

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR RIVERS EDGE OF VOLUSIA COUNTY TOWNHOMES**

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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR RIVERS EDGE OF VOLUSIA COUNTY TOWNHOMES**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RIVERS EDGE OF VOLUSIA COUNTY TOWNHOMES (this "**Declaration**") is made this 2nd day of November , 2023 by ADJ AIRPARK, LLC, a Florida limited liability company (the "**Declarant**") (as further defined below) whose post office address is 444 Seabreeze Blvd., Suite 805, Daytona Beach, FL 32118 and is joined in by RIVERS EDGE OF VOLUSIA COUNTY HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit ("**Association**") whose post office address is c/o ADJ Airpark, LLC, 444 Seabreeze Blvd., Suite 805, Daytona Beach, FL 32118.

RECITALS:

A. Declarant owns the real property described in the plat for Rivers Edge, as recorded in Plat Book 65 Pages 82 through 88, inclusive, of the Public Records of Volusia County, Florida.

B. The Property is a proposed residential community known as "Rivers Edge of Volusia County" (the "Development").

C. Declarant is the developer of the "community" (as that term is defined in the Association Act) pursuant to the Association Act.

D. Declarant has incorporated the Association, which Association will be conveyed title to certain Property, and which Association will be delegated the powers of and responsibility for maintaining and administering certain Property and Improvements, administering and enforcing this Declaration and the other Association Documents, and collecting and disbursing the monies derived from the Assessments hereafter levied.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, Declarant hereby declares that this Declaration encumbers the Property and such Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1.01 Definitions. Some of the definitions set forth in the Association Documents may contain terms, conditions, and provisions that are necessary for: (i) the proper interpretation of the Association Documents; and (ii) to fully understand the Members' rights, privileges, responsibilities, duties, liabilities, and obligations under the Association Documents and under the Association Act. Capitalized terms used above or herein that are not defined in this Article I shall have the meanings given to such terms elsewhere

in this Declaration. When used above or herein in this Declaration, the following terms shall have the following meanings:

A. **"ADDITIONAL PLAT"** shall mean the plat of any Additional Property; provided a Supplemental Declaration for such Additional Property is recorded amongst the Public Records of the County in accordance with this Declaration. "Additional Plat" shall also mean the replat of all or any portion of the Plat or any other plat of all or any portion of the Property.

B. **"ADDITIONAL PROPERTY"** shall mean any real property (other than the Property) that may be submitted by Declarant or any third party authorized by Declarant to the terms and provisions of this Declaration by a Supplemental Declaration which shall be executed by the owner of the Additional Property and need not be joined in by any other person or Owner. No portion of any Additional Property shall be encumbered by this Declaration unless and until such property is added by a Supplemental Declaration by the fee owner thereof. In the event any Additional Property becomes encumbered by this Declaration, then, and only then in such event, the term "Property" as used herein shall also include the Additional Property.

C. **"AMENDMENT(S)"** shall mean any and all amendments to this Declaration, all of which shall be consecutively numbered beginning with the "First Amendment to the Declaration of Covenants, Conditions and Restrictions for the Community" and each of which shall be properly adopted pursuant to the terms of the Association Documents and recorded in the Public Records of the County; provided, however, the failure to so consecutively number such amendments shall not impair their validity hereunder and such amendments to the extent not otherwise numbered will be deemed to have been numbered in chronological order of their appearance in the Public Records of the County. "Amendment(s)" shall also mean any and all amendments to any Supplemental Declaration, the Articles, Bylaws and Rules and Regulations, as recorded in the Public Records of the County.

D. **"ANNUAL ASSESSMENTS"** shall mean and refer to the assessments levied annually by the Association pursuant to the Homeowner Association Act, Chapter 720, Florida Statutes "Association Act" and the "Budget" (as that term is defined in Section 6.03(a) of this Declaration).

E. **"ARCHITECTURAL REVIEW BOARD"** or "ARB" shall mean the committee created pursuant to Article VII hereof.

F. **"AREA(S) OF COMMON RESPONSIBILITY"** shall mean and refer to any land or Improvement located in or near the Property which is not intended to be owned by the Association, but which is intended to be improved, maintained, or operated by the Association in the manner and to the extent determined from time to time by the Board. Areas of Common Responsibility may be designated by this Declaration, any Supplemental Declaration, a contract entered into by the Association, or by a decision of the Board. The following are hereby designated as Areas of Common Responsibility:

(1) **Rights of Way and Entrance Area.** Subject to limitations imposed by any Governmental Authority, the Association shall maintain, repair and replace to the extent determined by the Board, the signs; lighting fixtures; electrical equipment; drainage improvements in accordance with the Permit; irrigation lines and equipment; landscape materials and features; and other improvements from time to time located within the unpaved rights-of-way and unpaved medians in any rights-of-way as shown on any recorded Plat;

(2) **Street Lighting.** The Association may arrange for and assess the Owners for the fixture rental, electrical usage and other costs of Street lighting for the Property and any Areas of Common Responsibility; and

(3) Easements. The Association shall maintain, repair and replace any walls, signs, lighting fixtures, electrical equipment, drainage improvements (in accordance with the Permit), irrigation lines and equipment, landscape materials and features, and other improvements from time to time located within the Common Area(s), as shown on any recorded Plat.

The foregoing duties and prerogatives of the Association are subject to the terms of Article IV, hereof, regarding potential implementation of one or more MSTU/MSBU or similar mechanisms to assume responsibility for and collect the funds necessary to pay the costs of any of the foregoing or any other services that would otherwise be the responsibility of the Association under this Declaration or otherwise.

G. "**ARTICLES**" shall mean the Articles of Incorporation of the Association which have been filed in the Office of the Secretary of State of the State of Florida, a true copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, as such Articles may be amended from time to time.

H. "**ASSESSMENTS**" shall mean and include: (i) Annual Assessments or charges; (ii) "Special Assessments" (as that term is defined in Section 6.04(a) of this Declaration); (iii) "Individual Assessments" (as that term is defined in Section 6.04(b) of this Declaration); (iv) if required to be paid pursuant to the terms hereof or hereafter required by the Board from time to time, a one-time only start-up assessment ("Start-Up Assessment"); (v) assessments or amenity fees permitted pursuant to the Association Act; and (vi) any interest and late charges that may be imposed by the Board at its discretion, and the cost of collection of any of the foregoing, including, without limitation, court costs and expenses/fees and reasonable attorneys' and paralegals' fees before trial, at trial, and on appeal.

I. "**ASSOCIATION**" shall mean and refer to RIVERS EDGE OF VOLUSIA COUNTY HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, its successors and assigns, pursuant to the Articles, filed in the Office of the Secretary of State of the State of Florida, as amended by any amendments thereto, and which Association is responsible for the maintenance, preservation and architectural control of the Community as provided in this Declaration.

J. "**ASSOCIATION DOCUMENTS**" shall mean in the aggregate this Declaration, the Articles, Bylaws, Rules and Regulations and Planning Criteria, the Plat, the Additional Plat, if any, and all of the instruments and documents referred to therein, including, but not limited to, any Amendment(s) and Supplemental Declaration(s).

K. "**BLOCK**" shall mean and refer to any group of adjacent Lots constituting a block as depicted on any Recorded Plat, including any improvements from time to time constructed, erected, placed, installed or located thereon. If applicable, a Block may be considered Limited Common Area.

L. "**BOARD**" shall mean the governing board of director body of the Association.

M. "**BUILDER**" or "**HOMEBUILDER**" shall mean and refer to any person or legal entity that has acquired or that acquires title to any Lot expressly in furtherance of: (1) the business of developing the Lot for eventual construction of Townhomes thereon in the ordinary course of such person's or entity's business; or (2) the business of constructing Townhomes thereon, in the ordinary course of such person's or entity's business, for later sale to bona fide Third-Party Purchasers that are not a Successor Declarant, Builder or an affiliate of a Successor Declarant or a Builder. After the Turnover occurs, Declarant shall be considered and deemed a Builder with regard to or concerning any Lot(s) that Declarant then owns or thereafter acquires title to, and with Declarant, as a Builder, automatically being deemed to and having all rights, powers, benefits, easements, and reservations afforded to a Builder under the Association Documents or that may be delegated to a Builder by Declarant under the Association Documents.

N. "**BYLAWS**" shall mean the Bylaws of the Association, which have been or will be adopted by the Board, an initial copy of which is attached hereto as Exhibit "C" and incorporated herein by this reference, as such Bylaws may be amended from time to time.

O. "**COMMON AREA(S)**" or "**COMMON PROPERTY**" shall mean and refer to the real property from time to time owned, leased or intended to be owned or leased by the Association or dedicated to the use or maintenance by the Association or its Members, including, regardless of whether title has been conveyed to the Association: (1) real property the use of which is dedicated to the Association or its Members pursuant to the Plat(s); or (2) real property committed by this Declaration to be conveyed or leased to of the Association, all at Common Expense. Without limiting the generality of the foregoing, the Common Area tracts depicted or defined in the Plat shall be Common Property. Additional Property may contain Common Property, but no commitment is made that any Additional Property will in fact contain Common Property.

P. "**COMMON EXPENSE**" shall mean and refer to the actual and estimated expense of operating the Association and meeting the costs to be incurred by the Association in performing its duties and in exercising its prerogatives, including, without limitation, costs incurred for operation, management, administration, maintenance, repairs, replacement, insurance and improvement of the Common Property and Areas of Common Responsibility, and for any reserves from time to time established to be set aside by the Board. Except as may be expressly set forth herein, all undertakings or activities of the Association concerning the Property, the Community, the Common Property, the Areas of Common Responsibility, and enforcing the provisions of the Association Documents, shall be done at Common Expense.

Q. "**COMMUNITY**" shall mean that planned residential development planned to be developed in stages on the Property in the County, which encompasses the Property and is intended to comprise approximately one hundred eleven (111) residential Townhomes or other residential unit types, as may be approved by the County and also encompasses the Common Property. The Community will consist of the land set forth in Exhibit "A", attached hereto and made a part hereof, and may be expanded by the recording of one or more Supplemental Declaration(s).

R. "**COMMUNITY DEVELOPMENT DISTRICT**": As defined in Chapter 190 of the Florida Statutes.

S. "**CONSERVATION EASEMENT**": As defined in Article IV, Section 4.09 hereof and/or conservation tracts as shown on the Plat.

T. "**CONSERVATION AREA(S)**" shall mean and refer to any areas or portions of the Property from time to time included within, or subjected to, a Conservation Easement, and any conservation tract shown on the Plat, pursuant to the provisions of Article IV, Section 4.09 hereof.

U. "**COUNTY**" shall mean Volusia County, Florida.

V. "**DECLARANT**" shall mean and refer to ADJ AIRPARK, LLC, a Florida limited liability company, and any successor or assign thereof to which Declarant specifically assigns all or part of the rights of Declarant hereunder by an express written assignment, recorded in the Public Records of the County. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Property such assignment is applicable. In any event, any subsequent Declarant shall not be liable for any default or obligations incurred by any prior Declarant, except as may be expressly assumed by the subsequent Declarant, and any prior Declarant shall not be liable for any subsequent default or obligations incurred by any subsequent Declarant. An Owner shall not, solely by the purchase of a Townhome and/or Lot, be deemed a successor or assign of Declarant under the Association Documents

unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

W. "**DECLARATION**" shall mean this instrument as it may be amended from time to time, together with any Supplemental Declaration(s) or Amendments thereto, which may be recorded amongst the Public Records in accordance with this Declaration.

X. "**DIRECTOR**" shall mean a member of the Board.

Y. "**DISTRICT**" shall mean the St. Johns River Water Management District.

Z. "**DRAINAGE PERMIT**" shall mean and refer to any permits, and any successor permits, issued by the District or the County for the construction, operation, and maintenance of the Stormwater Management System on the Property.

AA. "**GOVERNMENTAL AUTHORITY(IES)**" shall mean and refer to any federal, state or local authority, court, department, division, legislature or instrumentality having authority, control or jurisdiction over or concerning the Development, the Property, the Community, the Areas Common Responsibility, the Association, the Members and/or the Owners, including, but not limited to, the local government.

BB. "**IMPROVED LOT**" shall mean a Lot on which the construction of any Townhome has been completed and for which Townhome a certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency.

CC. "**IMPROVEMENT**" shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located within the Community, including, without limitation, buildings, walkways, horse trails, berms, fountains, sprinkler pipes, gatehouses, roads, driveways, fences, retaining walls, underground footers and other foundation supports, stairs, landscaping, hedges, plantings, poles, swings, tennis courts, covered patios, screen enclosures, jogging, bicycling and walking paths, basketball backboards and hoops, signs, site walls, gazebos, benches, mailboxes, decorative street lights and signs.

DD. "**INSTITUTIONAL MORTGAGE**" shall mean a mortgage held by an Institutional Mortgagee on any Property within the Community.

EE. "**INSTITUTIONAL MORTGAGEE OR INSTITUTIONAL LENDER**" shall

mean any lending institution owning a first mortgage encumbering any Townhome or Lot within the Community, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any "secondary mortgage market institution," including the Federal National Mortgage Association ("FNMA"), Government National Mortgage Association ("GNMA"), Federal Townhome Loan Mortgage Corporation ("FHLMC") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage on any portion of the Property securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration, the Federal Housing Administration or the Department of Housing and Urban Development or such other lender as is generally recognized in the community as an institutional lender; or Declarant, its successors and assigns.

FF. "**INTEREST**" shall mean the maximum non-usurious interest rate allowed by law on the subject debt or obligation, and if no such rate is designated by law, then eighteen percent (18%) per annum.

GG. "**LEGAL FEES**" shall mean reasonable fees for attorney and paralegal services incurred in connection with: (i) negotiation and preparation for litigation, whether or not an action is actually begun, through and including all trial and appellate levels and post-judgment, bankruptcy and probate proceedings, and (ii) collection of past due Assessments including, but not limited to, preparation of notices and liens; and shall also include court costs through and including all trial and appellate levels and post-judgment, bankruptcy and probate proceedings.

HH. "**LIMITED COMMON AREA**" means any and all real and personal property, easements, improvements, facilities and other interest, if any, as more particularly described in Article IV, Section 4.04 hereof, which are reserved for the use of Owner(s) of certain Lots to the exclusion of other Owner(s) and/or other Lots.

II. "**LIMITED COMMON EXPENSE(S)**" shall mean and refer to Common Expenses with respect to any Limited Common Area.

JJ. "**LOT**" shall mean and refer to any parcel of land within the Community as shown on the Plat or any Additional Plat upon which a Townhome is permitted to be constructed, together with the Improvements thereon, and any portion of the Property within the Community that is declared to be a Lot by a Supplemental Declaration and is not subsequently withdrawn from the provisions of this Declaration by a Supplemental Declaration.

KK. "**MEMBERS**" shall mean and refer to all of the Owners who are also members of the Association, as provided herein.

LL. "**MONETARY OBLIGATION**" shall mean and refer to any monetary obligations, including, but not limited to, Assessments, due to the Association by any Member pursuant to the Association Documents or under the Association Act.

MM. "**OWNER**" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot within the Community, and includes Declarant for as long as Declarant owns fee simple title to a Lot within the Community, but excluding therefrom those having such interest as security for the performance of an obligation.

NN. "**PARTY WALL**" shall mean and refer to a structural, fire rated wall between two adjacent Townhomes located within the same Townhome Building, which provides structural support for each of the Townhomes sharing the Party Wall. Damage to a Party Wall could impair the structural integrity of more than one Townhome.

OO. "**PERMIT**" shall mean and refer to General Environmental Resource Permit No. 48-101506-P issued by the District.

PP. "**PLAT(S)**" shall mean the recorded Plat of Rivers Edge, as recorded in Plat Book 65, Pages 82 through 88 inclusive, Public Records of Volusia County, Florida. In the event an Additional Plat is recorded in the Public Records of the County, then the term "Plat" as used herein shall also mean the Additional Plat or Plats.

QQ. "**PROPERTY**" shall mean the real property more particularly described in Exhibit "A" attached hereto and incorporated herein ("Initial Property") and the Additional Property, if any, which is submitted to and encumbered by this Declaration.

RR. "**PUBLIC RECORDS**" shall mean the public records of the County.

SS. "**RULES AND REGULATIONS**" shall mean the use restrictions, rules, and regulations governing the use of and activities on the Lots and the Common Property, as they may be amended from time to time. The initial Rules and Regulations as of the date hereof are set forth in Exhibit "D" attached hereto and made a part hereof.

