

**AMENDED AND RESTATED  
DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS OF  
THE PRESERVE AT WILDWOOD**

INDEX OF THE AMENDED AND RESTATED DECLARATION OF EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
DFH WILDWOOD

ARTICLE I	DEFINITIONS .....	1
ARTICLE II MUTUALITY, BENEFITS AND BURDENS		
Section 2.1	Mutuality .....	3
Section 2.2	Owner's Benefits and Burdens.....	3
ARTICLE III ASSOCIATION		
Section 3.1	Members .....	4
Section 3.2	Voting Rights .....	4
ARTICLE IV COMMON PROPERTY AND EASEMENTS		
Section 4.1	Common Property.....	4
Section 4.2	Easements .....	6
Section 4.3	St. Johns County and St. Johns River Water Management District Easements and Dedications .....	7
ARTICLE V STORMWATER MANAGEMENT SYSTEM		
Section 5.1	Duties of Association.....	7
Section 5.2	Covenant for Maintenance Assessments for the Association.....	7
Section 5.3	Easement for Access and Drainage .....	8
Section 5.4	Enforcement .....	8
Section 5.5	Swale Management.....	8
ARTICLE VI UTILITIES		
Section 6.1	Water System.....	8
Section 6.2	Sewage System .....	8
Section 6.3	Trash Collection.....	8
Section 6.4	Arrangement for Utility Services .....	8
ARTICLE VII COVENANTS FOR MAINTENANCE ASSESSMENTS		
Section 7.1	Annual Assessments .....	9
Section 7.2	Special Assessments .....	9
Section 7.3	Emergency Assessments.....	9
Section 7.4	Lot Assessments .....	9
Section 7.5	Commencement of Annual Assessments .....	9
Section 7.6	Nonpayment of Assessments and Remedies .....	10
Section 7.7	Certificate of Payment .....	10
Section 7.8	Assessments on Developer Property .....	10
ARTICLE VIII ARCHITECTURAL CONTROL		
Section 8.1	Architectural Review Board	11
Section 8.2	ARB Authority & Duties	11
Section 8.3	Variance	11
Section 8.4	Enforcement .....	12
Section 8.5	Remedy for Violations	12
Section 8.6	Reservation of Rights to Release Restrictions	12
Section 8.7	No Liability	12
Section 8.8	Compensation	12
Section 8.9	Initial Construction	12
Section 8.10	Exclusive Authority	13
ARTICLE IX USE OF PROPERTY		
Section 9.1	Protective Covenants	13
Section 9.2	Amendments and Modifications of Rules	17
Section 9.3	Compliance	17

Section 9.4                      Personal Services ..... 17

ARTICLE X INSURANCE

Section 10.1    Types of Coverage ..... 18

Section 10.2                      Repair and Reconstruction after Fire or other Casualty..... 19

ARTICLE XI ASSOCIATION LIABILITY

Section 11.1                      Disclaimer of Liability ..... 19

Section 11.2                      Specific Provisions ..... 19

Section 11.3                      Owner Covenant ..... 20

Section 11.4                      Release as to use of Surface Water or Stormwater Systems ..... 20

ARTICLE XII GENERAL PROVISIONS

Section 12.1                      Duration ..... 20

Section 12.2                      Condemnation ..... 21

Section 12.3                      Notices ..... 21

Section 12.4                      Enforcement ..... 21

Section 12.5                      Interpretation ..... 22

Section 12.6                      Invalidity ..... 22

Section 12.7                      Amendment ..... 22

Section 12.8                      Rights of Mortgagees ..... 22

Section 12.9                      Legal Fees and Costs ..... 23

Section 12.10 Action without Meeting ..... 23

Section 12.11 Law to Govern ..... 23

Section 12.12 Conflict and Enforcement ..... 23

Section 12.13 Additional Restrictions ..... 23

Section 12.14 Existing Property ..... 23

**THIS AMENDED AND RESTATED DECLARATION**, is made this 7<sup>th</sup> day of November, 2023, by the Preserve at Wildwood Homeowners Association, Inc., a Florida not for profit corporation, who recites and provides:

**RECITALS:**

A. **DFH WILDWOOD, LLC** a Florida limited liability company, hereinafter referred to as "Developer" was the owner of certain land located in St. Johns County, Florida, being all of that real property known as **THE PRESERVE AT WILDWOOD**, as shown on plat thereof recorded in the official records of St. Johns County Florida in Map Book 72, Page 77-81, hereinafter referred to as "**THE PRESERVE AT WILDWOOD**" or "The Property", being more particularly described on Exhibit A of the original Declaration identified herein below. The purpose of this Amended and Restated Declaration is to maintain the beauty of the Property to assure high quality standards for the enjoyment of the Property.

B. Developer developed the Property for the purpose of constructing single family dwellings thereon, which dwellings will share certain Common Property (as hereinafter defined), and which will be occupied and maintained as a residential development for the mutual, reciprocal and common advantage of all Owners (as hereinafter defined) and occupants thereof, who shall own and occupy the Property, subject to the provisions of this Declaration and all other rules and regulations applicable to the Property.

C. Developer provided for the preservation and enhancement of the Property, and for the maintenance of the Property and the improvements thereon, subjecting the Property to the covenants, restrictions, easements, charges and liens of certain Declaration of Easements, Covenants, Conditions, and Restrictions for the Preserve at Wildwood, which is recorded at Official Records Book 3959, Page 3, et seq., of the current public records of St. Johns County, Florida, all of which is and are for the benefit of the Property and each Owner of a portion thereof.

D. Developer provided for the efficient management of the Property, by creating a not-for-profit corporation with the power and duty to administer and enforce the protective covenants, conditions, restrictions, easements and limitations hereinafter set forth, including, without limitation, the maintenance and administration of the Common Property and collection and disbursement of the Assessments hereinafter created. To this end, Developer has created **THE PRESERVE AT WILDWOOD HOMEOWNERS ASSOCIATION, INC.**, a Florida not-for-profit corporation ("Association"), whose membership shall include the Owners of all or any part of the Property.

**DECLARATION**

NOW, THEREFORE, the Property shall be held, sold, occupied and conveyed subject to the following easements, restrictions, covenants, liens and conditions, which are for the purpose of protecting the value and desirability of and shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE I DEFINITIONS

**Section 1.1 Defined Terms.** The following definitions shall apply wherever these capitalized terms appear in this Declaration:

- (a) "ARB"<sup>1</sup> means the Architectural Review Board of the Association.
- (b) "Articles" means the Articles of Incorporation for the Association, as amended from time to time.
- (c) "Assessment" means and includes all types of charges to which a Lot is subject, including, without limitation, Annual Assessments, Special Assessments, Emergency Assessments, and Lot Assessments (as hereinafter defined).
- (d) "Association" means **THE PRESERVE AT WILDWOOD HOMEOWNERS ASSOCIATION, INC.** a Florida not-for-profit corporation, its successors and assigns, which is responsible for the management and operation of the Property.
- (e) "Board of Directors" means the Board of Directors of the Association.
- (f) "Bylaws" means the Bylaws of the Association as amended from time to time.
- (g) "Common Property" means all of the Property, except the Lots, together with any improvements thereon, and all personal property intended for the common use and enjoyment of the Owners, and any area within the Property which the Association is obligated to maintain, notwithstanding that it may not own the underlying fee simple title to such areas. The Common Property is not dedicated for use by the general public. The Common Property shall specifically include, without limitation, sign and landscape easements (including, but not limited to, those shown on the plat of the Property), common roads, traffic control signs, entry features (including easement, sign, landscaping, lighting, and entry wall), any perimeter fencing or walls, all landscaping not located within a Lot, any gates, the Stormwater Management System (defined below), as shown on the Plat for the Preserve at Wildwood. hereinafter the "Plat", to include but not limited to Tracts A, B, C, D, and F.
- (h) "Common Roads" means the roads in the Property which provide ingress and egress to each Lot, residence, or any part of the Property. The Common Roads are dedicated to the public as per the Plat .
- (i) "Conservation Area" or "Conservation Easement Area" shall mean and refer to all such property so designated as Tract D upon any recorded Subdivision Plat or Plats of the Properties. The Developer reserves the right to add lands to the Conservation Easement Area.
- (j) "County" means St. Johns County, Florida.
- (k) "Declaration" means this Declaration of Easements, Covenants, Conditions and Restrictions, as it may hereinafter be amended and supplemented from time to time .

