

Prepared By and Return To:  
Vogler Ashton, PLLC  
2411 - A Manatee Ave. West  
Bradenton, FL 34205

**DECLARATION**  
**OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR**  
**CANOE CREEK**

This Declaration (the "Declaration") is made as of the 23 day of May, 2018, by **CANOE CREEK INVESTMENTS, LLC**, a Florida limited liability company, (the "Declarant" or "Developer"), whose mailing address is 5800 Lakewood Ranch Blvd, Sarasota, Florida 34240.

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of and is developing that certain real property within Manatee County, Florida, described on Exhibit "A", attached hereto and made a part hereof (the "Initial Property" or "Property"); and

**WHEREAS**, the Initial Property has or will be platted as an initial phase of "Canoe Creek," and Declarant desires to establish thereon a planned community of both residential and commercial uses, which community shall be subject to the terms of this Declaration as hereinafter provided; and,

**WHEREAS**, this Declaration does not and is not intended to create a condominium within the meaning of The Florida Condominium Act, Florida Statutes Section 718.01, et seq., and none of the Property falls within or under The Florida Condominium Act.

**NOW, THEREFORE**, Declarant declares that the above recitals are true and correct and shall be incorporated herein; and the Property, and such additions thereto as may hereafter be made pursuant to Article 2, is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, reservations, restrictions, conditions, easements, limitations, terms, obligations, charges, assessments and liens as hereinafter set forth herein this Declaration, as same may be amended from time to time, all of which shall run with the land and be binding upon all owners and transferees acquiring any interest therein.

**ARTICLE 1**  
**DEFINITIONS**

The following words and terms when used in this Declaration or any amendment or supplement hereto shall, unless the context clearly otherwise indicates, have the following meanings:

**1.01. "Architectural Review"** means the requirements of this Declaration that certain improvements or alterations to Lots or existing improvements be reviewed and approved, and where the context indicates, the review and approval procedures of Article 9.

ACCEPTED IN OPEN SESSION 6/13/18  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

1.02. **"ARC"** means the Architectural Review Committee described in Article 9.

1.03. **"Articles"** means the Articles of Incorporation of the Association. A copy of the initial Articles of Incorporation of the Association is attached hereto as Exhibit G.

1.04. **"Assessment"** means any charge levied by the Association in accordance herewith against a Lot and the Owner of such Lot. The term Assessment shall refer collectively to all types of Assessments issued by the Board, including but not limited to the following types of Assessments:

(a) **"Regular Assessment"** means the recurring periodic Assessment for each Owner's share of the Common Expense.

(b) **"Neighborhood Assessment"** means any Assessment made for those expenses that are incurred primarily for the benefit of all Owners within a Neighborhood(s), as such primary benefit is determined by the Board of Directors. By way of example only, Neighborhood Assessments shall be levied for expenses relating to unique Neighborhood amenities such as enhanced Lot Maintenance Services. Neighborhood Assessment shall be levied upon all Lots within the applicable Neighborhood at an equal rate, or, if elected by the Board, on the nominal size of the lot frontage as provided for in paragraph 5.06 hereof. The various Lot Types shall each be deemed a separate Neighborhood, such as by way of example, the Paired Villas shall be a separate Neighborhood, and shall have additional Neighborhood Assessments associated with each Lot Type and Neighborhood.

(c) **"Special Assessment"** means any Assessment made under the authority of this Declaration other than a Regular Assessment and a Neighborhood Assessment. Special Assessments may include, but shall not necessarily be limited to, amounts reasonably necessary to supplement Regular Assessments and Neighborhood Assessments, the cost of bringing a particular Owner or Lot into compliance with this Declaration, the Articles, By-Laws or rules and regulations, including any standards, specifications, guidelines, or the like, made pursuant thereto, costs of acquiring, maintaining, operating, repairing or replacing Common Property, or the cost of any service, material or combination thereof obtained by the Association for the use and benefit of such Owner or his Lot as provided herein.

1.05. **"Association"** means the Canoe Creek Neighborhood Association, Inc., a Florida corporation not-for-profit, its successors and assigns.

1.06. **"Board"** means the Board of Directors of the Association.

1.07. **"By-Laws"** means the By-Laws of the Association. A copy of the initial By-Laws of the Association is attached hereto as Exhibit H.

1.08 **Intentionally Deleted.**

1.09. **"Code"** means the Land Development Code and/or Code of Ordinances for Manatee County, Florida, as it may have been amended, effective as of the date this Declaration is recorded.

1.10. **"Common Expenses"** means the actual and estimated cost of the following:

- (a) The maintenance, management, operation, repair and replacement of any Common Property, and all other areas of the Subdivision maintained by or under the control of the Association, including those parts of the Lots, if any, that the Association is to maintain under this Declaration.
- (b) Valid contractual obligations of the Association in excess of revenues, whether attributable to unpaid Assessments or otherwise.
- (c) Maintenance by the Association of areas within public rights-of-way or drainage easements or ditches adjoining or running through the Subdivision as may be provided in this Declaration or as determined by the Board.
- (d) Expenses of administration and management of the Association.
- (e) The cost of any insurance obtained by the Association.
- (f) Reasonable reserves, if not waived, as determined in accordance herewith.
- (g) Taxes and other governmental assessments and charges paid or payable by the Association, regardless of the current status to title of the Common Areas.
- (h) Utility charges and deposits therefor incurred in the carrying out of Association obligations hereunder, which may include electrical service charges to maintain and operate streetlights within the Subdivision if such lighting is installed by Declarant or the Association.
- (i) The cost of any other item or items designated herein as a Common Expense or reasonably or necessarily incurred by the Association or in furtherance of the purpose of the Association or a discharge of any obligations expressly or impliedly imposed on the Association by this Declaration or by law.