TT. "**SERVICE AREA**" shall mean and refer to each group of Lots and Townhomes that share a common continuous building structure connected by Party Walls or containing Townhomes constructed on such Lots. If applicable, Service Area may also refer to the Lots and Townhomes located in a Block.

UU. "**SPECIAL ASSESSMENT**" shall mean the assessment set forth in Section 6.04(a) hereof.

VV. "**STREETS**" shall mean and refer to the rights-of-way of all streets, roads, alleys, drives, courts, ways and cul-de-sacs within the Property as the same are described in and depicted on any recorded Plat, and all paving, curbs and other improvements, facilities and appurtenances constituting part of the roadway system within the Property, conveyed or dedicated to the local government or other appropriate Governmental Authority or quasi- governmental entity.

WW. "**STORMWATER MANAGEMENT SYSTEM**" shall mean and refer to 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, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapter 62-330, F.A.C.

XX. "**SUPPLEMENTAL DECLARATION**" shall mean any instrument executed by the owner of any Property, which, when recorded in the Public Records of the County, shall commit such Property to the provisions of this Declaration, and shall be the only method of committing such Property to the provisions of this Declaration. Property not owned by the Declarant may not be committed to the provisions of this Declaration by Supplemental Declaration without the prior express written authorization of the Declarant. A Supplemental Declaration may also add additional restrictions, declare certain properties to be or not to be Common Property, or withdraw properties from the Property and the provisions of this Declaration. The Association shall join in the execution of any Supplemental Declaration at the request of Declarant, but such joinder shall not be required to make any such Supplemental Declaration effective, unless expressly provided herein. The Owners shall not be required to join in the execution of any Supplemental Declaration but shall nevertheless be bound thereby. Supplemental Declarations shall be numbered consecutively beginning with the Second Supplemental Declaration to the Declaration of Covenants, Conditions and Restrictions for Rivers Edge of Volusia County Townhomes.

YY. "**THIRD PARTY PURCHASERS**" shall mean a purchaser that is not a Builder or a successor Declarant of a Lot or Townhome in the Community.

ZZ. "**TOWNHOME**" shall mean a residential Townhome unit constructed within the Community, within a Townhome Building.

AAA. "**TOWNHOME BUILDING**" shall mean and refer to the common continuous building structure with shared roof and other common structural elements, constructed on a group of Lots and all structural components thereof. Each Townhome Building is or will be partitioned, by the means of Party Walls, so that an individual Townhome within the subject Townhome Building is located on each Lot.

BBB. "**TURNOVER**" shall mean and refer to the transition of control of the Association by Declarant pursuant to Section 720.307 of the Association Act.

CCC. "**TURNOVER MEETING**" shall mean and refer to the meeting at which Members other than Declarant elect a majority of the Directors pursuant to Section 720.307 of the Association Act.

DDD. "**UTILITY SYSTEMS**" shall mean and refer to any and all Property, real and otherwise, utilized to furnish potable water, non-potable water, sanitary sewer, and reuse water, if so provided, to the Owners and residents of the Property, in addition to the Common Property and common areas within the Property. Utility Systems shall include all mechanical and electronic equipment and systems utilized to provide water and sewer services to the Property, including but not limited to piping, lift stations, water treatment plants, sewer treatment plants and sprayfields, and reuse facilities; provided, however, Utility Systems shall not include any portion of any system to provide utilities that is located within the boundaries of an individual Lot, from the terminus of the meter(s) for the individual Lot. The Utility System shall stop on each Lot at the exit flow from the meter(s) for such Lot.

ARTICLE II

DESCRIPTION OF THE COMMUNITY

Section 2.01 Initial Property. The Initial Property is and shall be owned, improved, held, controlled, transferred and occupied subject to this Declaration.

Section 2.02 Additional Property. Declarant shall have the right, but not the obligation, to bring within the scope of this Declaration, as Additional Property, lands lying adjacent to or in the vicinity of the Initial Property, at any time and from time to time within twenty (20) years after the Effective Date (the "Potential Additional Property"). Unless and until annexed, this Declaration shall not encumber or bind in any way any of the Potential Additional Property. Except as provided in Article XIII hereof, annexation of any or all of the Potential Additional Property as Additional Property may be accomplished by Declarant without the consent of the Association, the Owners, the Members, any mortgagee or other lien holder, or anyone else.

Section 2.03 Method of Annexation. Additions authorized under this Article II shall be made, if at all, by recording a Supplemental Declaration extending this Declaration to the Additional Property. The Supplemental Declaration shall describe that portion of the Potential Additional Property annexed as Additional Property and shall state that it is being made pursuant to the terms of this Declaration for the purpose of annexing the Potential Additional Property to this Declaration and extending the jurisdiction of the Association to such Additional Property. The Supplemental Declaration may contain additional terms not inconsistent with this Declaration to reflect the different character, if any, of the Additional Property then being annexed, or of the housing or development approaches being implemented with respect to such Additional Property. Upon the recordation of any Supplemental Declaration in the Public Records, the Owners shall also have: (i) a right and non-exclusive easement of use and enjoyment in and to the Common Property, if any, located on the Additional Property; and (ii) the obligation, as a Common Expense, to contribute to the cost of operating, management, maintaining, repairing, operating, administrating, replacing, insuring and improving: (a) the additional Common Property located within the Additional Property; and (b) any additional Areas of Common Responsibility located within the vicinity of the Additional Property. Any Supplemental Declaration recorded in the Public Records in accordance with the terms hereof shall be conclusive in favor of all persons who rely on such Supplemental Declaration in good faith. From and after recordation of any Supplemental Declaration in the Public Records, the Additional Property described therein shall be subject to the provisions of this Declaration and to the jurisdiction of the Association.

Section 2.04 Withdrawal. Declarant reserves the right to unilaterally amend this Declaration at any time and for any reason for the purpose of removing any portion of the Property (including, without limitation, Lots and Common Property) without notice and without the consent of any person or entity whatsoever, other than the owner of the portion of the Property to be withdrawn or the District, if consent by the District is required; provided, however, that no such withdrawal may impair vehicular or other access to any Lot as established by the applicable recorded Plat.

Section 2.05 Townhome Community.

A. Declarant intends that the Property be approved and developed as a Community of Townhomes. As such, each residence must be a Townhome, with at least one (1) Party Wall, and located within a Townhome Building.

B. At the option of Declarant, or the Association following Turnover, reclaimed water provided for irrigation to the Lots may be provided through a master meter at the Property, Townhome Building, or Service Area level, controlling the flow of such reclaimed water to the entire Property, Townhome Building, or Lots within such Service Area, respectively, and all costs, fees, and expenses incurred by the Association for such reclaimed water service may be allocated and assessed only to the subject Townhome Building or Service Areas and deemed Limited Common Expenses incurred in connection with such Townhome Building or Service Areas, all as reasonably determined by the Declarant or Association from time to time, as the case may be.

C. BY VIRTUE OF ACCEPTING TITLE TO ANY LOT AND TOWNHOME CONSTRUCTED OR TO BE CONSTRUCTED THEREON, EACH OWNER SHALL BE ON NOTICE THAT: (I) PUNCTURING OR OTHERWISE DAMAGING ANY PARTY WALL OR STRUCTURAL APPURTENANCE THERETO WILL IMPAIR, AT MINIMUM, THE FIRE-WALL FUNCTION OF SUCH PARTY WALL, AND MAY IMPACT, MINIMALLY OR MORE SIGNIFICANTLY, THE STRUCTURAL INTEGRITY AND GENERAL SAFETY OF THE SUBJECT TOWNHOME BUILDING AND THE TOWNHOMES LOCATED THEREIN; AND (II) EACH OWNER AND OCCUPANT OF A TOWNHOME IS EXPRESSLY PROHIBITED FROM DIRECTLY OR INDIRECTLY (INCLUDING, BUT NOT LIMITED, THROUGH TENANTS, CONTRACTORS, TRADESMAN, OR OTHERWISE) PUNCTURING, PIERCING, PERFORATING, OR OTHERWISE DAMAGING IN ANY WAY ANY PARTY WALLS IN ANY MANNER WHATSOEVER, UNLESS HAVING FIRST OBTAINED THE ASSOCIATION'S EXPRESS WRITTEN CONSENT AND THEREAFTER COMPLYING STRICTLY WITH THE TERMS, CONDITIONS, AND PROVISIONS OF ANY SUCH WRITTEN CONSENT. EACH OWNER SHALL FOREVER HOLD HARMLESS AND INDEMNIFY DECLARANT, THE BOARD, THE ASSOCIATION, AND ALL OTHER OWNERS FROM ANY AND ALL LOSS, CLAIM, LIABILITY, EXPENSES, CAUSES OF ACTION OR DAMAGES WHATSOEVER CONNECTED WITH SAID OWNER'S DIRECT OR INDIRECT PUNCTURING, PIERCING, PERFORATING, OR OTHERWISE DAMAGING, IN ANY WAY, ANY PARTY WALL IN VIOLATION OF THIS PARAGRAPH.

ARTICLE III

CONVEYANCE OF COMMON PROPERTY

Section 3.01 Title to the Common Property. To the extent herein provided, the Common Property is hereby dedicated to the joint and several use in common of the Owners of all Lots that may, from time to time, constitute part of the Property. Upon the completion of construction of a Townhome on each Lot located within the Property and any Additional Property to be added by Declarant, or at such earlier time determined by Declarant, in Declarant's sole discretion, the Declarant or its successors and assigns shall convey and transfer to the Association, by quit claim deed, the fee simple title to the Common Property free and clear of any liens, and the Association shall accept such conveyance, holding title for the Owners as aforementioned. Such conveyance shall be subject to any real estate taxes and assessments due with respect to such Common Property from and after the date of recording this Declaration; any covenants, conditions, restrictions, permits, reservations and limitations then of record; the easements herein set out; any zoning ordinances then applicable; and this Declaration, as the same may be amended from time to time.

Section 3.02 Acceptance of Common Property. At the time of conveyance of the Common Property or any portion thereof, the Association shall be required to accept such Property and the personal property, if any, and Improvements appurtenant thereto without requirement for approval from the Members or the Board. The Association hereby agrees to accept the Common Property and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Common Property or any portion thereof, and the personal property and Improvements appurtenant thereto.

The Association shall accept any such conveyance of the Common Property and shall pay all costs of such conveyance including documentary stamps and other taxes of conveyance, recording charges, title insurance expenses and insurance fees, provided that the Declarant shall have no responsibility to provide a title insurance policy, title opinion or survey. The Declarant shall not be required to formally tender or deliver the quit claim deed(s) to the Association prior to recordation in the Public Records. Upon request, the Association shall convey back to the Declarant or its designee(s), without payment by the Developer or such designee(s), other than nominal consideration (e.g., "\$10.00 and other good and valuable consideration"), and without any requirement of approval from the Members, any real property conveyed to the Association in error, and which has not been improved by a structure intended for recreational purposes, if originally conveyed to the Association for nominal consideration. The conveyance shall not impair in any way the Declarant's rights and easements as set forth in this Declaration.

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

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

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON PROPERTIES AND PROPERTY

Section 4.01 Easements. The Association, Declarant and each Owner shall each have a non-exclusive right and easement of use and enjoyment in and to the Common Property. Said right and easement shall be appurtenant to and pass with the title to each Lot, and shall include, without limitation, the following:

A. Right-of-way for ingress and egress by vehicles and on foot through and across any Streets or walks in the Common Property for all lawful purposes; and

B. Rights to connect to, maintain and make use of Utility Systems, wires, pipes, conduits, telecommunication lines and equipment, sewers and drainage lines, which may from time to time be in or within the vicinity of the Common Property, but only in accordance with all laws and the requirements of the applicable Governmental Authorities or entities which regulate said utilities; and

C. Every Owner and family member, guest, lessee, agent or invitee of an Owner shall, except as may otherwise be provided in this Declaration, have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of the Common Area within the Property, except as may otherwise be specifically provided elsewhere in this Declaration, in common with all other Owners, their family members, guests, lessees, agents and invitees, located outside another Owner's Townhome which easement shall be appurtenant to, and shall pass with title to each Owner's Lot. The exercise of these rights and interests shall be subject to and subordinate to the terms and provisions of the Association Documents, any recorded Plats and applicable laws.

Section 4.02 County Easements. The County is hereby granted and shall have a perpetual non-exclusive easement over: (i) to the extent the Community includes private roads, the private roadway easement area for access thereto to operate, maintain, or repair any utilities located under said private roadway easement area; and (ii) Common Area tracts for access thereto to operate, maintain, or repair any utilities located under said Common Area. In addition to the foregoing, the County, as a granted perpetual non-exclusive easement, shall be entitled to access and use any utility easements for maintenance and repair of any utilities on or about the Property. The granting of the foregoing easements or any others herein, or via the Plat, to the County does not impose any obligation, burden, responsibility or liability upon the County to enter upon the subject property and take any action to repair or maintain the system unless otherwise stated herein or thereon.

Section 4.03 Title to Common Property. In accordance with the requirements set forth in Section 4.03, Declarant shall convey to the Association or, if required by the local government incidental to the establishment of an MSTU/MSBU as described in Section 4.08, dedicate to the local government for the uses and purposes set forth in this Declaration or in any Plats, fee- simple title in and to the Common Property, free and clear of all encumbrances except current real estate taxes and assessments not yet due and payable, any Plats, this Declaration and any easements or matters recorded in the public records prior to such conveyances to the Association. Once conveyed to the Association, the Common Property may not be mortgaged, liened or further conveyed without the consent of at least two-thirds (2/3) of the Members (excluding Declarant), unless otherwise permitted pursuant to Section 3.02.

Section 4.04 Limited Common Area. Certain portions of the Community may be designated by Declarant in its sole and absolute discretion as Limited Common Area and reserved for the exclusive use or primary benefit of the Owners, occupants and invitees of certain Lots. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, and lakes. Except as otherwise provided herein, all costs associated with the maintenance, repair, replacement, and insurance of Limited Common Areas shall be Limited Common Expenses to be

assessed against and paid by the Owners of those Lots to which the Limited Common Area is assigned. Declarant reserves the right in its sole discretion to designate any initial or additional Limited Common Areas and assign the exclusive use thereof in Supplemental Declaration(s), the deed conveying the Common Area to the Association, or on the Plat relating to such Common Area; provided, any such assignment shall not preclude the Declarant from later assigning use of the same Limited Common Area to additional Lots, so long as the Turnover Meeting has not occurred. Any matter arising under this Declaration and pertaining to the Limited Common Area and requiring a vote of Members, shall be decided by a vote of only those Members that have been identified by Declarant as being authorized and entitled to utilize and realize the benefits of the Limited Common Area. The Association may adopt Rules and Regulations which govern, among other things, the use of the Limited Common Area. Prior to the Turnover Meeting, the Declarant, shall have the right in its sole discretion to convey additional real estate, improved or unimproved and/or personal property as additional Limited Common Area which conveyance or dedication to the Association shall be accepted by the Association and thereafter shall (except as may otherwise be set forth herein) be maintained by the Association, the cost of which shall be assumed as Limited Common Expenses.

Section 4.05 Extent of Easements. The rights and easements in and around the Common Area created in this Article IV shall be governed by the following:

A. Subject to any rights of Declarant, Builders and the Owners set forth in this Declaration, except as to any part of the Common Property that is required to be conveyed to local government, the Association shall be responsible for the exclusive operation, management, administration, control, maintenance, repairing, replacing and insuring of the Common Property;

B. Declarant, until conveyance of fee-simple title to the Association, and the Association thereafter, may reserve unto itself or grant or dedicate to Declarant, any Owner, any Governmental Authority and/or to any utility companies, easements and rights-of-way, over, under, in or through the Common Property for installation, use, maintenance, repair, replacement, and inspection of utility lines and appurtenances for public or private utilities, surface water drainage improvements and areas, or for completion of the development of the Property. No Improvements or materials may be placed upon any such easements which may damage or interfere with the installation, maintenance, repairing or replacement of such utilities or the easement area or that may alter or impede the direction or flow of drainage, or that may interfere with completion of development of the Property;

C. The right of the Association to establish, amend and/or abolish from time to time, uniform Rules and Regulations pertaining to the use of the Common Area.