- (l) "Developer" means **DFH WILDWOOD, LLC**, its successors and assigns, or any successor or assign of all or substantially all of its interests in the development of the Property. Reference in this Declaration to **DFH WILDWOOD, LLC** as the Developer under this Declaration is not intended and shall not be construed to impose upon **DFH WILDWOOD, LLC**, any obligations, legal or otherwise, for the acts or omissions of third parties who purchase Lots within the Property from **DFH WILDWOOD, LLC** and develop and resell the same.
- (m) "Initial Improvements" means the initial, original construction of Residences, and related improvements (i.e. roadways, water sewer utilities and common property) and initial landscaping upon the Lots constructed by Developer or those builders specified by Developer.
- (n) "Lot" means any plot of land intended as a site for a Residence and shown upon any duly recorded subdivision plat of the Property. References herein to "Lot" shall also include the Residence and all improvements thereon, unless specifically set forth to the contrary. In the event that Developer conveys a Lot together with all or part of an adjacent Lot (such combination of Lots being hereinafter referred to as a "Reconfigured Lot") to one Owner who constructs only one single family dwelling unit thereon, such reconfigured Lot shall be deemed to be a "Lot" and subject to one Assessment and entitled to one vote and except as specifically set forth herein all references to the "Lot" means and include "Reconfigured Lots". Provided, however, if such a combined Reconfigured Lot is subsequently developed with an additional Residence it shall be deemed to constitute two Lots and be entitled to two (2) votes and be liable for payment of two Assessments.
- (o) "Member" means a person entitled to membership in the Association, as provided in this Declaration.
- (p) "Mortgage" means any bona fide first mortgage encumbering a Lot as security for therepayment of a debt obligation.
- (q) "Mortgagee" means any bank, savings and loan association or other recognized institutional lender, any insurer or guarantor of Mortgages (including without limitation, the Veteran's Administration or the Federal Housing Administration) or holder of Mortgages in the secondary market holding a Mortgage now or hereafter placed upon the Lot, including Developer.
- (r) "Owner" means the record owner, including or whether one or more persons or entities, of the feesimple title to any Lot, including the buyer under a contract for deed. Owners shall not include those having such interest merely as security for the payment or repayment of a debt obligation.
- (s) "Property" means that certain real property described as such in the Recitals above.
- (t) "Residences" means any single-family residential dwelling constructed or to be constructed on or within any Lot.

- (u) "Stormwater Management System" means a system 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, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

## ARTICLE II

### MUTUALITY, BENEFITS AND BURDENS

**Section 2.1 Mutuality.** This Declaration and the covenants, restrictions and agreements contained herein are made for the mutual and reciprocal benefit of each Lot or parcel contained within the Property. This Declaration is intended to create mutual obligations upon each Lot and parcel within the Property in favor of each and every other Lot and parcel within the Property, to create reciprocal rights between all of the Owners and to create privity of contract and an estate between the grantees of each and every Lot and parcel within the Property and their successors, heirs and assigns.

**Section 2.2 Owner's Benefits and Burdens.** Each Owner shall by taking title to any Lot agree to abide by all terms, provisions, agreements, covenants, restrictions and conditions contained in this Declaration and shall be entitled to the benefits and burdens contained therein.

## ARTICLE III

### ASSOCIATION

**Section 3.1 Members.** Every Owner shall be a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from the title to each Lot, and shall be transferred automatically by conveyance of the title to any Lot, whereupon the membership of the previous Owner shall automatically terminate. Persons or entities which have an interest in any Lot merely as security for the performance of an obligation shall not be Members of the Association, and in such case the beneficial Owner shall retain the membership in the Association.

**Section 3.2 Voting Rights.** The Association shall have one class of voting membership. The association may conduct elections and other membership votes through an Internet-based online voting system if a member consents, in writing, to online voting following requirements are met per Florida Statute 720.317. The association may also conduct a ballot system for voting.

(a) Members shall be all Owners. Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot. Notwithstanding the foregoing, if

title to any Lot is held by a husband and wife, either spouse may cast the vote for such Lot unless and until a written voting authorization is filed with the Association. When title to a Lot is in a corporation, partnership, association, trust or other entity (with exception of Developer) such entity shall be subject to applicable rules and regulations for such entities contained in the Articles and Bylaws. Provided however, if an Owner owns a Reconfigured Lot, for so long as such Reconfigured Lot contains only one single family Residence, the Owners thereof shall have only one vote in Association matters. If the Lot is owned by a corporation, trust, or other entity, then the person who is the officer of the Corporation or Trustee, and who is authorized by the entity's governing documents to bind the corporation, trust, or entity, shall be authorized to cast a vote on behalf of Lot and such person shall be listed on the Lot's voting certificate.

#### **ARTICLE IV**

#### **COMMON PROPERTY AND EASEMENTS**

##### **Section 4.1 Common Property.**

- (a) **Title.** The Common Property shall be held by the Association for the benefit of the Association. The Association shall not withdraw any Common Property should any such withdrawal of Common Property materially and adversely affect any Lot, or should such withdrawal materially and adversely affect access to such Lot, visibility available on such Lot, or the drainage of such Lot without the consent and joinder of the Owner of such Lot. The Association shall have the right to add to the Common Property in its sole discretion at any time prior to conveyance to the Association. No transfer of the title to any Lot, and no provision in any deed or other instrument of conveyance of any interest in any Lot shall pass any rights in and to the Common Property, except as expressly enumerated in this Declaration. Upon execution, delivery and recording of deeds conveying the Common Property, the Association shall be deemed to have accepted the conveyances effected by such deeds. The withdrawal or addition of land to the Common Property shall be reflected in an amendment to this Declaration. Once land is withdrawn, the Owners shall have no further rights to or in such land. The only land belonging to Developer which shall be included herein shall be such land as is specifically described in Exhibit "A" to this Declaration or attached to an amendment to this Declaration. If necessary, the Association shall execute such deeds, assignments or other documents as may be required to achieve a withdrawal of land by the Developer.
- (b) **Easement of Enjoyment.** Subject to the limitations provided in this Declaration, All Owners, their guests and their invitees are hereby granted a nonexclusive right and perpetual easement of enjoyment in and to the Common Property which easements are appurtenant and shall pass with the title to every Lot. All owners, their guests, invitees, agents, employees, emergency service providers, police, fire, delivery services, U.S. Mail carriers, employees of utility companies who are authorized by the Association and any other persons who may be authorized by the Association shall have a perpetual but non-exclusive right of egress and ingress over the



paved portions of the Property designated as roadways. However, all such easements shall be subject to the following:

- (1) The right of the Association to take such steps reasonably necessary to protect the Common Property against foreclosure.
- (2) The right of the Association to grant easements and rights of way, as may be deemed appropriate for the proper development and maintenance of the Property.
- (3) The rights of the owners of the Common Property to dedicate, convey or transfer all or any part of the Common Property (upon the consent of 2/3 vote of the total votes of the Association) to any public agency, utility, authority or other similar entity and to mortgage same.
- (4) All provisions of this Declaration, the Articles of Incorporation of the Association, the By-Laws of the Association and any plat of any part of the Property.
- (5) The rules and regulations governing the use and enjoyment of the Common Property adopted by the Association.
- (6) All easements and restrictions of record affecting any part of the Common Property.
- (7) Rights reserved to the Association to add or withdraw land from the Common Property.