**1.11. "Common Property" or "Common Areas" or "Common Elements"** means all real property or interests therein, including easements, licenses and servitudes, owned by or granted or leased to the Association, or the use of which has been granted to the Association, together with all improvements thereto. The terms Common Property or Common Areas or Common Elements may be used interchangeably herein to mean and refer to the same things. Common Property also includes any personal property acquired by the Association if designated Common Property, and any property within the Subdivision which is not owned by the Association but is nevertheless to be maintained or administered by it pursuant to an easement, license, this Declaration, or agreement with any person or entity, which maintenance/administration affords benefits to the Members.

**1.12. "County"** means Manatee County, Florida, a political subdivision of the State of Florida. Where County action is contemplated hereby, that action may be taken by the agent, official or other designee of the County as provided by the Code

**1.13. "Declarant" and/or "Developer"** means the entities listed as Declarant in the introductory paragraph, **Canoe Creek Investments, LLC**, a Florida limited liability company, or its successors or assigns.

**1.14. "Declarant Member"** means the Declarant and Developer, (collectively referred to herein as the "Declarant" and/or "Declarant Member"), and any successor or assignee of the Declarant

having an interest in the Subdivision for the purpose of development and sale. Voting rights for Declarant Members are set forth in Article 3.

**1.15. "Declaration"** means this document, together with all amendments, supplements, and exhibits hereto. The rules & regulations of the Association and guidelines and specifications of the ARC are incorporated into this Declaration.

**1.16. "Governing Documents"** means and refers to all documents governing the affairs of the Association and Subdivision, including the Declaration, as amended, supplemented and clarified, the Articles, the By-Laws and all Rules and Regulations of the Association, including the ARC guidelines and the like.

**1.17. "Lot"** means a discrete lot or building parcel, whether improved or not, reflected on a recorded subdivision plat of the Subdivision, but excluding any platted land that is Common Property. Where one or more platted lots are combined or otherwise reconfigured pursuant hereto, the term "Lot" means the reconfigured parcel.

**1.17a. "Lot Types"** means the varies types of Lots, as permitted by the Declarant, which may be included within this Subdivision, including but not limited to, the following:

- A. Single Family Attached – "Paired Villas" or "Villas";
- B. Single Family Detached; and,
- C. Any other Lot Type that Declarant, in its sole and absolute discretion, desires to market and sell as a Lot in the Subdivision.

The Declarant exclusively reserves the right to add to, delete, alter, amend, modify, and change, in the Declarant's sole absolute discretion, the various Lot Types associated with this Subdivision.

**1.18. "Lot Maintenance Services"** means the various types of landscaping, lawn maintenance, or other similar services that the Declarant and/or Association, in their sole discretion, may elect to provide to Members' Lots for a monthly service charge/assessment.

**1.19. "Member"** means every person or entity qualified for membership in the Association.

**1.20. "Neighborhood"** means and refers to a portion of the Property, if any, defined herein or in a Supplemental Declaration as a unique geographic area for which Neighborhood Assessments may be applicable. The various Lot Types shall each be deemed a separate Neighborhood, such as by way of example, the Paired Villas shall be a separate Neighborhood and the Single Family Detached Lots shall be a separate Neighborhood, and each shall have additional Neighborhood Assessments associated with each Lot Type and Neighborhood.

**1.21. "Owner" or "Lot Owner" or "Unit Owner"** means the single or multiple owner of record of the fee simple title to any Lot, excluding those having such interest merely as security for the performance of an obligation.

**1.22. "Plat"** means the plat of (i) CANOE CREEK PHASE I, as recorded in **Plat** Records Book **63**, Pages **62** through **79** of the Public Records of Manatee County, Florida; and (ii) any additional plats recorded as part of the addition of other real property as described in Article 2.

**1.23. "Property" or "Properties" or "Initial Property"** means the lands subject to this Declaration, including any additions thereto, and as set forth in Exhibit "A", attached hereto, as same may be amended, supplemented, re-platted, reconfigured, increased or decreased as set forth herein.

**1.24. "Public Records"** means the Public Records of Manatee County, Florida.

**1.25. "Regular Member"** means all Owners with the exception of the Declarant Members. Voting rights for Regular Members are set forth in Article 3.

**1.26. "Subdivision"** means the Initial Property and any additions or reductions thereto pursuant to Article 2. The terms "Subdivision," "Subdivision Improvements," "Project," "Canoe Creek Project," and "Property" as these terms may be used interchangeably herein, shall mean and refer to each other and the same thing.

**1.27. "Turnover Date" or "Turnover"** means the earliest of the following dates:

(a) The effective date on which Declarant Member surrenders its right to Declarant membership in writing; or

(b) Such earlier date as may be required by law then in effect at the time of recordation of this Declaration.

**1.28. "Unit"** shall mean and refer to the residential structure constructed on a Lot.

## **ARTICLE 2 PROPERTY**

**2.01. Initial Property.** The Initial Property is subject to this Declaration, and is sometimes otherwise known as "Canoe Creek Phase I". The Initial Property is set forth in Exhibit "A", attached hereto and incorporated herein.