D. The right of the Association in accordance with its Articles, Bylaws, and this Declaration, with the vote or written assent of two thirds (2/3) of the total voting interests, to borrow money for the purpose of improving the Common Area and facilities thereon, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property or pledge Assessments as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use rights of the Owners.

E. The right of the Association to dedicate, release, alienate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject the Common Area to such conditions as may be agreed to by the Association. No such dedication, release, alienation or transfer shall be effective unless Members entitled to cast two-thirds (2/3) of the total voting interests agree to such dedication, release, alienation, or transfer.

F. The right of the Association to, without any vote of the Owners, to grant easements and rights of way or strips of land, where necessary or desirable, for utilities, water and sewer facilities,

telecommunication services, and other services over the Common Area to serve the Common Area and other portions of the Property.

G. The right of Declarant, Declarant's affiliates, Builders and each of their respective officers, directors, partners, employees, agents, licensees, and invitees to the nonexclusive use of the Common Area within the Property and the facilities thereon, without charge, for sales, marketing, display, access, ingress, egress, construction, and exhibit purposes and to grant (without consent of the Association and/or vote of the Owners) easements and rights-of-way as provided in this Declaration.

H. The right of the Association and Declarant and their respective employees, agents, licensees, and invitees to come upon the Property (including, without limitation, Common Area as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient for the Association and/or the Declarant to carry on its respective duties, obligations, responsibilities under, and all other work referred to in, this Declaration (including, without limitation, Declarant's and/or Builders' development and construction of the Community and Townhomes therein).

I. Declarant's rights reserved in this Declaration;

J. Matters shown in the Public Records or on any recorded Plats; and

K. Applicable laws.

Section 4.06 Additional Easements over Common Property.

A. Declarant hereby creates, reserves and declares to exist, the following licenses, rights, privileges and easements over, under, in and through the Common Property, subject at all times to the terms and conditions of the Permit and subject to receiving prior written approval of the District as to any activities that may affect or may occur on or within the Stormwater Management System and the Conservation Area, including, but not limited to, any upland buffers: (i) rights-of-way and easements to install, maintain and use electric, lighting, telecommunications, cable television, telephone, gas, water, sewer, drainage and utility poles, wires, cables, conduits, fixtures, pipes, meters, equipment, facilities, ponds, swales, berms or ditches, and such other equipment and improvements necessary, convenient, or desirable for the completion, marketing, use and enjoyment of the Property; (ii) the right to cut trees, bushes or shrubbery, make any gradings of the soil, and take any similar action reasonably necessary to provide economical and safe utility and drainage installation or to maintain reasonable standards of health, convenience, safety and appearance; (iii) the right to locate thereon wells, pumping stations, lift stations and irrigation systems and lines; (iv) easements of ingress, egress and access for purposes of development, construction, (for the purposes of this Section the term "construction" shall be construed in the broadest terms to include all construction activities and related and ancillary activities necessary, desirable, economical, effective, or desirable for construction of Improvements within the Community), sales and marketing of the Property; and (v) such other rights as may be reasonably necessary, convenient or desirable to complete in an orderly and economic manner the development and sale of the Property including, without limitation, the maintenance of temporary signage dumpsters and trailers used in such development and sales efforts; provided, however, that said reservation and right shall not be considered an obligation of Declarant to provide or maintain any such easements, utilities, equipment, improvements or services. Declarant also reserves the right to connect with and make use of the utility lines and drainage improvements which may from time to time be in or along the Streets or within the Common Property or any easements as shown on any recorded Plats or as otherwise properly established. The easements and rights-of-way herein reserved: (y) shall continue in existence in favor of Declarant after conveyance of the Common Property to the Association or dedication to the local government or appropriate Governmental Authority until such time as Declarant has sold all Lots in the Property; and (z) shall continue in favor of Declarant until such time as any lands separately developed by Declarant and located adjacent to the Property have been conveyed

to unrelated third-parties; provided, however, that such unrelated third-party is not a Builder, contractor or other party who purchases or hold the title to property for the purpose of constructing a Townhome thereon for resale. Notwithstanding the foregoing, Declarant, Builders and their employees, contractors and agents shall have an access easement over the Common Property subsequent to it or them conveying all Common Property and Lots, in order to effectuate repairs to Townhomes and Common Property as required to comply with its/their contractual and/or warranty obligations

Section 4.07 Delegation. Any Owner (including Declarant) may grant the benefit of any easement, right or privilege to tenants and guests for the duration of their tenancies or visits, but the same shall not be construed to create any rights in the general public or any other party.

Section 4.08 MSTU/MSBU. Declarant or the local government may establish a municipal service taxing unit, municipal service benefit unit, or similar mechanism (referred to in this Declaration as "MSTU/MSBU"), which MSTUs/MSBUs will have responsibilities established in their enabling resolutions. By way of example, and not limitation, an MSTU/MSBU may established to provide for any one or more of the following: (a) operation, management, administration, maintenance, repair, and replacement by the local government of any of the Common Property, and any recreational, drainage or other improvements whatsoever at any time located thereon, for the uses and purposes set forth in this Declaration or in any applicable recorded Plat, which may or may not include a requirement that ownership of the affected lands and Improvements be transferred to the local government; (b) construction, maintenance, repair, replacement, or improvement of recreation, drainage, sidewalk, wall, landscaping, open space, conservation, or other areas, improvements or facilities, in, on, under or within the Common Property or any easement areas for the use and benefit of the Property and the occupants thereof; and (c) construction, operation, maintenance, repair and replacement of street lighting or any other service or benefit to or for the Property authorized under the terms of this Declaration, the MSTU/MSBU, or by the applicable Governmental Authority. Notwithstanding the foregoing, the Association may elect, from time to time, to aesthetically maintain any property otherwise maintained or to be maintained by the MSTU/MSBU and if Association does so, no Owner or Member, as a result thereof, shall thereby receive or be entitled to a discount for any ad valorem taxes or Assessments assessed by or in connection with the MSTU/MSBU. If established, each Owner and Member acknowledges and agrees that the costs incurred by the MSTU/MSBU may be billed directly to the Owners or to the Association for subsequent Assessment to the Owners and Lots.

Section 4.09 Conservation Easement Area(s). Pursuant to and as and to the extent required by the Permit, the District, or any Governmental Authority, from time to time, Declarant will record in the Public Records, one or more conservation easements (collectively, "Conservation Easement"), in favor of the District or any applicable Governmental Authority over, across, and upon certain portions of the Property. The precise metes and bounds legal description of the portions of the Property encumbered by a Conservation Easement shall be as specifically set forth in the subject Conservation Easement (all such portions of the Property that are or become encumbered by a Conservation Easement shall hereinafter be referred to as "Conservation Areas"). Upon establishment of any Conservation Easement, the Conservation Areas shall be subjected to the restrictions set forth in the subject Conservation Easement. The Conservation Areas, or the Association's interest therein, shall be Common Area and the Conservation Areas shall be the perpetual responsibility of the Association, and may in no way be altered from their natural state, except as specifically provided in the subject Conservation Easement. Furthermore, the use and development of the Conservation Areas shall be restricted as set forth in the subject Conservation Easement. Declarant hereby reserves for itself, its successors and assigns, and grants to the Association and its designees, a perpetual, nonexclusive easement over and across all areas of the Stormwater Management System for the drainage of stormwater from the Property. Portions of the Stormwater Management System may be located entirely within Lots.

Section 4.10 Drainage Easement Maintenance. The private access easements and private drainage easements encumbering any Common Areas, along with all private access and drainage easements encumbering any Common Areas or Lots, all as depicted and set forth on any recorded Plat, shall be perpetually maintained by the Association, at Common Expense, as Common Area pursuant to the terms hereof. The area of each Lot included within any private drainage easements encumbering said Lot, all as depicted and set forth on any recorded Plat, shall be maintained continuously by the Owner of the Lot, except as may be provided herein to the contrary. No structure, improvement, tree, landscaping, fence, or other material may be placed or permitted in any areas encumbered by any private access easements, private drainage easements, or private access and drainage easements, and no construction, clearing, grading or alteration to any such areas shall be permitted, that will or may interfere with or prevent the use of the subject easement for its express and intended purpose.

Section 4.11 Grant and Reservation of Easements. Declarant hereby reserves and grants the following perpetual, nonexclusive easements over and across the Property as covenants running with the Property for the benefit of the Owners, the Association and Declarant as hereinafter specified for the following purposes:

(1) Utility and Services Easements.

1. Declarant hereby reserves to itself (and its successors or assigns) for so long as the Declarant owns any of the Property, and for the Association thereafter, the right to grant to any private company, public or private utility, or governmental authority providing utility and other services within the Property, including the individual Townhomes and Townhome Buildings, and the Common Area (collectively, "**Utility Providers**"), certain easements upon, over, under, across, and through the Property as are reasonably necessary from time to time for the sole purpose of maintaining, installing, repairing, altering, and operating any "**Utility Lines and Systems**" (as that term is defined below), as may be necessary, convenient, or desirable for the installation and maintenance of said utilities and providing services to Owners, the Property, and Common Area, all pursuant to and in compliance with, all applicable permits, rules, and regulations of any applicable governmental authorities (collectively, "**Utility Easements**"). All such Utility Easements shall be of a size, width, scope, and location as Declarant (or the Association, after Turnover), in its discretion, deems best, but selected in a location so as to not unreasonably interfere with the use of any improvements which are now, or will be, located upon any Residential Property. Owners are expressly prohibited from directly or indirectly disturbing or otherwise interfering with the Utility Easements.

2. For purposes of this Declaration, the term "**Utility Lines and Systems**" shall mean and refer to any sewer lines, irrigation lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal lines and systems, pipes, wires, fiber optics lines, electrical lines, power lines, telephone service, gas lines, syphons, valves, gates, pipelines, HVAC systems and ductwork, cable television service, Internet service, alarm systems and all utility infrastructure, machinery, and apparatus appurtenant to any of the foregoing, necessary or desirable to service the Property. Owners are expressly prohibited from directly or indirectly disturbing or otherwise interfering with any Utility Lines and Systems.

3. Any Utility Easement granted to any Utility Provider concerning any Utility Lines and Systems, which Utility Easement runs through, across, or under any Townhome Building ("**Benefitted Townhome Building**"), shall also automatically be deemed an easement for reasonable access and use in favor of, and benefitting, the

Association and each Townhome within said Benefitted Townhome Building, and in favor of, and benefitting, any other Townhome in any other Townhome Building which Townhome accesses said utility infrastructure or Utility Lines and Systems via the Benefitted Townhome Building.

4. Declarant hereby reserves for itself and grants to the Association, the individual Owners within a Townhome Building, utility providers providing service, and any and all service or repair providers, a perpetual blanket easement for the provision of utility services, installation, operation, maintenance, repair and replacement of all Utility Lines and Systems ("**Townhome Utility Easement(s)**"), which Townhome Utility Easement shall be located: (y) within the designated (or to be designated) utility chases under, attached to, through, or within each Townhome and servicing one or more Townhomes within a Townhome Building, as such chases are located and designated on any approved plat or site and/or building/construction plans for the Property, any Townhome Building, or any Townhome; and (x) under or through each Lot (i.e., generally in the front of or in the back/rear of the Townhome located on said Lot), via the designated (or to be designated) conduit, piping, or direct-bury (or other) method, as necessary to service said Townhome (through the Townhome's garage or otherwise) and to service any other Townhomes located within the same Townhome Building, as such conduit, piping, or direct-bury (or other) method are located and designated on any approved plat or site and/or building/construction plans for the Property, any Townhome Building, or any Townhome. Owners are expressly prohibited from directly or indirectly disturbing or otherwise interfering with the Townhome Utility Easements.

5. Declarant further reserves for itself and grants to the Association, the individual Owners within a Townhome Building, service or repair providers, and utility providers providing service, a perpetual blanket easement for HYAC systems, electrical/gas/water meters and other electrical, gas, and water equipment, mounted on the end of any Townhome Building and benefiting one or more Townhomes within the particular Townhome Building. To the extent the mounted systems, equipment, and meters are not located on Common Area, the owner of the individual Townhome where the systems, equipment, and meters are located, is specifically taking title subject to the foregoing easements for access, repair, use, maintenance, replacement, operation, and installation granted to each individual Owner within any particular Townhome Building, the Association, utility providers, and service or repair providers. The easements granted in this Section 4.11(1)5. are further subject to the rights and obligations set forth in Section 4.11(1)6., directly below.

6. As they relate to servicing each Townhome within a Townhome Building, all Utility Providers shall install, operate, maintain, and repair, as applicable, the subject Utility Lines and Systems, including all infrastructure, meters, machinery, and apparatus appurtenant thereto: (i) within designated utility chases under, attached to, or within the Townhome, and serving one or more Townhomes within the subject Townhome Building; (ii) under or through each Lot via the designated conduit, piping, or direct-bury (or other) method, and servicing said Townhome and servicing any other Townhomes located within the same Townhome Building; (iii) mounted to the exterior of, or adjacent to, the Townhome Building, and serving one or more individual Townhomes within the subject Townhome Building; and/or (iv) within the concrete slab foundation of each Townhome Building and serving one or more Townhomes within the subject Townhome Building and "**daylighting**" into each Townhome under such Townhome. Further, said Utility Easement granted pursuant to Section 4.11(1)5., directly above, and as set forth in this Section 4.11(I

)6., shall include the right of the subject Utility Providers, in a reasonable manner and at reasonable times, to access such utilities described above from garage areas in each Townhome Building or Townhome.

7. No Utility Provider shall disrupt, interfere with, or damage the Utility Lines and Systems of another Utility Provider without the prior written consent of such other Utility Provider, and in the event of any such disruption, interference or damage, whether consented to or not, the disrupting, interfering or damaging Utility Provider shall be responsible for all costs and expenses incurred by the other Utility Provider or otherwise in connection with the disruption or repair and/or replacement of such affected Utility Lines and Systems, and shall release, indemnify, defend, and hold Declarant, the Association, and all affected Owners harmless from any and all costs, liabilities, claims, and expenses incurred in connection with the disruption, interference or damage to such affected Utility Lines and Systems.

8. Notwithstanding the foregoing, Declarant hereby reserves to itself (and its respective successors or assigns) for so long as the Declarant owns any portions of the Property, and the Association thereafter, the right to amend, replace, or restrict the location or parameters of the Utility Easements, the Townhome Utility Easements, and any other easements granted or reserved pursuant to this Article IV, without the joinder and consent of the Owners or other Members, provided none of the foregoing unreasonably interfere with the use of any improvements which are now, or will be, located upon any Residential Property.

(2) Easement for Encroachment. All of the Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of such Owner's Townhome or appurtenant Improvements installed by Declarant such as a fence, stucco, underground footer or sidewalk, now or hereafter encroaches upon any of the Lots or Common Property as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Declarant shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or such Owner's designees. Such encroachment will likely constitute a violation of the County's regulations. The County does not expressly or by implication authorize such encroachment. This Section does not limit the County's ability to pursue all available remedies to prevent or remove such encroachments. The County will not permit or allow such encroachments into any easement of land dedicated to or owned by the public for utility, drainage or roadway purposes.

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

(4) Easement for Roof Overhang. An easement or easements, as shown on the Plat and Additional Plat, if any, to provide for the roof overhang of a Townhome in favor of the Owner thereof, including rights of access for persons or equipment necessary to maintain, repair and replace such roof overhang.

(5) Irrigation Easement. An easement for irrigation over, under and upon the Property, including each of the Lots, in favor of the Association and each Owner, including, but not limited

to, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair the irrigation pipes.

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

Section 4.12 Access Easement. Declarant hereby reserves perpetual, nonexclusive easements of ingress and egress over and across: (i) any and all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private roads and driveways, if any, within or upon the Property and all other portions of the Property which are necessary or convenient for enabling Declarant to carry on the work referred to in this Declaration. All of the foregoing easements shall be for the use of Declarant, Builders, Declarant's employees, contractors and agents, Declarant's successors and assigns, the Owners, and the respective lessees, employees, agents, invitees, and licensees of Declarant and the Owners.

Section 4.13 Assignments. The easements reserved hereunder may be assigned by Declarant or the Association in whole or in part to any city, county or state government or agency thereof, or any water management district, or any duly licensed or franchised public utility, or any other designee of Declarant. Declarant shall have and hereby reserves the right to grant and/or reserve additional easements over, under and upon the Property or portions thereof (including the portion of Lots where no physical structure of the Townhome is located) which may be necessary or desirable by Declarant. The Owners hereby authorize Declarant and/or the Association to execute, on their behalf and without further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration.

