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# *DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS*

# *FOR*

# *WILLOWCOVE*

# *(SINGLE FAMILY HOMES)*

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

# FOR

# WILLOWCOVE

# (SINGLE FAMILY HOMES)

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this ____ day of July 2007, by Centex/Lennar NFL Town Center South, LLC, a Delaware limited liability company.

## ARTICLE I CREATION OF THE COMMUNITY

1.1 Purpose and Intent. Declarant (as defined in Article II), as the owner of the real property described in **Exhibit "A"** (or if not the owner, with the owner's consent), intends, by recording of this Declaration, to establish a general plan of development for Willowcove, a planned community (the "**Community**"). This Declaration, together with the other Governing Documents described in Section 1.3, provides for the overall development, administration, maintenance, and preservation of Willowcove, and provides a flexible and reasonable procedure for its future expansion. An integral part of the development plan is the creation of Willowcove Homeowners Association, Inc. (the "**Association**") to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents.

This document does not and is not intended to create a condominium under Florida law.

1.2 Binding Effect. This Declaration governs the property described in **Exhibit "A"** and any other property submitted to this Declaration in the future pursuant to Article IX. This Declaration shall run with the title to such property and shall bind everyone having any right, title, or interest in any portion of such property, their heirs, successors, successors-in-title, and assigns. Declarant, the Association, any Owner (as defined in Article II), and their respective legal representatives, heirs, successors, and assigns, may enforce this Declaration. Each Owner shall automatically be a Member (as defined in Article II) of the Association.

This Declaration is intended to have perpetual duration, but shall be effective for a minimum of 30 years from the date it is recorded, subject to the right of Declarant and the Members to amend it as provided in Article XX. After the initial 30-year period, it shall automatically be extended for successive 10-year periods in perpetuity unless, within the 12-month period preceding any extension, an instrument signed by the then Owners of at least 75% of the Lots (as defined in Article II) agreeing to terminate this Declaration is recorded. If any provision of this Declaration would be invalid under the Florida Uniform Statutory Rule Against Perpetuities, that provision shall expire 90 years after this Declaration is recorded. This section does not authorize termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3 Governing Documents. The following chart identifies the documents that govern the Community (as they may be amended from time to time, the "**Governing Documents**") and describes, in part, the purpose of each. Every Owner and occupant of a Lot (as defined in Article II), and their respective guests, tenants, visitors and invitees, shall comply with the Governing Documents.

| | |
|---|---|
| **Master Declaration** (Recorded) → | creates obligations which are binding upon the Association and all present and future owners and occupants of, and others with any interest in, property in the Community |
| **Declaration** (Recorded) → | creates obligations which are binding upon the Association and all present and future owners and occupants of, and others with any interest in, property in the Community |
| **Supplemental Declaration** (Recorded) → | adds property to the Community; and/or may impose additional obligations or restrictions on such property |
| **Articles of Incorporation** (filed with the Secretary of State; initial Articles attached as Exhibit "D") → | establish the Association as a not-for-profit corporation under Florida law |
| **By-Laws** (Board adopts; initial By-Laws attached as Exhibit "E") → | govern the Association's internal affairs, such as voting rights, elections, meetings, officers, etc. |
| **Architectural Guidelines** (Declarant or Association may adopt or amend → | establish architectural standards and guidelines for improvements and modifications to Lots, including structures, landscaping, and other items on Lots |
| **Use Restrictions** (initial set attached as Exhibit "C") → | govern use of property and activities within the Community |
| **Board Resolutions and Rules** (Board may adopt) → | establish rules, policies, and procedures for internal governance and Association activities; regulate operation and use of Common Area (as defined in Article II) |
| **Planned Unit Development Zoning Approval ("PUD")** as approved by County → | establishes approvals and conditions for development, use and occupancy (as defined in Article II) |

Additional covenants, conditions, and restrictions may be imposed on all or any portion of the Community, in which case the more restrictive provisions will be controlling. However, no Person (as defined in Article II) shall record any additional covenants, conditions, or restrictions affecting any portion of the Community without Declarant's written consent, during the Development and Sale Period (as defined in Article II), or without the Board's (as defined in Article II) consent thereafter. Any instrument recorded without the necessary consent is void and of no force or effect.

If there are conflicts between Florida law, the PUD, the Master Declaration (as defined hereinbelow) the Declaration, the Articles, and the By-Laws, Florida law, the PUD, the Master Declaration, the Declaration, the Articles, and the By-Laws (in that order) shall prevail. If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

## ARTICLE II CONCEPTS AND DEFINITIONS

2.1 Defined Terms. The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

"Affiliate": Any Person which (either directly or indirectly, through one or more intermediaries) controls, is in common control with, or is controlled by, another Person, and any Person that is a director, trustee, officer, employee, independent contractor, shareholder, agent, co-venturer, member subsidiary, personal representative, or attorney of any of the foregoing. For the purposes of this definition, the term "control" means the direct or indirect power or authority to direct or cause the direction of an entity's management or policies, whether through the ownership of voting securities, by contract, or otherwise. Centex Homes, a Nevada general partnership and Lennar Homes, LLC, a Florida limited liability company, shall be considered affiliates of Declarant for all purposes hereunder.

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended from time to time.

"Architectural Review Board" or "ARB": The committee established, upon delegation or termination of Declarant's authority under Article IV, to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV.

"Articles": The Articles of Incorporation of Willowcove Homeowners Association Inc., filed with the Secretary of State for the State of Florida, as they may be amended and/or amended and restated from time to time. A copy of the initial Articles is attached to this Declaration as Exhibit "D" and its terms are incorporated herein by reference.

"Association": Willowcove Homeowners Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

"Benefited Assessment": Assessments charged against a particular Lot or Lots for Association expenses as described in Section 8.4.

"Board of Directors" or "Board": The body responsible for the general governance and administration of the Association, selected as provided in the By-Laws.

"By-Laws": The By-Laws of Willowcove Homeowners Association, Inc., as they may be amended and/or amended and restated from time to time. A copy of the initial By-Laws is attached to this Declaration as Exhibit "E" and its terms are incorporated herein by reference.

"CDD": The Tolomato Community Development District

"Class "B" Control Period": The time period during which the Class "B" Member may appoint a majority of the Board members. The Class "B" Control Period shall end when any one of the following occurs:

(a) when 90% of the Lots proposed under the Development Plan have been issued certificates of occupancy and have been deeded to Class "A" Members;

(b) seven (7) years from the date this Declaration is recorded; or

(c) earlier, if the Class "B" Member, in its discretion so determines.

"Common Area": All real and personal property, including easements, which the Association owns, holds, leases, or otherwise has a right to possess or use for the common use and enjoyment of the Owners. Common Area includes the Limited Common Area, as defined below. Common Area excludes all Master Association Property which is owned, operated and maintained by the Master Association pursuant to the Master Declaration.

"Common Expenses": The actual and estimated expenses that the Association incurs, or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board finds necessary or appropriate.

"Common Maintenance Areas": The Common Area, together with any other area for which the Association has or assumes maintenance or other responsibilities.

"Community" or "Willowcove": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

"Community Name": Willowcove and/or such other name or names as Declarant shall designate for all or any portion of the Community.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing from time to time throughout the Community, or the minimum standards established by the Master Association pursuant to the Master Declaration or the Declarant or Association pursuant to the Architectural Guidelines, Use Restrictions, and Board resolutions, whichever is the highest standard and which shall not be in contravention of the PUD. The Community-Wide Standard may contain objective elements, and subjective elements.

"County": St. Johns County, Florida.

"Declarant": Centex/Lennar NFL Town Center South, LLC, a Delaware limited liability company, or any successor or assign as developer of all or any portion of the Community that is designated as Declarant in a recorded instrument which the immediately preceding Declarant executes. On all matters, Declarant may act through any of its Affiliates. Any Person who at any time holds the rights of Declarant hereunder and subsequently transfers or assigns the rights of Declarant to another Person shall be known as a "**Predecessor Declarant**" and, unless otherwise agreed in writing, shall be entitled to the rights of a Predecessor Declarant established in this Declaration. Whether or not specifically stated, a predecessor Declarant shall be afforded the same protection with respect to matters arising from actions taken during its tenure as Declarant as the predecessor Declarant would have if it were still Declarant.

"Development Plan": The land use or site plan for the Community approved by Declarant, as it may be amended from time to time, which includes all of the property described in **Exhibit "A"** and all or a portion of the property described in **Exhibit "B."** Declarant is not obligated to submit property shown on the Development Plan to this Declaration. In addition, Declarant may submit property to this Declaration that is not shown on the Development Plan. Reference should be made to Article X of this Declaration to the respective rights and obligations of Owners and Declarant with respect to the use and Development of the Community.

"Development and Sale Period": The period of time during which Declarant and/or its Affiliates own property subject to this Declaration or Declarant holds an unexpired right to unilaterally expand the Community pursuant to Section 9.1.

"District or SJRWMD": The St. Johns River Water Management District.

"Governmental Authority": Any federal, state, county, municipal or other governmental or quasi-governmental department, entity, authority, agency or instrumentality having or asserting jurisdiction over the Community or a portion thereof.

"HUD": U.S. Department of Housing and Urban Development.

"Legal Costs": The costs which a Person entitled to reimbursement for "Legal Costs" under any provision of the Governing Documents incurs in pursuing legal action (regardless of whether suit is filed or whether arbitration or court action is taken) to enforce the Governing Documents, including, but not limited to, reasonable attorneys' and paralegals' fees, expert witness fees, and court costs at all tribunal levels.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Lots or Service Areas, as described in Article XIII.

"Limited Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the benefit of Owners of Lots benefiting from a Limited Common Area or within a particular Service Area, which may include a reserve for capital repairs and replacements and an administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Service Area or Lots.

"Lot" and/or "Unit": A portion of the Community, whether improved or unimproved, which may be independently owned and conveyed, and which is improved, or intended by Declarant to be improved, with a single-family residential dwelling. The term shall refer to the land, if any, which is part of the Lot as well as any improvements on the Lot. The boundaries of each Lot shall be shown on a Plat.

A parcel of land shall be deemed to be a single Lot until such time as a Plat subdivides all or a portion of the parcel. Thereafter, the subdivided portion shall contain the number of Lots shown on the Plat. Any portion not subdivided shall continue to be a single Lot.

Any Owner owning two adjoining Lots may, with the prior written approval of Declarant during the Development and Sale Period, and the Association thereafter, and with all other required approvals from the County, the CDD and other governmental agencies having jurisdiction there over, combine such Lots into a single building site for the purpose of constructing one dwelling and such other improvements as are approved hereunder; however, each of the Lots so combined shall continue to be treated as a separate Lot for purposes of voting and assessment, unless the Plat creating such Lots is revised and recorded, with the prior consent of the Declarant or the Association, to combine them into a single Lot. Declarant or the Association, as applicable, may grant or withhold their approval to any such combination or plat revision in their sole discretion.

"Master Association": Willowcove Master Association, Inc., a Florida corporation, not-for-profit, its successors and/or assigns.

"Master Association Property": All real and personal property, including easements, which the Master Association owns, holds, leases, or otherwise has a right to possess or use for the common use and enjoyment of the members of the Master Association.

"Master Declaration": The Master Declaration of Covenants, Conditions and Restrictions for Willowcove recorded in Official Records Book 2950 at Page 1775 of the Public Records of St. Johns County, Florida, as the same may be amended from time to time.

"Member": A Person subject to membership in the Association, as described in Section 6.2. There initially are two membership classes-- Class "A" and Class "B."

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot and held by an institutional lender. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage. The term "Institutional Lender" shall include any bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, a credit union, real estate or realty investment trust, any agency of the Federal government, the Federal Investment Mortgage Association, the Federal Home Loan Mortgage Corporation, or similar governmental or quasi-governmental agencies.

"Owner": The record titleholder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation (e.g., a Mortgagee). If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Permit": Permit No. 40-109-87432-10 issued by the District, a copy of which is attached as Exhibit "E" to the Master Declaration.

"Person": An individual, a corporation, a partnership, a trustee, or any other legal entity.

"Plat": Any recorded plat for all or any portion of the Community. As to a particular portion of the Community, the applicable Plat shall be deemed to be the Plat (and/or Plat amendment, revision or similar instrument, as applicable) to which such portion of the community is subject or which otherwise affects such portion of the Community at the time this applicable determination is to be made.

"Property" or "Properties": The real property described on the attached Exhibit "A," and such additions thereto as may be brought within the jurisdiction of the Association and made subject to this Declaration.

"PUD": Nocatee Planned Unit Development approved by the Board of County Commissioners of St. Johns County on January 17, 2002, under Ordinance No. 2002-46 as recorded in PUD Book Q, Page 120, Public Records of St. Johns County, Florida, as amended.

"Reviewer": For purposes of Article 4, the "**Reviewer**" is the Person having authority under Article 4 for the review of materials, as provided in Article 4.

"Regular Assessment": Annual assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1(a).

"Service Area": A group of Lots designated as a separate Service Area pursuant to this Declaration or a Supplemental Declaration for purposes of sharing Limited Common Areas and/or receiving other benefits or services from the Association which are not provided to all Lots. A Service Area may be comprised of more than one housing type and may include noncontiguous parcels of property. A Lot may be assigned to more than one Service Area. Where the context permits or requires, the term "**Service Area**" shall also refer to a Service Area Committee established in accordance with the By-Laws to represent the interests of Owners of Lots within a Service Area. Service Area boundaries may be established and modified as provided in Section 7.11.

"Service Area Assessments": Assessments levied against the Lots in a particular Service Area to fund Limited Common Expenses, as described in Section 8.1(b).

"Special Assessment": Assessments levied against Lots in accordance with Section 8.3 to cover unbudgeted expenses or expenses in excess of those budgeted.

"Supplemental Declaration": A recorded instrument that subjects additional property to this Declaration and/or imposes additional and/or modified restrictions and obligations on the land described in such instrument.

"Surface Water and Storm Water Management System": A drainage system consisting of swales, inlets, culverts, retention ponds, detention ponds, lakes, outfalls, storm drains and other similar and/or related improvements, and all connecting pipes and easements, which is designed

and constructed or implemented 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 quantity and quality of discharges from the system, as permitted pursuant to the Permit issued by the District. The Surface Water and Storm Water Management System facilities include, but are not limited to: all inlets, ditches, swales, culverts, water control structures, retention and detention ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas, to the extent that any such facilities, areas, or conditions apply to the Community.

"Use Restrictions": The initial use restrictions, governing the use and activities on the Lots and the Common Areas set forth in **Exhibit "C,"** as they may be changed in accordance with Article III or Article XX or otherwise, as amended from time to time.

"VA": U.S. Department of Veterans Affairs.

"Wetland": Any area within the Community identified or designated as habitat for wetland species of plants and/or animals by the District, or by the County, or by the United States Army Corps of Engineers, or by any other agency of the State of Florida or the United States government, whether or not such area is included within the Surface Water and Storm Water Management System, or is an isolated area that is not connected to the Surface Water and Storm Water Management System.

2.2 Interpretation of Certain References.

(a) Recording. All references in the Governing Documents to a "**recorded**" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed, or the filing of a legal instrument, in the public records of the County, or such other place designated as the official location for filing documents affecting title to real estate in the County in order to make them a matter of public record.

(b) Consent or Approval. All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

(c) Discretion and Determinations. All references in the Governing Documents to "**discretion**" or to the right to "**determine**" any matter shall refer to the sole and absolute power, right and/or discretion to decide or act and, unless otherwise expressly limited in the Governing Documents, a Person entitled to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

2.3 Master Association and Master Declaration. Each Owner and respective Lot or Unit is subject to the Master Declaration and the jurisdiction of the Master Association, including the obligation to pay assessments to the Master Association pursuant to the Master Declaration. Association shall never take any action (i) to amend the Master Declaration, the

Articles of Incorporation of the Master Association or the Bylaws of the Master Association or (ii) to impose any lien, assessment, liability, easement contractual obligation or use restriction (including rules and regulations) on any portion of the Master Association Property or the Master Association without the prior written consent of the Master Association, which may be withheld for any reason. Association will indemnify and hold Master Association harmless from any assessments or liens imposed on the Master Association Property pursuant to this Declaration or by the Association, not approved by the Master Association. The Master Association shall have no obligation to approve any assessment or lien on Master Association Property. Notwithstanding any other provision in this Declaration, this provision may not be amended without written consent by the Master Association.

## ARTICLE III OCCUPANCY OF LOTS

3.1 General. In addition to the provisions of the PUD and the initial Use Restrictions set forth in **Exhibit "C"** which may be modified as provided herein, the Lots shall be subject to the following. The restrictions set forth in this Section may be amended only in accordance with Article XX and other applicable provisions of this Declaration.

(a) Residential and Related Uses. Lots shall be used primarily for residential and related purposes (including, without limitation, use as a home office). No business shall be conducted in, on, or from any Lot, except that an occupant using the dwelling on a Lot primarily for residential purposes may also conduct business activities on such Lot ancillary to their primary residential use, if the business activity, as determined in the Board's discretion:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning and other legal requirements and other requirements of this Declaration;

(iii) does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees; and

(iv) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the use and enjoyment of other Lots by the Owner thereof or the security or safety of others within the Community.

"**Business**" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (A) such activity is engaged in full or part time; (B) such activity is intended to or does generate a profit; or (C) a license is required.

No Lot shall be rezoned to any classification allowing commercial, institutional, or other non residential use without the express written consent of the Association, the Master Association and Declarant, which each may withhold in its discretion. Notwithstanding anything in this Article to the contrary, Declarant, the Master Association or the Association may enforce

this covenant by obtaining an injunction against any unapproved rezoning at the expense of the party pursuing the unapproved rezoning, in addition to and not in limitation of Declarant's, the Master Association's or the Association's other rights and remedies.

This Section shall not apply to restrict Declarant's, or Declarant's Affiliates', activities, nor shall it restrict the activities of Persons Declarant approves with respect to the development, construction, and sale of property in the Community. This Section shall not apply to Association activities related to the provision of services or to operating and maintaining the Community, including, without limitation, the Community's recreational and other amenities.

Leasing of a single Lot by the Owner thereof for residential occupancy shall not be considered a business within the meaning of this subsection; however, no Owner or group of Owners who are Affiliates shall, on their own behalf or through any agent, engage in leasing activity with respect to multiple Lots at the same time.

(b) Leasing. For purposes of this Declaration, "**leasing**" is the regular, exclusive occupancy of a dwelling by any Person other than the Owner, for which the Owner receives any consideration or benefit, including, without limitation, a fee, service, or gratuity. Improvements on the Lot may be leased only in its entirety (e.g., separate rooms within the same dwelling may not be separately leased); provided, a detached "**in-law suite**" or "**guest house,**" the construction of which was approved pursuant to Article IV, may be independently leased.