**2.02. Additions.** Additional lands may become subject to this Declaration as follows:

(a) Declarant shall have the right, without further consent of the Association or any Owners, to bring within the plan and operation of this Declaration any property that is contiguous or nearly contiguous to the Subdivision. Such additional property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. Any additions under this Article shall be made by filing an Amended or Supplementary Declaration with respect to the additional property, which shall extend the operation and effect of this Declaration to such additional property. The Amended or Supplementary Declaration may contain such complementary additions and/or modifications of the covenants contained in this Declaration as may be determined by Declarant, in its sole and absolute discretion, to reflect any unique characteristics of the additional property, provided that such additions and/or modifications are not materially and substantially inconsistent with this Declaration. Notwithstanding anything to the contrary herein, Declarant and/or Developer reserve the right to make any modifications, changes, or deletions to the Common Areas, including the landscaping and landscape buffers, open spaces, and all other areas of the Initial Property and Property upon the addition of new property to the Subdivision.

(b) Upon approval in writing of the Association, pursuant to an affirmative vote of the Owners of two-thirds (2/3rds) of all of the Lots then subject to the Declaration, the Owner (other than Declarant) of other property contiguous or nearly contiguous to the Subdivision who desires to add it to the plan of this Declaration and to subject it to the jurisdiction of the Association, may record an Amended or Supplementary Declaration with respect to the additional property, which shall extend the operation and effect of this Declaration to such additional property.

(c) Nothing herein, however, shall obligate Declarant to add any property to the Subdivision, or to develop any such future portions of the Subdivision under a common scheme, development plan or the like, nor to prohibit Declarant from rezoning and changing plans with respect to such future portions. The Association, and all Owners by acceptance of a deed to or other transfer conveyance of their Lots, shall be deemed to have automatically consented to any such rezoning, re-platting, change, addition or deletion thereafter made by Declarant to the Property, including the Common Areas, and shall evidence such consent in writing if requested to do so by Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this consent provision). Declarant reserves the right to change any of the Lot Types, sizes or configurations, the housing, building and dwelling unit plans, styles, sizes and configurations, the landscaping, recreational amenities and Common Property, and to change the general scheme of development, general development plan, and the like, in any way Declarant deems reasonable, in Declarant's sole and absolute discretion.

**2.03. The Property.** Each of the Lots shall be developed and used solely for residential use in accordance with this Declaration. No business, commercial, religious, charitable or other enterprise of any kind shall be maintained upon or in connection with the use of any Lot. No residence or part thereof on any Lot shall be rented separately from the rental of the entire Lot. However, the Declarant shall have the right to maintain facilities on the Lots owned or maintained by the Declarant for sales and promotional purposes, and for maintenance purposes. The overall Canoe Creek Project is a development project as depicted on site plans and drawings currently available and provides for a community of both residential uses on the Lots and possible commercial and other uses in areas designated as commercial on site plans (if any). Commercial and other uses may also be permitted on lands near or adjacent to the Property. Declarant specifically reserves the right to change, supplement, amend, add to, delete and/or modify in any anyway the Canoe Creek Project, the Subdivision and the Property, all in Declarant's sole and absolute discretion in furtherance of the development of the overall Canoe Creek Project.

**2.04 Entrance and Boulevard Landscaping; Access Gates.** Entrance median(s) and access gate(s), (if any), may be installed by Declarant within the various roadways within the Subdivision. Declarant does hereby reserve to Declarant and hereby grants to the Association the right to (i) plant trees, hedges, grass and landscape, (ii) construct, operate, maintain, repair and replace electronic access gates, entry way features and signs, and (iii) construct an entryway and signs identifying the property as "Canoe Creek" or any specific Neighborhood, if any, therein, and to provide for irrigation and illumination of same, within the median strip dividing the roadway at the entrance, in any manner the Declarant, in its sole and absolute discretion, deems necessary and proper in order to identify and beautify such area. The maintenance of the median improvements, including the access gates (if any), perimeter walls and fences shall be part of the Common Expenses. Declarant and Developer, and their successors, assigns, agents and invitees, hereby reserve and are granted an easement for ingress, egress, access and use on, over, under, through and across all gates, entranceways, roadways and all other Common Property

within the Subdivision, which access and use easement shall continue until such time as Declarant and Developer no longer own or control any Lot within the Subdivision.

**2.05 Restrictions Running With the Land.** Declarant declares that the Property, and such additions thereto as may hereafter be made pursuant to Article 2, is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, reservations, restrictions, conditions, easements, limitations, terms, obligations, charges, assessments and liens as hereinafter set forth herein this Declaration, as same may be amended from time to time, all of which shall run with the land and be binding upon all owners and transferees acquiring any interest therein.

### **ARTICLE 3 MEMBERSHIP IN ASSOCIATION**

**3.01. Membership.** The Owner of each Lot shall be a Member of the Association. There shall be no other Members except that the Declarant shall be a Member as hereinafter provided. Each Owner accepts membership and agrees to be bound by this Declaration, the Articles and By-Laws and the rules and regulations, including any standards, specifications, guidelines, or the like, made pursuant thereto. Membership is appurtenant to the ownership of a Lot and may not be transferred separately from the transfer of ownership of the Lot. Membership terminates upon the termination of an Owner's interest in a Lot.