(c) **Maintenance.** It shall be the duty of the Association to manage and maintain the Common Property in a clean, attractive, sanitary and serviceable condition, and in good order and repair for the benefit of all Owners. The Common Property includes but is not limited to Tracts B, C, D, and F. The Association's duties shall commence upon the completion of any improvements upon the Common Property, irrespective of which entity holds title thereto, and shall include the management, operation, maintenance, repair, servicing, replacement, and renewal of all improvements, equipment, and tangible personal property installed by Developer as a part of the Common Property. The Association shall keep the improvements located on the Common Property, including fixtures and personal property of the Association, insured for the maximum insurable replacement value, excluding foundation and excavation costs, as determined by the Board of Directors. The Association shall also maintain all landscaping on the Common Property provided that the Association shall be deemed to be a guarantor of such landscaping. The cost of landscaping shall be a part of the annual Assessments. Maintenance of the Common Property shall be conducted in such a manner as to be in accord with any and all permits issued by any applicable governmental agencies, to include but not limited to such permits issued by the United States Army Corps of Engineers, ("ACOE"), Florida Department of Environmental Protection, St. Johns River Water Management District, ("SJRWMD"), the County and in accordance with all regulations, rules, statutes, requirements, pronouncements of governmental agencies having jurisdiction

over the Storm Water Management System. The Board of Directors of the Association shall oversee all maintenance and the expense for maintenance shall be a common expense to be assessed to the Owners pursuant to this Declaration.

(d) **Restrictions on Access.** The Association shall have the right to deny access to the Property to any non-resident person, who is believed to be a nuisance, likely to create or assist in the creation of any nuisance or disturbance. The Association shall have the right but shall not be obligated to control traffic on any roadway within the Property and shall be entitled to exclude any vehicular traffic or vehicle that the Association believes may create a nuisance or create a danger to the authorized users of such roadways. The Association shall have the right to control parking on any roadway on the Property and shall be entitled to remove any fence, wall, hedge, bush, plant, tree or any other structure which the Association believes obscures the vision of motorists utilizing the roadways on the Property. Determination as to whether to exercise any right hereunder shall be at the sole discretion of the Association and further, the rights reserved hereunder shall not be considered to be an obligation of the Association. Upon dedication to the public, the terms contained in this paragraph shall be of no further effect.

(e) **Changes to Roadways.** The Association shall be entitled to dedicate to the public use any Roadway on the Property, so long as any applicable governmental entity shall consent, all or any part of the Roadways on the Property and shall have the right to alter, relocate or terminate any Roadway or easement without the consent or joinder of any party. The provisions of this paragraph notwithstanding, no Lot may be denied access to a street or highway as a result of any change to a Roadway.

#### **Section 4.2 Easements.**

(a) **Blanket Easement.** The Association reserves for itself, its agents and assigns, a nonexclusive, perpetual, alienable blanket easement for the benefit of the Property upon, across, over, through, and under any Roadway, right of way and the Common Property for ingress, egress, installation, replacement, repair, use and maintenance of all utility and service lines and service systems, utility poles or equipment, public and private, including, but not limited to, water, sewer, drainage, irrigation systems, telephones, electricity, gas (propane or natural) television cable or communication lines and systems, and police powers and services, firefighting services, supplied by the local, state and federal governments. This easement shall in no way affect any other recorded easements on the Property.

(b) **Lot Easement.** Developer reserves for itself, its successors and assigns a perpetual, nonexclusive easement over, under and across a ten foot (10') strip at the front and rear of each Lot, and a five foot (5.0') strip at the side of each Lot for the installation, repair and maintenance of all utilities, including without limitation water, sewer, electrical, cable, telephone, drainage, and irrigation lines.

(c) **Cable Easements.** The Association reserves for itself, its agents and assigns, and grants to the Association and its designees, a perpetual, exclusive easement for the installation, maintenance, and supply of radio and television cable over, under and across the rights of way and easement areas on any recorded plat of the Property. If the Association elects to enter into a "bulk rate contract" for cable television, cable television service shall be supplied to each Lot

and each Owner shall be required to pay all costs in connection therewith.

(d) **Right to future Easements.** This section has been deleted.

(e) **Easement for the Purpose of Maintenance.** The Association, its agents, successors or assigns shall have an easement on and over any Lot or the Common Property as may be necessary to maintain the Common Property, the Roadways, right of way or the Storm Water Management System or such other property which the Association is required to maintain.

(f) **Easement for Facilitation of Construction.** This section has been deleted.

(g) **Developer's Rights.** The Owners of Lots subject to easements shown on any plat of the Property shall acquire no right, title, or interest in any of the cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over, or under the easement area. The Owners of Lots subject to any easements shall not construct any improvements on the easement areas, alter the drainage flow of surface water, or landscape such areas with hedges, trees, or other landscape items that might interfere with the exercise of the easement rights. Any Owner who constructs any improvements or landscaping on such easement areas shall remove the improvements or landscape items upon written request of the Association or the grantee of the easement. The Association shall have the right but not the obligation to take any reasonable action necessary to correct any condition which alters or affects the drainage flow of surface water.

**Section 4.3 St. Johns County and St. Johns River Water Management District Easements and Dedications.** The Developer has granted St. Johns County, St. Johns River Water management District easements and dedicated certain property as indicated on the Plat, attached hereto as Exhibit "A" and incorporated herein. Tract A is dedicated to the County as a right of way and Tract E is dedicated to the County for use a sewer lift station. Both Tract A and Tract E shall be maintained by the County.

## **ARTICLE V**

### **STORM WATER MANAGEMENT SYSTEM**

**Section 5.1 Duties of Association.** The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system(s). Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

**Section 5.2 Covenant for Maintenance Assessments for the Association,**

Assessments shall also be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

**Section 5.3 Easement for Access and Drainage,** The Association shall have a perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

**Section 5.4 Enforcement,** The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

**Section 5.5 Swale Maintenance,** The Developer has constructed a Drainage Swale upon all or some of the Lots for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lots from time to time. Each Owner of such Lots, including builders, shall be responsible for the maintenance, operation and repair of the swales on the Lot. Maintenance, operation and repair shall mean the exercise of practices such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) on which the Drainage Swale is located.

**ARTICLE VI**

**UTILITIES**

**Section 6.1 Water System,** The central water supply system provided for the Property shall be used as the sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Owner shall pay water meter charges established or approved by the supplier thereof and shall maintain and repair all portions of such water lines located within the boundaries of such Owner's Lot. No individual water supply system or well for consumptive purposes shall be permitted on any Lot without the prior written

consent of the Developer or the Association.

**Section 6.2 Sewage System.** The central sewage system provided for the Property, which shall be used as the sole sewage system for each Lot. No septic tank or drain field shall be allowed on the Property. Each Owner shall maintain and repair all portions of such sewer improvements and lines located within the boundaries of his Lot and shall pay when due the periodic charges or rates for the furnishing of such sewage collection and disposal service (including the initial hook-up) made by the operator thereof. No sewage shall be discharged onto the open ground or into any lake, pond, park, ravine, drainage ditch, canal or roadway.

**Section 6.3 Trash Collection.** All trash, garbage, refuse and rubbish shall be collected by persons, parties or entities approved by the Association. The owners shall be responsible for paying all fees associated with collection of trash, garbage, refuse and rubbish.

**Section 6.4 Arrangement for Utility Service.** The Owners shall be responsible for making any and all arrangements for the provision of utility service to his or her Lot.