All leases shall be in writing and shall have a term of at least six months, except with the Board's prior written consent. No Owner may rent all or a portion of a Lot more than twice in any 12-month period, even if a tenant defaults on a lease or abandons the Lot before expiration of the lease term. The restrictions on lease terms set forth in this paragraph shall not apply to Lots owned or leased by Declarant, its Affiliates, or Persons Declarant approves, in connection with their development, construction, or sale of property in the Community.

All leases shall include an acknowledgment by the tenant that the tenant and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents and that the tenant has received a copy of the Governing Documents. The Owner shall be responsible for providing a copy of the Governing Documents to the tenant prior to execution of the lease and shall monitor enforcement and compliance with the Governing Documents by the tenant.

**Each lease shall set forth the name, address, and telephone number of the Lot's Owner and of the tenant; the date the tenant's occupancy commences and ends; a description of each motor vehicle owned or operated by the tenant or members of the tenant's household; and a description of all pets to be kept at the Lot.**

If an Owner elects to permit a tenant to sublease during the term of the lease, such sublease shall be subject to the limitations and requirements established in this Declaration to the same extent and effect as the original lease.

Within 10 days of a lease being signed for a Lot, the Owner shall notify the Board or the Association's managing agent of the lease and provide a copy of such lease and such additional information the Board and/or the Association's Managing Agent may reasonably require. An

Owner proposing to lease a Lot may obscure the rental and deposit amounts in the copy of the proposed lease submitted to the Board so long as the lease contains the information listed above. In addition to this subsection (b), the Board may, from time to time, adopt reasonable rules regulating leasing and subleasing.

No Owner may assign or otherwise transfer the Owner's obligations under this Declaration to any tenant. The Association shall have the right to enforce the covenants, conditions, and restrictions set forth in this Declaration against the Owner, the tenant, or any member of the tenant's household, individually or collectively. The Association shall not be bound by any provision in the lease or other agreement between Owner and his or her tenant, including, without limitation, those requiring prior notice or imposing other conditions on the rights of the Association.

The Association shall be deemed a third party beneficiary of all leases of Lots, and shall have the right, but not the obligation, to enforce the terms and conditions of such leases against the tenant or the Owner. Notwithstanding the foregoing, the Association's failure to object to any term or condition of a lease or occupancy arrangement shall not be deemed to be consent or approval of any term or condition of the lease, nor shall the Association have any obligation whatsoever for the performance of any obligation of Owner or tenant contained in the lease or otherwise.

Notwithstanding any condition of any lease to the contrary, each Owner, by acceptance of the deed to a Lot, hereby covenants and agrees with the Association and all other Owners of Lots in the Community, including, but not limited to, Declarant, that the Owner shall be responsible for any violation of the Governing Documents resulting from the acts or omissions of his or her tenant, other occupants of the leased Lot, and their respective guests to the same extent that Owner would be liable for such violation if it had resulted from the acts or omissions of the Owner or a member of the Owner's household or guests. The Owner's obligations hereunder shall be deemed a guaranty of performance by his or her tenant, and the Association shall have the right to take any action or seek any remedy for the tenant's failure or refusal to comply with the Governing Documents directly from or against the Owner without first taking such action or obtaining such remedy from or against the tenant.

(c) Occupants Bound. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents and shall be responsible for all violations of the Governing Documents and any damage they cause to the Master Association Property and Common Maintenance Areas, notwithstanding the fact that such Persons also are personally responsible for complying and may be sanctioned for any violation.

(d) Subdivision of a Lot. Lots may not be subdivided or their boundary lines changed except with Declarant's or the Board's prior written approval. Declarant may subdivide, change the boundary lines of, and replat any Lot it owns without Board approval. In addition, during the Development and Sale Period, Declarant or any Declarant Affiliate may convert Lots it owns into Common Area.

(e) Lodging; Timeshares. No Lot may be used as a rooming house, hostel, or hotel. Timesharing or other arrangements involving more than three ownership interests in a Lot

(including, without limitation, ownership by more than three Persons as joint tenants or tenants-in-common), or assigning separate use periods of less than 180 consecutive days' duration, are prohibited.

(f) For Lease or Sale Signs. Signs advertising lots or dwellings (or any portion thereof) for lease which are erected or visible outside of the exterior of any dwelling, including signs posted in any window or door of a dwelling, shall not be permitted. Signs advertising Lots or dwellings (or any portion thereof) for sale which are erected or visible outside of the exterior of any dwelling shall be permitted, but must comply with all design criteria, including place, size, number, manner of posting, design, color, lettering and contents, as may be imposed (and amended) from time to time by the Declarant and the ARB, as applicable, pursuant to Section 4.3 hereinbelow. Declarant or the ARB, as applicable, may impose uniform standards and criteria so that all such signs within the Community are identical or substantially the same. For sale signs shall not be posted in any window or door of a dwelling. Signs used by Declarant, Declarant's Affiliates and their successors and assigns, for advertising and marketing during the Development and Sale Period of the Community and other signs authorized by Declarant or its Affiliates shall be exempt from the restrictions set fort in this Section 3.1(f).

The Use Restrictions and the restrictions set forth in this Section 3.1 are subject to enforcement action by the Association and Declarant pursuant to Section 7.4, including, but not limited to, imposition of monetary fines and liens, suits to enjoin violations and exercise of self-help remedies and other remedies as provided in Section 7.4. Any act of any occupant, broker, agent, employee or invitee of an Owner shall be deemed to be an act done by or on behalf of such Owner.

3.2 Amendment of Use Restrictions.

(a) The Declarant may change (i.e., modify, cancel, limit, create exceptions to, or add to) the Use Restrictions during the Class "B" Control period. Thereafter, the Use Restrictions may be changed in accordance with the provisions of Article XX, or as otherwise provided in this Declaration. The Board shall send the Members notice of any proposed change at least five business days before the meeting at which such change will be considered. The Members shall have a reasonable opportunity to be heard at such meeting.

(b) Any change in the Use Restrictions shall be recorded. The Board shall send a copy of the new or changed Use Restriction to each Owner. The change shall become effective upon recording in the public records of the County. The Association shall provide to any requesting Member or Mortgagee, a copy of the Use Restrictions then in effect, subject to payment of a reasonable administrative fee and copying charges for same.

(c) In the event of a conflict between the Architectural Guidelines and the Use Restrictions, the Architectural Guidelines shall control. In the event of a conflict between the Use Restrictions and any provision within this Declaration (exclusive of the Use Restrictions), the Declaration provision shall control.

(d) The procedures described in this Section 3.2 are not intended to apply to reasonable rules and regulations, which the Board may adopt by resolution, or other

administrative rules, unless the Board chooses, in its discretion, to submit to such procedures; provided all such rules and regulations shall be subject to Declarant's written consent during the Development and Sale Period.

(e) Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions set forth in Exhibit "C," the Association's actions with respect to Use Restrictions and rules must comply with the following:

(i) Displays. Owners' rights to display religious and holiday signs, symbols, and decorations, signs indicating that the Lot is receiving security services, and signs required to comply with or obtain the benefit of applicable laws (e.g. beware of dog signs) on their Lots of the kinds normally displayed in residential neighborhoods with homes of comparable type, quality, and price range to those in the Community shall not be further abridged, except that the Association may adopt time, place, size, number, and manner restrictions with respect to such displays.

(ii) Signs. To the extent that signs are permitted under Article IV, the Association shall not regulate the content of political signs; however, it may regulate the time, place, size, number, and manner of posting such signs (including design criteria). Provided further that signs, regardless of size, used by Declarant and Declarant's Affiliates, and their successors and assigns, for advertising and marketing during the construction and sale of the Community shall be exempt from this restriction.

(iii) Activities Within Dwellings. The Association shall not interfere with activities carried on within a dwelling, except that it may prohibit activities not normally associated with residential property, and it may restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, that create undesirable odors noticeable to persons outside the dwelling, that are an unreasonable source of annoyance, or that violates a provision of the Governing Documents.

(iv) Alienation. The Association shall not prohibit leasing or transfer of any Lot, or require the Association's or the Board's consent prior to leasing or transferring a Lot. The Association may impose restrictions on leasing, in addition to those set forth in this Article, and may require that Owners use Association-approved lease forms (or include specific lease terms) and may impose a reasonable review or administrative fee on the lease or transfer of any Lot.

(v) Abridging Existing Rights. The Association may not require an Owner to remove or dispose of any improvements installed upon a Lot or personal property in or on a Lot that was in compliance with all existing rules and requirements at the time of the installation of such improvements or delivery of such personal property to the Lot. The exemption with respect to personal property shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(vi) Right to Develop. The Association may not impede Declarant's or Declarant's Affiliates rights to develop, market, or sell the property described on Exhibit "A" and Exhibit "B."

The limitations in paragraphs (i) through (iv) of this subsection (e) shall not apply to amendments to this Declaration adopted in accordance with Article XX.

3.3 Owners' Acknowledgment and Notice to Purchasers. Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot is limited and affected by the terms of the Governing Documents, including Use Restrictions and Board rules, which may change from time to time. Copies of the current Use Restrictions and Board rules may be obtained from the Association.

## ARTICLE IV ARCHITECTURE AND LANDSCAPING

4.1 General. Except for work done by or on behalf of Declarant or any Declarant Affiliate, no structure or thing shall be placed, erected, or installed upon any Lot, and no improvements of any kind or other work (including, without limitation, staking, clearing, excavation, grading and other site work, exterior alterations or additions, or planting or removal of landscaping) shall take place within the Community, except in compliance with this Article, the PUD and the Architectural Guidelines, including required architectural review as provided hereinbelow.

Any Owner may remodel, paint, or redecorate the interior of any structure on his or her Lot without approval hereunder. However, modifications to the interior of screened porches, patios, and any other portions of a Lot or structure visible from outside a structure are subject to review and approval under this Article.

Improvements shall be constructed only by qualified Persons acceptable to the Reviewer (as defined in Section 4.2(c)). Owners shall be responsible for obtaining all permits and approvals from the County and other governmental agencies.

This Article does not apply to Declarant's, or its Affiliates', activities, or to the Association's activities during the Class "B" Control Period.

4.2 Architectural Review.

(a) By Declarant. During the Development and Sale Period, Declarant shall have authority to administer and enforce architectural controls and to review and act upon all applications for architectural and other improvements within the Community. Declarant may designate one or more Persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person.

Declarant may from time to time delegate or assign all or any portion of its rights under this Article to any other Person or committee, including the Architectural Review Board. Any such delegation shall be in writing, shall specify the delegated responsibilities, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume its prior

jurisdiction, and (ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Architectural Review Board. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARB, shall assume jurisdiction over architectural matters. When appointed, the ARB shall consist of at least three, but not more than five, persons. Members of the ARB need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish. The ARB members shall serve and may be removed and replaced in the Board's discretion.

Unless and until such time as Declarant delegates any of its reserved rights to the ARB or Declarant's rights under this Article terminate, the Association shall have no power over matters governed by this Article 4.

(c) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include, without limitation, the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals the Reviewer employs or with whom it contracts. The Board may include the compensation of such Persons in the Association's annual operating budget.

4.3 Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare and make available the initial Architectural Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions that may vary according to location within the Community or product type. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer. The Architectural Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Architectural Guidelines does not guarantee an application's approval. In addition to the Architectural Guidelines, all improvements must also comply with the Community Wide Standard and the architectural and design guidelines and requirements of the Master Association and the County.

If the same exist, Declarant shall have sole and absolute and full authority to amend the Architectural Guidelines, from time to time, during the Development and Sale Period. Declarant's right to amend shall continue even if its reviewing authority is delegated to the ARB, unless Declarant also delegates the power to amend to the ARB. Upon termination or delegation to the ARB of Declarant's right to amend, the Board may amend the Architectural Guidelines, subject to Declarant's veto right under Section 4.2(a) (if still applicable).

If the same exist, Amendments to the Architectural Guidelines shall be prospective only. They shall not require modifications to or removal of structures, improvements, and other things

previously approved once the approved construction or modification has begun. However, any new work or improvements must comply with the Architectural Guidelines as amended.

In Declarant's discretion, the Architectural Guidelines may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Unless the Architectural Guidelines provide otherwise, no construction activities or other activities described in Section 4.1 may begin until a request is submitted to and approved in writing by the Reviewer. The request must be in writing and be accompanied by plans and specifications and other information the Reviewer and/or the Architectural Guidelines require. Plans and specifications shall show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction or other activity as the Reviewer deems relevant.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

The Reviewer shall make a determination on each application within 45 days after receipt of a completed application and all other information the Reviewer requires. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until 45 days after the final, required submission stage. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application, with or without conditions, and disapprove other portions; or (iii) disapprove the application. The Reviewer shall notify the applicant in writing of a final determination on any application. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

After the initial 45-day period has elapsed, if the Owner has not received notice of the Reviewer's determination, the Owner may make a second written request for approval of the plans previously submitted which shall be marked "**Second Request**." If the Reviewer fails to respond within ten business days from receipt of the Second Request, approval shall be deemed denied. Notwithstanding anything in this Declaration to the contrary, no approval of construction activities (or improvement governed by such approval), shall be inconsistent with the Architectural Guidelines or other Governing Documents unless a written variance has been granted pursuant to Section 4.5.

Notwithstanding anything to the contrary in this Declaration or the By-Laws, Owners shall send any such "**Second Request**" via the U. S. Postal Service, certified mail, return receipt requested, or by commercial overnight carrier that obtains a signed receipt upon delivery. A

Second Request shall be deemed made, and the 10 business day time period shall commence running, on the date of the Reviewer's actual receipt of the Second Request, as evidenced by its signature on the return receipt provided by the U. S. Postal Service or in the records of the overnight carrier, as applicable.

As part of any approval, the Reviewer may require that construction, landscaping and other approved activities in accordance with approved plans commence and be completed within a specified time period. If such actions do not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities within the scope of this Article. Once commenced, such activities must be diligently pursued to completion. All elements of the approved activities and/or plans shall be completed within one year of commencement unless a shorter or longer period is otherwise specified in the notice of approval or the Architectural Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action by the Association or Declarant.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless written approval to modify any application has been obtained.

Declarant or the ARB, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

4.4 No Waiver of Future Approvals. Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be feasible to identify objectionable features until work is completed, at which time, it may or may not be unreasonable to require that such objectionable features be changed. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the Reviewer's right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5 Variances. The Reviewer may authorize variances from compliance with the Architectural Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or permit. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires Declarant's written consent during the Development and Sale Period and, requires the Board's written consent.

4.6 Release of Liability. This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Community. Review and approval of any application pursuant to this Article may be based on purely aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other

governmental requirements, or for ensuring that every dwelling is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

Each Owner releases Declarant, Declarant's Affiliates, any predecessor Declarant, the Association, its officers, the Board, the ARB, the Association's managing agent, any committee, or any member of any of the foregoing for the approval of, disapproval of, or failure to approve or disapprove any plans; soil conditions, drainage, or other general site work related to approved work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any owner or their contractor or their subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or activities on or modifications to any Lot. In all such matters or claims related therefrom, the Association shall defend, indemnify and hold harmless the Declarant, Declarant's Affiliates, any predecessor Declarant, Board, the ARB, the members of each, and the Association officers as provided in the Articles.

4.7 Enforcement. Any construction, alteration, improvement, or other work done in violation of this Article or the Architectural Guidelines is subject to enforcement action pursuant to Section 7.4. Any act of any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed to be an act done by or on behalf of such Owner.

## ARTICLE V MAINTENANCE AND REPAIR

5.1 Maintenance of Lots.

(a) Each Owner must maintain his or her Lot, including, without limitation, all structures, landscaping, and other improvements comprising the Lot, in a manner consistent with the Governing Documents, the Community-Wide Standard, and any other applicable covenants, except to the extent that such maintenance responsibility is assigned to or assumed by the Master Association pursuant to the Master Declaration or the Association pursuant to this Declaration or any Supplemental Declaration or additional covenants applicable to such Lot. In addition, each Owner shall maintain the sidewalk and landscaping located between the boundary of such Owner's Lot and the back-of-curb of any roadway lying adjacent to the boundary of his or her Lot, unless the Master Association or the Association assumes all or part of such maintenance responsibility, and then only to the extent not assumed by the Master Association or the Association. Without limiting the generality of the foregoing, Owners shall be responsible for:

(i) repair or replacement of any damaged garage door and exterior door hardware, garage door openers; and caulking of the exterior portions of any windows or doors, regardless of what Service Area their Unit may be located;

(ii) operation, maintenance, repair and replacement of any irrigation equipment (including, without limitation, any sprinklers, pumps, water lines and time clocks, wherever located) serving the Lots;

(iii) maintenance (including, mowing, fertilizing, watering, pruning, and replacing, and controlling disease and insects), of all lawns and landscaping installed on the Lots;

(iv) painting of all exterior painted portions of any dwelling, including any garage, garage door, exterior doors, shutters, fascia on the dwelling, and any fence erected along the Lot boundaries ("**Boundary Fences**");

(v) pressure cleaning of exterior walkways, front steps, porches, patios, roofs, and the exterior walls of all dwellings and garages;

(vi) repair and replacement of any Boundary Fences originally installed by Declarant;

(vii) repair and replacement of shutters and fascia on any dwelling;

(viii) repair and replacement of roofs, gutters and downspouts;

(ix) termite treatment of all exterior walls and foundations of dwellings and garages.

(b) For all Lots, the Association shall be responsible for:

(i) repair or replacement of any mail kiosk originally installed by Declarant, whether on Lot or in the common area; and

All other portions of the Lots (and the improvements located thereon) shall be the responsibility of the respective Owners, including, without limitation, maintenance, repair, and replacement, as necessary, of all pipes, lines, wires, conduits, or other apparatus which serve only the Lot, whether located within or outside the Lot's boundaries (including all utility lines and courtyard drain and associated pipes serving only the Lot).

(c) Declarant or a builder may have constructed or installed drainage swales, drainage lines, and/or other equipment on a Lot for the purpose of managing and/or containing the flow of surface water, if any, found upon such Lot from time to time. Except to the extent that such responsibility is assigned to or assumed by the Master Association pursuant to the Master Declaration or the Association pursuant to this Declaration or any Supplemental Declaration, each Owner shall be responsible for the maintenance, operation, and repair of such drainage swale(s), drainage lines, and other equipment on his or her Lot. Maintenance, operation, and repair shall mean and include, without limitation, the exercise of practices, such as mowing and erosion repair, which allow the drainage swales, drainage lines, and other equipment to provide drainage, water storage, conveyance, or other storm water management capabilities as permitted by the District. Filling, excavation, construction of fences, or otherwise obstructing the surface water flow in or into the drainage swales, drainage lines, and other equipment is prohibited. No alteration of a drainage swale, drainage lines, and other equipment shall be authorized and any damage to any drainage swale, drainage lines, and other equipment, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale, drainage lines and other

equipment returned to its former condition as soon as possible by the Owner(s) of the Lot upon which the drainage swale, drainage lines, and other equipment is located.