**3.02. Voting Rights.** For the purposes of voting rights, the Association has two types of memberships that are (a) Regular Member and (b) Declarant Member. Regular Members are all Owners with the exception of the Declarant Members, if any. Regular Members are entitled to one vote for each Lot in which such Members hold a required ownership interest. There shall be only one vote for each Lot, which vote shall be exercised among the Owners as provided in the By-Laws. Declarant Members are the Declarant and any successor or assignee of Declarant having an interest in the Subdivision for the purpose of development and sale. The Declarant Members shall, regardless of the number of Lots actually owned, if any, have a number of votes equal to three (3) times the total number of votes then held by Regular Members, plus one additional vote. If there is more than one Declarant Member, they shall divide and apportion their votes as they may agree. Declarant membership shall terminate on the Turnover Date. After the Turnover Date, Declarant Members who then own Lot(s) shall be Regular Members. Voting, notices and all other matters affecting the Association may be conducted electronically, with electronic signatures and the like, all as permitted by law.

**3.03. Control of Board During Development.** Prior to the Turnover Date, Declarant shall have the exclusive right to designate, appoint and remove members of the Board, and directors designated by Declarant need not be Members. Election of directors shall otherwise be as provided in the By-Laws. After the Turnover Date, the Declarant shall be entitled to elect at least one (1) member of the Board as long as Declarant holds for sale in the ordinary course of business at least one (1) Lot within the Subdivision, or such lower percentage of Lots as is required by law then in effect at the time of recordation of this Declaration.

### **ARTICLE 4 COMMON PROPERTY / COMMON AREAS**

**4.01. Description of Common Property / Common Areas.** The Common Property (also referred to herein as the Common Areas or Common Elements) shall consist of the following, provided however, Common Property shall not include any portion of the Subdivision that Declarant has conveyed and/or dedicated to any other governmental authority:

(a) The Common Property owned by or granted or leased to the Association, or the use of which has been granted to the Association, together with all improvements thereto, as same may be described herein this Declaration and/or designated on the recorded Plat of the Initial Property or on the Plat of any other Property added to this Subdivision. Such Common Property for which the Association shall have the power, authority and responsibility to operate and maintain, all as subject to this Declaration, shall include (i) the private, neighborhood streets and roadways set forth on the Plat, including the areas identified as a private roadway easement or other private easements thereon, including but not limited to, private drainage and utility easements and facilities, conservation, wetland buffer or preservation easements, tracts and facilities designated on the Plat or herein as under the control of the Association; (ii) the entrance and other private roadway medians installed within such private streets and roadways, including improvements therein and thereon, such as landscaping, access gates, walls, fences, and appurtenances, signage and lighting, (but not including any public water, public sewer, public reclaimed water, public roads or similar facilities dedicated to the County and/or general public); (iii) any areas identified as Common Areas/Common Property under control of the Association as designated either on the Plat, in this Declaration or by the Declarant and/or Association, including common landscaped areas, open space areas, recreational areas (which may include recreational centers and pools), amenity centers, any linear parks, trails, walkways, and open space amenity areas created by Declarant (if any); and (iv) the right to use the private Common Areas and the private amenities constructed therein. Common Areas shall not include tracts, improvements or facilities dedicated to the public, unless the Declarant has otherwise specifically identified those areas as private "Common Areas" or areas to be maintained by the Association. The Association shall adopt separate rules and regulations, which may be amended from time to time, regulating all Owners' (and their permitted guests) use of the Common Areas/Common Property, and all Owners shall be required to strictly adhere to such rules and regulations, including requiring their permitted guests to strictly adhere to such rules and regulations, or be subject to having their use of and access to the Common Property restricted or prohibited by the Association. The Association may implement additional and more restrictive rules and regulations regarding the use and maintenance of the Common Property; and in particular, the use of any recreational centers and pools.

(b) Individual mailboxes or clustered mailboxes in a mail station or center, attached to free-standing posts or located within a common mail station, which serve two or more Lots (the "Mailboxes"), if same are described as Common Areas by Declarant. The Mailboxes shall be located at such places throughout the Subdivision as may be designated by Declarant prior to the Turnover Date, and thereafter by the Board, which location shall be as set forth on approved site plans for the Subdivision and is subject to approval by the United States Postmaster General.

(c) Any and all signage, including, but not limited to, stop signs, warning signs, and speed limit signs, located anywhere within the Common Property, but not any such signs located on public streets and right of ways.

(d) Such additional Common Property as Declarant may elect to add and other Common Property that may be acquired by the Association as hereinafter provided. Declarant reserves the right to amend and alter the development plan and/or scheme of development of the Common Property, in Declarant's sole and absolute discretion, provided such amendment does not delete or convey to another party any Common



Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property. Notwithstanding anything to the contrary herein, Declarant reserves the right to, and the Association, and all Owners by acceptance of a deed to any Lot, shall automatically be deemed to have consented to this reservation by Declarant to change the scheme of the development and general development plan of the Project, including but not limited to, additions to, and deletions of the Common Property, reconfiguration of Lots, change of uses, change of Lot types, and all other changes to the Subdivision and Subdivision Improvements so implemented by Declarant pursuant hereto.

