE PROPERTY, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ANY AND ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN,

CONSTRUCTION, OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES, OR LAKE BOTTOMS LOCATED THEREIN.

Section 14.14 **Disclaimer of Liability of Association.** NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(A) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

(B) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, ANY LOCAL GOVERNMENT, AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(C) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS LOT) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING

MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DEVELOPER AND ALL PARTIES RELATED THERETO, ALL OF WHICH SHALL BE FULLY PROTECTED HEREBY.

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All lands and other land shown on the plat of Town Center West End Phase 1 Replat as recorded in Map Book 107, pages 18 and 19 (inclusive) of the public records of St. Johns County, Florida.

TOGETHER WITH:

All lands and other land shown on the plat of Town Center West End Phase 2, recorded in Map Book 108, pages 49 through 53, of the public records of St. Johns County, Florida

EXHIBIT B

COMMON AREA

Arlot Lane, Upton Lane, and Almaty Trail, as shown on the plat of Town Center West End Phase 2, recorded in Map Book 108, pages 49 through 53, of the public records of St. Johns County, Florida

EXHIBIT C

ARTICLES

**ARTICLES OF AMENDMENT
TO
ARTICLES OF INCORPORATION
OF
WEST END NORTH AT NOCATEE HOMEOWNERS ASSOCIATION, INC.,
a Florida not-for-profit corporation
TO
CHANGE NAME TO
WEST END VILLAS AT NOCATEE HOMEOWNERS ASSOCIATION, INC.**

These Articles of Amendment to Articles of Incorporation of West End North at Nocatee Homeowners Association, Inc., were adopted on June 24, 2021 (the "Adoption Date"), by **WEST END NORTH AT NOCATEE HOMEOWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation (the "Association") to change the Association's name from West End North at Nocatee Homeowners Association, Inc. to **WEST END VILLAS AT NOCATEE HOMEOWNERS ASSOCIATION, INC.**

R E C I T A L S:

A. The Association desires to amend its Articles of Incorporation (the "Articles") as more particularly described hereafter and these Articles of Amendment have been proposed by the Association's Board of Directors and were approved on June 24, 2021 by the affirmative vote of Members holding not less than a majority of the total votes allocated to the Members of the Association.

NOW THEREFORE, the Association hereby amends the Articles as follows:

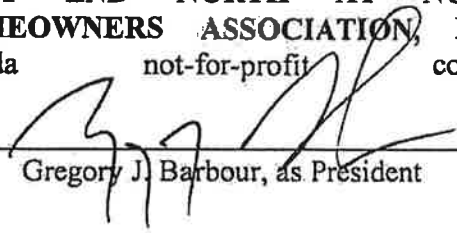
1. All references in the Articles to "West End North at Nocatee Homeowners Association, Inc." are changed to "West End Villas at Nocatee Homeowners Association, Inc."
2. All references in the Articles to "West End North at Nocatee" are changed to "West End Villas at Nocatee".
3. Except as specifically amended hereby, the Articles otherwise shall remain in full force and effect.

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IN WITNESS WHEREOF, the Association has executed these Articles of Amendment to Articles of Incorporation.

**WEST END NORTH AT NOCATEE
HOMEOWNERS ASSOCIATION, INC.**, a
Florida not-for-profit corporation

By: 

Gregory J. Barbour, as President

**ARTICLES OF INCORPORATION
OF
WEST END NORTH AT NOCATEE HOMEOWNERS ASSOCIATION, INC.
(a corporation not-for-profit)**

I. NAME AND DEFINITIONS.

The name of this corporation shall be West End North at Nocatee Homeowners Association, Inc. (the "Association"). All defined terms contained in these Articles shall have the same meanings as such terms are defined by the Declaration of Covenants and Restrictions for West End North at Nocatee to be recorded in the public records of St. Johns County, Florida (the "Declaration").

II. PRINCIPAL OFFICE AND MAILING ADDRESS.

The location of the Association's principal office and its mailing address shall be 4314 Pablo Oaks Court, Jacksonville, Florida 32224, or at such other place as may be established by resolution of the Association's Board of Directors from time to time.

III. PURPOSES.

The general nature, objects and purposes of the Association are:

A. To promote matters of common interest and concern of the Owners of property within the real property subject to the terms and provision of the Declaration.