(d) Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement. The maintenance, repair, replacement, and other obligations of the Association and Owner specified in this Declaration shall be performed as and when the Board determines it necessary to maintain the property to a level consistent with the Community-Wide Standard.

5.2 Insurance on Lots; Casualty Losses. Each Owner shall maintain property insurance providing fire and extended coverage at full replacement cost, less a reasonable deductible, on all insurable improvements located on such Owner's Lot, to the extent such responsibility is not assigned to or assumed by the Association pursuant to this Declaration or any applicable Supplemental Declaration. In addition, every Owner shall be obligated to obtain and maintain at all times insurance covering consequential damages to any other Lot, the Master Association Property or the Common Area due to occurrences originating within the Owner's Lot caused by the negligence of the Owner, the failure of the Owner to maintain the Lot, and any other casualty within the Lot which causes damage to the Lots, the Master Association Property or the Common Area, to the extent such coverage is not provided by policies maintained by the Association or to the extent insurable losses may result in the Owner's liability for payment of deductibles under the Association's policies. Such insurance policy or policies shall name the Master Association and the Association as additional insureds. Unless a Mortgagee is named as the loss payee under any such policy, the Master Association and the Association shall be named as the loss payee.

Each Owner shall provide a certificate evidencing such insurance to the Association within 10 days of any written request from the Board of Directors. In addition, if the Board so requests, each Owner shall file with the Association a copy of the individual policy or policies covering his or her Lot. Each Owner shall promptly notify the Board in writing in the event such policy on his or her Lot is canceled. In the event that an Owner fails to obtain any insurance which the Owner is required to obtain hereunder, or permits such insurance to lapse, the Association may, but shall not be obligated to, obtain such insurance on behalf of the Owner and assess the costs thereof to the Owner and the Owner's Lot as a Benefited Assessment.

Regardless of whether the insurance required hereunder is obtained by the Association or the Owners, in the event of a casualty loss, the Association shall be entitled to file a claim against such insurance for the cost of any repair or reconstruction to the Lot and improvements thereon which is the Association's responsibility, and the Owner shall pay the amount of any deductible and shall be responsible for any deficiency in the insurance proceeds. The Association shall be entitled to adjust with the insurance provider the amount of any proceeds payable to the Association and the Owner thereunder, based upon the amount necessary to enable the Owner and the Association each to repair and replace those portions of the Lot and improvements thereon that are their respective responsibilities.

If the Owner is required to obtain insurance hereunder and such insurance is insufficient, the Association shall be relieved of any obligation to maintain, repair, and replace damaged or

destroyed portions of the Owner's Lot, to the extent of such insufficiency. Alternatively, the Association may perform required repairs, whether the responsibility of the Association or the Owner, and assess all costs to the Owner and the Owner's Lot as a Benefited Assessment pursuant to Section 8.4.

In the event of damage to or destruction of a structure on a Lot, the Owner shall promptly repair or reconstruct the structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article IV, except that if the Association has assumed responsibility for insurance coverage hereunder, the Association shall, subject to the limitations above, be responsible for repair or reconstruction of those portions of the structure on the Lot for which the Association has expressly, in writing, assumed insurance responsibility.

## ARTICLE VI THE ASSOCIATION AND ITS MEMBERS

6.1 Function of Association. The Association is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas. The Association also has primary responsibility for administering and enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Florida law. The Board shall be responsible for management of the Association and may contract with a property manager for such purposes. The Board is appointed or elected as provided in the By-Laws. Membership in the Association is appurtenant to and may not be severed from the Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in this Declaration, the Articles of Incorporation, or By-Laws of the Association, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot.

6.2 Membership. The Association initially shall have two classes of membership, Class "A" and Class "B." Class "A" Members are all Owners except the Class "B" Member. The sole Class "B" Member shall be Declarant. The Class "B" membership shall terminate upon the earlier of (i) upon the conveyance of 90% of Lots to homeowners other than Declarant or Declarant's Affiliates; (ii) seven (7) years from the date of recording this Declaration; or (iii) earlier, if Class "B" Member, in its discretion, so determines.

Notwithstanding the above, there shall be only one Class "A" membership per Lot. If a Lot is owned by more than one Person, each co-Owner shares the privileges of the membership, subject to reasonable Board regulation and the voting restrictions described in Section 6.3(a) and in the By-Laws. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner that is not an individual (e.g., a corporation) may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

6.3 Voting.

(a) Class "A". Class "A" Members have one equal vote for each Lot they own, except that there is only one vote per Lot. No vote shall be exercised for any property that is exempt from assessment under Section 8.8.

In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The Class "B" Member shall not have any specific number of votes, but may appoint a majority of the Board members during the Class "B" Control Period, as specified in the By-Laws, and may exercise the additional rights specified throughout the Governing Documents.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to one Class "A" vote for each Lot it owns.

## ARTICLE VII ASSOCIATION POWERS AND RESPONSIBILITIES

7.1 Acceptance and Control of Common Areas.

(a) The Association may acquire, hold, mortgage or otherwise encumber, lease (as landlord or tenant), operate, and dispose of tangible and intangible personal property and real property, subject to the provisions of Section 16.9 and the PUD. The Association may enter into leases, licenses, or operating agreements, for payment or no payment, as the Board deems appropriate, permitting use of portions of the Common Area by others.

(b) Declarant or its designees may, from time to time, transfer to the Association, and the Association shall accept, personal property and/or fee title or other property interests in any improved or unimproved real property included within the property described in Exhibit "A" or Exhibit "B." Subject to the provisions of Section 16.9, upon Declarant's request, the Association shall transfer back to Declarant or its designees, without any payment by Declarant or such designee, any real property which has not been improved by a structure intended for residential occupancy, whether or not such property has been improved by landscaping, decorative walls, signs, irrigation, utilities, or other improvements, if originally conveyed to the Association for no or nominal payment.

(c) The Association is responsible for management, operation, and control of the Common Area in accordance with the Community Wide Standard, subject to any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may, from time to time, adopt such reasonable rules regulating use of the Common Area as it deems appropriate provided such rules shall be subject to Declarant's written approval during the Development and Sale Period. The Association may enter into a property management agreement with any Person, including Declarant or any Declarant Affiliate.

(d) Declarant may elect to construct or install certain improvements or facilities upon portions of the Common Area, but is not obligated to do so and may elect to leave portions of the Common Area in their natural unimproved state. Declarant shall have the absolute right and power to determine what improvements or facilities, if any, will be located on the Common Area during the Development and Sale Period.

(e) Declarant hereby reserves the right, at all times after conveyance of the Common Area to the Association, to enter the Common Area, without prior notice, and to inspect the condition thereof and the improvements and facilities thereon, if any. If Declarant determines, in its sole judgment, that the Association has failed to maintain any portion of the Common Area in a manner consistent with the Community-Wide Standard, it may so notify the Association, in writing, and the Association shall promptly perform the required maintenance or repairs. Failure of the Association to maintain the Common Area in a manner consistent with the Community-Wide Standard shall relieve Declarant and any predecessor Declarant of any liability to the Association or to any Member for any condition of the Common Area. Declarant shall have the right to make a record of its inspections by any means available, including, but not limited to, photographing and/or videotaping the Common Area, and shall have the right to perform tests or examinations to determine the condition of the Common Area. Notwithstanding the foregoing, Declarant shall have no obligation to perform inspections of the Common Area owned by the Association, and the Association shall not be relieved of its obligation to maintain the Common Area because of the election of Declarant or any predecessor Declarant to inspect or not to inspect or report to the Association the condition of the Common Area.

7.2 Maintenance of Common Maintenance Areas. To the extent not maintained by the Master Association pursuant to the Master Declaration, the Association shall maintain the Common Maintenance Areas in accordance with the Community-Wide Standard. The Common Maintenance Areas shall include, but are not limited to (a) the Common Area, including landscaping, signage, perimeter walls, fencing, structures, and other improvements located on the Common Area; (b) at the election of Declarant or the Association, landscaping within public rights-of-way within or abutting the Community, or wetlands if not the obligation of owners; (c) such portions of Lots as are specifically identified as the Association's responsibility under Section 5.1 or any Supplemental Declaration; (d) such portions of any additional property as may be dictated by Declarant, this Declaration, any Supplemental Declaration, any Plat, or any contract, covenant, or agreement for maintenance entered into by, or for the benefit of, the Association; and (e) all ponds, streams, ditches, culverts, and/or wetlands located within the Community which serve as part of the Surface Water and Storm Water Management System, other than those portions located on a Lot and to be maintained by the Owner of such Lot in accordance with Section 5.1 including, without limitation, associated improvements and equipment, any other wetland (whether located in Common Area or a Lot), but not including any such areas, improvements, or equipment maintained by the Master Association pursuant to the Master Declaration and the County, a community development district, or any other governmental or quasi-governmental body.

To the extent not maintained by the Master Association pursuant to the Master Declaration, the Association shall maintain the littoral shelf, if any, of all culverts, ditches, or waterways serving as part of the Surface Water and Storm Water Management System, which maintenance may include, without limitation, appropriate landscaping and plantings.

The Association may maintain other property that it does not own, including, without limitation, Master Association Property (with the consent of the Master Association) and property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and the owner of such other property consents. The Association shall not be liable for any damage or injury occurring on or arising out

of the condition of property it does not own except to the extent that it has been grossly negligent in performing its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Maintenance Areas in continuous operation, except for any periods necessary, as the Board may determine in its discretion, to perform required maintenance, repairs, or replacement, unless Members representing at least 75% of the Class "A" votes agree in writing to discontinue such operation (which may include closing and/or demolishing such facilities or equipment). Notwithstanding the above, the Common Maintenance Areas may not be reduced, nor shall operation of its facilities and equipment be discontinued, without Declarant's prior written approval during the Development and Sale Period.

Unless otherwise provided in this Declaration or any applicable Supplemental Declaration, the costs associated with maintenance, repair, and replacement of the Common Maintenance Areas shall be a Common Expense, except that such costs associated with Limited Common Areas shall be a Limited Common Expense. However, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Maintenance Areas pursuant to this Declaration, a Supplemental Declaration, or other recorded covenants or agreements.

Unless Declarant expressly agrees in writing with the Association to pay the costs of maintaining any portion of the Common Maintenance Areas, Declarant shall have no such obligation, regardless of any inferences that may be drawn from promotional or other materials.

7.3 Insurance – Common Areas. The Association shall keep all improvements, facilities, and fixtures located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters) and may obtain insurance against such other hazards and casualties as the Association may deem desirable.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect any or all of the following types of insurance, as deemed necessary or advisable in the Board's business judgment and as may be reasonably available: (i) blanket property insurance covering all insurable improvements within the Common Areas to the extent that the Association has responsibility for repair or reconstruction in the event of a casualty, or assumes such responsibility pursuant to Section 5.2, regardless of ownership with full replacement value coverage; (ii) commercial general liability insurance on the Common Maintenance Areas insuring against liability for bodily injury, death, and property damage arising from the activities of the Association or with regards to Common Maintenance Areas, including, without limitation, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member, the Master Association and the Association and vice versa; (iii) directors and officers liability coverage; (iv) commercial crime insurance, including fidelity insurance, covering all Persons responsible for handling Association funds in an amount at least equal to three months of Regular Assessments, plus all reserve funds; (v) to the extent any insurable improvements to Common Maintenance Areas are within an "A" flood zone, flood insurance in an amount equal to the lesser of 100% of the replacement costs of

all insurable improvements (if any) within the Common Maintenance Areas or the maximum amount of coverage available under the National Flood Insurance Program; and (vi) such additional insurance as the Board, in its business judgment, determines advisable. Notwithstanding the foregoing, Declarant may obtain insurance for multiple communities, which it is developing, and/or other projects under a blanket policy instead of obtaining a separate policy for the Association, and charge a reasonable portion of the cost thereof to the Association.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Service Area, obtain and maintain property insurance on the insurable improvements within such Service Area. Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Lot insured.

Unless designated as a Limited Common Area or otherwise provided in a Supplemental Declaration, premiums for Common Maintenance Area insurance shall be a Common Expense.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon written request, to each Member insured.

To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association may contain provisions, or be accompanied by endorsements, for agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction. All insurance policies shall contain standard mortgagee clauses, if applicable.

The policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or Limited Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Benefited Assessment.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property for which the Association maintains insurance coverage, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(d) Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, Declarant, the Master Association, any predecessor Declarant, and the directors, trustees, officers, shareholders, attorneys, agents and

employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Damaged improvements on the Common Area shall be repaired or reconstructed unless Members representing at least 80% of the total Class "A" votes in the Association, if general Common Area, or 80% of the Class "A" votes of Lots to which the Limited Common Area is assigned, if Limited Common Area, and the Declarant during the Development and Sale Period, decide, within 90 days after the loss, not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 90-day period, then the period may be extended until 90 days after such funds or information are available. No Mortgagees shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed (unless required by FNMA, HUD, FHA or VA).

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall deposit any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, in a capital improvements account for the benefit of the Members. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

7.4 Enforcement.

(a) The Association, acting through the Board, may impose sanctions for violation of the Governing Documents, subject to the notice and hearing procedures set forth in the By-Laws, as applicable. Such sanctions may include, without limitation:

(i) imposing monetary fines, up to the maximum, if any, permitted by applicable laws, which may accrue from the date of notice and which shall constitute a lien upon the violator's Lot (in the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board); and

(ii) suspending the vote attributable to the violating Owner's Lot if permitted and then in accordance with applicable law; and

(iii) suspending the violator's and any guest or invitee of the violator's right to use any recreational facilities within the Common Maintenance Area in accordance with applicable law; and

(iv) suspending any services which the Association provides to an Owner or the Owner's Lot if the Owner is delinquent in paying any assessment or other charge owed to the Association for longer than 30 days (or such longer period as is required by HUD or

VA if either such agency is insuring or guaranteeing the Mortgage on any Lot or has granted project approvals for such Mortgages); and

(v) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and/or the Architectural Guidelines from continuing or performing any further activities in the Community; and

(vi) levying Benefited Assessments pursuant to Section 8.4 to cover costs the Association incurs to bring a Lot into compliance with the Governing Documents, including Legal Costs, or costs incurred as a consequence of the conduct of an Owner or occupant of a Lot, their guests or invitees, including, without limitation, all such Legal Costs or other costs incurred in exercising any right or remedy of the Association or Board as set forth in this Section 7.4.

(b) In addition, but without limitation of the Association's other rights and remedies, the Association, acting through the Board or its designee, may take the following action to enforce the Governing Documents without, to the extent permitted by applicable law, the necessity of compliance with the notice and hearing procedures set forth in the By-Laws:

(i) requiring an Owner, at its own expense, to perform maintenance on such Owner's Lot, to complete any construction or modification approved pursuant to Article IV, or to remove any structure, item or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition; or

(ii) entering the property pursuant to the easement granted in Section 11.5 and exercising self-help to remove or cure a violating condition, or to complete any construction or modification approved pursuant to Article IV which was begun and not completed within the required time period, upon failure of an Owner to take action as required pursuant to subsection (i) above within 10 days after the Board's mailing of written notice to do so, and any such entry shall not be deemed a trespass; or

(iii) exercising self-help in any situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations and removing signs that are in violation of the signage rules, regulations and restrictions), including entering the property pursuant to the easement granted in Section 11.5 in exercising such self-help; and/or

(iv) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to the procedures set forth in Article XV, if applicable.

(c) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents whether brought by the Association, Declarant, or Owner, the prevailing party shall be entitled to recover all Legal Costs incurred in any such action.

(d) The Association's decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, considering, among other things, hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under the same or other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

(e) The Association, by contract or other agreement, may enforce applicable governmental regulations and permit a Governmental Authority to enforce ordinances, rules, statutes, or laws within the Community for the benefit of the Association and its Members.

(f) The District and the Association shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the Surface Water or Storm Water Management System.

(g) Declarant shall be entitled to exercise all of the rights and powers granted to the Association under Sections 7.4(a), 7.4(b) and 7.4(c) and shall be entitled to recover all costs that it incurs in so doing from the responsible Owner.

(h) Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted as provided in the Governing Documents by Declarant, its successors and assigns, the Association, its successors or assigns, or any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner or Declarant to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association shall have the right of self-help to cure any violations that remain uncured after any required notice is given.

7.5 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly or by reasonable implication from the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as

otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Maintenance Areas, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members. In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

7.6 Provision of Services to Lots. The Association may provide, or provide for, services and facilities for all or any of the Members and their Lots, and may enter into contracts or agreements with other entities, including, without limitation, Declarant or its Affiliates, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities, or may include the costs in the Association's budget as a Common Expense and assess it as part of the Regular Assessment, if provided to, or determined by the Board to be a benefit to, all Lots and if authorized by a majority vote of the Owners of the Lots, at a meeting held in accordance with the Governing Documents, including all applicable notice and quorum requirements. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, telephone, internet access, security monitoring, caretaker, transportation, fire protection, utilities, trash collection and recycling, and other services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services or facilities shall be provided. In addition, subject to the contract terms, the Board may modify or cancel existing contracts for services in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services or facilities provided to Owners or Lots as a Common Expense or a Limited Common Expense, shall not exempt any Owner from the obligation to pay assessments for such services or facilities.

7.7 Municipal Service Taxing Units. In order to perform the services contemplated by this Declaration, the Association or Declarant, in conjunction with the County, may seek the formation of special purpose municipal service taxing units ("**MSTU's**"). The MSTU's will have responsibilities defined in their enabling resolutions which may include, but are not limited to, maintaining roadways, roadway informational signs, traffic control signs, benches, trash receptacles, and other street furniture, keeping all public roadways and roadside pedestrian easements clean of windblown trash and debris, mowing, payment of electrical charges, maintenance of drainage canals, ponds and structures, maintenance of designated landscape areas, payment of energy charges for street and pedestrian lighting, and other services benefiting the Community. In the event such MSTU's are formed, the Community will be subject to assessment for the cost of services performed within the MSTU and personnel working for or under contract with the County shall have the right to enter upon lands within the Community to affect the services contemplated. Each Owner, by acquiring lands within the Community, agrees

to pay each and every MSTU assessment imposed upon the Owner or the Owner's land in a timely manner, failing which such assessments and special charges shall be a lien upon those lands. The Association retains the right to contract with the County to provide the services funded by the MSTU's. Services performed by an MSTU that would otherwise be performed by the Association and for which the MSTU imposes assessments on the Owners shall be removed from the Association's budget and the Board shall reduce the Regular Assessment accordingly.