(e) **Neighborhood Amenities.** In the event the Villas Lot Type has an amenity center that is designated for use exclusively by the Owners of the Villas; then in such event, all operation and maintenance costs associated therewith shall be a Neighborhood Assessment paid by the Owners of the Villas only; and such amenity shall not be considered Common Property of the entire Subdivision.

(f) **Shared Maintenance and Amenities.** The Association has the power and authority to enter into contractual arrangements with adjacent property owners and/or homeowners associations for shared operation and maintenance costs associated with any shared amenities.

**4.02. Members Easement of Enjoyment.** Every Member shall have a non-exclusive easement for the use and enjoyment of the Common Property. Said easement is appurtenant to and passes with the Member's Lot. Each Member's easement with respect to the Mailboxes (if same are designated as Common Areas) is restricted to the Mailbox specifically assigned to the Lot owned by such Member. The easement is subject to this Declaration and rules and regulations, including any standards, specifications, guidelines, or the like promulgated by the Board. Notwithstanding anything to the contrary herein, Declarant and Developer, and their successors, assigns, agents and invitees, hereby reserve and are granted an easement for ingress, egress, access and use on, over, under, through and across all gates, entranceways, roadways and all other Common Property within the Subdivision, which access and use easement shall continue until such time as Declarant and Developer no longer own or control any Lot within the Subdivision.

**4.03. Delegation of Use.** Any Owner may delegate his right of use of the Common Property to the members of his family, tenants or social guests, subject to this Declaration.

**4.04. Waiver of Use.** No Owner may exempt himself from personal liability for Assessments nor release the Lot owned by him from the liens and charges for such Assessments by waiver of the use and enjoyment of the Common Property or non-use thereof, or the abandonment of his Lot.

**4.05. Extent of Member's Easement.** The rights and easements of enjoyment created herein are subject to the following:

(a) The right of the Board and its ARC to establish reasonable rules and regulations, including any standards, specifications, guidelines, or the like, governing the use of the Common Property.

(b) The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, district or authority, for such purposes and subject to such conditions as may be agreed to by Declarant or the Association. No such dedication or

transfer shall be effective unless approved by Members entitled to cast two-thirds (2/3rds) of the votes of the membership after written notice of the proposed action is sent to every Member not less than sixty (60) nor more than one hundred twenty (120) days in advance of any action taken.

(c) The right of Declarant or the Association, by its Board, to dedicate or transfer any public or private utility, drainage or utility easements that are Common Property or are located on Common Property.

(d) The right of Declarant to reserve onto itself additional non-exclusive easements in, on, under, through or over Common Property, and the right of Declarant to grant additional non-exclusive easements in, on, under, through or over Common Property to owners of property not part of the Subdivision for the purposes of access, ingress, egress, utilities or drainage.

(e) The right of the Association through the Board, with the written consent of Declarant prior to the Turnover Date, and without such consent thereafter, to grant such drainage, utility and access easements in, on, under, through, or over the Common Property, or any part thereof, to governments having jurisdiction, providers of utilities or Declarant, provided such easement, in the judgment of the Board, will not unreasonably interfere with the use of the Common Property for its intended purpose.

(f) The right of the Association to suspend the rights of a Member, or a Member's tenants, guests, or invitees, to use the Common Property for infractions of this Declaration or any rules and regulations, including any standards, specifications, guidelines, or the like, governing the use of the Common Property, including but not limited to, for failure to pay Assessments and conduct unbecoming a "Family-Friendly" neighborhood.

(g) The terms of this Declaration, as amended and supplemented, the Code and the terms of all governmental approvals affecting the development of the Subdivision, and the rights of the County.

(h) MEMBERS' USE OF THE COMMON PROPERTY IS SUBJECT TO THE PROVISIONS OF THIS DECLARATION, WITH SPECIAL ATTENTION TO ARTICLES 12.06, 12.08, 12.15, 12.16, 12.17 AND THE PROVISIONS SET FORTH BELOW:

**DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL OR SECURITY FOR ANY PARK, LAKE, RECREATION AREA, RECREATIONAL AMENITY, GATE, GATED ENTRANCE OR ACCESS POINT, WETLAND, NATURE AREA OR ANY OTHER COMPONENT OF THE COMMON PROPERTY, INCLUDING POOL, POOL HOUSE, GATHERING AREA, TOT LOT/PLAYGROUND, BOARDWALK, OR OTHER AMENITIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE, INCLUDING BUT NOT LIMITED TO, ALLIGATORS, SNAKES, RODENTS, COYOTES, WILD HOGS, ANTS, BEES, WASPS, AND OTHER STINGING INSECTS (HEREINAFTER COLLECTIVELY "WILDLIFE") MAY HABITAT OR ENTER INTO THE PROPERTIES, LOTS AND DWELLING UNITS AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES (AS DEFINED IN ARTICLE 12.16) ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR**

**DAMAGE CAUSED BY SUCH WILDLIFE. WILD HOGS HAVE BEEN KNOWN TO DAMAGE SOD AND LANDSCAPING HOWEVER THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST OR REPAIR ANY SUCH DAMAGE. ALTHOUGH THE SUBDIVISION HAS GATED ACCESS POINTS AND PRIVATE STREETS, SECURITY IS NOT PROVIDED IN THE SUBDIVISION, NOR IS THE SUBDIVISION MONITORED FOR SECURITY, AND DECLARANT AND ASSOCIATION PROVIDE NO GUARANTY OR OTHER ASSURANCES THAT OTHER MEMBERS OF THE PUBLIC WILL BE PROHIBITED AND/OR PREVENTED FROM ENTERING THE SUBDIVISION. ANY OWNER OR INDIVIDUAL ENTERING THE SUBDIVISION AND USING ANY PROPERTY, INCLUDING THE COMMON PROPERTY, SHALL DO SO AT HIS/HER OWN RISK AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, INVITEES AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES OF ANY KIND ARISING FROM SUCH USE OF AND ENTERING INTO THE SUBDIVISION.**