B. To own, maintain, repair and replace the Common Area, including without limitation the structures, landscaping and other improvements located thereon, for which the obligation to maintain and repair has been delegated to and accepted by the Association.

C. To operate, maintain and manage the Surface Water or Stormwater Management System in a manner consistent with all permits issued by the St. Johns River Water Management District and the United States Army Corps of Engineers, and all laws and regulations pertaining thereto, and to assist in the enforcement of the Declaration which relate to the Surface Water or Stormwater Management System.

D. To cooperate with other associations responsible for administration of adjacent or contiguous properties in matters of common interest to the Association and such other associations and to contribute to such common maintenance interests whether within or without the Property.

E. To provide, purchase, acquire, replace, improve, maintain, operate and repair such buildings, structures, landscaping, equipment, and to provide such other services for the benefit of the members of the Association, as the Board of Directors in its discretion determines necessary, appropriate, and/or convenient.

F. To operate without profit for the sole and exclusive benefit of its Members.

G. To perform all of the functions contemplated for the Association and undertaken by the Board of Directors pursuant to the terms and conditions of the Declaration.

IV. **GENERAL POWERS.**

The general powers that the Association shall have are as follows:

A. To hold funds solely and exclusively for the benefit of the Members for purposes set forth in these Articles of Incorporation.

B. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

C. To delegate power or powers where such is deemed in the interest of the Association.

D. To purchase, lease, hold, sell, mortgage or otherwise acquire or dispose of real or personal property, to enter into, make, perform or carry out contracts of every kind with any person, firm, corporation or association (including without limitation contracts for services to provide for operation and routine custodial maintenance of the Surface Water or Stormwater Management System); to do any and all acts necessary or expedient for carrying on any and all of the activities and pursuing any and all of the objects and purposes set forth in the Declaration and these Articles of Incorporation and not forbidden by the laws of the State of Florida.

E. To fix assessments to be levied against all or any portion of the Property to defray expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors to enter into agreements with other property owner's associations or maintenance entities for the collection of such assessments. The foregoing shall include the power to levy and collect adequate assessments against the Members for the costs of maintenance and operation of the Surface Water or Stormwater Management System. Such assessments shall be used for the maintenance and repair of the Surface Water or Stormwater Management System, including but not limited to, work within retention areas, drainage structures and drainage easements.

F. To charge recipients for services rendered by the Association and the users of the Association property where such is deemed appropriate by the Board of Directors of the Association and permitted by the Declaration.

G. To pay taxes and other charges, if any, on or against property owned, accepted, or maintained by the Association.

H. To borrow money and, from time to time, to make, accept, endorse, execute and issue debentures, promissory notes or other obligations of the Association for monies borrowed, or in payment for property acquired, or for any of the other purposes of the Association, and to

secure the payment of such obligations by mortgage, pledge, or other instrument of trust, or by lien upon, assignment of or agreement in regard to all or any part of the property rights or privileges of the Association wherever situated.

I. To merge with any other association which may perform similar functions located within the same general vicinity of the Property.

J. In general, to have all powers conferred upon a corporation by the laws of the State of Florida, except as prohibited herein and by the terms and conditions set forth in the Declaration.

V. **MEMBERS.**

The members ("Members") shall consist of the Developer, each Sub-association, and each Owner who is not a member of a Sub-association.

VI. **VOTING AND ASSESSMENTS.**

A. Subject to the restrictions and limitations hereinafter set forth, each Member shall be entitled to the number of votes in the Association computed as follows:

1. The Members, other than the Developer, who are Owners shall have one (1) vote for each Lot owned by them. The votes of Members who are Owners shall be exercised directly by such Owners or their authorized representatives.

2. The Developer shall have the number of votes equal to the number of votes allocated to the Members other than the Developer, plus one (1) vote. The Developer shall have such voting rights until the first to occur of: (i) three (3) months after ninety percent (90%) of the Lots in all phases of Property (including any lands which may be annexed into the Property pursuant to the Declaration) have been conveyed to Members other than builders, contractors, or others who purchase a Lot for the purpose of constructing improvements thereon for resale, or (ii) such earlier date as the Developer may elect to terminate such voting rights by notice to the Association. Thereafter, the Developer shall have one (1) vote for each Lot owned by the Developer.