## **ARTICLE VII**

### **COVENANTS FOR MAINTENANCE ASSESSMENTS**

**Section 7.1 Annual Assessments.** For each Lot within the Property, Developer covenants, and each Owner, by acceptance of a deed or other conveyance, agrees to pay Annual Assessments levied by the Association for the improvement, maintenance and operation of the Common Property, the management and administration of the Association, and the furnishing of services as set forth in this Declaration, at a level sufficient to meet the Association's obligations, including contingencies and reserves. The Board of Directors shall set the date or dates such Annual Assessments shall become due and provide for collection of Assessments to be payable annually or in monthly, quarterly or semi-annual installments; provided, however, that upon default in the payment of any one or more installments, the entire balance of such Annual Assessment may be accelerated, at the option of the Board of Directors, and be declared due and payable in full. The Assessments shall be based on an annual budget with an equal amount due for each Lot. If the Board of Directors intends to adopt any annual budget with an increase of more than 120 percent of the preceding fiscal year's assessments, notice of such meeting and a copy of the proposed annual budget shall be delivered to each owner by mail or hand delivery not less than 60 Days prior to such meeting. Owners shall have the right, but not the obligation, to present a substitute budget for the Board's consideration. Such document(s) must be submitted in writing to the Board of Directors no later than 14 Days prior to the scheduled Board meeting at which the annual budget is being considered.

Any determination of whether assessments exceed 120 percent shall EXCLUDE: 1. Any authorized provisions for reasonable reserves; 2. Anticipated expenses of the Association which the Board does not expect to be incurred on a regular or annual basis; 3. Insurance premiums.

**Section 7.2 Special Assessments.** In addition to the Annual Assessments, the Board of Directors, by majority vote, may levy in any fiscal year a Special Assessment applicable to that

year and not more than the next four (4) succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto. Special Assessments shall be collectible in advance in any manner established by the Board of Directors.

**Section 7.3 Emergency Assessments.** The Association may also levy an Emergency Assessment any time by a majority vote of the Board of Directors, for the purpose of defraying, in whole or in part, the cost of any extraordinary or emergency matters, as determined by the Board of Directors in its sole discretion, that affect all the Common Property or Members of the Association, including, after depletion of any applicable reserves of this Article, any unexpected expenditures not provided by the Budget or unanticipated increases in the amounts budgeted. Any such Emergency Assessment shall be due and payable at the time and in the manner specified by the Board of Directors.

**Section 7.4 Lot Assessments.** In addition to the Annual and Special Assessments authorized above, the Board of Directors, by majority vote, may from time to time levy a Lot Assessment against a particular Lot and the Owner thereof for the purpose of defraying, in whole or in part, the cost of any repair, maintenance or restoration as provided in this Declaration; any construction, reconstruction, repair or replacement of a capital improvement upon or serving the specific Lot, including any additional special services to such Lot, the cost of which is not included in the Annual Assessment; or to reimburse the Association for any costs it incurs as a result of the Owner's failure to comply with this Declaration or any damage to the Common Property.

**Section 7.5 Commencement of Annual Assessments.**

(a) **Date of Commencement.** The Annual Assessments provided for herein shall commence with respect to each Lot on the date of conveyance of the Lot to an Owner, other than Developer. During the initial year of ownership, each Owner shall be responsible for the pro rata share of the Annual Assessments charged to each Lot prorated to the day of closing on a per diem basis. Any other Assessments shall be paid in full without proration.

(b) **Capital Contribution.** This section has been deleted.

**Section 7.6 Nonpayment of Assessments and Remedies.**

(a) **Creation of Lien.** All Assessments shall be, together with any late fees, interest and costs of collection when delinquent, including reasonable attorney's fees together, the "Assessment Charge", a charge and continuing lien upon each Lot subject to this Declaration. This lien provided for in this Section shall be perfected by the filing of a notice of lien in the public records of the County, in favor of the Association. The lien of the Association shall be effective from and shall relate back to the date on which the original declaration of the community was recorded.

(b.) **Owner's Acceptance.** The Assessment Charge is also the personal obligation of the person or entity which was the Owner of such Lot at the time when the Assessment was levied and of each subsequent Owner thereof. Each Owner of a Lot, by acceptance of a deed or other transfer document therefor, whether or not it shall be so expressed in such deed or transfer document, is deemed to covenant and agree to pay to the Association the Assessment Charge established or described in this Article. The Association shall have the right and power to bring all actions against such Owner personally for the collection of such Assessment Charge as a debt and to enforce theaforesaid by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage lien on real property, and such owner is deemed to have granted to the Association a power of sale in connection with such lien. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonmentof his Lot or by waiving the right to use Common Property nor shall non-use of the Common Property relieve an owner of his liability for the Assessment Charge.

(c.) **Late Fees, Interest.** Any Assessments not paid within ten (10) days after the due date shall be subject to a late fee of \$25.00 and may, upon resolution of the Board of Directors, bear interest at the maximum allowed per Florida Statute 720.

(d.) **Remedies.** The Association may bring an action at law against the Owner or Owners personally obligated to pay such Assessment Charge or foreclose the lien against the Lot upon which the Assessment Charge is made in the manner provided below. The Association, acting on behalf of the Owners, shall have the power to bid for an interest in any Lot at such foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The Board of Directors, by majority vote, shall have the right to assess fines pursuant to statutory guidelines and procedures set forth in Section 720.305 Florida Statutes and may suspend the voting rights and the right to the use of the Common Property by an Owner for any period during which any Assessment against his Lot that is more than ninety (90) days past due remains unpaid.

(e.) **Subordination of Lien to Mortgages.** The lien of the Assessment Charge shall be inferior and subordinate to the lien of any institutional first Mortgage, but only to the extent of the Mortgage balance outstanding as of the date the notice of an Assessment Charge is first recorded against the Lot, plus interest and reasonable costs of collection accruing thereafter. The sale or transfer of any Lot shall not affect the Assessment Charge. No sale or transfer shall relieve the transferee of such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor the Owner responsible for such payments from such Owner's personal liability as provided herein. The owner receiving title to a Lot shall be personally obligated and jointly and severally liable for all sums due to the Association which accrued for the Lot during the ownership of the prior Owner, except if a first mortgagee receives title to a Lot by way of an institutional first mortgage foreclosure or any proceeding or conveyance in lieu thereof, such liability of an institutional first mortgagee shall be as provided by Florida Law as it may be amended from time to time.

**Section 7.7 Certificate of Payment.** The Treasurer of the Association or the management company authorized by the Board of Directors, upon demand of any Owner liable for an

Assessment, shall furnish to such Owner a certificate in writing setting forth whether such Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge for the services involved in preparing such certificate may be assessed by the Association or management company as applicable.

**Section 7.8 Assessments on Developer Property.** This section has been deleted.

## **ARTICLE VIII**

### **ARCHITECTURAL CONTROL**

**Section 8.1 Architectural Review Board.** The Association shall establish an ARB which shall consist of either three (3) or five (5) members. Members of the ARB do not have to be members of the Association. The members of the ARB shall be appointed by the Board of Directors and shall serve at their leisure and discretion. If the Board of Directors fails to so appoint an ARB, then the Board of Directors shall constitute the ARB. Any vacancies on the ARB shall be filled by appointment by the Board of Directors. A quorum shall be established by the presence of a majority of the ARB members at any ARB meeting and a majority vote by those ARB members present at an ARB meeting shall constitute the action of the ARB.

**Section 8.2 ARB Authority & Duties.** The ARB shall have the following authority:

(a) In order to assist in making the Property a community of high standards and aesthetic beauty, the ARB shall be charged with making a recommendation to the Board of Directors to approve or disapprove all proposed construction and improvements to any Lot and any alteration, addition, change or modification thereto, other than initial construction constructed, erected, or placed upon any part of the Property. Such architectural control may include all architectural aspects of any such improvement including, without limitation, size, height, site planning, setbacks, exterior design, materials, colors, open space, landscaping, and aesthetic criteria. Plans and Specifications, including landscaping and driveways for improvements on any lot shall be submitted to the ARB for approval. No construction, modification, alteration or improvement of any nature whatsoever, shall be undertaken on any Lot, unless and until the ARB, as the case may be, has approved in writing the Plans and Specifications.

(b) The ARB shall be authorized to require two (2) sets of plans and specifications for any proposed improvements, hereinafter the "Proposed Improvements" which are to be reviewed by the ARB. Additionally, the ARB may require submission of samples of building materials and any other information necessary to allow a complete assessment or evaluation of any proposed construction or improvements.