Notwithstanding anything in this Declaration to the contrary, the easement rights granted or reserved by Declarant hereunder are not to be construed as creating an affirmative obligation to act on the part of Declarant.

Section 4.14 Declarant's Rights. Declarant, its successors and assigns shall have the unrestricted right, without approval or joinder of any other person or entity: (i) to designate the use of, alienate, release, or otherwise assign the easements shown on the Plat of the Property or described herein, (ii) to plat or replat all or any part of the Property owned by Declarant, and (iii) to widen or extend any right of way shown on the Plat of the Property or convert a Lot to use as a right of way, provided that Declarant owns the lands affected by such change. Owner of Lots subject to easements shown on the 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 subject easement areas, alter the flow of drainage, or landscape on such areas with hedges, trees, or other landscaping 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 Declarant, the Association, or the grantee of the easement.

Section 4.15 Model Row. Declarant hereby reserves the right for Builders to construct and/or operate a "model row(s)" in the Community. The "model row(s)" may contain models for the Community or other communities, as Declarant and/or any of Declarant's affiliates may so determine, in their sole discretion. The "model row(s)" may also contain parking, landscaping and fencing across the roads within the Community as Declarant may determine in its sole discretion. In the event that Declarant or any Builders constructs a "model row(s)" in the Community, such "model row(s)" may be used for such period of time that Declarant or any Builders determines to be necessary, in its sole judgment. Builders may use any model home(s) for a sales office and/or a construction office. By the Owner's acceptance of a deed for a Lot and

Townhome in the Community, such Owner agrees and acknowledges that: (i) Declarant and Builders have a right to construct and/or operate a "model row(s)"; (ii) Declarant and Builders have an easement over the Community for ingress and egress to and from the "model row(s)" and to use and show the models to prospective purchasers in the Community or other communities being developed by Declarant and Builders, as long as such "model row(s)" exists; and (iii) the Owner shall not interfere in any manner whatsoever in the sales process by Declarant or Builders, including, without limitation, the carrying of signs, the posting of signs on Lots or Townhomes or other types of demonstrations in the Community or any public right-of-way adjacent to the Property. Each Owner acknowledges and agrees that any such activities interfere with the quiet enjoyment of the Community by the other Owners, are detrimental to the value of the Townhomes within the Community, and interfere with Declarant's and/or its affiliates ability to conduct their respective business.

ARTICLE V

THE ASSOCIATION

Section 5.01 The Association; Directors; Officers; Meetings; Official Records.

A. **Association.** The Association is and shall remain a Florida nonprofit corporation. The Association shall have the power to do all lawful things which may be authorized, assigned, required or permitted to be done by the Association by virtue and authority of the Association Documents and applicable law, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Owners and for the operation, maintenance, administration, repairing, replacing, insuring and improvement of the Property, the Community, the Common Property, Limited Common Areas and all Areas of Common Responsibility. Neither the Articles, the Bylaws or any of the other Association Documents shall be amended or interpreted so as to be or become inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The Board, and such Officers as the Board may appoint from time to time, shall conduct the affairs of the Association.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.01 Lien and Personal Obligation Nonpayment.

A. **Personal Obligation.** Declarant, for each Lot owned by it on the Property, and each Owner other than Declarant, by acceptance of fee-simple title to any Lot, whether or not it shall be so expressed in any deed or other conveyance of title to such Lot, covenants and agrees to pay to the Association the Assessments, which Assessments shall be fixed, established, assessed, and enforced as herein provided and as permitted by the Association Act. Assessments shall be a charge and a continuing lien upon the Lot against which such Assessment is made, and upon any Townhome located on said Lot, from and after the date on which such Assessment is due. Each Assessment shall also be the personal obligation of each person or entity who was an Owner of the Lot at the time the Assessment fell due. Declarant will never be obligated to pay any Individual Assessment or Start-Up Assessment.

B. **Assessment Lien.** Any and all Assessments and charges levied by the Association or collected on its behalf in accordance with the provisions of the Association Documents, together with interest at the highest rate allowed by law, late fees, and costs of collection (including, but not limited to reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the Lot against

which such Assessment(s) or charge(s) are made. This lien is superior to any homestead rights the Owner may acquire. No Owner may exempt himself from personal liability for Assessments and charges, or release his Lot from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area, or by abandonment of his Lot. The continuing lien may be perfected by the association recording a Claim of Lien in the Public Records, setting forth the description of the Lot, the name of the Owner, the name and address of the Association and the amount and due date of each unpaid Assessment and charge as of the date the Claim of Lien is recorded. The Claim of Lien may be executed by either an officer of the Association or its legal counsel. The effectiveness of the Claim of Lien shall relate back to the date this Declaration was recorded in the Public Records. However, with respect to first mortgages of record, the Association's lien is effective from and after recording of a Claim of Lien in the Public Records. A Claim of Lien shall secure payment of all Assessments and charges due at the time of recording (including interest, late fees, costs and attorney's fees as provided above), as well as all Assessments, interest, late fees, costs and attorney's fees coming due subsequently, until the Claim of Lien is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by that Claim of Lien, the party making payment is entitled to a Satisfaction of Lien

C. Interest on Assessments. If the delinquent Assessment or installment thereon is not paid within thirty (30) days after the due date, the same shall bear interest from the date due at the highest lawful rate in Florida, or at such lesser rate as may be determined by the Board and uniformly applied, and the Association may bring an action for collection against the Owner personally obligated to pay the same and to foreclose the lien against the Lot and any Townhome located thereon by judicial foreclosure in the same manner as foreclosure of a mortgage, and there shall be added to the amount of such delinquent Assessment the aforesaid interest, late charges, collection costs, expenses and attorneys' and paralegals' fees, and all of the foregoing shall be recoverable whether or not suit be brought. The Owner shall also be required to pay to the Association any Assessments against the Lot which become due during any period of foreclosure by the Association. The Association, acting on behalf of the Owners, shall have the right and power to bid for any Lot at any foreclosure sale and to acquire the same via foreclosure or a deed in lieu thereof and thereafter hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following foreclosure or a deed in lieu thereof: (x) no right to vote shall be exercised on said Lot; (y) no Assessment shall be assessed or levied on said Lot; and (z) each other Lot shall be charged, in addition to its Assessments, its pro rata share of the Assessment that would have been charged the subject Lot had it not been acquired by the Association as a result of foreclosure or a deed in lieu thereof. Suit to recover a money judgment against an Owner or Lot for unpaid Common Expenses, Assessments, and all costs, expenses, and fees incurred by the Association in connection with such action, including, but not limited to, interest as provided herein, along with reasonable attorneys' and other legal fees to be fixed by the court, together with all other costs, expenses, and fees of the action, shall be maintainable by the Association without foreclosing or waiving the lien securing the same.

D. Late Fees. In addition to any other rights and remedies of the Association hereunder or under Florida law in connection with an Owner's or Member's failure to timely pay Assessments or any installments thereof, the Association may also charge an administrative late fee ("Late Fee") not to exceed the greater of Twenty-Five and no/1 00 Dollars (\$25.00) or five percent (5%) percent of the amount of each installment that is paid past the due date. If in the future, Section 720.3085(3)(a) is amended to permit the Association to charge a higher Late Fee, then the immediately preceding sentence shall be deemed automatically amended to permit the Association to charge such higher Late Fee.

E. Exempt Property. The following property shall be exempt from the Assessments, charges and liens created herein: (1) Common Property; (2) lands owned by Declarant which have not been annexed to the Property by this Declaration or any Supplemental Declaration; (3) lands conveyed or dedicated to the local government or other Governmental Authority, any public or quasi-public utility company, or the public; (4) to the fullest extent permitted by the Association Act, Lots owned by Declarant during the period

of time that Declarant subsidizes the Common Expenses of the Association pursuant to Section 6.08 hereof, and to the fullest extent permitted by the Association Act, Lots owned by a Builder during the time period that the Declarant subsidizes the Common Expense of the Association pursuant to Section 6.08 hereof (subject to a maximum of three (3) years as set forth in Section 6.11 below). No other land or Improvements in the Property shall be exempt from the Assessments, charges or liens stated above. No Owner may avoid Assessment obligations by virtue of non-use or abandonment of the Common Property or any Area of Common Responsibility, as applicable.

Section 6.02 Purpose; Powers. The Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the Owners, to perform the Association's duties and obligations hereunder and under the Association Act, to exercise the powers conferred on the Association hereunder and under the Association Act, to manage, improve, operate, administrate, insure, maintain, repair and replace the Common Property and the Areas of Common Responsibility (as may be determined by the Board), and to pursue any other purpose deemed desirable, necessary, convenient or appropriate by the Board, including, without limitation, any one or more of the following, or as otherwise stated herein or as permitted by the Association Act: (a) payment Common Expenses; (b) lighting, irrigation, maintenance, improvement and beautification of the Streets and all easement areas benefiting the Association or the Property as shown on any recorded Plat, or otherwise properly established; (c) acquisition, maintenance, repair and replacement of community identification signs and traffic control devices, and control and regulation of traffic in the Property; (d) payment, contest or compromise of real and personal property taxes and assessments separately levied upon or assessed against the Association or the Common Property; (e) operation, management, insurance, replacement, maintenance, repair, beautification and improvement of the Common Property, Areas of Common Responsibility (as may be determined by the Board), and all easement areas benefiting the Association or the Property as shown on any recorded Plat, or otherwise properly established; (f) repayment of any deficits previously incurred by the Association; (g) funding of reserves for future Common Expenses; (h) procurement and maintenance of all insurance; (i) employment of accountants, attorneys and other professionals, administration, and experts to represent or advise the Association; (j) operation, maintenance and replacement of the Stormwater Management System for the Property in accordance with the terms of this Declaration and the requirements of the District including, but not limited to, work within retention areas, drainage structures and drainage easements; (k) monitoring and maintenance of protected wetlands and associated reporting as may be required by the District; and (l) doing anything necessary, desirable, or convenient in the judgment of the Board to keep the Property neat and attractive, to preserve or enhance the value thereof, to eliminate fire, health or safety hazards, or otherwise to benefit the Owners. At all times, the Association, acting by and through the Board, shall, in addition to those general and specific powers elsewhere referenced in the Association Documents or imposed upon it by law, have the following specific powers:

A. Except as may be limited by the terms of the Association Documents, to acquire, own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve, protect, insure, buy, sell, lease, transfer, convey, encumber or otherwise deal in or with real or personal property (or any interest therein, including easements) (i) which is, or upon its acquisition by the Association shall thereupon become, Common Area as defined in this Declaration, including the power to enter into any leases or other arrangements with appropriate governmental agencies necessary for the use of sovereignty lands associated with any of the

Common Area, or (ii) the responsibility for which is delegated to the Association pursuant to the terms and provisions of this Declaration, and further including the power to direct, conduct, maintain or support activities within or upon the Property in order to limit or control access to said Common Area.

B. To establish, make, levy, impose, enforce and collect all Assessments and impose, foreclose and otherwise enforce all liens for Assessments for which provision is made in this Declaration in accordance with the terms and provisions of the Association Documents.

C. To establish, make, levy, impose, enforce and collect fines and temporarily suspend rights of use of Common Area against any Owner and Lot for any violation of the covenants, conditions and restrictions set forth in the Association Documents, all in accordance with the terms hereof and of the Association Act.

D. To create, establish, maintain, and administer such capital expenditure reserves and other reserve funds or accounts as shall, in the discretion of the Board, be reasonably necessary to provide and assure the availability of funds necessary for the care, maintenance, repair, replacement, restoration, preservation, and protection of all Common Area, including all easements and facilities, and for such other purposes as the Board, in its reasonable discretion, shall deem necessary or appropriate.

E. To sue and be sued and to defend any suits brought against it.

F. Subject to any limitations set forth in the Association Documents or imposed by the Association Act, to borrow such money as may reasonably be required to discharge and perform the duties, responsibilities and obligations imposed upon the Association pursuant to the Association Documents or the Association Act.

G. To employ such persons or to contract with such independent contractors or managing agents as shall be reasonably required in order for the Association to carry out, perform and discharge all or any part of its duties, obligations and responsibilities pursuant to the Association Documents and the Association Act.

H. To provide equipment, facilities and personnel or to contract with an independent contractor or independent contractors, for such public or quasi-public services as may be deemed by the Association to be reasonably necessary or desirable for the common health, safety and general welfare of the residents, including, without limitation, internal security and protection services, garbage and trash pickup and disposal services, telecommunications services and street lighting services.

I. To take such steps as may be necessary to enforce the provision of the Association Documents, including, without limitation, the employment of counsel and the institution and prosecution of litigation to enforce said provisions including, without limitation, such litigation as may be necessary to collect Assessments and foreclose liens for which provisions are made in the Association Documents.

J. To encourage, cause, facilitate, assist and cooperate in the formation, establishment and operation of a Community Development District and/or MSBUs/MSTUs.

K. To establish, undertake, and promote, from time to time, social activities or programs; educational programs; cultural, artistic and environmental programs; charter and other similar services, activities or programs designed, intended, or implemented to further a sense of community among Owners and residents thereof. Nothing in this subsection shall ever be construed as a representation or promise by Declarant or the Association as to which, if any, of the foregoing may be established, undertaken, promoted, or (as applicable) continued by the Association from time to time.

Section 6.03 Determination of Annual Assessments

A. Budgets and Reserve Fund Contribution. The Board shall annually prepare a budget that sets out the Association's annual operating expenses ("Budget"), which Budget must: (i) reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year; (ii) set out separately all fees or charges paid for by the Association for recreational amenities, whether

owned by the Association, the Declarant, or another person or entity; (iii) The budget may include reserve accounts for capital expenditures and deferred maintenance for which the Association is responsible, including, but not limited to, the Common Property.

B. Adoption of Operating Budget. The Association shall mail to each Member a copy of the Budget and projected Annual Assessments approved by the Board to be levied for the next fiscal year at least thirty (30) days prior to the end of the Association's current fiscal year. If the Board fails to propose a Budget or the Annual Assessments, then the Budget and Annual Assessments for the preceding year shall continue in effect until a new Budget with Annual Assessments is determined or adopted.

C. Allocation of Annual Assessments Among Lots. The Budget and Annual Assessments of the Association shall be assessed against all Owners and Lots within the Property in an equal amount per Lot. At the discretion of the Board, the Annual Assessments for any year may be paid by Owners in monthly installments, due and payable on the first (1st) day of each month; in bi-annual installments, due and payable by the first (1st) day of January and July of each year; or in quarterly installments, due and payable by the first (1st) day of January, the first (1st) day of April, the first (1st) day of July, and the first (1st) day of October of each year. In the event of such deferred payments, the Board may, but shall not be required to, charge a uniform, lawful rate of interest on the unpaid balance. The Association may accelerate the balance of any Annual Assessment upon default in the payment of any installment thereon or any other Assessment due hereunder. The accelerated amount shall be due and payable upon the recording of a Claim of Lien in the Public Records. Absent any such determination by the Board permitting payment in monthly, bi-annual, or quarterly installments, the Annual Assessment for any year shall be due and payable by January 1 of such year. Any Annual Assessment not paid by January 15, if payable in one lump sum, not paid by the fifteenth (15th) day of January and July, if allowed to be paid bi-annually, or paid by the fifteenth (15th) day of January, April, July, and October, if allowed to be paid quarterly, or on the fifth (5th) day of any month, if allowed to be paid monthly, shall be considered delinquent.

Section 6.04 Special Assessments and Individual Assessments.

A. Special Assessments. In addition to Annual Assessments, the Board may levy at any time a special assessment for the purpose of defraying the cost of any construction, maintenance, repair, replacement or insurance of any improvement on the Common Property, any Areas of Common Responsibility, or on any easement benefiting the Association or the Property as shown on any recorded Plat, or otherwise properly established, for the purpose of covering any budget deficits of the Association, or for any other purpose deemed necessary, desirable or appropriate by the Board (collectively, "Special Assessment(s)").

B. Individual Assessment. The Board may levy an individual assessment against any Owner and that Owner's Lot and, if applicable, any Townhome located thereon in order to cover any costs, expenses and fees whatsoever incurred by the Association due to: (i) that Owner's failure to maintain its Lot or Townhome pursuant to the standards set forth in this Declaration or as otherwise established by the Board or the ARB, or (ii) to reimburse the Association for loss or damage to the Association or to any Common Property, Area of Common Responsibility or easement area benefiting the Association or the Property caused by that Owner or that Owner's family member, lessee, sublessee, licensee, agent, contractor, subcontractor, invitee, domestic help or guest, or (iii) for any other purpose expressly permitted by this Declaration or permitted under applicable law (each assessment levied pursuant to (i), (ii), or (iii), above, an "Individual Assessment").