B. When an Owner who is a Member is comprised of one or more persons or entities, all such persons shall be Members, and the vote(s) for the applicable portions of the Property shall be exercised as they among themselves shall determine. The votes allocated to any Subassociation or Owner pursuant to these Articles, cannot be divided for any issue and must be voted as a whole, except where otherwise required by law. The affirmative vote of a majority of the votes allocated to the Members cast at any meeting of the Members duly called at which a quorum is present, or cast by written ballot by a quorum of the membership, shall be binding upon the Members and the Association.

C. The Association will obtain funds with which to operate by assessment of the Owners in accordance with the provisions of the Declaration, as supplemented by the provisions of the Articles and Bylaws of the Association relating thereto. Any Member who is delinquent

in the payment of assessments due the Association shall be deemed to be not in good standing with the Association for the period of time that such delinquency shall continue.

VII. **BOARD OF DIRECTORS.**

A. The affairs of the Association shall be managed by a Board of Directors consisting of three (3) Directors. Directors need not be Members of the Association and need not be residents of the State of Florida. Until such time that the Members other than the Developer become entitled to elect a majority of the members of the Board of Directors pursuant to Section 720.307, Florida Statutes, as the same may be amended from time to time, the Developer shall have the right to appoint all of the Directors; provided, however, the Members other than the Developer shall become entitled to elect one (1) Director at the annual meeting of the Association following the date that fifty percent (50%) of the Lots in all phases of Property (including any lands which may be annexed into the Property pursuant to the Declaration) have been conveyed to Members other than builders, contractors, or others who purchase a Lot for the purpose of constructing improvements thereon for resale. The Developer shall be entitled to elect at least one (1) Director for so long as the Developer holds for sale in the ordinary course of business, at least five percent (5%) of the Lots in all phases of Property (including any lands which may be annexed into the Property pursuant to the Declaration). To the fullest extent permitted by law, Developer's determination of phasing and the number of Lot to be developed on the Property (as may be expanded) shall be controlling for all purposes of these Articles.

B. Elections shall be by plurality vote. At the first annual election of the Board of Directors, the terms of office of the elected Directors shall be established at one (1) year. In no event can a Board member appointed by the Developer be removed except by action of the Developer. Any Director appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director may be appointed, at any time by the Developer.

C. The names and addresses of the members of the first Board of Directors who shall hold office until the first annual meeting of the Members and until their successors are elected or appointed and have qualified, are as follows:

Gregory J. Barbour
4314 Pablo Oaks Court
Jacksonville, Florida 32224

Maurice Rudolph
4314 Pablo Oaks Court
Jacksonville, Florida 32224

John Michael White, Jr.
4314 Pablo Oaks Court
Jacksonville, Florida 32224

VIII. **OFFICERS.**

The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create. Any two (2) or more offices may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedure set forth in the Bylaws. The names of the officers who are to manage the affairs of the Association until the first annual meeting of the Members and until their successors are duly elected and qualified are:

President	Gregory J. Barbour
Vice President	Maurice Rudolph
Treasurer/Secretary	John Michael White, Jr.

IX. **CORPORATE EXISTENCE.**

The Association shall have perpetual existence. These Articles shall become effective upon filing as prescribed by law.

X. **BYLAWS.**

The Board of Directors shall adopt Bylaws consistent with these Articles. Such Bylaws may be altered, amended, or repealed by resolution of the Board of Directors.

XI. **AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS.**

These Articles may be altered, amended or repealed upon the affirmative vote of Members holding a majority of the total votes allocated to the Members pursuant to these Articles.

XII. **INCORPORATOR.**

The name and address of the Incorporator is as follows:

Gregory J. Barbour
4314 Pablo Oaks Court
Jacksonville, Florida 32224

XIII. **INDEMNIFICATION OF OFFICERS AND DIRECTORS.**

A. To the extent allowed by law, the Association hereby indemnifies any Director or officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

1. Whether civil, criminal, administrative, or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability

or penalty on such person for an act alleged to have been committed by such person in his capacity as a Director or officer of the Association or as a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal thereof, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable grounds for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or officer did not act in good faith in the reasonable belief that such action was in the best interest of the Association or that he had reasonable grounds for belief that such action was unlawful.