(c) The ARB shall be authorized to set up a fee schedule charging reasonable fees for the processing and evaluation of submissions to the ARB. The fees are to be paid to the Association along with the submission to the ARB.



(d) The ARB shall have the authority to recommend amendments to the architectural criteria to the Board of Directors. Upon adoption of any such amendment, a complete copy of such amendment shall be provided to each member of the Association. The architectural criteria and any amendments thereto shall not be recorded in the public record and failure to provide a copy of same or an amendment to same shall not be a condition precedent to the effectiveness or validity of the architectural criteria or an amendment thereto.

**Section 8.3 Variance.** The ARB, as applicable, may authorize variance from compliance with any of the architectural provisions of this Declaration, when circumstances such as topography, natural obstructions, hardships or aesthetic or environmental consideration require the same. Such a variance shall be evidenced by a document signed by at least a majority of the members of the ARB for a Proposed Improvement. If such a variance is granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and the particular provisions of this Declaration covered by the variance, nor shall it affect in any way the Owners' obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances, and set back lines or requirements imposed by any governmental or municipal authority. Any variance given pursuant to this paragraph shall be given in recordable fashion and recorded in the public records of the County.

**Section 8.4 Enforcement.** The Board of Directors shall have the authority and standing on behalf of the Association to enforce, in courts of competent jurisdiction, the decisions of the ARB.

**Section 8.5 Remedy for Violations.** In the event any Proposed Improvement is constructed without first obtaining the approval of the ARB or Developer, as applicable, or is not constructed in strict compliance with any approval given or deemed given by the ARB or the provisions of this Article are otherwise violated, the Board of Directors shall have the specific right to injunctive relief to require the Owner to stop, remove, and alter any improvements in order to comply with the requirements hereof, or the Board of Directors may pursue any other remedy available to it. In connection with this enforcement section, the Board of Directors shall have the right to enter into any Lot and make any inspection necessary to determine that the provisions of this Declaration have been complied with. The failure of the ARB, the Board of Directors or Developer to object to any proposed Improvement prior to its completion shall not constitute a waiver of the right of the Association to enforce this Article. The foregoing rights shall be in addition to any other remedy set forth herein for violations of this Declaration.

**Section 8.6 Reservation of Rights to Release Restrictions.** This section has been deleted.

**Section 8.7 No Liability.** Notwithstanding anything contained herein to the contrary, the ARB shall merely have the right, but not the obligation, to exercise architectural control, and

shall not be liable to any owner, its successors, assigns, personal representatives, or heirs, due to the exercise or non-exercise of such control or the approval or disapproval of any Proposed Improvement. Furthermore, the approval of any plans and specifications or any Proposed Improvements shall not be deemed to be a determination or warranty that such plans and specifications or Proposed Improvements are complete, do not contain defects, or in fact meet any standards, guidelines, or criteria of the ARB, or are in fact architecturally or aesthetically appropriate, or comply with any applicable governmental requirements, and neither the ARB, or the Association shall be liable for any defect or deficiency in such plans and specifications or Proposed Improvements, or any injury to persons or property resulting therefrom.

**Section 8.8 Compensation.** The Board of Directors shall have the authority to pay reasonable compensation to the members of the ARB who are not members of the Board of Directors, their spouses, or members of their immediately family or household, provided the Board of directors has notified all Members within 30 days prior to the Board of Directors approving such compensation to the ARB.

**Section 8.9 Initial Construction.** All proposed initial construction shall be submitted to the Developer in writing. Submissions shall be in made as provided in Section 8.2(b). The proposed construction shall be evaluated giving due consideration to the overall development scheme and the architectural criteria. Developer shall have the right to approve or disapprove such proposed construction in its sole discretion.

**Section 8.10 Exclusive Authority.** The ultimate, sole and exclusive right to approve or disapprove proposed construction shall belong to the Association.

## **ARTICLE IX**

### **USE OF PROPERTY**

**Section 9.1 Protective Covenants.** In order to keep the Property a desirable place to live for all Owners, the following protective covenants are made a part of this Declaration. Without limiting any of the provisions or requirements of Article VIII, the specific references to the ARB approval set forth in this article or elsewhere in this Declaration shall not be construed as a limitation of the requirements of this article.

(a) **Lot Resubdivision.** No Lot shall be further subdivided, replatted or separated into smaller Lots by any Owner. Provided however, this restriction shall not prohibit corrective deeds or similar corrective instruments. Developer shall have the right to modify subdivision plats of the property if all owners of Lots which are included within the portion of the plat so modified consent to such modification, which consent shall not be unreasonably withheld or delayed.

(b) **Residential Use.** Each Lot shall be used, improved and devoted exclusively to single family residential use, and for no commercial purpose. No time-share ownership of Lots is permitted. Nothing herein shall be deemed to prevent the Owner from leasing a Residence, subject to all of the provisions of the Declaration, Articles, and Bylaws. Any and all Residential Leases

shall not be less than one (1) year in term. No business or commercial use may be made of any part of the Property, Provided, however, an occupant of a Residence who maintains a personal or professional library, keeps personal or professional books or accounts, conducts personal business (provided that such use does not involve customers, clients, employees, licenses or invitees regularly visiting the Residence), or makes professional telephone calls or correspondence in or from a Residence is engaging in a residential use and shall not be deemed to be in violation of this Section by reason thereof.

(c) **Nuisances; Other Improper Use.** No nuisance shall be permitted to exist on any Lot or Common Property so as to be detrimental to any other Lot in the vicinity thereof or to its occupants, or to the Common Property. Any activity on a Lot which interferes with television, cable, or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. No immoral, offensive, or unlawful use shall be made of the Property or any part thereof. All laws, zoning ordinances, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property. If a dispute or question arises as to what may be or become a nuisance, the issue shall be determined by the Board of Directors.

(d) **Work Hours.** All work done by contractors, subcontractors and domestic workers must be done during daylight hours.

(e) **Access.** Owners shall allow the Board of Directors or the agents and employees of the Association to enter any Lot for the purpose of maintenance, inspection, repair, replacement of the improvements within the Lot, or in case of emergency, for any lawful purpose, or to determine compliance with this Declaration.

(f) **Pets.** No animals, livestock or poultry of any kind shall be raised bred or kept on any Lot, except that dogs, cats or other household pets in reasonable numbers may be kept provided they are not kept, bred or maintained for any commercial use and do not create safety, health or nuisance problems. The Association further reserves the right, but not the obligation, to demand that an Owner permanently remove from property all pets which create disturbances or annoyances that constitute nuisances in the sole discretion of the Board of Directors.

(g) **Signs.** No sign, advertisement or notice of any type or nature whatsoever including, without limitation, "For Sale" and "For Lease" signs, shall be erected or displayed upon any Lot, Residence, Common Property or in any window, unless express prior written approval of the size, shape, content, appearance and location has been obtained from the Board of Directors and the ARB, which approval may be arbitrarily withheld, except standard 18" x 24" typical painted real estate signs shall be allowed without prior approval.

(h) **Parking.** All vehicles shall be parked and stored within the garages or paved driveways on a Lot. No boats or recreational vehicles may be stored or parked within the Property unless surrounded completely such that they cannot be seen. Only automobiles bearing current license and registration tags, as required pursuant to state law, shall be permitted to be parked on

any of the Property except wholly within a garage. All parking within the Property shall be in accordance with rules and regulations adopted by the Association. No parking is allowed on the street rights-of-way, park areas, or other Common Property.

(i) **Visibility at Street Intersections.** No obstruction to visibility at intersections shall be permitted. The ARB and Developer shall have the right to adopt additional restrictions concerning the height and type of trees and shrubs within any of the Lots.

(j) **Clotheslines.** No clotheslines or other clothes-drying facility shall be permitted on the Common Property or other portions of the Property where it would be visible from any Common Property or other portions of the Property where it would be visible from any Common Road or any other Lot.