**4.06. Association's Acceptance of Common Property.** Acceptance of Common Property. The Association shall operate, maintain and repair the Common Property at all times regardless of whether fee simple ownership shall be with Developer or another party. Notwithstanding anything to the contrary in the Declaration, Articles or By-Laws, the Association shall accept fee simple title to the Common Property (including Common Elements and Common Areas) and shall assume all responsibilities associated with the Lot Maintenance Services, all in their "As-Is, Where-Is" condition.

## **ARTICLE 5 ASSESSMENTS**

**5.01. Personal Obligation and Lien for Assessments.** Each Owner of a Lot covenants and agrees to pay to the Association all Assessments levied with respect to such Lot so owned by an Owner, in accordance herewith. The covenant and agreement of an Owner shall begin upon acquisition of such ownership interest in a Lot by any means whatsoever, whether or not it shall be so expressed in any deed or other instrument. Each Assessment, together with Delinquency Charges as provided herein shall be the personal obligation of the Owner of such Lot at the time when the Assessment is due and shall remain the personal obligation of such Owner notwithstanding that such Owner may no longer own the Lot. The personal obligation to pay all Assessments, including all past due Assessments and Delinquency Charges, shall also pass to the successors in title of an Owner (and a first mortgagee acquiring title by any means whatsoever shall be deemed a successor in title to the Owner), and both shall be jointly and severally liable for all of the Assessments, including all past Due Assessments and any Delinquency Charges. All Assessments, together with such Delinquency Charges, shall also be a charge on the land and a continuing lien upon the Lot, which lien shall remain on the Lot and shall run with the land and title thereto, and such continuing lien shall pass to the successors in title of an Owner (which successors in title includes a first mortgagee who may acquire title by any means, including deed in lieu of foreclosure and foreclosure). The Association may record in the Public Records a "Notice of Lien" setting forth amounts claimed due the Association as to any one or more Lots. The execution and recording of such notice is not required in order for the continuing lien for Assessments to be valid. Any assessments paid by Declarant shall be as set forth in Article 5.16, below.

**5.02. Purposes of Assessments.** Assessments levied by the Association shall be used only for the purposes set forth in this Declaration, the Articles and By-Laws. Amounts assessed for Common Expenses shall be used for the general purpose of promoting the recreation, health, safety,

welfare, common benefit and enjoyment of the Owners and occupants of the Subdivision, as may be authorized from time to time by the Board.

**5.03. Regular Assessments.** The amount and time of payment of Regular Assessments shall be determined by the Board after giving due consideration to the current maintenance, operational and other costs and the future needs of the Association. Regular Assessments may include amounts established for reserves (if any, and if specifically established by the Board and not otherwise waived). Not later than thirty (30) days prior to the beginning of each fiscal year, the Board shall estimate the total Common Expenses to be incurred for such fiscal year and the amount of the Regular Assessment to be paid by each Owner to defray such costs. Written notice of the annual Regular Assessment shall be sent to every Owner subject to such Assessment. Each Owner shall thereafter pay the Regular Assessment to the Association at such times and in such installments as may be established by the Board. In addition, if the Association elects to provide Lot Maintenance Services, as provided for in Article 14, herein, then the monthly service charges and other costs and expenses of the Association for providing such Lot Maintenance Services shall be a Regular Assessment, unless the Board determines to include such costs as a Neighborhood Assessment, which assessment shall commence upon the issuance of a certificate of occupancy by the County for the Lot.

**5.04. Neighborhood Assessments.** Neighborhood Assessments shall be determined in the same manner set forth in paragraph 5.03 hereof for Regular Assessments, provided that, any such Neighborhood Assessments shall apply only to the Lot Types or Units within the identified Neighborhood. The various Lot Types shall each be deemed a separate Neighborhood, such as by way of example, the Paired Villas shall be a separate Neighborhood and the Single Family Detached Lots shall be a separate Neighborhood, and each Lot Type and Neighborhood shall have additional Neighborhood Assessments associated with each Lot Type and Neighborhood. Lot Maintenance Services applicable to a particular Lot Type or Neighborhood may be included in Neighborhood Assessments if not otherwise included as a Regular Assessment.