2. By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or officer of the Association, or by reason of his being or having been a director, officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein if such person acted in good faith in the reasonable belief that such action was in the best interest of the Association. Such person shall not be entitled to indemnification in relation to matters to which such person has been adjudged to have been guilty of gross negligence or misconduct in the performance of his duty to the Association unless, and only to the extent that, the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

B. The Board of Directors shall determine whether amounts for which a Director or officer seek indemnification were properly incurred and whether such Director or officer acted in good faith in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

C. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

XIV. TRANSACTION IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED.

A. No contract or transaction between the Association and one or more of its Directors or officers, or between the Association and any other corporation, partnership, association, or other organization in which one or more of its Directors or officers are Directors or officers, or in which they have a financial interest, shall be invalid, void or voidable solely for

this reason, or solely because the Director or officer is present at or participates in the meeting of the Board or committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose. All such contracts or transactions shall, however, be fair and reasonable and upon terms reasonably comparable to those which could be obtained in arms-length transactions with unrelated entities. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

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

XV. DISSOLUTION OF THE ASSOCIATION.

A. Upon dissolution of the Association, all of its assets remaining after provisions for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

1. Dedication to any applicable municipal or other governmental authority of any property determined by the Board of Directors of the Association to be appropriate for such dedication and which the authority is willing to accept.

2. Remaining assets shall be distributed among the Members, subject to the limitation set forth below, each Member's share of the assets to be determined by multiplying such remaining assets by a fraction the numerator of which is all amounts assessed by the Association since its organization against the portion of Property which is owned by the Member at that time, and the denominator of which is the total amount (excluding penalties and interest) assessed by the Association against all properties which at the time of dissolution are part of the Property. The year of dissolution shall count as a whole year for purposes of the preceding fractions.

B. The Association may be dissolved upon a resolution to that effect being approved by a majority of the Board of Directors and by two-thirds (2/3) of the Members. In the event of incorporation by annexation or otherwise, of all or part of the Property by a political subdivision of the State of Florida, the Association may be dissolved in the manner set forth above.

C. In the event of termination, dissolution, merger, 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 that would comply with Section 40C-42.027, Florida Administrative Code, and be approved by the St. Johns River Water Management District prior to such termination, dissolution, merger, or liquidation. Further, such termination, dissolution, merger, or liquidation shall require the approval of the Army Corps of Engineers.

XVI. **MERGERS AND CONSOLIDATIONS.**

Subject to the provisions of the Declaration applicable to the Property and to the extent permitted by law, the Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved in the manner provided by Chapter 617, Florida Statutes as the same may be amended from time to time. For purposes of any vote of the Members required pursuant to said statutes, for so long as the Developer shall own any portion of the Property, any such merger or consolidation shall require the Developer's prior approval.

[Signature on Following Page]

IN WITNESS WHEREOF, the Incorporator has hereto set his hand and seal this 23 day of November, 2020.

Signed, sealed and delivered in the presence of:

[Signature]
Gregory J. Barbour
Incorporator

Julie Baugus
Julie Baugus
(Print Name)

Dawn Bartman
Dawn Bartman
(Print Name)

STATE OF FLORIDA }
 } SS
COUNTY OF DUVAL }

The foregoing instrument was acknowledged before me this 23 day of November 2020, by Gregory J. Barbour, the Incorporator of **WEST END NORTH AT NOCATEE HOMEOWNERS ASSOCIATION, INC.**, a not-for-profit corporation, on behalf of the corporation.



Tina E Miller
(Print Name) Tina E Miller
NOTARY PUBLIC
State of Florida at Large
Commission #: _____
My Commission Expires: _____
Personally Known ✓
or Produced I.D. _____
[check one of the above]
Type of Identification Produced _____

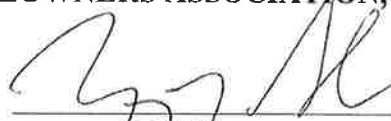
(((H20000406143 3)))

IN COMPLIANCE WITH SECTION 617.0501, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED:

WEST END NORTH AT NOCATEE HOMEOWNERS ASSOCIATION, INC., DESIRING TO ORGANIZE UNDER THE LAWS OF THE STATE OF FLORIDA WITH ITS PRINCIPAL PLACE OF BUSINESS AT 4314 PABLO OAKS COURT, JACKSONVILLE, FLORIDA 32224, HAS NAMED GREGORY J. BARBOUR, WHOSE ADDRESS IS 4314 PABLO OAKS COURT, JACKSONVILLE, FLORIDA 32224, AS ITS REGISTERED AGENT TO ACCEPT SERVICE OF PROCESS WITHIN THE STATE OF FLORIDA. SAID REGISTERED AGENT'S ADDRESS IS THE CORPORATION'S REGISTERED OFFICE.