7.8 Relationships with Other Properties. The Association may enter into contractual agreements or covenants to share costs with any neighboring properties to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of maintenance of Common Maintenance Areas.

7.9 Relationship with Governmental and Tax-Exempt Organizations. The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, state or local governments, public or private utility providers, and non-profit, tax-exempt organizations for the benefit of the Community, the Association, and the Members. The Association may contribute money, real property (including, without limitation, Common Area), personal property, or services to any such entity. Any such contribution may be a Common Expense and included as a line item in the Association's annual budget.

For the purposes of this Section, a "**tax-exempt organization**" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("**Code**"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

7.10 Right To Designate Sites for Governmental and Public Interests. During the Development and Sale Period, Declarant may, but is not obligated to, designate sites within the Community for government, education, or religious activities and interests, including, without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. Subject to the approval requirements set forth in Section 16.9, the sites may include Common Area, in which case the Association shall take whatever action is required to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

7.11 Provision of Services to Service Areas.

(a) Declarant, on **Exhibit "A"** to this Declaration and/or by Supplemental Declaration submitting additional property to this Declaration, may assign the submitted property to one or more Service Areas (by name or other identifying designation) as Declarant deems appropriate, in Declarant's discretion, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to the Lots within such Service Area in addition to those which the Association generally provides to all Lots. Until termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to designate or redesignate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area shall be assessed against the Lots within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, the Owner(s) of any two or more Lots may petition the Board to designate such Lots as a Service Area for the purpose of receiving from the Association (a) special benefits or services which are not provided to all Lots, or (b) a higher level of service than the Association otherwise provides. Upon receipt of such petition signed by the Owner(s) of a majority of the Lots within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to be made therefore, which may include a reasonable administrative charge in such amount as the Board deems appropriate in its discretion (provided, any such administrative charge shall apply at a uniform rate per Lot among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least 67% of the Lots within the proposed Service Area, and Declarant during the Development and Sale Period, the Association shall provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services shall be assessed against the Lots within such Service Area as a Service Area Assessment, subject to the right of the Owners of Lots within the Service Area to veto the budget for their Service Area as provided in Section 8.1.

(c) The Board may, by resolution, designate a group of Lots as a Service Area and levy Service Area Assessments against such Lots to fund the costs of operating, maintaining, repairing, replacing and/or insuring certain portions of the Common Maintenance Area within or adjacent to such Service Area. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Service Area and adjacent public roads, private streets within the Service Area, and lakes or ponds within the Service Area, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; however, all similarly situated Lots shall be treated the same. Any such designation shall require the consent of Declarant during the Development and Sale Period.

7.12 Responsibilities Under Governmental Permits. Declarant shall have the absolute and unconditional right in its sole discretion to assign, delegate, or otherwise transfer to the Association any of its continuing obligations and/or responsibilities under governmental permits and approvals with respect to the Community. The Association shall accept and assume such obligations and responsibilities without condition or consideration. Such assignment, delegation, or transfer and assumption shall be effective without the consent of, or any further action by the Association, but upon Declarant's request, the Association shall promptly execute any documents which Declarant requests to evidence the assignment, delegation, or transfer and assumption of such obligations and/or responsibilities. If not earlier assigned and transferred to the Declarant, Declarant shall be deemed to have assigned and transferred, and the Association shall be deemed to have accepted and assumed, all of Declarant's continuing obligations and/or responsibilities under all governmental permits and approvals with respect to the Community upon termination of the Class "B" Control Period. Notwithstanding the foregoing, all obligations under governmental permits and approvals with respect to the Community which are contemplated to be assigned, delegated and transferred to and assumed and discharged by the Master Association pursuant to the Master Declaration, including, without limitation, Declarant's continuing obligations with respect to the Surface Water and Storm Water Management System under the Permit shall be deemed assigned to and assumed by the Master Association pursuant to the Master Declaration. The Association shall comply in all respects with the terms of, and shall not undertake any activity inconsistent with, such permits and approvals. The Association shall

indemnify, defend and hold Declarant harmless from any claims or losses arising out of the violation or failure to comply with any permit(s), or out of the operation, maintenance or use of any improvement or facility authorized by the permit(s), provided such claim or loss first occurs after the effective date of the assignment, delegation, transfer (or tender of the assignment, delegation, or transfer, if wrongfully refused by an Association).

7.13 Waterways; Water Level and Use. With respect to any waterways now existing or which may hereafter be contained within or adjoining the Community, only Declarant and the Master Association pursuant to the Master Declaration and (and after termination of the Class "B" Control Period, the Association) shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters, or other structure shall be erected on or over the waterways, except as may be erected or approved in writing by Declarant, the District if applicable, the Master Association (and following the termination of the Class "B" Control Period, the Association or the ARB). No boats or other water vehicle or craft shall be permitted on such waterways. Subject to the provisions of this Declaration, the Master Declaration and applicable law, the Association shall have the right and, to the extent required by the terms of Section 7.14 or any applicable governmental permit or ordinance as permitted by law, the obligation, to control the growth and eradication of plants, fowl, reptiles, animals, fish, fungi and other growth in, on and around such waterways.

7.14 Surface Water and Storm Water Management System. The Declarant has caused or will cause to be constructed within the geographic area shown by the Plat drainage retention/detention areas. These drainage structures are part of the overall drainage plan for the Property. The Master Association and the Association shall have unobstructed ingress to and egress from all retention/detention areas within the Property at all reasonable times to maintain said ponds and lakes in a manner consistent with its responsibilities. No Owner shall cause or permit any interference with such access and maintenance. Should any Lot Owner fail to sufficiently maintain any portion of the Surface Water and Storm Water Management System within its boundaries (or any portion of a surface water management system which connects with the Surface Water and Storm Water Management System), the Master Association or the Association shall have the authority to maintain such portion and the cost of such maintenance shall be assessed against and become a debt of the Owner to the Association as a special assessment and shall become immediately due and payable as provided for other assessments of the Master Association or the Association. Consequently, no Owner shall utilize, in any way, any of the drainage facilities or incorporate such facilities in the Owner's development plans, without the express prior written consent of the Master Association and Association. The Owner shall prepare its site plan so that the utilization of its property will not adversely affect the drainage facilities and structures and so as to be aesthetically compatible with such drainage facilities and structures.

(a) Maintenance, Operation, and Monitoring. To the extent not undertaken by the Master Association pursuant to the Master Declaration, the Association shall be responsible for the maintenance, operation, repair, and replacement of the Surface Water and Storm Water Management System. The Association shall have no responsibility for the maintenance, operation, repair and replacement of the Surface Water and Stormwater Management System so long as same is being undertaken and discharged by the Master Association pursuant to the

Master Declaration. Maintenance of the Surface Water and Storm Water Management System(s) shall mean the exercise or practices which allow the systems to provide drainage; water storage, conveyance, or other surface water or storm water management capabilities are permitted by the District, ACOE, and/or DEP. Any repair or reconstruction of the Surface Water and Storm Water Management System shall be as permitted or, if modified, as approved by the District, ACOE, and/or DEP. Notwithstanding anything contained herein to the contrary, the Association (if undertaking maintenance of same) shall maintain embankments so that grass, planting, or other lateral support shall prevent erosion of the embankment. The height, grade, and contour of such embankments shall not be changed without the prior written consent of Declarant or the Architectural Review Board. The Association (if undertaking maintenance of same) shall maintain, as part of the Common Maintenance Areas, the Surface Water and Storm Water Management System and shall comply with conditions of the permits from the District, the United States Army Corps of Engineers ("**ACOE**"), DEP, the County, or the State of Florida for the Surface Water and Storm Water Management System within the Community. The Association shall, when requested by Declarant and to the extent not assigned to and assumed by the Master Association pursuant to the Master Declaration, apply for the issuance of, or accept assignment of, all District, ACOE, DEP, County and State of Florida permits for the Community (as the Community may be expanded by the annexation of additional phases as herein contemplated) and shall be designated as the "permittee" thereof. The conditions of the permits include monitoring and record keeping schedules, and maintenance. The following additional conditions shall apply to the extent that the Association accepts and assumes responsibility for such systems:

(i) The Association shall hold and save the District, ACOE, County and the State of Florida harmless from any and all damages, claims, or liabilities which may arise by reason of the operation, maintenance, or use of any improvement or facility authorized by the permits.

(ii) The Association shall at all times properly operate and maintain the systems of treatment and control (and related appurtenances) that are installed or used to achieve compliance with conditions of the permits, as required by the DEP, District, ACOE, County, and/or the State of Florida. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permits and when required by the District, ACOE, County, and State of Florida rules, per permits.

(iii) The Association specifically agrees to allow authorized District, ACOE, County, and State of Florida personnel, upon representation of credentials or other documents as may be required by law, access to the Common Maintenance Areas where the permitted activity is located or conducted at all reasonable times for the purposes of inspection and testing to determine compliance with the permits and District, ACOE, County and the State of Florida regulations, such as:

(A) having access to and copying any records that must be kept under the conditions of the permits; and

(B) inspecting the facilities, equipment, practices, or operations regulated or required under the permits; and

(C) sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with the permits or District, ACOE, County and State of Florida rules; and

(D) gathering of data and information.

Reasonable time may depend on the nature of the concern being investigated.

(iv) The Association shall submit inspection reports in the form required by the District, ACOE, County, and State of Florida, in accordance with the following schedule unless specified otherwise here or in permit applications:

(A) for systems utilizing exfiltration, the inspection shall be performed 18 months after operation is authorized and every 18 months thereafter; and

(B) for systems utilizing retention and wet detention, the inspections shall be performed two years after operation is authorized and every two years thereafter.

(v) It shall be the responsibility of each Owner at the time of construction of a building, residence, or other structure on such Owner's Lot, to comply with the construction plans for the Surface Water and Storm Water Management System pursuant to Chapter 40E, F.A.C., approved and on file with the District.

(vi) It is the Owner's responsibility not to remove native vegetation (including cattails) that become established within the wet detention ponds abutting their Lot. Removal includes dredging, the application of herbicide, the introduction of carp grass and cutting. If the Community includes a wetland mitigation area or wet detention pond, no vegetation in such area shall be removed, cut, trimmed, or sprayed with herbicide without specific written approval from the District and the ACOE. Owners should address any question regarding authorized activities within any wet detention pond to the District Service Office, and the ACOE.

(vii) No Owner may construct or maintain any building, residence, or structure or undertake or perform any activity in the wetland(s), wetland mitigation area(s), buffer area(s), upland conservation area(s), and drainage easement(s) described in approved permits and recorded Plats, unless prior approval is received from both the District Regulation Department pursuant to Chapter 40E, F.A.C., and from the County, the Association and Declarant, including architectural review as provided in Article IV hereinabove. If such activities are subject to ACOE or State of Florida permits, approval of those agencies shall also be obtained before any such activity is commenced.

(viii) Neither the Association nor any Owner shall engage in any construction related activities within any part of the Surface Water and Storm Water Management System unless such activities have been approved in writing by the District, or are specifically authorized by the conditions of the applicable permits. Without limitation, the following activities are deemed construction related and are prohibited unless authorized in accordance with this subsection: digging or excavation; depositing fill, debris, or any other material or item;

constructing or altering any water control structure; or any other construction to modify the Surface Water and Storm Water Management System. If such activities are subject to the ACOE, County, or State of Florida permits, approval of those agencies shall also be obtained before any such activity is commenced.

(ix) The Association, through its Board, shall be responsible for enforcing the provisions of this Declaration; however, in addition to enforcement by the Association, Declarant hereby reserves unto itself, and grants to the Master Association, County and the District, the non-exclusive right, but not the obligation, to enforce the provisions of this Declaration concerning compliance with the Surface Water and Storm Water Management System permit, all applicable federal, state, and local laws, ordinances, and regulations, and all applicable rules and regulations of the Association against any person or entity in violation including the Owners, the Association, Builders, Affiliates of Declarant, and Declarant by the exercise of any remedies available at law or in equity, or otherwise provided in this Declaration for the protection and benefit of the Association, its Members, and the Community. Notwithstanding anything in this Declaration to the contrary, in the event that the County or the District elects to take enforcement action against any Owner, Declarant, Declarant Affiliate, the Association, or any other Person for violation of the terms of any permit, law, ordinance, rule, or regulation, such enforcement shall not be subject to the dispute resolution provision of Article XV of this Declaration.

(b) Effect of Dissolution. In the event of the termination, dissolution, or final liquidation of the Master Association and the Association, the responsibility for the operation and maintenance of the Surface Water and Storm Water Management System must be transferred to and accepted by an entity which would comply with Section 40E, F.A.C., and be approved by the SFWMD prior to such termination, dissolution, or liquidation. In the event that no other entity exists to receive such transfer, the obligations of the Master Association and the Association shall be deemed assumed by the Owners, and all such Owners shall be jointly and severally responsible for the operation and maintenance of the Surface Water and Storm Water Management System in accordance with the requirements of the permits.

(c) Shared Facilities. It is expected that certain portions of the Surface Water and Storm Water Management System will serve the drainage needs of both the Community and adjacent lands not owned by Declarant and not within the Community, including all those lands more particularly described as the "Townhome Property" in the Master Declaration (the "Adjacent Property"). The Master Declaration and the Plat reserve and grant drainage and/or use easements and rights for the operation and management of the Surface Water and Storm Water Management System for the benefit of the Community Property and the Adjacent Property. Declarant reserves the right to grant such additional drainage and/or use such easements and rights as Declarant may deem necessary or appropriate for accomplishing the drainage needs of the Community, the Adjacent Property and/or lands owned by others provided that such agreements shall not unreasonably interfere with the use of the system by the Owners or unreasonably increase the cost of maintenance of the system by the Master Association of the Association, as the case may be.

## ARTICLE VIII ASSOCIATION FINANCES

8.1 Budgeting and Allocating Common Expenses.

(a) Calculation of Regular Assessments. Before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses it expects to incur for the coming year, including any contributions to be made to reserves pursuant to Section 8.2 for periodic major maintenance, repair and replacement of items that the Association maintains as a Common Expense. To the extent not included within the budget and assessments of the Master Association pursuant to the Master Declaration, the budget shall include, as a separate line item in the operating expense portion of the budget, the estimated cost of routine maintenance of the Surface Water and Storm Water Management System and, as a separate line item in the reserve portion of the budget, a contribution to a reserve fund for periodic major maintenance, repair and replacements to the Common Maintenance Areas as provided in Section 8.2, including, without limitation, contributions to reserves for the Surface Water and Storm Water Management System. If required by the Master Association, the budget shall include as a Common Expense or Limited Common Expense, as appropriate, all sums assessed against the Community or any portion thereof by the Master Association under the Master Declaration. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the Common Expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities, and any other non-assessment income.

The Association is authorized to levy Regular Assessments to fund the Common Expenses against all Lots subject to assessment under Section 8.5, in the proportions described in Section 8.5. In determining the Regular Assessment rate, the Board may consider any assessment income expected to be generated from any property anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Regular Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.6(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a summary of the proposed budget and notice of the Regular Assessment to be levied pursuant to such budget to each Owner at least 30 days prior to the effective date of the budget. The budget and assessment shall automatically take effect on such date unless disapproved at a meeting by Members representing 75% of the total Class "A" votes and by Declarant during the Class "B" Control Period. There shall be no obligation to call a meeting of the Members for the purpose of considering the budget except upon petition of the Members as provided for special meetings in Section 2.5 of the By-Laws. Any such petition must be presented to the Board within 14 days after mailing of the budget and notice of the Regular Assessment.

If any proposed budget is disapproved, or if the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year, subject to the notice requirements set forth above and applicable law.

(b) Calculation of Service Area Assessments. Before the beginning of each fiscal year, the Board shall prepare a separate budget for each Service Area of the estimated Limited Common Expenses which it expects to incur on behalf of such Service Area for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.2 for periodic major maintenance, repair and replacement of items that the Association maintains on behalf of the Service Area as a Limited Common Expense. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the Limited Common Expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities maintained on behalf of the Service Area, and any other non-assessment income.

The Association is authorized to levy Service Area Assessments, to fund the Limited Common Expenses for each Service Area, against all Lots in the Service Area that are subject to assessment under Section 8.5, in the proportions described in Section 8.5, except that, unless otherwise specified in the applicable Supplemental Declaration, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures, may be levied on each of the benefited Lots in proportion to the benefit received, as the Board may reasonably determine. In determining the Service Area Assessment rate for any Service Area, the Board may consider any assessment income expected to be generated from any property in the Service Area anticipated to be subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Service Area Assessment applicable to any Service Area for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.6(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a summary of the proposed budget and notice of the Service Area Assessment to be levied pursuant to such budget to each Owner at least 30 days prior to the effective date of the budget. The budget and assessment shall automatically take effect on such date unless disapproved at a meeting by Members representing 75% of the total Class "A" votes and by Declarant during the Development and Sale Period. There shall be no obligation to call a meeting of the Members for the purpose of considering the budget except upon petition of the Members as provided for special meetings in Section 2.5 of the By-Laws. Any such petition must be presented to the Board within 14 days after mailing of the budget and notice of the Service Area Assessment.

If any proposed budget is disapproved, or if the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

All amounts that the Association collects as Service Area Assessments shall be expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

8.2 Budgeting for Reserves. The Board shall prepare and periodically review separate reserve budgets for the Common Maintenance Area, and for each Service Area for which the Association maintains capital items as a Limited Common Expense, which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of capital items under each budget. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1(a), or the Service Area budgets adopted pursuant to Section 8.1(b), as appropriate, a capital contribution to fund reserves in an amount which the Board, in the exercise of its business judgment, deems sufficient to meet the projected needs under each budget with respect to both amount and timing by annual contributions over the budget period.

Reserve funds shall be held in a separate account or accounts from the operating and other funds of the Association. Reserve funds collected for each Service Area shall be segregated from reserves collected for Common Maintenance Areas or other Service Areas.

The reserve funds held in each account may be expended only for major maintenance, repair, or replacement of those assets covered by the reserve budget pursuant to which they were collected. Subject to such limitation, the Board may adopt resolutions regarding the expenditure of any reserve funds including, without limitation, policies designating the nature of assets for which reserve funds may be expended. Neither the Association membership nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent during the Development and Sale Period.