Section 6.05 Start-Up Assessment; Capital Assessment; Due Dates.

A. At the closing of the sale of each Lot in the Property to a Third Party Purchaser, said purchaser shall pay to the Association: (i) a one-time Start-Up Assessment in the amount as established by

the Board from time to time; and (ii) the entire Annual Assessment for the calendar year of closing, prorated on a per diem basis from the date of closing on the sale of, or the date of occupancy of the Lot, whichever is earlier, through the end of that calendar year. Thereafter, Annual Assessments shall be due, in advance, on or before the commencement of the Association fiscal year for which they are imposed; but the Board, as provided above, may elect to collect Annual Assessments in monthly, quarterly or semi-annual installments. Annual Assessments which commence to accrue as to any Lot other than on the first day of the year shall be prorated for the balance of that year. Notwithstanding the foregoing, the Start-Up Assessment shall be due from the first Third Party Purchaser that is not a Builder. After the one-time Start-Up Assessment has been paid as to a Lot in the Property, subsequent purchasers of the same Lot shall not be required to pay said Start-Up Assessment. The Association may use the Start-Up Assessment for any of the purposes and services set forth in this Declaration, including the reduction of the Declarant's deficit funding.

B. On each subsequent conveyance of a Townhome following the initial conveyance of such Townhome to the first Third Party Purchaser thereof or to any party other than Declarant, the Association shall levy and impose on such Townhome a capital assessment as established by the Board from time to time (the "Capital Assessment"), which Capital Assessment shall be shown on any estoppel certificate issued by or on behalf of the Association in connection with the conveyance of the Lot to said purchaser or grantee; shall be nonrefundable; shall be in addition to, and not in lieu of, the Assessments levied on the Lot; shall not be considered an advance payment of any portion of Assessments; and shall be used by the Association exclusively for purposes which provide a direct benefit (as defined in 77 Fed. Reg. 15574 (Mar. 16, 2012)) to the Property. The Association may use the Capital Assessment for any of the purposes and services set forth in this Declaration, including the reduction of the Declarant's deficit funding. The Capital Assessment shall not apply in instances of transfer of title of a Townhome to (a) a co-Owner of the Townhome; (b) the Owner's estate, surviving spouse or child upon the death of the Owner; (c) an entity owned by the grantor of title and/or the grantor's spouse; (d) to a mortgagee or Association pursuant to a Final Judgment of Foreclosure or deed in lieu of foreclosure. Prior to Turnover, Declarant may increase the Capital Assessment in subsequent fiscal years, provided that such increase shall not be greater than ten percent (10%) over the prior fiscal year. Subsequent to Turnover, Association may increase the Capital Assessment in subsequent fiscal years, provided that such increase shall not be greater than ten percent (10%) over the prior fiscal year. Neither Declarant nor Association makes any representation or warranty that, at Turnover, any portion of these Capital Assessment shall be in the accounts of the Association, as these monies may be used to offset Declarant's deficit funding.

Section 6.06 Certificate. Upon request, the Association, pursuant to Florida Statutes, Section [REDACTED] shall furnish to any Owner a certificate setting forth whether all required Assessments have been paid. Such certificate, subject to the limitations and terms of Florida Statutes, Section [REDACTED] shall be conclusive evidence in favor of bona-fide third parties relying thereon of the payment of any Assessment therein stated to have been paid. The Association may charge a fee for the preparation of such certificate, and the amount of such fee must be stated on the certificate. Unless sold or conveyed by or to Declarant, no Lot or parcel may be sold or conveyed unless an estoppel certificate pursuant to Florida Statutes, Section [REDACTED] is obtained and all amounts set forth therein are paid prior to the sale or conveyance.

Section 6.07 Subordination. The Association's lien for unpaid Assessments and charges shall be subordinate and inferior to the lien of all municipal, county, state and federal taxes, assessments and other levies which by law would be superior thereto. The Association's lien shall be subordinate and inferior to the lien of any recorded first mortgage, unless the Association's Claim of Lien was recorded prior to the first mortgage, but shall be superior to, and take priority over any other mortgage or lien regardless of when recorded. Any lease of a Home shall be subordinate and inferior to any Association Claim of Lien, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons

claiming by, through or under such purchaser or mortgagee shall hold title subject to the liability and lien of any Assessment and charges coming due after foreclosure or conveyance in lieu of foreclosure. When a first mortgagee or its successor or assignee as a subsequent holder of the first mortgage obtains title to a Lot as a result of a foreclosure of its first mortgage in which it sues the Owner and initially joins the Association in the mortgage foreclosure action, or obtains title to a Lot as a result of a deed in lieu of foreclosure, such first mortgagee or its successor or assignee as a subsequent holder of the first mortgage which acquires title shall be liable for unpaid Assessments and charges except as may be limited by the Association Act as it now exists and as it may be amended from time to time, plus interest, late fees, collection costs and attorneys' fees and costs incurred by the Association. Any Assessments and charges that such first mortgagee or its successor or assignee as a subsequent holder of the first mortgage which acquires title to a Lot is not obligated to pay the Association pursuant to the Association Act shall be deemed to be Common Expenses collectible from Owners of all of the Lots in the Community, including such acquirer, its successors and assigns. However, if the Association's Claim of Lien was recorded prior to the first mortgage, the first mortgagee or its successor or assignee as a subsequent holder of the first mortgage which obtains title shall be liable for all unpaid Assessments and charges plus interest, late fees, collection costs and attorneys' fees.

Section 6.08 Funding by Declarant. Notwithstanding anything to the contrary contained in this Declaration, at any time prior to the Turnover Meeting, the Declarant may elect, for each fiscal year or portion thereof, to: (a) pay Assessments on its Lots that are subject to this Declaration as set forth in Section 6.03; or (b) not pay Assessments on its Lots that are subject to this Declaration and in lieu thereof, to pay the difference between (i) the lesser of the budgeted or actual expenses incurred by the Association, **BUT NOT ANY CAPITAL IMPROVEMENT COSTS, CONTRIBUTIONS TO RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, AS WELL AS ANY OTHER RESERVES THAT THE ASSOCIATION OR THE DECLARANT MAY BE REQUIRED TO FUND PURSUANT TO ANY STATE, MUNICIPAL, COUNTY OR OTHER GOVERNMENTAL STATUTE OR ORDINANCE, SPECIAL ASSESSMENTS, OPERATING EXPENSES OR ANY OTHER ASSESSMENTS RELATED TO DECLARANT'S LOTS**; and (ii) the amount of revenues earned (either received or receivable) from all sources (including, without limitation, Assessments, Start-Up Assessments, Capital Assessments, interest, late charges, transfer fees, fines, charges and other income sources and any surplus carried forward from the preceding year(s)). The option described in (b) above shall be referred to herein as the "Deficit Funding". Any amounts paid by the Declarant that exceed the Declarant Funding obligation are referred to herein as "surplus" and shall be considered a loan from the Declarant to the Association. Any surplus may either be paid to the Declarant after the conclusion of the fiscal year upon demand or carried forward to the next fiscal year. Any surplus remaining as of the Turnover Meeting shall be paid to the Declarant upon demand.

The Declarant's election to choose the Declarant Funding option may be evidenced by a notation in the Association's budget for the subsequent fiscal year or portion thereof, or otherwise. If the Declarant fails to make an election prior to the beginning of any fiscal year, it shall be deemed to have elected the option chosen in the prior fiscal year unless it subsequently notifies the Association in writing that it wishes to use the alternate option with respect to its Lots. The Declarant's obligations hereunder may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials or a combination of a cash subsidy and "in kind" contributions. The Declarant shall not be obligated to fund the Declarant Funding until needed by the Association to fund cash expenditures by the Association.

The Declarant may (but is not obligated to) loan, advance or otherwise make payments, "in kind" contributions of services or materials (or a combination thereof) to the Association to assist the Association in meeting its financial obligations, in addition to the Declarant's obligation to either pay Assessments (to the extent required pursuant to Section 6.03) or fund the Declarant Funding. Notwithstanding anything to the contrary contained in this Declaration, if, prior to the Turnover Meeting, the Declarant loans, advances

or otherwise makes payments, "in kind" contributions of services or materials (or a combination thereof) in excess of its Assessment or Declarant Funding obligations, any such excess sums shall be repaid to the Declarant upon demand.

On and after the Turnover Meeting, the Declarant shall pay Assessments on its Lots that are subject to this Declaration.

Section 6.09 Waiver of Use. No Owner, other than Declarant, may exempt himself, herself or itself from personal liability for Assessments duly levied by the Association. No Owner may release the Owner's Townhome from the liens and charges hereof either by waiver of the use and enjoyment of the Property and the facilities thereon or by abandonment of such Owner's Townhome.

Section 6.10 Declarant's Right to Loan or Advance Funds. Section 6.08 permits Declarant to loan, advance, make payments or in "in kind" contributions of services and/or materials, as part of its Deficit Funding or otherwise.

Section 6.11 Builder Exemption. Notwithstanding anything in this Declaration or the Articles and Bylaws to the contrary, except as provided herein, during the time that a Builder owns any Lot, the Builder shall not pay any Assessments with respect to the Lots owned by the Builder; provided however, Assessments shall commence and be payable as to a particular Lot owned by a Builder upon the earlier to occur of (i) the sale of the Lot by a Builder to an unaffiliated third party; or (ii) three (3) years from the date the Builder acquired the Lot from Declarant. Further, in the event that Declarant elects to pay Assessments applicable to the Lots owned by Declarant rather than pay the Deficit as provided in Section 6.08 Declarant covenants, agrees and shall be obligated to pay all Assessments with respect to Lots owned by a Builder for which the Builder is not required to pay Assessments pursuant to this Section 6.11. For the purpose of this Section 6.11, if there is more than one (I) Builder, each Builder, for the purposes of this Section, shall be treated individually and not collectively with other Builders.

ARTICLE VII

ARCHITECTURAL CONTROL BOARD

Section 7.01 Architectural Control; ARB.

A. All Lots and Townhomes in the Property are subject to architectural review in accordance with this Article VII and any planning, construction, development, or other architectural criteria, guidelines, or procedures (collectively, "Planning Criteria") adopted and revised from time to time by the Architectural Review Board (the "ARB"), which may also be referred to at times as the Architectural Review Committee (the "ARC"). The Planning Criteria shall be written and made available to all Builders and to all Owners or prospective Owners. The Planning Criteria may include any matters considered appropriate by the ARB not inconsistent with this Declaration, the other Association Documents or the Association Act.

B. No site work/development, landscaping, utility extension, drainage improvement, paving, driveway, building, fence, wall, sidewalk, or any other physical or structural improvement, or change or alteration to the exterior of any existing structure or improvement, or to any existing landscaping, shall be commenced, constructed, erected, modified, changed, altered or maintained until the plans showing such details as the size, design, shape, finished grade elevation, height, materials and color of the same, together with a landscape plan and a plot plan showing the location relative to boundaries and adjacent improvements of such proposed improvements or changes (collectively, the "Plans"), have been approved in writing by the ARB. All such Improvements must further conform to the Planning Criteria and no Plans shall be approved by the ARB if they are not in conformity with same. All Improvements, construction, changes,

modifications and alterations shall also comply with all laws. Although an Owner can apply for a building permit from the applicable Governmental Authority, such Owner shall not proceed with work until such time as any Improvements, construction, changes, modifications and/or alterations have been submitted to and approved by the ARB.

Section 7.02 Membership of ARB. Prior to Turnover, Declarant shall be entitled to appoint all members of the ARB. The initial members of the ARB shall hold office until all Lots and

Townhomes have been conveyed to Third Party Purchasers or such earlier time as the Declarant may, in its sole discretion, elect. Thereafter, the membership of the ARB shall be determined by the Board. The ARB shall consist of no less than three (3) members, none of whom shall be required, prior to Turnover, to be Owners or occupants of the Property. The ARB shall always consist of an odd number of members. No member of the ARB shall be entitled to compensation for services performed, but the ARB may employ professional advisors and pay reasonable compensation to such advisors at Common Expense. Members of the ARB (other than those appointed or designated by Declarant) may be removed by the Board at any time without cause. Members of the ARB appointed or designated by Declarant may only be removed by Declarant, which removal may be at any time without cause.

Section 7.03 Approvals. Decisions of the ARB shall be by majority action. Unless waived by the ARB, all Plans shall be prepared by an architect or engineer, said person to be employed by and at the expense of the Owner. If for any reason, including purely aesthetic reasons, the ARB should determine that a proposed improvement, construction, modification or alteration is not consistent with the Planning Criteria or Declarant's development plan, or in the best interest of the Association and its Members, such improvement, construction, modification or alteration shall not be approved or made. Approval of Plans may be withheld not only because of noncompliance with any of the specific conditions, covenants and restrictions contained in this Declaration or Planning Criteria, but also if in the judgment of the ARB, the proposed Improvement, will render the proposed improvement or alteration inharmonious with Declarant's general development plan or the Planning Criteria. Two (2) sets of Plans and specifications shall be submitted to the ARB by the Owner. Submittals and re-submittals of Plans shall be approved or disapproved within thirty (30) days after receipt by the ARB. The ARB approval or disapproval shall be written and shall be accompanied by one (1) copy of the Plans to be returned to the Owner. Whenever the ARB disapproves Plans, the ARB shall specify the reason or reasons for such disapproval. The Planning Criteria are not the exclusive basis for decisions of the ARB and compliance with the Planning Criteria does not guarantee approval of any application.

Section 7.04 Violations. The work approved by the ARB must be performed strictly in accordance with the Plans as approved by the ARB. If after Plans have been approved, the Improvements are altered, constructed, modified, erected, or maintained upon the Lot other than as approved, the same shall be deemed to have been undertaken without ARB approval. After one (1) year from completion of any improvement, addition, modification or alteration, said Improvement shall, in favor of purchasers in good faith and for value and mortgagees, be deemed to comply with the provisions hereof unless a notice of such noncompliance executed by any member of the ARB shall appear in the Public Records or legal proceedings shall have been instituted to enjoin the noncompliance or to enforce compliance with this Article VII.

Section 7.05 Variances. The ARB may grant variances from compliance with the architectural provisions of this Declaration or the Planning Criteria, including, without limitation, restrictions upon height, size or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may reasonably require. The granting of any variance shall not operate to waive any of the terms and provisions of this Declaration or the Planning Criteria for any purpose except as to the particular Lot and the particular provision covered by the variance, nor shall it affect the Owner's obligation to comply with all applicable laws. Such variances

may only be granted when unique circumstances dictate and no variance shall (i) be effective unless in writing, (ii) be contrary to the restrictions set forth in this Declaration, or (iii) estop the ARB from denying a variance in other similar or dissimilar circumstances.

Section 7.06 Waiver of Liability. None of Declarant, the ARB, the Directors or the Association, or any agent, employee or officer thereof, shall be liable to anyone submitting Plans for approval or to any Owner, occupant, tenant, subtenant, invitee, licensee or guest of the Property by reason of or in connection with approval or disapproval of any Plans, or for any defect in any Plans submitted, reviewed, revised or approved in accordance with the requirements of the ARB, or for any structural or other defect in any work done according to or contrary to such Plans. Approval of Plans, or any other approvals, variances or consents by the ARB, are given solely to protect the aesthetics of the Property in the judgment of the ARB and shall not be deemed a warranty, representation or covenant that any action taken in reliance thereon complies with all applicable laws, nor shall ARB approval be deemed approval of any Plan or design from the standpoint of structural safety or conformity with building or other codes. Every person who submits Plans for approval agrees, by submission of such Plans, and every Owner or occupant, tenant and subtenant of any Lot agrees, by acquiring title thereto or an interest therein, that it will not bring any action, proceeding or suit to recover any such damages and shall be deemed to have automatically agreed to hold harmless and indemnify the Board, the ARB, the Declarant and the Association, and all of the foregoing's directors, officers, members, agents and employees from and for any loss, claim, liability, expenses, causes of action or damages connected with the aforesaid aspects of the Plans, Improvements or alterations.