**5.05. Special Assessments.** The Association may levy such Special Assessments as are determined to be necessary or desirable in carrying out its responsibilities and duties under this Declaration. The amount and purpose of all Special Assessments shall be established by the Board, unless otherwise provided. All Special Assessments shall be due and payable at such times and in such installments as may be determined by the Board. Without limiting the generality of the foregoing, the Board may levy Special Assessments in the following circumstances:

- (a) **Supplementary Amounts.** If the Board determines that Regular Assessments or Neighborhood Assessments for the then current year are or will become inadequate to meet Common Expenses for any reason, it shall determine the estimated amount of such inadequacy and levy a Special Assessment against each Lot and Owner responsible for such Assessment.
- (b) **Compliance.** A Special Assessment shall be levied by the Board against a Lot and its Owner to reimburse the Association for costs incurred in bringing the Owner of such Lot and/or the Lot into compliance with this Declaration.
- (c) **Improvement.** The Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, improvement, acquisition, repair or replacement of a described improvement to the Common Property, or additional Common Property, or to any other property specifically maintained by the Association as set forth hereunder this Declaration, including property maintained by the Association for Lot Maintenance Service. After Turnover, Special Assessments for improvements must

be approved by at least sixty (60%) percent of the votes entitled to be cast by Regular Members, or such higher percent of votes as may be specifically required elsewhere herein this Declaration. Prior to Turnover Date, Special Assessments must be approved by Declarant. Special Assessments for improvements may be used only for such improvements.

(d) Services. If the Association provides materials or services which benefit individual Lots but which can be accepted or not by the Owner, then the amount paid or incurred by the Association on behalf of the Owner accepting or subscribing to such material or service shall be a Special Assessment against such Owner and his Lot. The Owner will be deemed to have agreed to such Assessment by subscribing to or requesting and accepting such material or service.

(e) Fines. If the Association levies a fine against an Owner for a violation of the Declaration, the Articles, By-Laws or rules and regulations, including any standards, specifications, guidelines, or the like, promulgated pursuant thereto, in accordance with Article 12.14, or elsewhere herein, then the amount of such fine shall be a Special Assessment against such Owner and his Lot.

**5.06. Sharing of Common Expense.** All Regular Assessments and Special Assessments (other than those for compliance, services or fines) shall be levied in the proportion by which the Lots share the Common Expenses/Expenses, which proportion determination shall be based, in part, on the nominal size of the lot frontage, all as determined in a uniform and non-discriminatory manner by the Board. The Board shall assign each Lot into a lot size class based, in part, upon the nominal front frontage of the Lot; provided however, irregular shaped lots, such as lots on a cul-de-sac, shall be assigned by the Board into a lot size class based upon factors other than lot frontage, which factors may include chassis size of the home or square footage of the proposed home. Lot size class assignments are subject to establishment and change by the Board. Special Assessments for compliance, services, fines or similar categories may not be uniform in amount or levied in the same proportions as Regular Assessments because of their nature, but shall be processed in a uniform and non-discriminatory manner. Neighborhood Assessment shall be levied upon all Lots and Lot Types within the applicable Neighborhood at an equal rate, or, if elected by the Board, on the nominal size of the lot frontage as provided for herein.

**5.07. Commencement of Assessments.** Regular Assessments and Neighborhood Assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot by Declarant to any Owner other than an affiliate of Declarant. Regular Assessments and Neighborhood Assessments as to Lots brought under the Declaration pursuant to Section 2.02 shall commence on the first day of the month following the conveyance of the first Lot therein by Declarant to any Owner other than an affiliate of Declarant. Special Assessments as to any Lots shall commence on the day established by the Board.

**5.08. Certificate of Payment.** The Association shall, upon request, furnish to any Owner a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments on a specified Lot have been paid, and the date and amount, if known, of the next Assessments or installments coming due, together with the amount of any delinquency. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid as to third parties without notice of facts to the contrary.

**5.09. Assessment Rate.** The Regular Assessments and Neighborhood Assessments shall be established by the Board as set forth above in Paragraphs 5.03 and 5.04. The Board shall adopt

and levy the Regular Assessments and Neighborhood Assessments based upon the factors set forth in Paragraph 5.06, above, as well as the anticipated expense and number of Lots within the Subdivision, taking into consideration those Lots that may be exempt, if any, as provided for herein this Declaration.

**5.10. Reserves.**

A. The Board may, in its discretion, establish reserve accounts funded from Regular Assessments or Neighborhood Assessments in reasonable amounts for such purposes and in such categories as are determined by the Board. Initial Assessments shall not fund reserve accounts. **The Developer has waived and does hereby waive all reserve accounts prior to the Turnover Date, after which time the Board may vote to establish reserves. Notwithstanding anything to the contrary herein, at no time shall Developer be obligated to pay reserves. Notice is hereby given: THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.**

B. Subject to the limitations and qualifications set forth above in Subsection A., and below in Subsection C., reserve amounts may be used by the Board on a temporary basis for cash flow management of the Association, even though such amounts are expended for purposes other than those for which the reserve was established. The amount of such reserve shall be restored from revenues subsequently received, it being the intent that the Board may borrow from reserve accounts but same shall not diminish the obligation to levy and collect Assessments and charge fees and other revenues that will, upon collection, permit the restoration of all reserve accounts. Any decision of the Board with respect to reserves, including but not necessarily limited to, the establishment, non-establishment, continuation, discontinuation, level of funding or designation of purpose as to any particular reserve category, shall be subject to being modified or rescinded at any regular or special meeting of the Association called for such purpose, (i) by a majority vote of the Board prior to Turnover, and (ii) after Turnover, by the vote of Owners of 60% or more of the Lots in the Subdivision. Use of any reserve for other than its designated purpose, other than as above provided, may be authorized only by a vote of Owners of 60% or more of the Lots in the Subdivision.