8.3 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Lots within any Service Area, if such Special Assessment is for Limited Common Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of a majority of the Board, and the affirmative vote or written consent of Declarant, during the Development and Sale Period. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.4 Benefited Assessments. The Association may levy Benefited Assessments against one or more particular Lots as follows:

(a) to cover the costs, including, without limitation, overhead and administrative costs, of providing services to a Lot upon request of the Owner pursuant to any

menu of special services which the Association may offer (which might include the items identified in Section 7.6 or Section 8.10) or pursuant to a Supplemental Declaration. Benefited Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing a Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests, including, without limitation, Legal Costs, subject to the limitations of Section 7.4, as applicable.

8.5 Assessment Rate; Commencement of Assessments; Time of Payment. The obligation to pay assessments commences as to each Lot on the first day of the month following: (a) the month in which the Lot is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. Regular and Special Assessments for Common Expenses shall be allocated equally among all Lots subject to assessment, except that until such time as a certificate of occupancy or similar approval is issued for a Lot or two years after the date of conveyance by Declarant, whichever is sooner, the Lot shall be assessed at 25% of the rate of assessment that such Lot would otherwise bear. Except as otherwise provided in Section 8.1(b) or in any applicable Supplemental Declaration, Service Area Assessments shall be allocated equally among all Lots subject to assessment in the benefited Service Area, except that until such time as a certificate of occupancy or similar approval is issued for a Lot or two years after the date of conveyance by Declarant, whichever is sooner, the Lot shall be assessed at 25% of the rate of assessment that such Lot would otherwise bear. The first annual Regular Assessment and Service Area Assessment, if any, levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and may impose special requirements for Owners who have failed to pay, on a timely basis, two or more payments, in any 12 month period, of any nature, due under the Governing Documents. If the Board so elects, assessments may be paid in quarterly or monthly installments. Unless the Board otherwise provides, the Regular Assessment and Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require that the outstanding balance on all assessments be paid in full immediately.

8.6 Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Lot, covenants and agrees to pay all assessments levied in accordance with the Governing Documents for each Lot owned. All assessments, together with interest (computed from the assessment's due date at a rate of 18% per annum or the maximum rate permitted by law, whichever is less), late charges as determined by Board resolution, and Legal Costs, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Regular Assessments and Service Area Assessments, if any, on the same basis as during the last year for which an assessment was made, if any, until a new assessment if levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempted from liability for assessments by non use of Common Maintenance Area, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Following a written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. Notwithstanding anything to the contrary contained in this Declaration, to the extent permitted by Florida law, during the Class "B" Control Period, Declarant may satisfy the obligation for assessments (including the portion of such assessments which result from or relate to assessments of the Master Association under the Master Declaration) on Lots which are owned by Declarant or Declarant's Affiliates either by paying assessments in the same manner as any other Owner or by funding the budget deficit. The budget deficit is the difference between (i) the amount of assessments levied on Class "A" Member-owned Lots, plus any other income received during the fiscal year, and (ii) the amount of the Association's actual expenditures during the fiscal year, excluding contributions to reserves and excluding special assessments arising as a result of any unusual loss or liability. Unless Declarant otherwise notifies the Board in writing at least 30 days before the beginning of the fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by Declarant. After termination of the Class "B" Control Period, Declarant shall pay assessments on Lots which it or its Affiliates own in the same manner as any other Owner.

(c) Declarant's Right to Loan or Advance Funds. Declarant may (but is not obligated to) loan, advance or otherwise make payments to the Association to assist the Association in meeting its financial obligations, in addition to Declarant's obligation to pay assessments or fund the deficit under Section 8.5 or 8.6(b). Notwithstanding anything to the contrary contained in this Article 8, if Declarant loans, advances or otherwise pays assessments in excess of its obligations under Sections 8.5 or 8.6(b) then any such sums shall be repaid to the Declarant prior to the termination of the Class B Control Period.

8.7 Lien for Assessments. The Association may record a lien against any Lot, including Declarant's Lots, to secure payment of assessments that remain unpaid for a period of 30 days or longer after becoming due. For purposes of this Section, assessments shall include interest, late charges (subject to Florida law), and Legal Costs. Such lien shall be superior to all other liens, except (a) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, and (b) other liens or encumbrances which by law would be superior. The Association's lien may be enforced by suit, judgment, and/or judicial or nonjudicial foreclosure, unless prohibited by applicable law.

Notwithstanding the above, and subject to applicable law, the Board may designate assessments or charges levied solely for the purpose of funding Common Expenses related to acquisition, development, or construction of infrastructure or capital improvements serving the Community (or to pay the cost to underwrite, service, and repay any debt incurred to finance any such acquisition, development, or construction) as a "**Capital Improvement Assessment,**" and the lien therefore shall be superior to (a) the Association's lien for other Common Expenses and Limited Common Expenses, and (b) all other liens except those deemed superior under federal or Florida law and which may not be made subordinate by this provision.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure by the first Mortgagee (or pursuant to a deed in lieu of foreclosure to a first mortgage) extinguishes the lien relating to any amounts due prior to the Mortgagee's foreclosure or the deed in lieu of foreclosure. The purchaser of such foreclosed Lot shall not be personally liable for assessments on such Lot due prior to the foreclosure sale. Such unpaid assessments shall be a Common Expense collectible from Owners of all Lots subject to assessment under Section 8.5, including, without limitation, such purchaser, its successors and assigns.

Notwithstanding the above, while the Association owns a Lot: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

8.8 Exempt Property. The following property shall be exempt from payment of Regular Assessments, Service Area Assessments, and Special Assessments:

(a) All Master Property; and

(b) All Common Area and other portions of the Community which are not Lots; and

(c) Any property dedicated to and accepted by any governmental authority or public utility.

8.9 Initial One-Time Assessment. The Association hereby establishes an initial one-time assessment (the "**Initial Assessment**") applicable to each Lot in such amount as determined in the Board's discretion, not to exceed 300% (three months) of the full Regular Assessment per Lot levied for the year in which the Initial Assessment is due and payable. The Initial Assessment shall become due and payable upon first occupancy of such Lot as a place of residence by a Class "A" Member or upon the first conveyance of the Lot with a completed dwelling, whichever occurs first. Such Initial Assessment may be used to fund the Association's initial start up costs and other operating expenses or to help fund reserves, in the Board's discretion. The Initial Assessment may be referred to by another name, such as Working Capital Contribution, Working Fund Contribution or some other name, in marketing and disclosure materials.

No further Initial Assessment shall be due for any subsequent transfer of ownership of any Lot from one Class "A" Member to a successor Class "A" Member.

8.10 Use and Consumption Fees; Licenses and Royalties. The Board may charge use and consumption fees to any Person using Association services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners). Any such fees charged to Owners shall be considered a Benefited Assessment against the Lots of such Owners under Section 8.4(a).

As set forth in Section 10.7, the Association may enter into license agreements with Declarant or other parties to permit the Association's use of trade names or service marks (e.g., use of the name "**Willowcove**"). To the extent permitted by such license agreements, the Board may enter into sub-license agreements, under negotiated terms, which permit others within the Community to use such trade names and/or service marks. The Association may charge fees and collect royalties in connection with such sub-license agreements; provided, Declarant and any Declarant Affiliate shall retain the absolute right to use such trade names and service marks without payment of any license fees. Any such fees and royalties shall be considered a Benefited Assessment under Section 8.4(a).

## ARTICLE IX EXPANSION OF THE COMMUNITY

9.1 Annexation by Declarant. Declarant may, from time to time, subject to this Declaration all or any portion of the property described in Exhibit "B" by recording a Supplemental Declaration describing the property being subjected. A Supplemental Declaration recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant. Notwithstanding the foregoing, no property may be annexed to or subject to this Declaration unless it is also subject to the Master Declaration.

Declarant's right to annex property pursuant to this Section expires when all property described in Exhibit "B" has been subjected to this Declaration or fifteen (15) years after this Declaration is recorded, whichever is earlier. Until then, Declarant may transfer or assign this right, in whole or in part, to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or Exhibit "B." Any such transfer shall be memorialized in a recorded instrument executed by Declarant.

Nothing in this Declaration shall require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

Declarant intends to develop the Community in accordance with the Development Plan, but hereby reserves the right to modify the Development Plan and any Plat from time to time in its discretion and at its option. Declarant shall not be required to follow any predetermined order of improvement and development within the Plat or Community; and it may annex additional lands and develop them before completing the development of the Community.

9.2 Annexation by the Association. The Association also may annex property to the provisions of this Declaration by recording a Supplemental Declaration describing the additional property. Notwithstanding the foregoing, no property may be annexed to or subject to this Declaration unless it is also subject to the Master Declaration. Annexation by the Association shall require the affirmative vote or written consent of Members representing more than 50% of the Class "A" votes and the consent of the property owner. In addition, during the Development and Sale Period, Declarant's written consent is required. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is required.

In the event that either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees any Mortgage encumbering a Lot, and the regulations or procedures of such agency require under such circumstances approval of annexations by such agency or determination by such agency that such annexation is consistent with the general plan of development for the Community, then such approval or determination as described in Section 16.9 shall be a prerequisite to such annexation.

9.3 Additional Covenants and Easements. By Supplemental Declaration, Declarant may impose additional covenants, restrictions and easements on portions of the Community, including, without limitation, covenants obligating the Association to maintain and insure specific property and authorizing the Association to recover its costs through Benefited Assessments or through Service Area Assessments. If someone other than Declarant owns the property, then such Owners consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4 Effect of Filing Supplemental Declaration. A Supplemental Declaration shall be effective upon recording. Unless otherwise specified in the Supplemental Declaration, the Lots subjected to this Declaration by such Supplemental Declaration shall have equal voting rights in the Association and equal pro rata liability for Regular Assessments with all other Lots.

## ARTICLE X ADDITIONAL RIGHTS RESERVED TO DECLARANT

10.1 Withdrawal of Property. Declarant reserves the right to amend this Declaration, until termination of the Development and Sale Period, to remove from the coverage of this Declaration any property which has not been improved by a structure intended for occupancy,

whether or not such property has been improved by landscaping, decorative walls, signs, irrigation, utilities, or other improvements. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. Except as provided in Section 7.1(b), if the property is Common Area, the Association's consent is required for such withdrawal.

10.2 Marketing and Sales Activities. Notwithstanding anything in the Governing Documents to the contrary, Declarant, its Affiliates, and their assigns and builders authorized in writing by Declarant may construct, maintain, and operate upon portions of the Common Area and property they own, such facilities, activities, and things as, Declarant, in its discretion, may deem to be required, convenient, or incidental to the construction or sale of Lots in this Community and in any other Community developed by Declarant. Such permitted facilities, activities, and things shall include, without limitation, business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales' offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant, Declarant's Affiliates, and their assigns, and authorized builders may park vehicles in areas other than garages or driveways, including, without limitation, on streets.

10.3 Right to Develop. Declarant and its Affiliates, and their respective employees, agents, and designees, shall have a right of access and use, and an easement over, upon, and under, all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area, the Exhibit "A" property and to the Exhibit "B" property, as Declarant deems appropriate in Declarant's discretion.

Each Owner acknowledges that the development of the Community may extend over a number of years, and agrees and consents to all changes in (a) uses or density of Lots or dwellings within the Community, and/or (b) the Development Plan.

Notwithstanding anything contained in any written letter, document or materials, or oral statement received by any Owner, each Owner acknowledges and agrees that the present plans and themes for the Community's development may change and that such Owner has not relied on any representation, warranty, or assurance by any Person (a) that any Lots, or other property or facilities, will be added, modified, or eliminated within the Community; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that it is not entitled to rely upon and has not received or relied upon any representations, warranties, or guarantees whatsoever as to the current or future: (a) design, construction, completion, development, use, benefits, or value of property within the Community; (b) number, types, sizes, prices, or designs of any residential or non-residential structures or improvements built or to be built in any part of the Community; or (c) use or development of any property adjacent to or within the vicinity of the Community.

10.4 Right to Approve Changes in the Community Standards. No amendment to or modification of any Use Restrictions, rules, or the Architectural Guidelines during the Development and Sale Period shall be effective without prior notice to and the written approval of Declarant.

10.5 Right to Transfer or Assign Declarant Rights. Any or all of Declarant's rights and obligations set forth in this Declaration or the By-Laws may, except to the extent restricted by Florida law, be transferred, in whole or in part, from time to time, to other Persons. No such transfer or assignment shall be effective unless it is in a recorded instrument signed by Declarant. Declarant may allow other Persons to exercise, on a one-time or limited basis, any Declarant right without transferring the entire right. In such case, a recorded instrument is not required.

10.6 Community Systems and Services. Declarant reserves for itself, its successors and assignees, and grants to the Association (after Declarant no longer owns any property described on Exhibit "A" or Exhibit "B" or at such earlier time as Declarant elects in writing) the exclusive and perpetual right to provide and operate, or to permit others to provide and operate, within the Community, such telecommunication systems (including, without limitation, cable television, community intranet, internet, and other systems for receiving, distributing, and transmitting electronic data, signals, and audio or visual communications), security systems and services, utilities, trash collection, and other systems and services, including, without limitation, conduits, wires, amplifiers, towers, antennae, and other apparatus and equipment for the operation or provision thereof (collectively, the "**Community Systems and Services**") as Declarant, in its discretion, deems appropriate. Such right shall include, without limitation, the right to select and contract with companies licensed, if applicable, to provide such services in the vicinity of the Community, and to charge individual users a fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable. Declarant may receive, and shall be entitled to retain, any rebate, credit, fee, or incentive relating to the installation, operation, or provision of any Community Systems and Services.

During the Development and Sale Period, Declarant may require that the Association enter into agreements for the provision of Community Systems and Services to all Lots as a Common Expense, or to Lots within a particular Service Area as a Service Area Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Benefited Assessment.

10.7 Rights To Use Names; License Agreements. The Community Name, the name "**Centex Homes**," "**Lennar Homes**" and all similar or derivative names, along with all logos associated therewith, are the proprietary trade names and service marks of Declarant, Centex Homes, Lennar Homes, Inc., or their Affiliates. No Person shall use such trade names or service marks for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, or in any logo or depiction or in any other fashion or manner without the prior written consent of the Person who owns such mark in each instance. In addition, due to the integrated nature of the Community as a planned community, and the public identification of the Lots with the Community, any name or "logo" to be used in connection with or displayed on any Lot, and any sales or other materials or documentation related to the use of the Lot, shall be subject to Declarant's prior written consent in each instance. Such approval may be given or withheld in Declarant's discretion and may be subject to such terms and conditions as Declarant deems appropriate in Declarant's discretion.

Notwithstanding the above, Owners may use the name "Willowcove" where such term is used solely to specify that their particular Lot is located within the Community (subject, however, to such terms and conditions as Declarant may impose in order to protect any registered trade names and service marks).

The mark or trademark owner may condition such use of the mark by the Association or any Owner upon the signing of one or more license agreement(s) which are intended to protect the trade names and service marks from unauthorized use by others. Such license agreement(s) shall be non-exclusive, non-transferable, in form and substance acceptable to the owner of the mark.

10.8 Easement to Inspect and Right to Correct. Declarant reserves for itself and its Affiliates and others it may designate, from time to time, the right to inspect, monitor, test, redesign, modify and correct any structure, improvement, or condition which may exist on any portion of the Community, including Lots, and a nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a dwelling or other structure on a Lot shall be permitted without the Owner's consent, which consent shall not unreasonably be withheld, conditioned, or delayed. The failure or refusal to permit reasonable access to the Lot for the purposes contemplated under this paragraph shall excuse Declarant, its Affiliates or its designee from responsibility for repairs or damages. The Person exercising this easement shall promptly repair, and pay for, any resulting damage. The provisions of this paragraph do not impose any obligation on Declarant or any other Person to perform any such inspection, monitoring, testing, redesigning, modification, or correction.

10.9 Right to Notice of Design or Construction Claims. No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant (and its Affiliates if the claim relates to the Affiliate) has been first notified in writing and given an opportunity to meet with the property Owner and conduct an inspection. Declarant may send an Affiliate or a representative of Declarant or Declarant's Affiliate to any such meeting.

10.10 Termination of Rights. Rights granted Declarant under this Article (other than the rights granted in Sections 10.6 and 10.7) shall terminate upon the earlier of (a) the period specified in the particular Section, if any; or (b) 25-years from the date this Declaration is recorded. Thereafter, Declarant and Declarant's Affiliate may continue to use the Common Areas for the purposes stated in this Article only pursuant to a rental or lease agreement between Declarant or such Affiliate and the Association that provides for rental payments based on the fair market rental value of any such portion of the Common Areas. Notwithstanding the above, Declarant reserves for itself and its Affiliates a perpetual, non-exclusive easement of access to and use of the Common Areas in connection with the marketing and sale of other properties in order to show the Community as an example of Declarant's and its Affiliates projects. This Article shall not be amended without Declarant's prior written consent.

10.11 Exclusion of Declarant's and Affiliates' Other Properties. By accepting a deed to a Lot, each Owner specifically acknowledges that nothing contained in this Declaration shall, in

any way, either expressly or by implication, restrict, limit, or otherwise affect the use or disposition by Declarant or any Declarant Affiliate of any property either of them owns, whether contained within or contiguous to the Community. Declarant and its Affiliates shall have full, free, and unrestricted use of its and their other lands, notwithstanding any incompatibility of such use with restrictions this Declaration imposes upon the Lots. By accepting a deed to a Lot, each Owner, specifically and expressly disclaims any reciprocal negative easement in any property Declarant or its Affiliates owns.

## ARTICLE XI EASEMENTS

11.1 Easements in Common Area. Subject to the provisions below, every Owner shall have a right to use an easement of enjoyment in and to the Common Area or Limited Common Area together with an easement of access to and from the Common Area or Limited Common Area, which shall be appurtenant to and shall pass with the title to the Lot or Unit owned by such Owner. Declarant grants to each Owner a right and easement of use, access, and enjoyment in and to the Common Area, as stated in this Section 11.1:

(a) The Governing Documents and any other applicable covenants, including, without limitation, the Master Declaration and the rights of the Master Association thereunder;

(b) Any restrictions or limitations contained in any deed conveying the property to the Association;

(c) The Board's right to:

(i) adopt rules regulating Common Area use, including, without limitation, rules limiting the number of guests who may use the Common Area, and charge use fees for such use;

(ii) suspend the right of an Owner and its guests and invitees to use any Common Maintenance Area amenity (A) for any period during which any assessment or other charge against the Owners Lot remains delinquent, and (B) for a period not to exceed 30 days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents, all in accordance with applicable law;

(iii) dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration;

(iv) rent any portion of the Common Area on an exclusive or non-exclusive short-term basis to any Person;

(v) permit use by the general public, which use may, but need not, be subject to admission charges, membership fees, or other user fees established in the Board's discretion (except to the extent inconsistent with any easement agreement relating thereto); and

(vi) mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 16.9.