(k) **Garbage and Trash Containers.** All garbage and trash containers must be placed and maintained in accordance with rules and regulations adopted by the County. No garbage or trash shall be placed elsewhere, and no portion of the Property shall be used for dumping refuse. All garbage and trash containers shall be kept within an enclosed area in a location approved by the ARB.

(l) **Window Air Conditioners and Antenna.** No window air conditioning unit, satellite dishes, or antenna shall be installed in or at any Residence without the prior approval of the ARB. Further, any antennas, satellite dishes or other similar devices approved by the ARB or the Developer shall comply with any applicable governmental laws, statutes or regulations.

(m) **Temporary Structures.** No structure of a temporary character, including, without limitation, any trailer, tent, shack, barn, shed, or other outbuilding, shall be permitted to be stored on any Lot at any time, except temporary structures maintained for the purpose of construction and marketing of the Lots. Boats, RV's, and Trailers shall be allowed for the purpose of construction remodeling, cleaning and preparation for personal use/travel on any lot for a period of no longer than 3 days within a 1 week period.

(n) **Hazardous Materials.** No hazardous or toxic materials or pollutants shall be maintained, stored, discharged, released, or disposed of in or under the Property except in strict compliance with applicable statutes, rules and regulations. Fuel or gas storage tanks or other flammable, combustible, or explosive fluids, materials, or substances for ordinary household use may be stored or used in the Property only in strict compliance with manufacturers' directions and applicable safety laws and codes, and shall be stored in containers specifically designed for such purposes.

(o) **Removal of Trees.** In order to preserve the environment and migratory bird populations, no trees which remain on a Lot at the time of completion of the Initial Construction thereon shall be felled, removed, or cut down unless such tree represents a hazard to the Residence or other improvements on the Lot, or to persons occupying or utilizing the Property, without the consent and approval of the ARB, the obtaining of any and all governmental approvals as may be required by governmental authorities having jurisdiction over the Property.

(p) **Garages and Detached Structures.** No garage shall at any time be used as a residence or converted to become part of a Residence, except if another garage is constructed in compliance with the provisions hereof. There shall be no detached buildings constructed on any Lot without the prior Consent of the ARB or acting Architectural Authority.

(q) **Soliciting.** No soliciting will be allowed at any time within the Property.

(r) **Fences, Lighting and Mailboxes.** No fences shall be allowed except as approved by the ARB. All mailboxes shall be approved by the ARB. No lighting shall be allowed which alters the residential nature of the Property except low voltage landscaping lighting.

(s) **Sidewalks.** Any Owner of a Lot developing a Residence on such Lot shall construct any sidewalk on or in front of such Lot, in accordance with the subdivision construction plans submitted to and approved by the County. Such sidewalk shall be completed prior to the issuance of a certificate of occupancy for such Lot.

(t) **Exterior Maintenance.**

- i) The exterior of all residences shall be maintained such that all residences have a clean, well-cared for appearance.
- ii) The Lots shall be maintained in a neat, clean, orderly and attractive manner. Weeds and underbrush shall be removed and all plants, trees, bushes, flower beds and other similar landscaping shall be mowed, edged, pruned and maintained so as to maintain the overall beauty of the Property. No trash, garbage, rubbish or refuse shall accumulate on any Lot.
- iii) Any driveways, sidewalks and other similar paved surfaces on any Lot shall be maintained in an appropriate manner.
- iv) Should the Board of Directors in its sole discretion deem that any condition on any Lot exists which detracts from the appearance of the Property or causes a safety risk, the Board of Directors, its agents, employees or contractors shall have the right to enter upon any Lot for the purpose of correcting any such deficiency or condition and shall be entitled to assess the cost to the Owner. The costs of such maintenance shall be assessed against such Lot and this assessment shall not be considered to be a part of the annual or special assessments. The costs of this maintenance shall be a lien against the Lot and shall be payable along with any interest, attorney fees and costs of collection as provided in Article VII.

### **Conservation Easements**

i) **Conservation Easement Areas.** Pursuant to the provisions of Section 704.06, Florida Statutes, Developer hereby voluntarily grants and conveys to the St. Johns River Water Management District (the "SJRWMD") a conservation easement in perpetuity over the Conservation Easement Areas (the "Conservation Easement"). Developer fully warrants title to said Conservation Easement Areas, and will warrant and defend the same against the lawful claims of all persons whomsoever. Developer grants this

Conservation Easement as a condition of permit number 40-109-135212-1 issued by the SJRWMD, to prevent secondary impacts and to offset adverse impacts to natural resources, fish and wildlife, and wetland functions.

- ii) Purpose. The purpose of this Conservation Easement is to assure that the Conservation Easement Areas will be retained forever in their existing natural condition and to prevent any use of the Conservation Easement Areas that will impair or interfere with the environmental value of these areas.
- iii) Prohibited Uses. Any activity in or use of the Conservation Easement Areas inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
  - iv) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.
  - v) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
  - vi) Removing, destroying or trimming trees, shrubs, or other vegetation.
  - vii) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
  - viii) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
  - ix) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
  - x) Acts or uses detrimental to such retention of land or water areas.
  - xi) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
- xii) Responsibilities. The Developer, its successors and assigns, shall be responsible for the periodic removal of trash and other debris which may accumulate in the Conservation Easement Areas.
- xiii) Reserved Rights. Developer reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Conservation Easement Areas, including the right to engage in or permit or invite others to engage in all uses of the Conservation Easement Areas, that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement.

- xiv) Rights of SJRWMD. To accomplish the purposes stated herein, the Developer conveys the following rights to the SJRWMD:
- xv) To enter upon and inspect the Conservation Easement Areas in a reasonable manner and at reasonable times to determine if Developer or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.
- xvi) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, 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 Areas that may be damaged by any activity inconsistent with this Conservation Easement.
- xvii) SJRWMD's Discretion. SJRWMD may enforce the terms of this Conservation Easement at its discretion, but if Developer breaches any term of this Conservation Easement and SJRWMD does not exercise its rights under this Conservation Easement, SJRWMD's forbearance shall not be construed to be a waiver by SJRWMD of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the SJRWMD's rights under this Conservation Easement. No delay or omission by the SJRWMD in the exercise of any right or remedy upon any breach by Developer shall impair such right or remedy or be construed as a waiver. SJRWMD shall not be obligated to Developer, or to any other person or entity, to enforce the provisions of this Conservation Easement.
- xviii) SJRWMD's Liability. Developer will assume all liability for any injury or damage to the person or property of third parties which may occur in the Conservation Easement Areas arising from Developer's ownership of the Conservation Easement Areas. Neither Developer, nor any person or entity claiming by or through Developer, shall hold SJRWMD liable for any damage or injury to person or personal property which may occur in the Conservation Easement Areas.
- xix) Acts Beyond Developer's Control. Nothing contained in this Conservation Easement shall be construed to entitle SJRWMD to bring any action against Developer for any injury to or change in the Conservation Easement Areas resulting from natural causes beyond Developer's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Developer under emergency conditions to prevent, abate or mitigate significant injury to the Conservation Easement Areas or to persons resulting from such causes.
- xx) Amendment. The provisions of this Conservation Easement may not be amended without the prior written approval of the SJRWMD.

xxi) Successors. The covenants, terms, conditions and restrictions of this 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 Areas.

**Section 9.2 Amendments and Modifications of Rules.** The Board of Directors may from time to time adopt and amend rules and regulations governing the details of the operation, use, maintenance and control of the Residences, Lots, Common Property, and any facilities or services made available to the Owners. A copy of the rules and regulations adopted from time to time as herein provided shall be available to each Owner.

**Section 9.3 Compliance.**

(a) **Owner's Responsibility.** It shall be the responsibility of all Owners, family members of Owners, and their authorized guests and tenants to conform with and abide by the rules and regulations in regard to the use of the Residences, Lots and Common Property which may be adopted in writing from time to time by the Board of Directors or the ARB, and to see that all persons using the Owner's Lot(s) do likewise.