Section 7.07 Enforcement. Declarant and the Association shall have standing and authority on behalf of the Association to enforce in courts of competent jurisdiction the Planning Criteria and the decisions of the ARB. Should Declarant or the Association be required to enforce the provisions hereof by legal action, the reasonable attorneys' and paralegals' fees and costs and expenses incurred, whether or not judicial proceedings are involved, including the attorneys' and paralegals' fees and costs, and expenses incurred on appeal from judicial proceedings, shall be collectible from the violating Owner. Should any Owner fail to comply with the requirements hereof after thirty (30) days' written notice, Declarant and the Association shall have the right, but not the obligation, to enter upon the Owner's Lot, make such corrections, alterations or modifications as are necessary, or remove anything in violation of the provisions hereof, the Rules and Regulations, or the Planning Criteria, and charge the costs and expenses thereof to the Owner as an Individual Assessment. Declarant, the Association the Board and the ARB and all of the foregoing's directors, officers, members, agents and employees, shall not be liable to the Owner or to any occupant or invitee of any Lot for any trespass or damages or injury to property or person for any action taken hereunder unless caused by gross negligence, intentional misconduct or intentional wrongdoing.

Section 7.08 Exemption. Declarant, before and after Turnover, shall be exempt from the Planning Criteria, the ARB Rules and the architectural control provisions of this Article VII. Declarant, before and after Turnover, shall be entitled to construct or install any new Improvement, and to alter or change or modify any existing Improvement, without submitting Plans to or obtaining the approval of the ARB. Further, Declarant may unilaterally (without vote, consideration or approval of the ARB) approve Plans for a Townhome submitted by a Builder. Upon approval by the ARB or Declarant of Plans for a Townhome design submitted by a Builder ("Approved Builder Plans") those Builder Plans shall be deemed approved for the construction of Townhomes throughout the Community, and the Approved Builder Plans (including modifications to the Approved Builder Plans necessary or desirable to facilitate construction of a Townhome on a Lot in the Community), are exempt from further ARB review and approval on any other Lots within the Community. Additionally, Approved Builder Plans shall be deemed to meet the requirements of the Planning Criteria.

Section 7.09 No Waiver of Future Approvals. The approval of the ARB of any proposals or Plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring

the approval and consent of the ARB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, Plans, specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 7.10 ARB Rules and Regulations. The ARB may adopt reasonable rules of procedure and standards for the submission and review of any matter to be brought before it and the inspection and final approval of any completed work done pursuant to an approval of the ARB (the "ARB Rules"). The ARB Rules shall be: (i) at the discretion of the Board, subject to the prior approval of the Board, (ii) consistent with the Planning Criteria, (iii) consistent with the covenants and restrictions set forth in this Declaration, and (iv) published or otherwise made available to all Owners, prospective Owners and their contractors, subcontractors and other appropriate designees. All ARB Rules shall be adopted and/or amended by a majority vote of the ARB.

ARTICLE VIII

MAINTENANCE AND REPAIR OBLIGATIONS

This Article sets forth the various maintenance and repair obligations of the Association and the Owners with respect to the Common Property and the Lots and Common Property located therein. Such maintenance and repair obligations may be different than those provided in any Supplemental Declaration.

Section 8.01 By The Association.

A. The Association, all at Common Expense, acting by and through the Board, shall, in addition to those general and specific duties, responsibilities, and obligations elsewhere referenced in the Association Documents or imposed upon it by law, have the following specific duties, responsibilities and obligations:

B. The Association shall never be responsible for any maintenance of, repairs to, or replacement of any improvement or modification added or made to a Townhome or upon a Lot after the conveyance of the Lot to the first Owner or grantee thereof following completion of any initial improvements thereon by Declarant or a Builder. Except as and to the extent expressly provided in this Section, maintenance, repairs, and replacement of or concerning each Lot and Townhome, including, but not limited to, driveways serving said Townhome, any landscaping or improvements installed by the Owners or occupants of any Lot or Townhome, or otherwise, shall always be the sole responsibility, duty, and liability of the respective Owner. Any and all maintenance, repairs, and replacements of or concerning each Lot and Townhome shall at all times be performed in a manner consistent with this Declaration, the Planning Criteria, and the Rules and Regulations.

C. If maintenance, repair, or replacement of any component of a Townhome Building, Lot, or Townhome for which the Association is responsible hereunder is necessary due to intentional misconduct, negligence, or failure to comply with the terms of the Association Documents or applicable law, by an Owner (including, but not limited to, the members of said Owner's family, tenants or other occupants, guests, or invitees), the Association shall have the right to assess the Owner's Lot for the cost of necessary maintenance, repair or replacement, as a Special Assessment or Individual Assessment, to the extent insurance proceeds do not cover the cost of such work, and without compromise to the rights of subrogation of the insurer. The Association may, but is not required to, seek compensation for damage from the guest, tenant or other party who caused the damage, in which case the Owner shall be jointly and severally liable with such party(ies).

D. The Association, at its expense, shall be responsible for the maintenance, repair and replacement of all of the Improvements and facilities located upon the Common Property as otherwise provided herein, and the maintenance and replacement of the landscaping and irrigation facilities located on Lots, except for landscaping installed by the Owners or occupants of any Lot or Townhome. Should any incidental damage be caused to any Townhome by virtue of the Association's failure to maintain the Common Property as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Common Property, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

E. The Association is specifically empowered to own, operate and maintain Utility Systems as defined in this Declaration, and to make Assessments as provided in this Declaration and the Articles and Bylaws to provide for ownership, maintenance and operation of the Utility Systems, including but not limited to Assessments to provide for a reasonable reserve fund for operation and maintenance of such Utility Systems. The Association may sell, donate, or otherwise devise the Utility Systems to another entity authorized by law to own and operate the Utility Systems, including but not limited to utilities certificated by the Florida Public Service Commission, any applicable Community Development District, or governmental entities.

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

G. The Association shall be responsible for the maintenance, repair and replacement of any street lights located in the Community.

H. The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. The Board may establish Rules and Regulations regarding the Association's entry upon the Lots.

I. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, (a) if such maintenance is required by this Declaration, (b) if the Board determines that such maintenance is necessary or desirable to maintain the standards for the Community promulgated by the ARB or to cause compliance with this Declaration, (c) if the maintenance is requested by an Owner, or (d) if the Board determines that maintenance to any privately-owned facility is necessary or desirable and the Board elects to perform such maintenance in lieu of enforcing the respective Owner(s)'s obligation to perform such maintenance, in which event the respective Owner(s) shall be assessed the costs incurred.

Section 8.02 By The Owners.

A. Duties of the Owners.

(1) Each Owner shall at all times properly care for and maintain, at the Owner's sole cost and expense, the interior of the improvements on its Lot and Townhome such as, without limitation: doors and windows; garage doors; plumbing; individual mailbox (if applicable);

electrical, heat and air-conditioning systems serving the Lot and Townhome; interior finish work, such as sheetrock and drywall; routine maintenance of non-structural components of Party Walls; interior painting of Party Walls; and all other portions and components of the Lot and improvements thereon, including the Townhome, except those expressly required to be and actually maintained by the Association pursuant to the terms hereof. Without limiting the generality of the foregoing, each Owner shall perform the following repairs and maintenance:

1. With respect solely to landscaping installed by the Owners or occupants of any Lot or Townhome, maintenance and irrigation of lawns and landscaping lying between the boundary of such Owner's Lot and any public right-of-way or any community wall or fence; provided, however, that no Owner shall remove any trees, shrubs, or other vegetation from these areas outside such Owner's Lot without the prior written approval of the Association. Except for landscaping installed by the Owners or occupants of any Lot or Townhome, the Association shall be responsible for landscaping pursuant to Section 8.01(D) and (F).

2. Each Owner shall be responsible for termite treatment of all interior walls of the improvements on its Lot and for obtaining and maintaining an annual termite bond with a properly licensed company doing business in Florida for the same.

3. In addition, Owners own and maintain their individual water, sewer, storm and ground water drainage, and reclaimed water lines and services which extend to their homes from public water meters or adjacent to public road right-of-way as applicable and maintain their individual wastewater services which extend to their homes from public cleanout located adjacent to public road right-of-way.

4. General maintenance, repair, pressure cleaning and painting of all exterior portions of the Townhome including garages, garage doors, entrance doors, shutters and facia, and walls.

5. Maintain, repair, and/or replace as necessary the Townhome roof, including the roof deck, surface, flashings and gutters, if any, and any exterior porch or garage roofs, and other structural components, including exterior walls of the Townhome.

6. Maintenance, repair and/or replacement and pressure cleaning of sidewalks, and driveways.

7. Maintenance, repair, and/or replacement of structural components of the Party Wall(s), and all other structural components of the Townhome.

8. Maintenance, repair and/or replacement of any other components of the Townhome.

(2) To the extent any maintenance, repair, replacement, or other obligations described in this Section 8.02 A(1) is not performed by the subject Owner, the Association may (but is not required to) perform all or any part of such work, in which event the costs of doing so shall be assessed to said Owner and the Lot as an Individual Assessment. In addition to, but not in limitations of, the foregoing, if an Owner's failure to maintain, repair, or replace those portions of the Property (including said Owner's Lot and Townhome) that are said Owner's responsibility hereunder endangering or that will or may endanger the structural integrity of another Townhome or any Townhome Building, including, but not limited to, actual or potential water or other damage, the Association shall have the right (but is not required to) to enter and maintain, repair, replace, or otherwise address the subject defect or issue and charge the cost, plus an administrative fee of 15%,

to the subject Owner as an Individual Assessment. The Association shall give at least ten (10) calendar days' notice or, in an emergency, such notice (if any) as is reasonable under the circumstances.

It is anticipated that the Association shall require: (i) all Townhomes to be painted every five (5) years (ii) pressure washing every year, and (iii) all Townhome roofs to be replaced every twenty (20) years. The Board shall convene a duly noticed meeting to determine when the exterior painting, pressure washing, and roof replacement shall be required for all Townhomes in the Community and each Owner shall have at least one hundred twenty (120) days to commence the work after the Association provides written notification of the required painting, pressure washing, or roof replacement. Each Owner shall have the right to (a) paint, (b) clean, or (c) replace Townhome roofs more frequently than required by the Association, provided that prior written approval of color and materials is obtained from the Board. Notwithstanding the foregoing, by majority vote of the Members at a duly noticed meeting, the Association may enter into a contract for painting, pressure washing, or maintenance, repair, and/or replacement of all Townhome roofs for all Townhomes in the Community and charge each Owner his or her equal share of the costs thereof as a Special Assessment.

Section 8.03 Interpretation. From time to time, the Board may make and consistently apply reasonable Rules and Regulations interpreting the provisions of this Article VIII to determine which portions of the Property shall be maintained by the Association and which portions shall be maintained by the Owners. Notwithstanding anything in the foregoing to the contrary, the Association shall be responsible for performing, or causing to be performed, all maintenance to the Common Areas.

ARTICLE IX

STORMWATER MANAGEMENT

Section 9.01 Maintenance, Repair, Operation and General Use of Stormwater Management System.

Maintenance, repair and operation of the Stormwater Management System is the responsibility of the Association. As set forth in Section 2.06, all costs and expenses that the Association shall be obligated to pay to the Association pursuant to the Rivers Edge of Volusia County Declaration shall be a Common Expense.

A. To the extent not included in the areas required to be maintained by the Association, each Owner shall, at that Owner's expense, grass over, provide routine landscape maintenance, mow and keep free of trash and debris, on a routine basis, those portions of the Stormwater Management System located on or within that Owner's Lot (whether or not included in a platted drainage easement depicted on any recorded Plat), failing which the Association may (but shall have no obligation) perform the required maintenance and may levy an Individual Assessment to cover the costs thereof. Each Owner shall be responsible for the "Maintenance, Operation and Repair" (as that term is defined below) of the swales on the Owner's Lot, failing which the Association may (but shall have no obligation) perform the required maintenance and may levy an Individual Assessment to cover the costs thereof. The term "Maintenance, Operation and Repair", as used in this Declaration, 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 or required by the Permit or the District. Filling, excavation, or construction of fences, or the existence of anything else that interferes with drainage or

otherwise obstructs the surface water flow in the swales is prohibited. No alteration of the swale shall be authorized and any damage to any swale, whether caused by natural or human-induced phenomena, shall be repaired and the swale returned to its former and proper condition as soon as possible by the Owner(s) of the Lot(s) upon which the swale is located, failing which the Association may (but shall have no obligation) perform the required repair and may levy an Individual Assessment to cover the costs thereof.

B. Unless first approved by the Association, ARB and the District, no Owner, including Declarant, may obstruct, alter or in any way modify the method and/or structures of drainage utilized or installed by Declarant or the Association from, on, or across any Lot, Common Area, Areas of Common Responsibility, or any easement area; nor shall any structure or material be erected, placed or maintained which shall in any way obstruct such drainage devices or facilities or impede their efficient operation. No elevation changes shall be permitted on any Lot which materially adversely affects the drainage of or to neighboring Lots or the Common Area, or any Areas of Common Responsibility.

C. It shall be the responsibility of each Owner, at the time of construction of Townhome or any other structure or building on that Owner's Lot, to comply with the approved construction plans for the Stormwater Management System on file with the District.

D. Fences may only be permitted within drainage easements on an Owner's Lot so long as the fence does not block or impede the flow of water through the drainage easement area. With regard to any fences permitted within drainage easements pursuant to the terms hereof, the Owner of the subject Lot shall be responsible for removal/replacement of the fence or any portion thereof if removal of same is required in connection with any maintenance, repair, construction, or installations concerning the drainage easement area or the Stormwater Management System. Notwithstanding the foregoing, if the Owner of the subject Lot fails to timely remove any such fence or portion thereof, Declarant, the Association, and any Governmental Authority (including, but not limited to, the District) may remove such fence or portion thereof, in its discretion, without any liability whatsoever to said Owner, whereupon the fence or portion thereof may be disposed of, and without the party removing the fence or any portion thereof being required to thereafter reinstall or replace said fence or portion thereof.

G. ALL OWNERS ARE HEREBY ADVISED THAT A PERMIT FROM THE DISTRICT WILL BE REQUIRED IF ANY OF THE FOLLOWING ITEMS ARE PROPOSED:

(1) ANY ALTERATION TO THE STORMWATER MANAGEMENT SYSTEM; OR (2) ENCROACHMENT INTO THE WETLANDS, WETLAND BUFFERS, OR ADJACENT OFF-SITE PROPERTY LINE BUFFERS.

Section 9.02 Easements for Access and Drainage.

A. The Association shall have the right to enter upon any portion of any Lot which is a part of the Stormwater Management System, at a reasonable time and in a reasonable manner, to take action that is authorized by this Declaration or by the Association. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the Stormwater Management System to the extent set forth in the Permit and as authorized by the Association. No person shall alter the drainage flow of the Stormwater Management System, including buffer areas or swales, without the prior written approval of the Association and the District.

B. Each Owner (including Declarant) shall have a non-exclusive right and easement of use and enjoyment to drain across the Stormwater Management System in accordance with the Permit and District rules.

Section 9.03 Amendment to Declaration. Any Amendment to this Declaration which alters the Stormwater Management System, beyond maintenance in its original condition, including mitigation or

preservation areas and the water management portions of the Common Areas, must have the prior approval of the District. Any proposed Amendment to this Declaration affecting the Stormwater Management System (including environmental conservation areas and the water management portions of the Common Areas) shall be submitted to the District for a determination of whether the Amendment necessitates a modification of the Permit. If a modification is necessary, the District will so advise the Permit's permittee. The Amendment affecting the Stormwater Management System may not be finalized until any necessary Permit modification is approved by the District or the Association is advised that a modification is not necessary.

Section 9.04 Enforcement. The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, and repair of the Stormwater Management System. The District has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the Stormwater Management System facilities or in mitigation or Conservation Areas under the responsibility or control of the Association.

Section 9.05 LIABILITY. NEITHER DECLARANT, BUILDERS NOR THE ASSOCIATION SHALL HAVE ANY LIABILITY WHATSOEVER TO OWNERS, GUESTS, TENANTS, OR INVITEES IN CONNECTION WITH THE RETENTION LAKES (IF ANY) AND DRAINAGE FACILITIES OR ANY PART OF THE STORMWATER MANAGEMENT SYSTEM. EACH OWNER, FOR ITSELF AND ITS GUESTS, TENANTS, OR INVITEES, RELEASES DECLARANT, BUILDERS AND THE ASSOCIATION FROM ANY LIABILITY IN CONNECTION THEREWITH.