(d) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "**Limited Common Areas**," if any, as described in Article XIII.

Any Owner may extend his or her right to use the Common Area to the members of his or her family, tenants, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Lot in accordance with this Declaration shall be deemed to have assigned all such rights to the tenants of such Lot for the lease term and shall not have any right to utilize the Common Area during such term, except as necessary to access the Lot.

Each Owner has a perpetual, non-exclusive ingress and egress easement to their Lot over the Common Area roadways.

11.2 Easements of Encroachment. Declarant grants easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots. Such easement shall permit encroachment only by a structure, improvement or fixture which has been constructed by Declarant or approved in accordance with Article IV of this Declaration and which is constructed on another's property without the actual intention of encroaching on such property. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.3 Easements for Utilities, Etc.

(a) Installation and Maintenance. Declarant reserves for itself, its duly authorized agents, successors and assigns, so long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or Exhibit "B," and grants to the Association, subject to Declarant's rights under Section 10.6, perpetual, non-exclusive easements throughout the Community (but not through a structure) to: (i) install utilities and infrastructure to serve the Community, including, without limitation, water, sewer, telephone, electric, gas, irrigation, cable and other systems for sending and receiving data and/or other electronic signals, drainage structures, facilities and systems, and security and similar systems and other Community Systems and Services; (ii) install walkways, pathways and trails, curb cuts, driveways and paved areas, street lights, and signage on property which Declarant or the Association owns or within public rights-of-way or easements reserved for such purpose (or for the installation of landscaping or utilities) on a Plat; (iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; (iv) access and read utility meters; and (v) for any other purpose in Declarant's sole discretion. The right, license, or easement granted to a utility supplier shall include the non-exclusive right to ingress and egress over any streets for access and maintenance of its equipment and facilities.

Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to record such specific easements anywhere in the Community (except through a structure) as may be necessary or appropriate, in Declarant's sole discretion, to assist in the development and operation of the Community.

(c) Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize, to the extent reasonably practical, interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably practicable, to the condition existing prior to the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.4 Easements to Serve Additional Property. Declarant reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area and Lots for enjoyment, use, access, and development of the Adjacent Property and the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area and Lots for construction of roads and for connecting and installing utilities.

If the above easement is exercised for permanent access to any property which is not submitted to this Declaration, Declarant, or its successors or assigns, shall enter into an agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder, except to the extent such easement was created prior to the recordation of this Declaration.

11.5 Easements for Maintenance, Emergency and Enforcement. Declarant grants to the Association easements over the Community as necessary for the Association to fulfill its maintenance responsibilities under this Declaration and any Supplemental Declaration. The Association shall also have an easement and the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such easement and right may be exercised by the Association through its officers, directors, committee members, employees, contractors, or agents in their capacities as such and by all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Declarant grants to the Association, subject to any required notice, an easement and right to enter a Lot to abate a Governing Document violation and/or to remove any structure, thing, or condition that violates the Governing Documents. Any costs incurred, including Legal Costs, shall be assessed against the Lot Owner as a Benefited Assessment.

11.6 Easements for Maintenance of Bodies of Water and Flooding. Declarant reserves for itself, the Master Association, the Association, the District, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Maintenance Areas and the Community to (a) install, operate, maintain, repair, and replace pumps and other equipment to supply irrigation water to the Common Maintenance Areas; (b) construct, maintain, repair, and replace structures and equipment used for retaining, detaining, and otherwise controlling water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard and applicable legal

requirements. Declarant, the Master Association, the Association, the District, and their successors, assigns, and designees shall have an access easement over and across any portion of the Community which abuts or contains bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself, the Master Association, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Maintenance Area and Lots (but not inside a dwelling or other structure) adjacent to or within 50 feet of bodies of water and wetlands within the Community, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Maintenance Areas; and (c) maintain and landscape the slopes and banks pertaining to such areas. Anyone exercising these easements shall use reasonable care in, and repair any damage resulting from, their intentional exercise of the easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to natural occurrences or for other occurrences not reasonably foreseeable or under the control of Declarant or such other Person.

11.7 Easements for Cross-Drainage. All portions of the Community shall be burdened with easements for drainage of stormwater runoff from other portions of the Community and the Adjacent Property; however, no Person other than Declarant shall alter the drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Community without the consent of the Owner(s) of the affected property, the Board, the District, if applicable, and Declarant during the Development and Sale Period.

11.8 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant reserves for itself and its designees all rights to ground water, surface water, stormwater runoff, and effluent located or produced within the Community, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such rights shall include, without limitation, the reservation of an easement over the Community for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section may not be amended without Declarant's consent, and the rights created in this Section shall survive termination of this Declaration.

11.9 Easement for Maintenance of Surface Water and Storm Water Management System. The Declarant, the Master Association and the Association shall have a perpetual, non-exclusive easement over all portions of the Surface Water and Storm Water Management System for access to operate, maintain, repair, or replace the system. By this easement, the Declarant, the Master Association and the Association shall have the right to enter upon any portion of any Lot which is a part of or adjacent to the Surface Water and Storm Water Management System, at a reasonable time and in a reasonable manner, to operate, maintain, repair, or replace the system as the County or any governmental agency or quasi-governmental body requires or permits. Additionally, the Declarant, the Master Association and the Association shall have a perpetual, non-exclusive easement for drainage over the entire Surface Water and Storm Water Management System, and the owner of the pumps, pipes, and other apparatus comprising the system shall have an easement of access and maintenance as necessary for the operation, maintenance, repair, and replacement of such equipment. No Person other than Declarant shall

alter the drainage flow of or over the Surface Water and Storm Water Management System, including, without limitation, buffer areas or swales, without the prior written approval of the Master Association and Association, and, during the Development and Sale Period, Declarant's prior written consent.

11.10 Sign Easement. Declarant reserves for itself and the Association an easement (herein referred to as the "**Entry, Sign and Landscape Easement**") over, upon, and across all areas designated as "**Landscape Tract**," "**Signage Tract**," "**Landscape Area**," "**Entryway Feature Easement Area or Tract**" or "**Open Space**" or identified by similar designation, on any Plat, for erection, installation, operation, maintenance, repair, and replacement of Community signs, walls, monuments, fencing, decorative improvements, entry features, together with landscaping, lighting, utility, and irrigation facilities. No Owner shall obstruct access to the Entry, Sign and Landscape Easement, or install or remove any plant or other improvement or installation placed in the Entry, Sign and Landscape Easement by the beneficiaries thereof, or obstruct the view of the Entry, Sign and Landscape Easement from the adjacent street right-of-way. All signs, walls, monuments, entry features, landscaping, utility, irrigation and other permanent improvements installed in the Entry, Sign and Landscape Easement by Declarant shall become the Common Area of the Association upon conveyance from Declarant, and the Association shall maintain such Entry, Sign and Landscape Easement and the improvements therein as part of the Common Area. In addition, Declarant and any designee of Declarant shall have the right, without the prior approval of the Association or any Owner, within the Entry, Sign and Landscape Easement, erect, change, move, remove, repaint, maintain, and otherwise exercise complete and unfettered control over marketing signs at all times prior to the sale of the last Lot owned by Declarant or any designee of Declarant in the Community, and all such marketing signs shall be and remain the exclusive property of Declarant (or such designee of Declarant) and shall not be deemed part of the Common Area owned by the Association.

11.11 Easement for Irrigation Equipment. If there is a master irrigation system for the Community, the Declarant, the Master Association and the Association shall have a perpetual, non-exclusive easement over, under and through all exterior portions of each Lot, except any area upon which buildings have been erected by Declarant or otherwise in accordance with Article IV, for the purpose of installing, maintaining, repairing, replacing and operating all irrigation equipment, systems and lines serving all or any portion of the Lots and/or Common Area. The foregoing easement shall not impose any obligation on the Association, the Master Association and/or Declarant to install any such improvements.

11.12 Roadways.

(a) The roadways within the Community ("**Roadways**"), as depicted on any Plat, shall be dedicated to the County or to public use by recordation of such Plat. Use of such Roadways shall be subject to and in accordance with any rights and easements shown on the Plat and any law, ordinance, or regulation governing the Community.

(b) Declarant hereby reserves unto itself, its Affiliates and the agents, employees, successors, and assigns of Declarant and Declarant's Affiliate an easement over the Roadways for the purpose of constructing, maintaining, repairing, or rebuilding any subdivision improvements installed or to be installed in the Community and for performing any other work

within the Community (including Lots) which Declarant deems reasonably necessary, in its discretion, or which Declarant is required to perform pursuant to a contract with any Owner or pursuant to the requirements of any government agency having jurisdiction over the Community. With regard to construction on any of the Lots by the Owners thereof, the contractors, subcontractors, laborers, materialmen, and other Persons providing construction services and materials to any such Lots shall have access to such Lots over the Roadways subject to such rules as the Association may adopt; however, during the Class "B" Control Period, Declarant shall have the right to prohibit the use of the Roadways by such Persons and to designate alternate access easements for such Persons.

(c) The Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Roadways for Owners, law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to the Community provided that such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities.

The existence of this easement shall not preclude the Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Community, provided that the Association at all times maintains systems and/or procedures to permit the uncontested entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

11.13 General Development Easements. The Declarant reserves for itself, its successors or assigns, a blanket easement throughout the entire Community, to allow it to take whatever action it determines is necessary or beneficial to the development or operation of the Community. This blanket easement is to allow the Declarant to construct all of its improvements in the Community, whether on Common Area or on Lots, in the manner that it deems necessary. This means that the Declarant has access and use of any Lot or Common Area as is necessary to construct any improvement within the Community. It also is reserved for the purpose of allowing the Declarant, if it deems necessary, to repair, relocate, construct, or maintain any of the improvements installed in the Community.

## ARTICLE XII CONSERVATION EASEMENTS, NATURAL CONDITIONS AND PRESERVES

12.1 Conservation Easements.

(a) Establishment of Conservation Easements. The provisions of Section 704.06, Florida Statutes establish the right of the District and/or the County (the "Easement Grantee") to accept easements for the preservation of the natural habitat (such easements shall be referred to herein as the "Conservation Easements"). Certain Conservation Easements are set forth on the Plat. There are no other Conservation Easements established by this Declaration; however, Declarant reserves unto itself and to the Association the right to grant such easements over and upon portions of the Common Area or Lots unto the Easement Grantee pursuant to the provisions of Section 704.06, Florida Statutes. Any Conservation Easements so granted shall be

subject to the requirements of Section 704.06, Florida Statutes, and the following provisions. For the purposes of this Declaration, any portion of the Common Area encumbered by a Conservation Easement shall be referred to as the "**Conservation Easement Property**."

(b) Purpose. The purpose of a Conservation Easement is to assure that the Conservation Easement Property will be retained forever in its existing natural condition and to prevent any use of the Conservation Easement Property that will impair or interfere with the environmental value of the Conservation Easement Property.

(c) Prohibited Acts and Uses. Any activity on or use of the Conservation Easement Property inconsistent with the purpose of a Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(i) constructing or placing buildings, roads, signs, billboards, or other advertising, utilities or other structures on or above the ground;

(ii) dumping or placing soil or other substances or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials;

(iii) removing, mowing, trimming or destroying trees, shrubs, or other vegetation;

(iv) excavating, dredging, or removing loam, peat, gravel, soil, rock, or other material substances in such a manner as to affect the surface;

(v) using the surface area of the Conservation Easement Property, except for purposes that permit the land or water area to remain predominantly in its natural condition;

(vi) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation;

(vii) acting upon or using the Conservation Easement Property in a manner detrimental to such retention of land or water areas;

(viii) acting upon or using the Conservation Easement Property in a manner detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance;

(ix) constructing or installing utilities on, below, or above the ground without appropriate local, state, and federal permits or other authorization; and

(x) applying of herbicides, pesticides, or fertilizers.

(d) Reserved Rights. The owner of record title to the Conservation Easement Property reserves unto itself, and its successors and assigns, all rights accruing from its

ownership of the Conservation Easement Property, including, without limitation, the right to engage in or permit or invite others to engage in all uses of the Conservation Easement Property that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Easement.

(e) Rights of Easement Grantee. To accomplish the purposes stated herein, the owner of record title to the Conservation Easement Property shall, grant the following rights to the Easement Grantee and Declarant:

(i) to enter upon and inspect the Conservation Easement Property in a reasonable manner and at reasonable times to determine if the Master Association, the Association, the Owners and Declarant or its successors and assigns are complying with the covenants and prohibitions contained in the Conservation Easement; and

(ii) to proceed at law or in equity to enforce the provisions of the Conservation Easement and the covenants set forth therein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Property that may be damaged by any activity inconsistent with the Conservation Easement.

(f) Easement Grantee's Discretion. The Easement Grantee may enforce the terms of the Conservation Easement at its discretion, but if the Master Association, the Association, Declarant, or any Owner, breaches any term of the Conservation Easement and the Easement Grantee does not exercise its rights under the Conservation Easement, the Easement Grantee's forbearance shall not be construed to be a waiver by the Easement Grantee of such term, or of any subsequent breach of the same, or any other term of the Conservation Easement, or of any of the Easement Grantee's rights under the Conservation Easement. No delay or omission by the Easement Grantee in the exercise of any right or remedy upon any breach by the Master Association, the Association, Declarant or any Owner shall impair such right or remedy or be construed as a waiver. The Easement Grantee shall not be obligated to Declarant, or to any other person or entity, to enforce the provisions of the Conservation Easement.

(g) Easement Grantee's Liability. The owner of the fee interest in the Conservation Easement Property shall retain all liability for any injury or damage to the person or property of third parties that may occur on the Conservation Easement Property. Neither Declarant, nor any Owner, nor any person or entity claiming by or through Declarant or any Owner, shall hold the Easement Grantee liable for any damage or injury to person or personal property that may occur on the Conservation Easement Property.

(h) Acts Beyond Declarant's Control. Nothing contained in the Conservation Easement shall be construed to entitle the Easement Grantee to bring any action against Declarant, the Association or the Master Association for any injury to or change in the Conservation Easement Property resulting from natural causes beyond Declarant's, the Association's or Master Association's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Declarant under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Easement Property or to persons resulting from such causes.

(i) Recordation. Declarant shall record any Conservation Easement in a timely fashion and Declarant and the Owners of any Lots encumbered by the Conservation Easement shall re-record it by separate instrument at any time the Easement Grantee may require to preserve its rights. The Owners of any Lots encumbered by the Conservation Easement shall pay all recording costs and taxes necessary to record the Conservation Easement. Declarant will hold the Easement Grantee harmless from any recording costs or taxes necessary to record the Conservation Easement.

(j) Successors. The covenants, terms, conditions, and restrictions of the Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Conservation Easement Property.

(k) Restrictive Covenants Affecting Conservation Easements. No Owner or other person shall cut, remove, destroy, or otherwise disturb any plant, shrub, tree, or other vegetation within any Conservation Easement Property, nor shall any person, including, but not limited to any Owner, Declarant, the Master Association and the Association, deposit dirt, fill, grass clippings, trash, rubbish, tree trimmings, building materials, or other waste within such easements without the prior written consent (as evidenced by any required permit or other official certification) of the Master Association, the Association, Declarant, the County, and the District.

12.2 Natural Conditions.

(a) The Community may contain a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes and other reptiles, alligators, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Lot, and every Person entering the Community (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within or through the Community; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Community. Neither the Master Association, Association, Declarant, any predecessor Declarant, any builder, nor the members, partners, affiliates, officers, directors, shareholders, attorneys, agents, or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Community, nor shall they have any liability for any injury resulting from the presence, movement, or propagation of any plant or wildlife within or through the Community.

(b) The natural areas described in subsection (a) above may also contain creeks, ponds, or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Lot shall enter upon, or permit their guests or any other person acting on their behalf to enter upon, or disturb such areas in any way without the Association's or Declarant's prior written approval.

12.3 Preserves. As may be depicted on any Plat, certain tracts may be identified as "**Preserve**" or "**Private Preserve**." Unless otherwise approved in writing by Declarant, the District, the County and any other governmental authorities having jurisdiction, the Preserve areas shall be maintained in their natural state in perpetuity. No Owner, member of an Owners household, or any other Person acting, or purporting to act, on behalf of any Owner, or for whom any Owner shall be responsible pursuant to this Declaration, shall disturb the natural environment of the Preserve areas in any way without first obtaining the written consent of the Board properly approved by the adoption of a resolution describing in detail the exact activities to be conducted within the Preserve areas, the times and dates when such activities are authorized to occur, and the identities of the Persons who are authorized to so act, together with the written consent of Declarant and any governmental authority having jurisdiction over the proposed activity.

This restrictive covenant is intended in the broadest sense, and includes, but is not limited to, trimming, cutting, or mowing grass, shrubs, trees or other plants; placing grass clippings, landscape debris, household trash or other materials; storing materials, equipment, vehicles, boats, motor homes, trailers, or other items; erecting children's playhouses, tree houses, swings, or other permanent or temporary improvements; planting trees, shrubs, grass, or ground cover; releasing birds, snakes, reptiles, insects, or other animals; grading or excavating; cultivating or gardening; or dumping dirt, sand, rocks, gravel, or other inorganic or organic material on any part of a Preserve area. No hunting or animal trapping, carrying or discharging of firearms, overnight camping or campfires, operation of motorcycles or so-called "**all-terrain vehicles**," "**dirt bikes**," or other motorized vehicles, implements, equipment, or conveyances are permitted within the Preserve areas at any time.