(b) **Violation.** Upon violation of any of the rules or regulations adopted as herein provided, or upon violation of any of the provisions of this Declaration by an Owner, or his family, tenants, or guests, the Association may levy fines as determined by the Board of Directors. To enforce the rules and regulations and the provisions of this Declaration, the Association or any Owner may bring an action for specific performance, declaratory decree or injunction, and the successful prevailing party may recover its costs and attorneys' fees in such suit.

**Section 9.4 Personal Services.** Employees of the Association shall not be required to attend to any personal matters or business of Owners, nor shall they be permitted to leave the Property on any private business of Owners. The uses and functions of such employees shall be governed by the Board of Directors of the Association. In the event personal services are provided to Owners by any of the employees of the Association, the Association will not assume any responsibility or be liable for, in any manner, the quality of such services or work provided, nor do they warrant such services or work. In addition, the Association shall not be liable for any injury to persons or damage to property resulting from any act or omission by those performing such personal work or services for Owners.

**ARTICLE XI**  
**INSURANCE**

**Section 10.1 Types of Coverage.**

(a) **Insurance of Common Property.** The Board of Directors shall obtain liability



insurance on the Common Property (including the Common Roads) and, if additional Common Property with significant insurable improvements are added to the Property, the Board of Directors may obtain casualty insurance and increase the amounts of liability insurance, all as is consistent with prudent business judgment, including the following:

(i) Hazard insurance on the Common Property and any improvements constructed thereon, with extended coverage, vandalism, malicious mischief and windstorm endorsements in an amount not less than that necessary to comply with the coinsurance percentage stipulated in the policy, and in any event not less than 80% of the insurable value (based upon replacement cost) of the improvements constructed on the Common Property.

(ii) Public liability insurance in such limits as the Board of Directors may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Property or adjoining the Property. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board of Directors or other Owners. The Board of Directors shall review such limits once a year.

(b) **Insurance on Lots.** It shall be the responsibility of each Owner to obtain, at his own expense, liability insurance with respect to the ownership and use of his Lot, including his Residence, and the Association shall not be responsible for obtaining such insurance or have any liability whatsoever in connection therewith. It shall be the responsibility of each owner to obtain and maintain fire insurance and insurance against the perils customarily covered by an extended coverage endorsement in an amount equal to not less than the full replacement cost of the Residence and shall submit evidence of such insurance coverage together with evidence of payment of the most recent premium therefor to the Association, upon request. Hazard insurance on the Common Property and any improvements constructed thereon, with extended coverage, vandalism, malicious mischief and windstorm endorsements in an amount not less than that necessary to comply with the coinsurance percentage stipulated in the policy, and in any event not less than 80% of the insurable value (based upon replacement cost) of the improvements constructed on the Common Property.

(c) **Group Insurance.** Nothing set forth herein shall prevent the Association, upon majority vote of the ~~Class A Members, and the assent of the Class B Member~~, from obtaining a group or master insurance policy, and if so approved and obtained, the Association shall charge the premium for the individual Lots as a Lot Assessment. All policies of insurance obtained by Owners or the Association which cover the Residences and Lots shall contain (i) waivers of subrogation, (ii) waivers of any reduction of pro rata liability of the insurer as a result of any insurance carried by any other Owner, (iii) waivers of invalidity arising from any acts of the insured, and (iv) provisions that such policies may not be canceled or substantially modified without ten (10) days prior written notice of all insured.

(d) **Director and Officer Liability Insurance.** The Board of Directors may obtain as a matter

of common expense, payable from the Annual Assessments, liability insurance against personal loss for actions taken by members of the Board of Directors and officers of the Association in the performance of their duties. Such insurance shall be of the type and amount determined by the Board of Directors, in its discretion.

(e.) **Other Coverage.** The Board of Directors shall obtain and maintain worker's compensation insurance, if and to the extent necessary to meet the requirements of law, and such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Owners. The Board of Directors may from time to time increase or decrease the types and amounts of insurance coverage as may be necessary or convenient to comply with requirements of Mortgagees or based upon the cost and availability of such coverage.

### **Section 10.2 Repair and Reconstruction After Fire or Other Casualty.**

(a) **Common Property.** In the event of damage to or destruction of all or any of the improvements on the Common Property as a result of fire or other casualty, the Board of Directors shall arrange for and supervise their prompt repair and restoration substantially in accordance with the plans and specifications under which the improvements were originally constructed, or any modification thereof approved by the Board of Directors and the ARB. The Board of Directors shall proceed towards reconstruction of such improvements as quickly as practicable under the circumstances and shall obtain funds for such reconstruction from the insurance proceeds and any Special Assessments that may be necessary after exhaustion of reserves for the repair and replacement of such improvements.

(b) **Residences.** Any Owner whose Residence is destroyed or damaged by fire or other casualty shall immediately proceed to build and restore his Residence to the conditions existing immediately prior to such damage or destruction, unless other plans are approved in accordance with the provisions of Article VIII and Article IX above. Provided, however, if the damage is so extensive that the owner determines not to rebuild the Residence, the owner may remove all remaining improvements and debris and sod the Lot. In such event, all landscaping obligations on the part of Owner shall remain in effect.

## **ARTICLE XI**

### **ASSOCIATION LIABILITY**

**Section 11.1 Disclaimer of Liability.** Notwithstanding anything contained herein, in the Articles, or the Bylaws of the Association, or any other document governing or binding the Association (jointly referred to herein as "Association Documents"), the provisions hereof shall not be construed to mean that the Developer or the Association shall be liable or responsible for in any manner as a guarantor or insurer of, the health, safety nor welfare of any Owner, occupant or user of any portion of the Property, including, without limitation, Owners, residents, their families, guests, invitees, agents, servants, contractors or subcontractors, nor for any property of such persons.

**Section 11.2 Specific Provisions.** Without limiting the generality of the foregoing:

- 1) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern and regulate the use of the Property have been written and are to be interpreted and enforced for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof.
- 2) Neither Developer nor the Association is empowered, nor have they been created to act as an entity which enforces or insures compliance with the laws of the United States of America, State of Florida, County, or any other jurisdiction, or prevents tortious or criminal activities.
- 3) The provision of the Association Documents setting forth the uses of Assessments which may relate to health, safety, and welfare shall be attributed and implied only as limitations on the usage of such funds and not as creating an obligation of the Association or Developer to protect the health, safety, or welfare of any persons.

**Section 11.3 Owner Covenant.** Each Owner, his heirs, successors and assigns (by virtue of his acceptance of title of his Lot) and each other person or entity having an interest in or a lien upon or making use of, any portion of the Property (by virtue of accepting such interest or lien making use thereof) shall be bound by this Article and shall be deemed to automatically waive all rights, claims, demands, and causes of action against the Association or Developer arising from or connected with any manner for which the liability of the Association or Developer has been limited in this Article.

**Section 11.4 Release as to use of Surface Water or Stormwater Systems.** The Developer nor the Association shall have any liability whatsoever to Owners, guests, tenants, or invitees related to the use or access of or to the surface water or Storm Water Management System areas, including but not limited to any personal injury, loss or damage accruing therefrom. Each Owner, for itself and its guests, tenants or invitees, hereby and by acceptance of a Deed to, or use of, any Lot releases Developer and the Association from any liability in connection with any usage of the surface water or Storm Water Management System.

NEITHER DEVELOPER OR THE ASSOCIATION, ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, RETENTION AREA, CANAL, CREEK, OAKS AREA, STREAM OR OTHER WATER BODY WITHIN OR ADJACENT TO THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR ENTITY AS REFERRED TO HEREIN. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE

AFORESAID AREAS SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

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

ALL PERSONS ARE HEREBY NOTIFIED THAT LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF THE PROPERTY MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT WITHIN THE PROPERTY, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES OR LAKE BOTTOMS.