Section 9.06 Rights of the District. Notwithstanding any other provisions contained elsewhere in this Declaration, the District shall have the rights and powers enumerated in this paragraph. The District 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 Stormwater Management System. Any repair or reconstruction of the Stormwater Management System shall be as permitted, or if modified, as approved in writing by the District. No person shall alter the drainage flow of the Stormwater Management System, including any buffer areas, swales, treatment berms or swales, without prior written approval of the District. Any amendment to this Declaration that alters the Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Property, must have prior written approval of the District. In the event that the Association is dissolved, prior to such dissolution, all responsibility relating to the Stormwater Management System must be assigned to and accepted by an entity approved in writing by the District.

Section 9.07 Indemnity. Declarant and Builders may be required to assume certain duties and liabilities for the maintenance of the Stormwater Management System or drainage system within the Property under the Plat, permits, or certain agreements with governmental agencies. The Association further agrees that subsequent to the recording of this Declaration, it shall hold Declarant and Builders harmless from all suits, actions, damages, liabilities and expenses in connection with loss of life, bodily or personal injury or property damage arising out of any occurrence in, upon, at or from the maintenance of the Stormwater Management System occasioned in whole or in part by any action, omission of the Association or its agents, contractor, employees, servants, or licensees but not excluding any liability occasioned wholly or in part by the acts of the Declarant, Builders and their respective successors or assigns.

ARTICLE X

USE RESTRICTIONS

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

Section 10.01 Nuisances. No obnoxious or offensive activity shall be carried on or about the Lots or in or about any Improvements, Townhomes, or on any portion of the Community nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Townhomes which is a source of annoyance to Owners or occupants of Townhomes or which interferes with the peaceful possession or proper use of the Townhomes or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements, Townhomes or Lots. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off-road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any Lot, or exposed to the view of other Owners without the prior written approval of the Board.

Section 10.02 Vehicles.

A. Unless express prior written approval is given by the Board, in the Board's sole and absolute discretion, no commercial vehicle (including, but not limited to, any vehicle operated for the transportation of persons or property in the furtherance of any business, commercial, manufacturing, or industrial enterprise, for-hire, not-for-hire, or otherwise), recreational vehicle (including, but not limited to, personal water craft, all-terrain vehicles, and two-wheeled dirt bike motorcycles, three-wheelers, all-terrain vehicles and go carts), camper, mobile home, motor home, boat, house trailer, boat trailer, or trailer of any other kind or description (collectively, "Prohibited Vehicle(s)"), shall be permitted to be parked or to be stored at any place on the Property, unless Declarant designates specifically certain spaces for some or all of the above, in which case Declarant or the Association may change for the use of such spaces. The Board may, but is not required to, allow boats or other recreational vehicles or Prohibited Vehicles to be parked on a Lot behind an ARB-approved fence or wall which totally screens said boat or other recreational vehicle or Prohibited Vehicle from the view of all Streets and adjacent Townhomes. Provision for temporary visitation of Prohibited Vehicles may be established by the Board. The foregoing prohibition of parking shall not apply to temporary parking of commercial Prohibited Vehicles, such as for pick-up and delivery and other bona fide temporary commercial services being delivered or provided to a Lot or Townhome, nor to Prohibited Vehicles which are stored within a Townhome's closed garage, nor to any Prohibited Vehicles of Declarant or its affiliates, or to any Builder, or to building contractor designated by Declarant in writing from time to time. Marked or unmarked police cars and other municipal vehicles are specifically excluded from the definition of Prohibited Vehicles. Non-commercial pick-up trucks are specifically excluded from the definition of Prohibited Vehicles, provided that they do not have commercial markings, racks or tools in the bed.

B. No vehicle, regardless of whether it would otherwise be permitted to be parked on any Lot or other part of the Property, shall be permitted to be parked on any Lot (unless permanently in a garage) or other part of the Property if such vehicle is not fully functioning and operational, currently registered by the State of Florida or another U.S. state, and currently tagged (with a license plate affixed in the proper place(s) on said vehicle) by the State of Florida or such other U.S. state in which the vehicle is registered.

C. All vehicles must be parked on surfaces designed for vehicle parking (e.g. parking areas or lots and driveways) and shall not in any event be parked on individual lawns or the grass of any Common Areas. Vehicles shall not be parked in a manner which would block fire hydrants, dumpsters, sidewalks or pedestrian or bicycle paths.

D. No Owner or other occupant of the Community shall repair or restore any vehicle of any kind upon or within the Community, except for: (i) emergency repairs and then only to the extent necessary

to enable the movement thereof to a proper repair facility; or (ii) repairs completed within the garage (in which case no garage doors shall be left open overnight or at any other time when the subject vehicle is not actually being worked on or repaired).

E. Inoperable vehicles (e.g., missing major components such as engines and/or transmissions, one or more flat tires, etc.), or derelict vehicles (e.g., broken glass, severely damaged body panels, unpainted body panels, etc.) must be fully enclosed within a closed garage at all times, and in any case may not be parked in plain view.

F. As long as the provisions of Florida Statutes, Section 715.07, are complied with, any vehicles parked in violation of the aforementioned or other restrictions contained herein, or

in violation of any Rules and Regulations, may be towed by the Association at the sole cost and expense of the owner of such vehicle, if such vehicle remains in violation for a period of twenty- four (24) hours from the time a notice of violation is placed on the vehicle or the owner thereof is otherwise notified. The Association shall not be liable to the owner of such vehicle for trespass, conversion, or otherwise, nor guilty of any criminal or civil act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner thereof to receive it for any other reasons, shall be grounds for relief of any kind. An affidavit of the person posting such notice on any vehicle stating that it was properly posted shall be conclusive evidence of proper posting.

G. All powered vehicles capable of exceeding five (5) miles per hour are prohibited from use on the Property unless they are licensed, registered, and insured. Specifically, any motorcycle, moped, or motorized scooter used in the Community may only be driven by a licensed driver, and must be registered and insured in accordance with Florida law. Specifically exempted from this regulation are electric personal assistive mobility devices as defined under Florida Statutes, Section 316.003(22); and any other bona-fide "assistive technology devices" as defined in Florida Statutes, Section 427.802(1); and any special mobile equipment as defined under Florida Statutes, Section 316.003(81) provided that such equipment may not be operated in a manner that creates a traffic hazard, or which poses a threat of harm to the user of such equipment.

H. No person, firm or corporation shall maintain or repair any vehicle (including, but not limited to, four-wheel passenger automobiles) upon any portion of the Property except within a closed garage and totally isolated from public view; provided, however, Declarant its successors, nominees or assigns and the Association may make, or cause to be made, such repairs if necessary, in regard to vehicles used in connection with construction, sales or management at the Community. Vehicles which are missing one or more wheels, have one or more deflated tires, are not in an operating condition, or do not have current valid license plates shall not remain upon any portion of the Property, except within a wholly enclosed garage fully shielded from view. No Owner or his or her family members, guests, invitees or lessees or their family members, guests, or invitees shall be permitted to keep any vehicle on the Property which is deemed to be a nuisance by the Association or Declarant.

Section 10.03 No Improper Use. No improper, offensive, hazardous or unlawful use shall be made of any Townhome nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Property. No activity shall be conducted in any Townhome that involves the production or distribution by any means, whether electronic or otherwise, of pornographic, adult, nude or sexually oriented or explicit materials, content or entertainment. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover relating to any Townhome or Lot shall be corrected by, and at the sole expense of, the Townhome's or Lot's Owner.

Section 10.04 Flags. An Owner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and one portable, removable official flag in a respectful manner, not larger than 4½ feet by 6 feet, that represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, or a POW-MIA flag. An Owner may erect a freestanding flagpole no more than 20 feet high on any portion of the Owner's Lot if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The Owner may further display in a respectful manner from that flagpole, one official United States flag, not larger than 4½ feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the County and all setback and locational criteria contained in this Declaration.

Section 10.05 Window Decor. No newspaper, aluminum foil, sheets or other temporary window treatments shall be permitted, except for periods not exceeding one (1) week after an Owner or a lessee first moves into a Townhome or when permanent window treatments are being cleaned or repaired. Window tinting is permitted provided that the type and method of tinting is first approved by the ARB.

Section 10.06 Animals and Pets. No more than three (3) common domesticated household pets may be kept on any Lot or in a Townhome, but in no event for the purpose of breeding or for any commercial purposes whatsoever. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Property. Permitted pets shall only be kept subject to and in accordance with such Rules and Regulations as shall be promulgated from time to time by the Board. Under no circumstances may a pet that is dangerous or has been known to cause strict liability to the owner be permitted on the Property. Any pet must be carried or kept on a leash when outside of a Townhome or fenced-in area. No pet shall be kept tied up outside of a Townhome or in any screened porch or patio, unless someone is present in the Townhome. An Owner shall immediately pick up and remove any solid animal waste deposited by his or her pet on the Property. An Owner is responsible for the cost of repair or replacement of any Common Property damaged by his or her pet. Each Owner who determines to keep a pet thereby agrees to indemnify the Association and Declarant and hold them harmless against any loss or liability of any kind or character whatsoever arising from or growing out of his or her having any animal on the Property.

Section 10.07 Wildlife. SUBSTANTIAL WILDLIFE EXISTS WITHIN THE COMMUNITY, INCLUDING, BUT NOT LIMITED TO, GOPHER TORTOISES, ALLIGATORS, ARMADILLOS, FISH, SNAKES, SQUIRRELS, AND RACCOONS. SUCH WILDLIFE MAY EXIST BOTH IN AREAS DESIGNATED AS SPECIAL PRESERVATION AREAS AND THROUGHOUT THE COMMUNITY, SOME OF WHICH WILDLIFE MAY BE DANGEROUS. NO OWNERS, RESIDENTS, OR THEIR GUESTS SHALL HARASS, HARM, PURSUE, HUNT, SHOOT, WOUND, KILL, TRAP, FEED, CAPTURE, OR COLLECT ANY WILDLIFE WITHIN THE COMMUNITY. FISHING ACTIVITIES UNDERTAKEN CONSISTENT WITH THIS DECLARATION SHALL BE EXEMPT FROM THIS PARAGRAPH.

Section 10.08 On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any Lot, except that up to five (5) gallons fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment. Propane tanks normally associated with outdoor barbecue grills are permitted above-ground. This restriction is designed to reduce environmental risks associated with fuel storage and to minimize the hazards associated with on-site fuel storage.

Section 10.09 Water Supply. No individual water supply system shall be permitted on any of the Property, provided that one or more central water supply systems are being operated in accordance with

requirements of the governmental body having jurisdiction over said central system, except that wells are permitted for the irrigation of landscaping only, provided that a method of stain reduction is utilized in conjunction with the irrigation well.

Section 10.10 Additions and Alterations. No Townhome shall be enlarged by any addition thereto or to any part thereof, and no Owner shall make any improvement, addition, or alteration to the exterior of his Townhome, including, without limitation, the painting, staining, or varnishing of the exterior of the Townhome, including doors, garage doors, driveways and walkways, without the prior written approval of (i) the ARB as set forth in Article VII of this Declaration, which approval may be withheld for purely aesthetic reasons, and (ii) all applicable governmental entities.

Section 10.11 Weapons. The use and discharge of weapons within the Community is prohibited. The term "weapons" includes bows and arrows, slingshots, "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

Section 10.12 Increase in Insurance Rates. No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Property not owned by such Owner.

Section 10.13 Slopes and Trees. No Owner may engage in any activity which will change the slope or drainage of a Lot. No additional trees are permitted to be planted on the Property without the prior written consent of Declarant for as long as Declarant owns a Lot, and thereafter without the prior written consent of the ARB.

Section 10.14 Signs. No sign of any kind shall be displayed to the public view from any Lot or improvement thereon, except any sign used by Declarant or a Builder to advertise Declarant's or Builder(s)' company, project, sales or other matters during the construction and sales period. No sign, except security signs, of any kind shall be permitted to be placed inside a Home or on the outside walls of a Home so as to be visible from the exterior of such Building, nor on any Common Area, nor on any dedicated streets, drainage easement areas, or any other dedicated areas, nor in any entryways, nor on or within any vehicles within the Property, except such as are placed by Declarant. Notwithstanding the foregoing, an Owner may display a sign of reasonable and customary size provided by a security services contractor within ten (10) feet of any entrance to the Owner's residence.

Section 10.15 Trash and Other Materials. No rubbish, trash, garbage, refuse, or other waste material shall be kept or permitted on the Lots and/or Common Property, or other portions of the Property, except in sanitary, self-locking containers located in appropriate areas, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, offensive, detrimental or a nuisance to Owners or to any other Property in the vicinity thereof or to its occupants. No clothing or other household items shall be hung, dried, or aired in such a way as to be visible from the Common Property or another Lot. No stripped vehicles, lumber or other building materials, grass, tree clippings, metals, scrap, automobile pieces or parts, refuse, or trash shall be stored or allowed to accumulate on any portion of the Property (except when accumulated during construction by Declarant and Builders, during construction approved by the ARB, or when accumulated by the Association for imminent pick-up and discard).

Section 10.16 Clotheslines. Unless otherwise permitted by applicable law and only to the extent permitted therein, no clothesline or clothes drying which is visible from outside a Lot shall be undertaken or permitted on any portion of the Community.

Section 10.17 Garages. No garage shall be permanently enclosed so as to make such garage unusable by an automobile, and no portion of a garage originally intended for the parking of an automobile shall be converted into a living space or storage space and no garage opening shall have a screen covering without

the consent of the Association. All garage doors shall remain closed when vehicles are not entering or leaving the garage.

Section 10.18 Temporary Structures. No tent, shack, shed or other temporary building or Improvement, other than separate construction and sales trailers to be used by Declarant, Builders, their agents and contractors, for the construction, service and sale of the Community or other communities, shall be placed upon any portion of the Property, either temporarily or permanently. No trailer, motor home or recreational vehicle shall be: (i) used as a residence, either temporarily or permanently, or (ii) parked upon the Property.

Section 10.19 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, boring or mining operations of any kind shall be permitted upon or on any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 10.20 Subdivision and Partition. No Lot on the Property shall be subdivided without the ARB's prior written consent except by Declarant or by a Builder with Declarant's consent.

Section 10.21 Sewage Disposal. No individual sewage disposal system shall be permitted on any part of the Property, provided that a central sewage disposal system is being operated in accordance with the requirements of the governmental regulatory body having jurisdiction over said central system.

Section 10.22 Fences. No fence shall be permitted on any Lot.

Section 10.23 Exterior Electronic or Electric Devices; Solar Panels.

A. No exterior antennas and no citizen band or short-wave antennas or satellite dishes in excess of one meter in diameter shall be permitted on any Lot or Improvement thereon, except that Declarant and its affiliates shall have the right to install and maintain community antenna, microwave antenna, dishes, satellite antenna and radio, television and security lines. The location of any approved satellite dish must be approved by the ARC, which may require appropriate screening; provided, however, that the satellite dish shall be allowed in the least obtrusive location where the satellite signal may be received.

B. No solar heating equipment, panels, collectors, or devices ("Solar Equipment") is permitted on or outside of any enclosed structure on any Lot, except such Solar Equipment whose installation and use is protected by U.S. federal or Florida law including, but not limited, by Florida Statutes, Section 163.04. Notwithstanding such protection, for aesthetic purposes, and to the maximum extent permitted by Florida Statutes, Section 163.04, the location, type, and design of all Solar Equipment must be approved by the ARC prior to installation and use of same, which approval, if granted, may require landscape or other screening, in the ARB's determination and reasonable discretion. An application for use and installation of such Solar Equipment must be submitted for approval to the ARC prior to installation and approval and will be granted only if: (i) such Solar Equipment is designed for minimal visual intrusion when installed (i.e., is located in a manner which minimizes visibility from all Streets and adjacent Lots); and (ii) the Solar Equipment complies to the maximum extent feasible with the ARB's requirements and the Planning Criteria. Without limiting, and in addition to the foregoing, Declarant or the ARB may determine the specific location where solar collectors may be installed on the roof of any Townhome or building within an orientation to the south or within forty-five (45) degrees east or west of due south if such determination does not impair the effective operation of the solar collectors.

Section 10.24 Excavation. No clearing or excavation shall be made except incident to construction, maintenance or repair of an ARB approved Improvement (or by Declarant or in connection with development of the Property) and must be in accordance with the Permit; and upon completion thereof

exposed openings shall be back-filled, and disturbed ground shall be leveled, graded and covered with sod or seeded in accordance with the approved Plans and the Permit.