**WEST END NORTH AT NOCATEE
HOMEOWNERS ASSOCIATION, INC.**

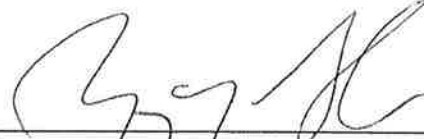
By:



Gregory J. Barbour
Incorporator

Dated: November 23, 2020

HAVING BEEN NAMED TO ACCEPT SERVICE OF PROCESS FOR THE ABOVE NAMED CORPORATION, AT THE PLACE DESIGNATED IN THIS CERTIFICATE, I HEREBY AGREE TO ACT IN THIS CAPACITY, AND I FURTHER AGREE TO COMPLY WITH THE PROVISIONS OF ALL STATUTES RELATIVE TO THE PROPER AND COMPLETE PERFORMANCE OF MY DUTIES.



Gregory J. Barbour
Registered Agent

Dated: November 23, 2020

PREPARED BY AND RETURN TO:
NICHOLAS A. DYAL, ESQ.
GUNSTER, YOAKLEY & STEWART, P.A.
1 INDEPENDENT DRIVE, SUITE 1750
JACKSONVILLE, FL 32202

**FIRST AMENDMENT TO DECLARATION OF COVENANTS AND
RESTRICTIONS FOR WEST END VILLAS AT NOCATEE**

THIS FIRST AMENDMENT ("First Amendment") is made effective this 2nd day of Nov, 2021, by SONOC COMPANY, LLC, a Delaware limited liability company (the "Developer") and WEST END VILLAS AT NOCATEE HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit (the "Association").

RECITALS:

A. Developer and the Association executed the Declaration of Covenants and Restrictions for West End Villas at Nocatee recorded in Official Records Book 5305, at page 1354 of the public records of St. Johns County, Florida, as supplemented (the "Declaration").

B. Pursuant to Developer's unilateral right to amend as set forth in Section 14.6 of the Declaration, the undersigned hereby amend the Declaration as more particularly set forth herein.

NOW THEREFORE, the parties hereby amend the Declaration as follows:

1. **Developer's Assessments.** The second sentence of Section 7.13 of the Declaration is deleted and replaced with the following:

"During the Development Period, and in lieu of payment of any assessments to the Association, the Developer shall pay the balance of the actual operating expenses of the Association remaining after the levying of and payment of assessments due from Owners other than the Developer pursuant to assessments levied by the Board pursuant to this Declaration, including, without limitation, Capital Contributions."

2. **Ratification.** As specifically amended hereby, all of the terms and provisions of the Declaration shall remain in full force and effect.

{Signatures Commence on Following Page}

IN WITNESS WHEREOF, the parties have executed and delivered this First Amendment as of the date and year first above written.

Witnesses

DEVELOPER:

SONOC COMPANY, LLC,
a Delaware limited liability company

Dawn Bartman
(Signature)

Dawn Bartman
(Print Name)

Donna Lundgren
(Signature)

Donna Lundgren
(Print Name)

By: Harry D. Francis
Name: Harry D. Francis
Title: V.P.

STATE OF FLORIDA)
) SS
COUNTY OF DUVAL)

The foregoing instrument was acknowledged before me this 2nd day of Nov, 2021, by means of [] physical presence or [] online notarization by Harry D. Francis, the V.P. of **SONOC COMPANY, LLC**, a Delaware limited liability company, on behalf of the company

Tina E Miller
(Print Name Tina E Miller)



NOTARY PUBLIC, State of
Florida at Large
Commission # _____
My Commission Expires:
Personally Known
or Produced I.D. _____
[check one of the above]
Type of Identification Produced