## **ARTICLE XII** **GENERAL PROVISIONS**

**Section 12.1 Duration.** This Declaration, as amended and supplemented from time to time, shall run with and bind the Property and shall inure to the benefit of and be binding upon Developer, the Association, the Owners, and their respective legal representatives, heirs, successors or assigns, for a term of thirty (30) years from the date this Declaration is recorded in the public records of the County, after which time all of said provisions shall be extended automatically for successive periods of ten (10) years each unless an instrument or instruments signed by the then Owners of seventy five percent (75%) of the Lots subject to this Declaration agreeing to terminate all of said provisions as of a specified date. Unless this Declaration is terminated as provided above, the Association shall rerecord this Declaration or other notice of its terms at intervals necessary under Florida law to preserve its effect.

**Section 12.2 Condemnation.** In the event all or part of the Common Property or the Common Roads shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be paid to the Association. The board of Directors shall have the right to act on behalf of the Association with respect to the negotiation and Litigation of the taking or condemnation affecting such Property. The Owners holding seventy five percent (75%) of the votes may agree to distribute the proceeds of any condemnation or taking by eminent domain, and if the owners shall not so agree, such proceeds shall be added to the funds of the Association.

**Section 12.3 Notices.** Any notice required to be sent to the Owner of any Lot under the

provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, or hand delivered to the Lot and to the last known address of the person who appears as Owner of such Lot on the records of the Association at the time of such mailing, if different.

#### **Section 12.4 Enforcement of Declaration.**

(a) In addition to the enforcement provisions previously set forth in this Declaration, the provisions of this Declaration may be enforced by any Owner, the Association, or by Developer (as long as it owns any interest in the Property) against any person, firm, corporation, trust, or other entity which violates or attempts to violate any of the covenants or restrictions hereof, by prosecuting any proceeding at law or in equity for the recovery of damages, injunctive relief or any other applicable remedy, for the purpose of preventing or enjoining all or any such violations or attempted violations, or for the enforcement of any lien created by this Declaration. SJRWMD and ACOE shall have the right to enforce by prosecuting any proceeding at law or in equity for the recovery of damages, for enforcement or for an injunction with regard to any provisions contained herein which involve the maintenance, repair or reconstruction of the Surface Water or Storm Water Management System, wetlands or conservation areas.

(b) In addition to all other remedies, the Board of Directors shall have the authority, in its sole discretion, to impose a fine or fines upon any Owner for failure of the owner, his family, guests or invitees, tenants, or occupants, to comply with the covenants, restrictions, rules, and regulations contained in this Declaration, the Articles, or the Bylaws, provided the following procedures are adhered to:

- 1) The Association shall notify the Owner or occupant of the infraction(s).
- 2) Such Owner or occupant shall be given notice and opportunity to be heard by a Fine Committee pursuant to Section 720.305 Florida Statutes.
- 3) Upon recommendation of the Fine Committee, the Board of Directors may impose fines against the applicable Lot of up to Fifty Dollars (\$50.00) per incident. The maximum permitted fine may be increased from time to time by the Board of Directors, as it in its discretion may deem necessary or convenient. The total amount of such fines may exceed One Thousand and No/100 Dollars, (\$1,000.00).
- 4) Each incident which is grounds for a fine shall be the basis for a separate fine. In case of continuing violations, each continuation after notice is given shall be deemed a separate incident.
- 5) Fines shall be paid within thirty (30) days after the receipt of notice of their imposition.
- 6) All monies received from fines shall be allocated as directed by the Board of Directors.

- 7) The imposition of a fine shall not be an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association may otherwise be entitled. including without limitation the right to impose a Lot Assessment; however, any fine paid by Owner or occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner or occupant.

The remedies contained in this Section 12.4 shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Developer, the Association, or any Owner, or their respective successors or assigns, to enforce any covenant, restriction, obligation, right, power, privilege, authority, or reservation herein contained, however long continued, shall not be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation occurring prior or subsequent thereto.

**Section 12.5 Interpretation.** Unless the context expressly requires otherwise, the use of the singular includes the plural and vice versa; the use of all genders; the use of the terms "including" or "include" is without limitation; and the use of the terms "will", "must", and "should" shall have the same effect as the use of the term "shall", wherever anytime period is expressed in days, if such time period ends on a Saturday, Sunday, or legal holiday, it shall be extended to the next succeeding calendar day that is not a Saturday, Sunday or legal holiday. The terms "Lot" and "Property" mean all or any portion applicable to the context, and include all improvements, fixtures, trees, vegetation, and other property from time to time situated thereon, and the benefit of all appurtenant easements. The terms of this Declaration shall be liberally construed in favor of the party seeking to enforce its provisions to effectuate their purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a uniform and consistent plan for the development and enjoyment thereof. Headings and other textual divisions are for convenience only and are not to be used to interpret, construe, apply, or enforce any substantive provisions. The provisions of this subparagraph apply also to the interpretation, construction, application, and enforcement of all the Association Documents.

**Section 12.6 Invalidity.** The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability or effect of the balance of the Declaration, which shall remain in full force and effect

**Section 12.7 Amendment.** This Declaration may be amended at any time by an instrument signed by the President or Vice President and Secretary or Assistant Secretary of the Association, certifying that such amendment has been adopted by Owners holding two thirds (2/3) of the voting interests in the Association, either in person or by proxy at a duly called meeting, or by written consent without meeting in a manner permitted by law by Owners holding two thirds (2/3) of the votes in the Association, which amendment shall become effective upon its filing in the public records of the County; provided, however, that:

Any amendment to this Declaration which alters the Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Property, must have prior approval of the SJRWMD.

**Section 12.8 Rights of Mortgagees.** All Mortgagees shall have the following rights:

- 1) During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect current copies of the Association Documents and the books, records and financial statements of the Association.
- 2) Upon written request to the Secretary of the Association, to receive copies of the annual financial statements for the immediately preceding fiscal year of the Association, provided, however, the Association may make a reasonable, uniform charge to defray its costs incurred in providing such copies.
- 3) To designate a representative to attend all meetings of the Members of the Association who shall be entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting, but in no event shall be entitled to vote thereon.
- 4) By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable, uniform annual fee established from time to time by the Association to defray its costs, to receive: (i) any notice that is required to be given to the Members under any provision of the Association Documents; (ii) written notice of any condemnation or casualty loss affecting a material portion of the Property or any Lot encumbered by its Mortgage; (iii) any sixty (60) day delinquency in the payment of Assessment Charges imposed upon any Lot encumbered by its Mortgage; (iv) the lapse, cancellation, or material modification of any insurance coverage or fidelity bond maintained by the Association; and (v) any proposed action requiring the consent of a specified percentage of Mortgagees.

**Section 12.9 Legal Fees and Costs.** The prevailing party in any dispute arising out of the subject matter of this Declaration or its subsequent performance shall be entitled to reimbursement of its costs and attorney's fees, whether incurred before or at trial, on appeal, in bankruptcy, in post-judgment collection, or in any dispute resolution proceeding, and whether or not a lawsuit is commenced.

**Section 12.10 Action Without Meeting.** Any action required to be taken hereunder by vote or assent of the Members may be taken in the absence of a meeting by obtaining the written approval of the requisite percentage of all of the votes in the Association. Any action so approved shall have the same effect as though taken at a meeting of the Members, and such approval shall be duly filed in the minute book of the Association.

**Section 12.11 Law to Govern.** This Declaration shall be construed in accordance with the laws of the State of Florida, as they may be amended from time to time.

**Section 12.12 Conflict and Enforcement.** If in the event these deed restrictions conflict with any existing County Building Code Ordinance and/or jurisdictional obligation, the more restrictive of the two shall apply.

**Section 12.13 Additional Restrictions.** No Owner shall impose any additional covenant,

condition or restriction on any Lot or any part of the Property without the prior written consent of the Association.

**Section 12.14 Existing Property.** The Property which initially is and shall be held, transferred, sold, conveyed, encumbered, and occupied subject to this Declaration consists of that land described in the Recitals above.