Section 10.25 Yard Accessories and Play Structures.

A. Except as otherwise required by law, all yard accessories and play structures, including basketball hoops or backboards and any other fixed games, shall be located at the side or rear of the Townhome, except that, in the case of Townhome(s) on corner Lots, such accessories and structures shall be restricted to the side yard furthest from the side Street and to that portion of the rear yard which is no closer to the side Street than a fence would be permitted to be located by the Governmental Authorities. The location of any play structure or temporary portable basketball structure shall be approved by the ARB prior to location of the structure on a Lot. Temporary portable basketball structures will be allowed only under the following conditions:

- (1) basketball hoops and structures must be well-maintained;
- (2) The location of the basketball hoop and structure must first be approved by the ARB;
- (3) No permanent basketball structures may be placed on any Lot.
- (4) Temporary basketball structures shall be placed in the garage or laid down behind a fence when not in use so as not to be seen from the Streets or neighboring Lots. The time of play of basketball may be limited by the Board or the ARB to reasonable daylight hours.
- (5) Tree houses are prohibited within the Community.
- (6) The ARB may regulate the size and number (which could be zero) of permitted decorative statues or figures, birdbaths, bird houses, lawn ornaments and other yard art.

Section 10.26 Pools. Swimming pools on Lots are prohibited, regardless of whether they are above or below ground.

Section 10.27 Use; Rentals; Timesharing.

A. Lots shall be used for single family residential purposes only. No trade, business, profession, occupation or other commercial activity or use shall be conducted on any Lot or within any Townhome, provided, however, that an Owner or lawful tenant of a completed Townhome may use a single room within the Townhome as an office for conducting business as long as the business: (i) does not involve or require regular visitation of the Lot or Townhome by clients, customers, suppliers, service providers, or other business invitees, or door-to-door solicitation within the Community; (ii) does not include the manufacture or distribution of any products or goods in the Townhome or on or from the Community; (iii) is not apparent or detectable by sight, sound, or smell from outside the Townhome; (iv) complies with applicable land use and zoning requirements; (v) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of others within the Community, as determined from time to time in the Board's sole discretion; and (v) is not a daycare facility, child care facility, or assisted living/hospice facility. No signs shall be placed on any Townhome or Lot which identifies the Townhome or Lot as a place of business. For purposes of this Section, "Business" shall have its ordinary, customary, generally accepted meaning and shall include, without limitation, any occupation, work, trade, or activity undertaken from time to time or 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 monetary or non-monetary 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. This Section shall not apply to restrict Declarant's or Declarant's affiliates' activities, nor shall it restrict the activities of persons or entities Declarant approves

with respect to the development and marketing/sale of property within the Community. This Section also shall not apply to Association activities related to the provision of services or to operating and maintaining the Community, including the Community's recreational and other amenities. Leasing a Townhome is not a "business" within the meaning of this Section. Temporary uses of Lots by Declarant and its affiliates or assigns (including Builders as may be designated by Declarant from time to time) for model homes, sales displays, parking lots, sales and construction offices, and other offices or uses, or any one or combination of the foregoing, shall be permitted until permanent cessation of such uses takes place. No changes may be made in buildings or structures erected by Declarant or its affiliates (except if such changes are made by Declarant) without the consent of Declarant and the ARB as provided herein.

B. Owners shall be permitted to lease their Townhome, provided that such lease shall require the tenant thereunder to comply with the Association Documents. "Short-Term Rentals" (as that term is defined below) of Townhomes are prohibited. For purposes of this Declaration, the term "Short-Term Rentals" shall mean and refer to the leasing or rental of any Townhome or Lot to a person or entity for a period of less than seven (7) consecutive months. Should an Owner enter into a lease or rental agreement, and said lease or rental agreement shall terminate or expire earlier than stated therein, then Owner may only enter into one more lease or rental agreement in the calendar year in which the previous lease or rental agreement terminated or expired. The subleasing or sub-renting of a Townhome is subject to the same requirements and limitations as are applicable to the leasing or renting thereof. If an Owner intending to lease or rent a Townhome is delinquent in the payment of Assessments, the Association shall be entitled, but not required, to prohibit the Owner from renting or leasing the Townhome until such delinquency is made current. From time to time, the Association may reserve the right to approve of any form of lease that an Owner wishes to use, or otherwise require inclusion in a Lease of certain provisions that the Association may deem necessary or appropriate to assure the tenant's compliance with all the terms and provisions of the Association Documents. The Association may charge a reasonable administrative fee not to exceed One Hundred and No/00 Dollars (\$100.00) for the required review of any lease or rental agreement, or other such amount as permitted by law from time to time. Townhomes shall be leased in their entirety, and no individual rooms may be leased.

C. No time-sharing plan (as defined in Chapter 721, Florida Statutes, as may be amended from time to time), or any similar plan of fragmented or interval ownership of Townhomes shall be permitted. De facto timesharing of a Townhome shall not be permitted. By way of example but not limitation, de facto timesharing shall include use of a Townhome by multiple persons, such as siblings or business associates, who intend that they and their families would split occupancy of the Townhome into different periods for use during the year.

Section 10.28 Tree Removal and Landscaping. Except if done by Declarant or a Builder with the approval from Declarant, trees measuring six inches (6") or more in diameter at three feet (3') or more above ground level shall not be cut or removed without the prior written consent of the ARB; provided, however, if approved by the ARB, trees located within six feet (6') of the location of the Townhome may be removed, regardless of size, without prior approval of the ARB. More restrictive arbor ordinances or environmental laws shall control in the event of conflict herewith. There shall be no removal of trees or Lot clearing, other than clearing of underbrush, until the ARB has approved in writing a general, conceptual landscape plan that designates those existing trees to be retained and preserved on the Lot. All Lots shall have fully sodded front and side lawns using St. Augustine Grass (i.e., *Stenotaphrum Secundatum* "Floritam" or a similar variety) except in approved landscape or retained natural areas, or as otherwise installed by Declarant or permitted by the ARB. All areas of each Lot not covered by building improvements or included within approved gardens and natural areas within the Lot shall be sodded prior to occupancy of the Townhome on that Lot. Unless prohibited by law, natural areas shall be finished by removal of underbrush and addition of mulch. Notwithstanding anything contained herein to the contrary and unless done so by Declarant, prior to Turnover no tree, regardless of size, shall be removed without prior written consent of the ARB.

Section 10.29 Townhomes.

A. No Townhome shall contain less than the minimum square footage required by the Local Government, nor greater than the maximum square footage permitted by the Local Government.

B. No Home shall contain less than 1,400 square feet of air-conditioned living area, nor greater than the maximum square footage permitted by the Local Governmental Authority.

C. Each Townhome shall have an attached fully enclosed garage capable of housing not less than one (1) standard sized automobile, which shall not be enclosed for use as a living area.

D. Setbacks for Townhomes shall be as permitted by the Local Government.

E. No Townhome shall exceed two (2) stories in height.

F. No Townhome shall have exposed structural block on its front elevation.

G. All driveways shall be constructed of solid concrete or decorative pavers approved by the ARB.

H. Except as may otherwise be provided herein (if at all) with regard to central air conditioning compressor units, all oil tanks, soft water tanks, wood piles, water softeners, well pumps, sprinkler pumps, and other or similar mechanical fixtures and equipment, shall be screened or located so as not to be visible from a Street or other Lot.

I. Unless installed by Declarant or the Association, the following fence materials are expressly prohibited: (a) metal, other than decorative aluminum; (b) plastic, other than PVC which is tan in color; (c) fabric of any type; (d) wood of any type; (e) bamboo; or (f) chain link.

Section 10.30 Mailboxes.

A. Community mailboxes may be provided by the United States Postal Service ("USPS") and individual mailboxes on each Lot shall be prohibited while community mailboxes are utilized by the U.S. Post Office. If community mailboxes are not provided, each Owner shall install a U.S. Postal Service-approved mailbox, the color, style and design of which shall be subject to approval by the ARB. All individual mailboxes shall be mounted on a 4" X 4" vertical post with a supporting bracket installed at a 45-degree angle to the post. Except for identifying numbers and letters, the mailbox shall be painted solid black and the post and support shall be painted solid white.

B. Notwithstanding the foregoing, in connection with the development of the Community, should: (a) the USPS require the use of cluster box units approved by the USPS ("CBUs") for the purpose of centralized mail delivery by the USPS ("Centralized Mail Delivery") to the Community or any part, Section, or phase thereof; (b) any other Governmental Authority requires the use of CBUs for Centralized Mail Delivery to the Community or any part, Section, or phase thereof; or (c) Declarant, in its sole discretion, desires to develop the Community or any part, Section, or phase thereof with CBUs for Centralized Mail Delivery, then the Community or the applicable part, Section, or phase thereof shall be developed with concrete slabs on, as applicable, Common Property or Limited Common Property to accommodate the subject CBUs. Unless otherwise undertaken by the USPS from time to time, the Association, as determined necessary by the Board, and, as applicable, at Common Expense or Limited Common Property Expense, shall be responsible for the routine maintenance, repair, and replacement of the aforementioned concrete slabs and all CBUs, all in accordance with any applicable requirements, rules, policies, and guidelines of the USPS. Notwithstanding the foregoing, neither Declarant nor the Association shall ever be responsible for the safety or security of any CBUs or any mailboxes or parcel compartments contained therein. Each Owner and Member acknowledges and agrees that if at any time their Lot is or

becomes serviced by CBUs, all mail delivery to said Lot by the USPS will be done via the mailboxes or parcel compartments contained within the CBUs, as opposed to individual, curbside mailboxes for said Lot.

Section 10.31 Exterior Lighting. Except as may be installed initially by Declarant and except for seasonal Christmas or holiday decorative lights, which may be displayed not earlier than three (3) days prior to Thanksgiving and removed by January 10, no spotlights, seasonal and special effect lighting, floodlights or similar high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Lot or the Improvements thereon or upon any Common Area, or any part thereof without the prior written approval of the ARB and in accordance with the Planning Criteria and the Rules and Regulations. Low intensity lighting which does not disturb the Owners or other occupants shall be permitted.

Section 10.32 Approved Builders. All development, construction, and reconstruction of any Townhome or other Improvements on or about a Lot shall be performed by a Builder approved by Declarant (Approved Builder), or by another licensed residential building contractor approved by Declarant or the ARB (after Turnover). D.R. Horton, Inc. shall be deemed an Approved Builder for all purposes under this Declaration.

Section 10.33 Construction Requirement.

A. Construction and completion of any and all Improvements shall be performed and completed by Owner at its sole cost and expense in substantial conformance, in all material respects, with the plans approved by the ARB.

B. For purposes of this Section, "Completion of Construction" shall have occurred only upon the satisfaction of the following conditions: (i) the Improvements, including, without limitation, all equipment, fittings and fixtures and all exterior painting, landscaping, patios and driveways required to be installed pursuant to the approved Plans, shall have been substantially completed and installed in substantial conformance, in all material respects, with the approved Plans therefore, as certified by the architect, engineer, or architectural or engineering firm responsible for the creation of the approved Plans; (ii) permanent certificate(s) of occupancy for the Improvements shall have been issued by the appropriate governmental authorities to Owner, and a copy thereof delivered to Declarant, and all other certificates, licenses, permits, authorizations, consents and approvals necessary for the full use and occupancy of the Improvements for their intended purposes shall have been issued by the appropriate Governmental Authority to Owner, and a copy thereof delivered to Declarant; and (iii) Owner shall have caused to be delivered to Declarant a written certificate from its architect or engineer (the "Completion Certificate") to the effect that the construction of the Improvements, including, without limitation, all equipment, fittings and fixtures required to be installed pursuant to the approved Plans, have been substantially completed and installed in substantial conformance, in all material respects, with the approved Plans and in accordance with all applicable laws relating to the construction of the Improvements, and that direct connection has been made to all abutting public utilities (including water, electricity, storm and sanitary sewer and telephone).

C. For purposes of this Section, "Commencement of Construction" or "Commence Construction" shall mean that: (a) a building permit has been issued for the Townhome by the appropriate jurisdiction; (b) construction of the Townhome has physically commenced beyond site preparation; and (c) the Townhome's slab and foundation have been inspected.

Section 10.34 Compliance with Documents. Each Owner and their family members, guests, and invitees shall be bound by and abide by the Association Documents. The conduct of the foregoing parties shall be considered to be the conduct of the Owner responsible for, or connected in any manner with, such individual's presence within the Community. Such Owner shall be liable to the Association and shall pay the cost of any maintenance, repair or replacement of any real or personal property located on the Property

rendered necessary by his or her act, neglect or carelessness, or by that of any other of the foregoing parties as an Individual Assessment.

Section 10.35 Board's Rule Making Power. The foregoing use restrictions shall not be deemed to be all inclusive nor restrict the right of the Association to adopt such reasonable Rules and Regulations governing the use of the Community as the Board may determine from time to time, provided that such Rules and Regulations: (i) are not in conflict with the provisions hereof; (ii) apply equally to all lawful residents of the Community without discriminating on the basis of whether a Townhome is occupied by an Owner or his or her lessee; and (iii) for so long as Declarant holds any Townhomes within the Community for sale in the ordinary course of its business, have the prior written approval of Declarant. Declarant has the right to approve any rule or modification thereof.

Section 10.36 No Implied Waiver. The failure of the Association or Declarant to object to an Owner's or other party's failure to comply with the covenants or restrictions contained herein or any other Association Document (including the Rules and Regulations now or hereafter promulgated) shall in no event be deemed a waiver by Declarant or the Association or of any other party having an interest in the Property of its right to object to same and to seek compliance in accordance with the provisions of the Association Documents.

Section 10.37 Declarant and Builder Exemption. Declarant and Builders plan to undertake the work of constructing Townhomes and Improvements upon the Property and may undertake the work of constructing other buildings upon adjacent land or other Property being developed or marketed by Declarant or its affiliates. The completion of that work and the sale, rental and other transfer of Townhomes is essential to the establishment and welfare of the Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners, the Association, nor the ARB shall do anything to interfere with Declarant's and/or Builder's activities. The Declarant and Builder are exempt from the use restrictions provision, conditions and terms set forth in Sections 10.01, 10.02, 10.04, 10.05, 10.08, 10.09, 10.10, 10.13, 10.14, 10.15, 10.17, 10.18, 10.20, 10.22, 10.24, 10.28, 10.29(B), and 10.33(B) for any Lot which is subject to Declarant or Builder construction activity related to the construction of Improvements on the Lots, or other Lots in the Community, and for any Lot or Townhome on any Lot which is being held for sale or used by Declarant or a Builder for any sales, marketing, construction or related Declarant or Builder activity.

ARTICLE XI

DAMAGE OR DESTRUCTION TO COMMON PROPERTY

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

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

B. If insurance proceeds are insufficient to effect total restoration, and the cost of restoration exceeds such proceeds by Two Hundred Fifty Thousand Dollars (\$250,000.00) or less, then the Association shall cause the Common Property to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Articles VI and VII herein.

C. If the insurance proceeds are insufficient to effect total restoration and the cost of restoration of the Common Property exceeds said proceeds by over Two Hundred Fifty Thousand Dollars (\$250,000.00), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (a) to rebuild and restore either: (i) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (ii) in a manner less expensive, and in the event of (i) or (ii) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (b) to not rebuild and to retain available insurance proceeds. In the event it is decided that the damaged or destroyed Common Property shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away, so as not to be a safety hazard or visual nuisance, and the land shall be fully sodded with grass and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements on the Common Property shall not be effective without the prior written approval of Declarant as long as Declarant owns any portion of the Property.

D. Each Owner shall be liable to the Association for any damage to the Common Property not fully covered or collected by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family, lessees, invitees and guests, both minors and adults.

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

ARTICLE XII

INSURANCE AND CONDEMNATION

Section 12.01 Association Insurance. The Association shall purchase and maintain the following insurance coverages subject to the following provisions, and the cost of the premiums therefor shall be a part of the Common Expenses:

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

B. **Public Liability Insurance.** A comprehensive policy of public liability insurance naming the Association and, until completion of construction of a Townhome on each Lot located within the Property, Declarant as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Common Property and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed by any one person for any one occurrence; not less than Three Million Dollars (\$3,000,000.00) for damages incurred or claimed by more than one person