Any Owner who violates the foregoing restrictive covenants shall be responsible for the cost of restoring the affected Preserve area to the satisfaction of the Master Association, the Association, Declarant, and any governmental authority having jurisdiction thereof, and the Master Association and the Association shall have the right to prohibit the offending party from further use or enjoyment of the Preserve areas after prior notice and hearing before the Board

**BECAUSE THE PRESERVE AREAS, IF ANY, ARE TO BE RETAINED IN THEIR NATURAL STATE, SUCH AREAS SHOULD BE CONSIDERED HAZARDOUS FOR RECREATIONAL ACTIVITIES.**

**NEITHER THE MASTER ASSOCIATION, NOR THE ASSOCIATION, NOR DECLARANT, NOR ANY OF THEIR AFFILIATES, HAS ANY OBLIGATION TO PROVIDE SECURITY OR SUPERVISION FOR ANY PERSON USING A PRESERVE AREA, AND ALL PERSONS USING A PRESERVE AREA DO SO AT THEIR OWN RISK.**

**INSECTS, SNAKES, AND ANIMALS THAT MAY BE DANGEROUS TO HUMANS MAY INHABIT THE PRESERVE AREAS.**

**OWNERS SHOULD NOT ALLOW CHILDREN OR PETS TO ENTER THE PRESERVE AREA WITHOUT ADULT SUPERVISION.**

**NEITHER THE MASTER ASSOCIATION, NOR THE ASSOCIATION, NOR DECLARANT NOR ANY OF THEIR AFFILIATES SHALL HAVE ANY LIABILITY WHATSOEVER FOR ANY CONDITION OF A PRESERVE AREA OR ANY INJURY OR DEATH OCCURRING THEREON.**

**THE MASTER ASSOCIATION AND THE ASSOCIATION SHALL HAVE THE RIGHT TO IMPOSE ADDITIONAL RULES AND REGULATIONS GOVERNING THE USE OF THE PRESERVE AREAS OR FOR ANY INJURY OR DEATH OCCURRING THEREON.**

**IF THE PRESERVE AREAS, OR THE TREES OR VEGETATION THEREON, ARE DAMAGED OR DESTROYED BY FIRE, WINDSTORM, FLOOD, DISEASE, OR OTHER NATURAL OR MANMADE EVENT, NEITHER THE MASTER ASSOCIATION, NOR THE ASSOCIATION, NOR DECLARANT, NOR ANY OF DECLARANT'S AFFILIATES, SHALL HAVE ANY OBLIGATION TO REPAIR OR RESTORE THE DAMAGE OR DESTRUCTION, OR TO REMOVE ANY DEAD OR DAMAGED TREES OR OTHER VEGETATION.**

## ARTICLE XIII LIMITED COMMON AREAS

13.1 Purpose. Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of one or more, but less than all, Lots. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, private roads, lakes and other portions of the Common Area primarily serving a limited area. All costs associated with ownership, maintenance, repair, replacement, management, operation and insurance of a Limited Common Area shall be a Limited Common Expense allocated in accordance with Section 8.1(b) among the Owners in the Service Area to which the Limited Common Area is assigned.

13.2 Designation. Initially, any Limited Common Area shall be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Common Area; however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Lots during the Development and Sale Period.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area upon approval of (a) the Board, (b) Members representing a majority of the total Class "A" votes in the Association, and (c) Members entitled to cast a majority of the Class "A" votes attributable to Lots to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require Declarant's written consent.

13.3 Use by Others. Upon approval of a majority of Owners of Lots to which any Limited Common Area is assigned, and subject to such restrictions as such Owners may impose, the Association may permit Owners of other Lots to use all or a portion of such Limited

Common Area upon payment of reasonable user fees, which fees shall be used to offset the Limited Common Expenses attributable to such Limited Common Area.

## ARTICLE XIV PARTY WALLS AND OTHER SHARED STRUCTURES

14.1 General Rules of Law to Apply. Each wall, fence, driveway, or similar structure built as a part of the original construction on the Lots that serves any two adjoining Lots shall constitute a party structure. For the purposes of this Article, any fence that serves to enclose only one Lot or which is otherwise installed at the option of the Owner of a Lot shall not be deemed a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to party structures. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XV.

14.2 Maintenance; Damage and Destruction. Unless otherwise specifically provided in additional covenants relating to such Lots, the Owners sharing the party structure shall share equally in the cost of necessary or appropriate party structure repairs and maintenance; however, painting and other aesthetic modifications visible only to one side of the structure shall be the responsibility of the Lot Owner with such visibility.

If a party structure is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner sharing the structure may restore it and be entitled to contribution for the restoration cost in equal proportions from other sharing owners. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions. The Owner of each Lot is granted an easement over the adjacent Lot as necessary to make repairs and restore the Lot.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owners successors-in-title.

## ARTICLE XV DISPUTE RESOLUTION

15.1 Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree to attempt to resolve disputes involving the Community or the Governing Documents without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees, to the fullest extent permitted by applicable law, not to, directly or indirectly, file a law suit for a Claim described in subsection (b) without first submitting the Claim to the alternative dispute resolution procedures described in Section 15.2.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents;

(iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Article IV, which shall not be subject to review; or

(iv) trespass, nuisance, property damage, or enforcement of laws, codes, or ordinances within the Community.

(c) Except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

(i) any Association action to collect assessments, fines (see By-Laws Section 3.23) or other amounts due from any Owner;

(ii) any Association action to obtain a temporary or permanent restraining order or injunction (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to enforce the provisions of the Governing Documents or maintain the status quo and preserve the Association's ability to enforce the provisions of the Governing Documents;

(iii) any action between Owners, which does not include Declarant and/or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any action in which any indispensable party is not a Bound Party;

(v) any action as to which the applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Article; and

(vi) fines pursuant to Section 3.23 of the By-Laws.

15.2 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice ("**Notice**") by certified mail, return receipt requested; overnight delivery by a nationally recognized courier that provides tracking and receipt services; or personal delivery to each Respondent, and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the Bound Parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the County area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within 30 days after submitting the matter to mediation, or within such time as determined reasonable by the mediator but which will not cause the statute of limitations to expire, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative or other proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including, without limitation, attorneys' fees, and each Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Bound Parties. If any Bound Party thereafter fails to abide by the terms of such agreement, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the agreement shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or each one in equal proportions) all costs incurred in enforcing such agreement, including, without limitation, Legal Costs.

15.3 Initiation of Litigation by Association. After the Class "B" Control Period, the Association shall not initiate any judicial or administrative proceeding which is reasonably expected to cost $25,000.00 or more in legal fees to prosecute to completion unless first approved by the Board upon the specific recommendation of the Dispute Resolution Committee

(if created as provided in the By-Laws), or a majority of the Class "A" votes in the Association. The Dispute Resolution Committee's recommendation must be in writing and must be accompanied by a feasibility analysis including an explanation of the issues, a budget for legal and related expenses, the amount in controversy, the expectation of success, and a copy of bids from a minimum of three qualified law firms.

## ARTICLE XVI MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Lots. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

16.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any Association insurance policy;

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders; or

(e) If the U.S. Department of Housing and Urban Development is insuring or the U.S. Department of Veterans Affairs is guaranteeing the Mortgage on any Lot, material amendment to the Governing Documents or extraordinary action of the Association, as defined under VA Pamphlet 26-7, as it may be amended or superceded.

Otherwise, no consent from Eligible Holders shall be necessary to enable the Association to accomplish any of its operational duties and responsibilities or to exercise any of its rights.

16.2 Special FHLMC Provision. To the extent required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Class "A" Members representing at least 67% of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the

Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (any decision or action in accordance with the provisions of this Declaration or any Supplemental Declaration subsequently recorded on any portion of the Community resulting in the levy of Service Area Assessments shall not be subject to this provision);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

16.3 Other Provisions for First Lien Holders. To the extent not inconsistent with Florida law and in addition to the provisions in this Declaration:

(a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which more than 50% of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Lots to which more than 50% of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

16.4 Amendments to Documents for Article XVI Mortgage Provisions. The following provisions do not apply to (x) amendments to the Governing Documents or termination of the Association, if the same result is solely on account of destruction, damage, or condemnation pursuant to Section 16.3(a) and (b), or (y) to the annexation of land in accordance with Article IX, otherwise:

(a) The consent of at least 67% of the Class "A" votes, and the consent of Declarant, during the Class "B" Control Period, and the approval of the Eligible Holders of first Mortgages on Lots to which at least 67% of the votes of Lots subject to a Mortgage appertain, shall be required to terminate the Association.

(b) If and to the extent FHA, HUD or VA is insuring or guaranteeing any Mortgage on any Lot, the consent of at least 67% of the Class "A" votes, and the consent of Declarant, during the Class "B" Control Period, shall be required to amend any material provisions of the Declaration, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens, or subordination of such liens;

(iii) reserves for maintenance, repair, and replacement of the Common Maintenance Area;

(iv) insurance or fidelity bonds;

(v) rights to use the Common Maintenance Area;

(vi) responsibility for maintenance and repair of the Community;

(vii) expansion or contraction of Community or the addition, annexation, or withdrawal of property to or from the jurisdiction of the Association;

(viii) boundaries of a Lot;

(ix) leasing of Lots;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;

(xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or

(xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Lots.

16.5 Construction of Article XVI. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or Florida law for any of the acts set out in this Article.

16.6 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.7 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering the Owners Lot.

16.8 Failure of Mortgagee to Respond. Any Mortgagee (and for purposes of this paragraph "Mortgagee" shall include FHA, VA, HUD, FNMA, FHLMC, or other similar governmental or quasi-governmental agency) who receives a written request from the Board to respond to or consent to any action, shall be conclusively deemed to have irrevocably approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified mail, return receipt requested; or overnight delivery by a nationally recognized courier that provides tracking and receipt services; or personal delivery.

16.9 HUD/VA Approval. As long as there is a Class "B" membership, the following actions shall require the prior approval of HUD or the VA, if either such agency has granted project approval for such Mortgages and the approval of Declarant and 67% of the Class "A" Members: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance (other than to correct errors on property descriptions or other inconsequential or immaterial conveyances), or mortgaging of Common Area; or material amendment of this Declaration or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

## ARTICLE XVII DISCLOSURES AND WAIVERS

17.1 No Liability For Third Party Acts. **Owners and occupants of Lots, and their respective guests and invitees, are responsible for their own personal safety and for their property in the Community. The Association may, but is not obligated to, maintain or support certain activities within the Community which are intended to promote or enhance safety or security within the Community. However, the Association, Declarant and Declarant's Affiliates shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.**

**No representation or warranty is made that any systems or measures, including, without limitation, fire protection, burglar alarm, or other security monitoring systems, (or if there is any gate or other mechanism or system for limiting access to the Community), cannot be compromised or circumvented, nor that any such systems or measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants and invitees of its Lot that the Association, the Board and its committees, Declarant and any predecessor Declarant and Declarant's Affiliates are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties. Any gate or other mechanism or system for limiting access to the Community may, at Declarant's**

**discretion, be left open or unattended, from time to time or at any time to facilitate access by contractors, subcontractors, inspectors, brokers, salespersons and others to any sales office and/or Lots that are under construction or for sale.**

17.2 View Impairment. **Neither Declarant, Declarant's Affiliates nor the Association guarantee or represent that any view over and across the Lots or any open space or any other portion of the Community within the Community will be preserved without impairment. Neither Declarant, Declarant's Affiliates nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping. The Association (with respect to the Common Area) and Declarant have the right to relocate, prune, thin, or add trees and other landscaping from time to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.**

17.3 Notices and Disclaimers as to Community Systems and Services. In recognition of the fact that interruptions in cable television and other Community Systems and Services will occur from time to time, neither Declarant, Declarant's Affiliates nor any of Declarant's successors or assigns (and their Affiliates) shall in any manner be liable for, and no Community System and Service user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in Community Systems and Services, regardless of whether or not such interruption is caused by reasons within the service provider's control. Declarant shall be entitled to retain any rebate, discount, or other compensation received from the provider of any Community Systems and Services in connection with the installation or operation of such system.

17.4 Construction Activities. **All Owners, occupants, and users of Lots are hereby placed on notice that Declarant, any Declarant Affiliate, and/or their agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, shall continue, from time to time, to conduct construction activities within the Community. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and/or by using any portion of a Lot or the Community generally, Owners, occupants and users of Lots acknowledge, stipulate, and agree (a) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise), any property within or in proximity to the Lot or any other portion of the Community where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) that Declarant, any Declarant Affiliate, or predecessor Declarant, and all of their agents, contractors, subcontractors, licensees, and other designees, successors, and assigns, shall not be liable for any losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to any breach of this covenant; (d) that any purchase or use of any portion of a Lot has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant or its Affiliates to sell, convey, lease, and/or allow the use of Lots within the Community.**

17.5 Water Management. **Each Owner acknowledges and agrees that some or all of the water features, if any, or wetlands in or adjacent to the Community are designed as water management areas and are not designed solely as aesthetic features. Due to fluctuations in water elevations within the immediate area, water levels will rise and fall. Each Owner further acknowledges and agrees that Declarant and its Affiliates do not have, or are not obligated to exert, control over such elevations. Therefore, each Owner agrees to, and does by purchase of a Lot, release and discharge Declarant and Declarant's Affiliates and any predecessor Declarant from and against any and all losses, claims, demands, damages, and expenses of whatever nature or kind, including, without limitation, Legal Costs, related to or arising out of any claim relating to such fluctuations in water elevations. Owners shall not alter, modify, expand, or fill any water features or wetlands located within or in the vicinity of the Community without the prior written approval of Declarant and any local, state, or federal regulatory or permitting authorities as may have relevant jurisdiction over such matters.**

**DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING, BUT NOT LIMITED TO LIFEGUARDS FOR THE WATERWAYS. ANY INDIVIDUAL USING THE WATERWAYS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY HOLDS DECLARANT, DECLARANT'S AFFILIATES AND THE ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS ARISING FROM SUCH USE.**

**EACH OWNER, BY THE ACCEPTANCE OF TITLE TO A LOT, ACKNOWLEDGES THAT THE WATERWAYS ARE DEEP AND DANGEROUS. NEITHER DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION, THE DISTRICT, THE COUNTY NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY WATERWAY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF THE COMMUNITY SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITATE OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE COMMUNITY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.**

17.6 Liability for Association Operations. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant and any predecessor Declarant (including, without limitation, their respective Affiliates, successors, and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, Legal Costs), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of amenities and other portions of the Common Maintenance Areas and the collection of assessments.

17.7 Sonoc Company Deed Restrictions. The Property is subject to those certain restrictions, covenants and agreements set forth in that certain Special Warranty Deed from Sonoc Company, LLC ("Sonoc") to Centex Homes recorded April 24, 2006 in Official Records Book 2689, Page 463, Public Records of St. Johns County, Florida (the "Sonoc Company Deed Restrictions"). Each Owner acknowledges that ownership, improvement, occupancy and use of their Lot and the Common Area shall be subject to and in compliance with the Sonoc Company Deed Restrictions, which include, without limitation, although the reference thereto herein shall not operate to reimpose same, the following:

(a) Development Criteria and Use and Density Restrictions applicable to the Property and Community, including all Lots and Common Areas;

(b) Covenants, agreements and restrictions relating to the Surface Water and Storm Water Management System, the CDD Pond, landscaping maintenance and irrigation;

(c) Prohibition on development, marketing or use of the Property for a residential community which qualifies as "housing for older persons" (as defined in the Sonoc Company Deed Restrictions prior to January 1, 2013 without prior written consent of Sonoc;

(d) Utilities, telecommunications and access easements, covenants and rights in favor of Sonoc.

Each Owner should refer to the Sonoc Company Restrictions to confirm the specific terms and conditions of same and the effect of the Sonoc Company Restrictions on the ownership, improvements, occupancy and use of the Common Areas and their Lot.

17.8 Sonoc Agreement. Centex Homes purchased the Property from Sonoc subject to the terms of that certain Purchase Agreement between Sonoc and Declarant dated February 22, 2006, as amended (the "Sonoc Agreement"), a Memorandum of which was recorded April 24, 2006 in Official Records Book 2689, Page 515 of the Public Records of St. Johns County, Florida (the "Sonoc Memorandum"), setting forth certain provisions, terms, conditions and covenants with respect to the Property and the ownership, development, use and occupancy of the Property all as more particularly set forth in the Sonoc Agreement and the Sonoc Memorandum. The Sonoc Memorandum provides that a copy of the Sonoc Agreement shall be maintained at the Offices of Sonoc and Declarant for inspection. Declarant, at Declarant's option may deliver a copy of the Sonoc Agreement to the Master Association to be maintained for inspection and copying by Owners and prospective purchasers, who should refer to the Sonoc Agreement and Sonoc Memorandum to confirm the specific terms and conditions of same and

the effect of same on the ownership, improvement, occupancy and use of the Common Areas and their Lot.

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

17.10 Tolomato Community Development District. The Community is a part of the Tolomato Community Development District ("CDD") created pursuant to the provisions of Chapter 190, Florida statutes. In that each Lot is part of the CDD, by acceptance of the deed conveying the Lot, each Owner shall be deemed to covenant and agree to pay any and all taxes, fees and assessments imposed in connection with the CDD.

The CDD has previously issued debt (Series 2006 Bonds) to fund master infrastructure costs and a portion of that bond issue was allocated to the Community, and a portion of that amount has been allocated against each Lot in the Community. The CDD has assessed each parcel of real estate (including each Lot) to provide a means to repay said 2006 Bonds. It is anticipated that additional series of bonds will be issued by the CDD for master infrastructure that will also result in a separate assessment against the Lots within the Community. The CDD may also issue bonds to fund the neighborhood infrastructure for the Community and the Adjacent Property and each Lot in the Community may be assessed to repay those bonds. Further, each year the CDD will also make a separate assessment to pay for the operation and maintenance of CDD facilities and common areas including: the amenity center, street lights, landscape maintenance, landscape irrigation, etc. There is a cap on the total annual assessment for the repayment of bonds the proceeds of which were used to pay for master infrastructure, but there is no cap on operation and maintenance assessments or assessments for bonds the proceeds of which are used to pay for neighborhood infrastructure. Funds necessary for the payment of the annual capital costs of master and neighborhood infrastructure bonds, along with the operation and maintenance costs, are collected through annual assessments against Lots within the Community and appear on the tax bills prepared and collected by the St. Johns County Tax Collectors Office with respect to those Lots.

The operation and maintenance assessments are subject to adjustment each year depending on levels of service desired by the CDD and the costs of operation and maintenance contracts. The operation and maintenance annual assessments will be set by the CDD Board of Supervisors after the annual budget is adopted. Each summer the Board will hold annual budget hearings which are open to the public.

The following additional disclosure is hereby provided with respect to the CDD:

**THE TOLOMATO COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS FOR CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENT TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

Each Owner, by acceptance of title to a Lot, acknowledges and agrees that (i) all information and disclosures provided to such Owner with respect to the CDD by Declarant, Declarant's Affiliates and any employee or agent of Declarant or Declarant's Affiliates, whether in this Declaration or otherwise, shall be for information purposes only and that such parties have made no warranty or representation regarding the accuracy or completeness of same, (ii) neither Declarant, Declarant's Affiliates, the Association nor any of their respective officers, directors, employees or agents have made any warranties or representations regarding the amount or any change (or lack of change) in the amount of any levies, taxes, assessments, fees, charges or other sums or costs imposed by the CDD upon the Community or the Owner's Lot and (iii) by virtue of their acceptance of the deed or other instrument transferring title to their Lot, they shall be deemed to have agreed to release the foregoing parties from all claims, liabilities or expenses relating to the CDD or any levy, tax, assessment, fee, charge or sums imposed by the CDD.

17.11 Nocatee DRI. The Community and each Lot are located within a planned unit development and Development of Regional Impact ("DRI") generally known and identified as Nocatee Development of Regional Impact. The development of the Property is governed by a development order (the "Development Order") which has been adopted by St. Johns County, Florida, under Ordinance No. 2001-30 and 2006-95 as now or hereafter amended from time to time. Each Owner, by acceptance of title to their Lot, acknowledges that they shall adhere to all development and design conditions contained in the Development Order, in addition to all architectural reviews, which may be required pursuant to the Development Order and the Governing Documents.

## ARTICLE XVIII CHANGES IN OWNERSHIP OF LOTS

Any Owner, other than Declarant or any Declarant Affiliate, desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least 14 days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Notwithstanding the transfer of title, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Lot Owner, including, without limitations, assessment obligations, until the date upon which the Board receives such notice, after which the original Owner shall be released from the obligation to pay assessments levied after the date such notice is received.

## ARTICLE XIX CHANGES IN COMMON AREA

19.1 Condemnation. Whenever any part of the Common Area is taken or conveyed under threat of condemnation by any authority having the power of eminent domain, the Board shall determine, in the exercise of its business judgment, whether each Owner is entitled to notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within 60 days after such taking, Members entitled to cast at least 75% of the total Class "A" votes and Declarant, during the Class "B" Control Period, shall otherwise agree. Any such construction shall be in accordance with plans the Board approves. The provisions of Section 7.3 regarding funds for the repair of damage or destruction shall apply.

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

19.2 Partition. Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property that may or may not be subject to this Declaration.

19.3 Transfer or Dedication of Common Area. The Association may convey, dedicate, or otherwise transfer portions of the Common Area to the County or to any other local, state, or federal governmental or quasi-governmental entity, with the consent of at least two-thirds of the Owners and such approval as may be required by Section 16.9; however, any dedication or transfer of Limited Common Areas to the County or to any other governmental entity shall require the consent of two-thirds (b) of the Owners entitled to use such Limited Common Area

## ARTICLE XX AMENDMENT OF DECLARATION

20.1 By Declarant. In addition to specific amendment rights granted elsewhere in this Declaration, until the termination of the Class "B" Control Period, Declarant may unilaterally amend this Declaration for any purpose, subject to the approval requirements set forth in Article XVI, if applicable.

In addition to the specific amendment rights granted to Declarant hereinabove and elsewhere in this Declaration, until termination of the Development and Sale Period, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage

Association, the Federal Home Loan Mortgage Corporation, HUD, or VA, to make, purchase, insure, or guarantee mortgage loans on the Lots; (d) to satisfy the requirements of any local, state, or federal governmental agency; or (e) for any other purpose which does not materially adversely affect title to any Lot, unless the Owner of such Lot consents to such amendment.

20.2 By the Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 67% of the Association's total Class "A" votes. In addition, during the Development and Sale Period, Declarant's written consent is required for any amendment. The approval requirements set forth in Article XVI also shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3 Approval by the District. Notwithstanding Sections 20.1 and 20.2, any amendment to the Declaration that alters any provision relating to the Surface Water and Storm Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Areas, or amendment to this Section 20.3, must have the prior approval of the District.

20.4 Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege). If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that the Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment, if required by applicable laws, permits and/or approvals.

Any amendment shall become effective upon the earliest of (a) actual notice; (b) recording; or (c) later effective date specified in the amendment. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

20.5 Exhibits. All exhibits attached to this Declaration are made a part hereof and incorporated herein by this reference.

**IN WITNESS WHEREOF**, Declarant has caused this instrument to be executed on the day and year written below.

**WITNESSES:**

Tina Edwards

Print Name: Tina Edwards

Mark Openshaw

Print Name: Mark Openshaw

**CENTEX/LENNAR NFL TOWN CENTER SOUTH, LLC,** a Delaware limited liability company

**By: CENTEX HOMES**, a Nevada general partnership, its Managing Member

By: Centex Real Estate Corporation, a Nevada corporation, its managing general partner

By: _____

Name: James Riley

Its: Division President

STATE OF FLORIDA

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 10th day of July, 2007, by James Riley, as Division President of Centex Real Estate Corporation, a Nevada corporation and managing general partner of Centex Homes, a Nevada general partnership, as Managing Member of Centex/Lennar NFL Town Center South, LLC, a Delaware limited liability company, on behalf of the corporation and the partnership and the company, who is personally known to me.

JASON PEERY
MY COMMISSION # DD675163
EXPIRES May 16, 2011
(407) 398-0153 FloridaNotaryService.com

_____

Print Name _____

Title: Notary Public

Serial Number, if any: _____

My Commission Expires: _____

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**JOINDER**
**OF**
**WILLOWCOVE**
**HOMEOWNERS ASSOCIATION, INC.**

WILLOWCOVE HOMEOWNERS ASSOCIATION, INC. ("**Association**") does hereby consent and join in the Declaration of Restrictions and Covenants for Willowcove to which this Joinder is attached.

IN WITNESS WHEREOF, the undersigned has executed this Joinder and Consent on this 10TH day of JULY, 2007.

**WILLOWCOVE HOMEOWNERS ASSOCIATION, INC.**, a Florida not for profit corporation

By: _____

Name: WESLEY HINTON

Its: PRESIDENT

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 10th day of JULY, 2007, by WESLEY HINTON, as President of WILLOWCOVE HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me.

JASON PEERY
MY COMMISSION # DD675163
EXPIRES May 16, 2011
(407) 398-0153 FloridaNotaryService.com

_____
Print Name _____
Title: Notary Public
Serial Number, if any: _____
My Commission Expires: _____

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**JOINDER**
**OF**
**WILLOWCOVE MASTER ASSOCIATION, INC.**

WILLOWCOVE MASTER ASSOCIATION, INC. ("**Master Association**") does hereby consent and join in the Declaration of Restrictions and Covenants for Willowcove to which this Joinder is attached.

IN WITNESS WHEREOF, the undersigned has executed this Joinder and Consent on this 10th day of July, 2007.

**WILLOWCOVE MASTER ASSOCIATION, INC.**, a Florida not for profit corporation

By: _____

Name: WESLEY HINTON

Its: PRESIDENT

STATE OF FLORIDA

COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 10th day of JULY, 2007, by WESLEY HINTON as PRESIDENT of WILLOWCOVE MASTER ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of the corporation, who is personally known to me.

_____

Print Name: _____

Title: Notary Public

Serial Number, if any: _____

My Commission Expires: _____

JASON PEERY
MY COMMISSION # DD675163
EXPIRES May 16, 2011
(407) 398-0153 FloridaNotaryService.com

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## JOINDER AND CONSENT OF MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, CNLBANK FIRST COAST, a Florida banking corporation (hereinafter referred to as the "Mortgagee") is the owner and holder of that certain Mortgage, Security Agreement and Financing Statement executed by Centex/Lennar NFL Town Center South, LLC, a Delaware limited liability company (hereinafter referred to as "Mortgagor") to and in favor of Mortgagee dated June 29, 2006 and recorded in Official Records Book 2736, Page 1754, Public Records of St. Johns County, Florida as amended by that certain Mortgage Modification Agreement Evidencing Future Advance entered into by Mortgagor and Mortgagee dated May 31, 2007 and recorded June 26, 2007 in Official Records Book 2940, Page 144, Public Records of St. Johns County, Florida, together with all other instruments entered into by and between Mortgagor and Mortgagee in connection with the extension of credit evidenced or secured by the foregoing instruments (hereinafter together referred to as the "Mortgage"), which Mortgage encumbers the real property owned by Mortgagor, being more particularly described in the Mortgage which is being subjected to the Declaration of Covenants, Conditions and Restrictions for Willowcove (Single Family Homes) to which this Joinder is attached (the "Declaration"); and

WHEREAS, Mortgagor has requested Mortgagee to consent to the Declaration for the purpose of subordinating the lien of its Mortgage to the Declaration and all terms, conditions, covenants and easements set forth therein or created or granted thereunder;

NOW THEREFORE, in consideration of the premises hereof and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagee hereby consents to the Declaration, subordinates the lien of its Mortgage to the Declaration, and agrees that the Declaration and all terms, conditions, covenants and easements set forth therein or created or granted thereunder shall be superior in right and priority to, and shall survive the foreclosure of the Mortgage.

IN WITNESS WHEREOF, Mortgagee has executed this Consent in manner and form sufficient to bind it as of the date of the Declaration.

**[SEE ATTACHED SIGNATURE PAGE]**

Signed, sealed and delivered
in the presence of:

Gloria J. Snead-Jackson

Name: Gloria J. Snead-Jackson

Cheryl B. Deal

Name: CHERYL B. DEAL

CNLBANK FIRST COAST, a Florida banking corporation

By: _____

Name: LYNN E VERMILYA

Title: SVP

(Corporate Seal)

Address:
10739 Deerwood Park Blvd.
Suite 100
Jacksonville, FL 32256

STATE OF FLORIDA

COUNTY OF Duval

The foregoing instrument was acknowledged before me this 11 day of July, 2007 by Lynn E. Vermilya, as SVP of CNLBANK FIRST COAST, a Florida banking corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

(NOTARY SEAL)

DANIELLE FAVEREAU BURKES
Commission DD 659739
Expires May 24, 2011
Bonded Thru Troy Fain Insurance 800-385-7019

Danielle Favereau Burkes
Signature of Notary Public

Danielle Favereau Burkes
Typed or Printed Name of Notary

Commission No.: _____

My Commission Expires: _____

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**EXHIBIT "A"**
**LAND INITIALLY SUBMITTED**

ALL THOSE TRACTS OR PARCELS OF LAND shown on that certain plat of WILLOWCOVE PHASE I according to the plat thereof, as recorded in Plat Book 61, Pages 81 through 91, of the Public Records of St. Johns County, Florida, as such property may be replatted from time to time or as such plat may be revised or amended ("**Plat**").

## EXHIBIT "B"

## LAND SUBJECT TO ANNEXATION

Any parcel of land located within a two-mile radius of the perimeter boundaries of the above-described property or the property described on **Exhibit "A."**

**Note to clerk and title examiners:**

**This Declaration is not intended to create an encumbrance on title to the property described on this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplemental Declaration in accordance with Article IX.**

## EXHIBIT "C"
## INITIAL USE RESTRICTIONS

The following restrictions are covenants running with the land shall apply to all of the Community until such time as they are amended, modified, repealed, or limited pursuant to procedures of the Declaration.

1. General. The properties submitted to this Declaration shall be used only for residential, recreational, and related purposes consistent with this Declaration and any Supplemental Declaration. Such purposes may include, without limitation, an information center and/or a sales office for Declarant and/or any real estate broker retained by Declarant to assist in the sale of property described in **Exhibit "A"** or **Exhibit "B,"** offices for any property manager retained by the Association, business offices for Declarant and the Association, and public facilities.

2. Restricted Activities. The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as may be imposed by, Declarant or the Board of Directors:

(a) Except as regulated and governed by County Code, parking of commercial vehicles or equipment, mobile homes, campers and similar recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages, except temporarily during loading and unloading; however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. Notwithstanding the foregoing, no provision of this Declaration shall be deemed to preclude or regulate parking of vehicles in designated spaces within any Roadways (as defined in Section 11.12 of the Declaration) dedicated to the public on the Plat. For purposes of this provision, "commercial vehicles" shall be defined as any vehicle with commercial writing on their exteriors or vehicles primarily used, designed, or registered for a commercial purpose, and vehicles with advertising signage attached or displayed on such vehicle's exterior, but shall not include passenger cars with identifying decals or painted lettering not exceeding a total area of one square foot in size or official vehicles owned by governmental or quasi-governmental bodies including, without limitation, police and sheriff insignias; and

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs (except that no Pit Bulls or mixed breed Pit Bulls are allowed), cats, or other household pets of the nature commonly sold in pet stores located within regional malls in urban areas may be permitted in a Lot (not to exceed a total of three (3) such pets); however, those pets which roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Lots shall be removed upon request of the Board. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and the person walking the dog shall clean up after it. Pets shall be registered, licensed, and inoculated as required by law; and

(c) Any activity which emits foul or obnoxious odors outside the Lot or creates an unreasonable level of noise or other conditions which tend, in the Board's judgment, to unreasonably disturb the peace or threaten the safety of the occupants of other Lots (this paragraph shall not preclude normal and customary use of power tools, lawn mowers, and other yard maintenance equipment during reasonable hours); and

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation; and

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy or noisy condition to exist outside of enclosed structures on the Lot; and

(f) Any noxious or offensive activity which in the determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots; and

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of construction by Declarant or a person authorized to do so by Declarant constructing a dwelling on a Lot; and

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be an unreasonable source of annoyance, as the Board may determine, to occupants of other Lots, except alarm devices used exclusively for security purposes; and

(i) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff; and

(j) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers; and

(k) Obstruction or re-channeling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; however, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owners consent; and

(l) Discharge of firearms; provided, no Association director, officer, employee or managing agent shall have any duty to become physically involved to stop such discharge; and

(m) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and for the operation of lawn mowers, pool, spa and hot tub heaters, and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV; and

(n) Any yard sale, garage sale, moving sale, rummage sale, or similar activity, except on such dates as the Board may designate for such activities to be conducted on a community-wide basis; and

(o) Capturing, trapping, or killing of wildlife within the Community (other than by or on behalf of the Association, Declarant or by a representative or designee of a Governmental Authority except in circumstances posing an imminent threat to the safety of persons in the Community; and

(p) Any activities by persons other than Declarant or its designees which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Community (except as may be approved pursuant to Article IV), or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution; and

(q) Primary use of garage shall be for parking. Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Lot without prior approval pursuant to Article IV, or use of any garage for storage or other purposes which preclude its use for parking of that number of vehicles for which it was originally designed; and

(r) Storage of boats, personal watercraft or similar vehicles anywhere other than on trailers within a garage, or parking or storage of any motorized vehicles (other than licensed and registered motor vehicles) or trailers anywhere other than within a garage; and

(s) Operation of motorized vehicles other than mowing equipment on pathways or trails maintained by the Association; and

(t) Swimming, boating, fishing, use of personal flotation devices, fishing or other active use of ponds, streams, or other bodies of water within the Community except that Declarant, its successors and assigns, shall be permitted to draw water from ponds, streams, and other bodies of water within the Community for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams, or other bodies of water within or adjacent to the Community; and

(u) Entry onto any Lot for maintenance or other easement to access any lake, pond, preserve, wetland or similar area within the Community, except that the Owner and occupants of a Lot abutting any such area may access such area at points along the common boundary between such Owners Lot and such area (but shall not enter onto other Lots or portions of any maintenance or other easement abutting any other Lot) and the authorized agents, employees, contractors, and designees of the Declarant or the Association may enter upon any Lot or maintenance or other easement for the purpose of gaining access to any such area; and

(v) Any construction, erection, placement, or modification of any structure or thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, all signs, fences, basketball hoops, swing sets and similar sports and play equipment; children's play houses; clothes hanging devices; garbage

cans; woodpiles; swimming pools, spas, and hot tubs; air conditioners; tanks; solar energy devices; docks, piers and similar structures; and landscaping, hedges, walls, mailboxes, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

(i) an antenna

(A) designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(B) designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(C) designed to receive television broadcast signals;

("**Permitted Antenna**") shall be permitted in rear yards of Lots or, if necessary to receive an acceptable quality signal, in side yards, in that order of preference; provided, unless prohibited by applicable law, any installation in the front yard of a Lot shall be subject to review and approval pursuant to Article IV of the Declaration, which review shall be completed within seven days of receipt of the application for review. The Reviewer or the Architectural Guidelines may impose requirements as to location and the manner of installation and screening in order to minimize obtrusiveness as viewed from streets and adjacent property, so long as such requirements are not inconsistent with applicable law. Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Community, should any master system or systems be utilized by the Association and require such exterior apparatus; and

(ii) a reasonable number of holiday and religious lights and decorations may be displayed on a Lot for up to 30 days prior to a publicly observed holiday or religious observance and up to 30 days thereafter without prior approval, subject to the right of the Association or Declarant to require removal of any such decorations which it deems to (A) be excessive in number, size, or brightness, relative to other Lots in the area; (B) draw excessive attention or traffic; (C) unreasonably interfere with the use and enjoyment of neighboring properties; or (D) cause a dangerous condition to exist. The Association shall have the right, upon 30 days prior written notice, to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision. The Association, and the individuals removing the lights and decorations, shall not be liable to the Owner for trespass, conversion, or damages of any kind except intentional misdeeds and gross negligence; and

(iii) one United States flag not exceeding 36" x 60" in size may be mounted on the exterior facade of the dwelling at a location approved pursuant to Article IV of the Declaration;

(w) picketing, protest marches, sit-in demonstrations, protest speeches, or other forms of public protest or conduct, including, without limitation, displaying signs or placards on the Lot or any vehicle, apparatus or otherwise within public view in the Community,

which tends to vilify, ridicule, denigrate, or impugn the character of Declarant, the Association, their respective officers, directors or employees, or any Owner or resident of the Community. Each Owner, by acceptance of the deed to any Lot, shall be deemed to have accepted the foregoing prohibitions as reasonable limitations on his or her constitutional right of free speech;

(x) any activity which generates a level of noise audible to occupants of other Lots while inside their dwellings (including, without limitation, lawn maintenance, recreational activities, games, parties, music, and other activities conducted outdoors or on porches or decks) between the hours of 11:00 p.m. and 8:00 a.m., except that during the construction of dwellings on the Lots, Declarant and builders may commence construction activities within the Community at 7:00 a.m.; and

(y) any activity which violates the St. Johns County Noise Ordinance; and

(z) door-to-door solicitation within the Community.

3. Prohibited Conditions. The following shall be prohibited in the Community:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community;

(b) Structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated or otherwise fallen into disrepair; and

(c) No individual potable water supply system or well for consumptive purposes or sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Community.

(d) Signs in yards that have not obtained written consent from the ARB unless such signs are consistent with signage guidelines, if any which may be issued and amended by the ARB from time to time.

**EXHIBIT "D"**
**ARTICLES OF INCORPORATION**
**OF**
**WILLOWCOVE HOMEOWNERS ASSOCIATION, INC.**

**[ATTACHED]**