C. Notwithstanding anything to the contrary herein this Declaration and this Article 5.10 to the contrary, reserve accounts, if established, shall first be utilized for Subdivision property preservation purposes, such as making necessary repairs and maintenance related improvements to Common Property, reconstruction and replacement of Common Property, capital improvements to Common Property, expenses associated with the Lot Maintenance Services, and the like, (hereinafter the "Property Preservation Purposes"); and no reserve accounts shall be utilized in any manner whatsoever, including borrowing therefrom, for non Property Preservation Purposes, such as but not limited to, administrative fees, costs, expenses and salaries of the Association; accounting services and fees; legal services, costs and attorney's fees; director's fees, and the like, (hereinafter the "Administrative Costs"), unless and until the Association obtains an unconditional and unqualified opinion letter from the Association's attorney and a civil or structural engineer, (the "Unconditional Opinion Letters"), stating that the reserve account funds are not necessary to fund any Property Preservation Purposes. Notwithstanding anything to the contrary, reserve account funds established for the Paired Villas' Lot Maintenance Services shall only be utilized for those Lot Maintenance Services and not for any Administrative Costs; this provision may not be amended unless (i) the Unconditional Opinion Letters are obtained, and (ii) all Lot Owners of the Paired Villas' Lot Type consent in writing.

**5.11. No Offsets.** All Assessments shall be payable in the amount specified and no offsets shall be permitted for any reason, including without limitation, a claim that the Association is not properly exercising its authorities and carrying out its responsibilities as provided in this Declaration.

**5.12. Rights of Mortgagees.** The lien of all Assessments provided for herein which accrue and become due and payable with respect to any Lot after a mortgage is recorded with respect thereto, but prior to the transfer or conveyance of title as a result of a foreclosure or a conveyance in lieu of such foreclosure, shall be subordinate to the lien of such mortgage. An Owner acquiring title to a Lot as a result of foreclosure or conveyance in lieu thereof, including a mortgagee, shall be jointly and severally liable with the previous Owner for all unpaid Assessments and any Delinquency Charges that came due up to the time of transfer of title; and the Association shall deem such unpaid Assessments and Delinquency Charges due and payable from the Owner acquiring title through such foreclosure or conveyance in lieu thereof. All Assessments, together with such Delinquency Charges, shall also be a charge on the land and a continuing lien upon the Lot, running with the land, with respect to which such Assessment is levied and such continuing lien shall remain on the Lot and pass to the successors in title of an Owner (which successors in title includes a first mortgagee or any mortgagee who may acquire title by any means, including deed in lieu of foreclosure and foreclosure). Nothing contained herein shall relieve an Owner from responsibility for Assessments for the period of time such Owner owned such Lot. Assessments against a Lot accruing prior to the recordation of a mortgage or after the acquisition of title as a result of foreclosure or conveyance in lieu of foreclosure shall be a lien against such Lot in the manner generally provided for herein. The Association shall make available for inspection upon request, during normal business hours and under reasonable circumstances, this Declaration, the Articles, By-Laws and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Subdivision. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor, such holder, insurer or guarantor (the "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- (a) Any condemnation, loss or casualty loss that affects any material portion of the Common Property;
- (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and
- (d) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his obligations under this Declaration, including but not limited to, any delinquency in the payments of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements for the Association for the prior fiscal year free of charge and the same shall be furnished within a reasonable time following such request.

**5.13. Budget.** The Board shall prepare annual budgets for Common Expenses associated with the Lots, and make copies thereof available to all Members requesting same. Copies shall be made available not less than thirty (30) days prior to the first day of the fiscal year to which such

budget is applicable. After Turnover, any budget that provides for a Special Assessment for improvements or makes a provision for reserves inconsistent with a prior vote of the Members shall be submitted to the Members for vote as required herein. Failure of the Board to prepare, submit or adopt a budget in a timely manner shall not affect the validity of the budget once adopted, nor any Assessment adopted by the Board.

**5.14. Delinquency Charges.** All Assessments and other amounts due the Association pursuant to this Declaration shall bear interest at the highest rate permitted by law then in effect, or such lower rate as the Board may from time to time determine. If any such Assessment is not paid when due, then a late charge shall be levied. The initial late charge shall be Thirty Five and No/100 Dollars (\$35.00). The Board may from time to time increase the amount of the late charge authorized hereby, taking into consideration the declining purchasing power of the United States dollar, the costs reasonably expected to be incurred by the Association as a result of following up such delinquency, and the effectiveness of such late charge in assuring prompt and timely payment of Assessments. The liens in favor of the Association shall secure the amount of the Assessment, all interest accruing thereon, late charges and all costs incident to the collection thereof including a reasonable attorney's fee, and court costs, whether enforced by suit or otherwise; and, if by suit, whether at trial or any appellate level, and including fees for paralegals. The Association shall be entitled to recover such interest, late charges, costs and fees from any Owner personally liable for the Assessment as to which they apply. Such late charges, interest, costs and fees described herein shall be collectively referred to as "Delinquency Charges."

**5.15. Remedies of Association Upon Non-Payment.** If any Assessment or installment thereof is not paid by the due date specified by the Board, then such Assessment (including the full amount of any such Assessment accelerated by the Board in accordance with the By-Laws) shall be delinquent and shall, together with Delinquency Charges with respect thereto, be a continuing lien on the Lot against which such Assessment was levied, running with the land and the title thereto, and also a personal obligation of the Owner binding the Owner thereof, his heirs, personal representatives, tenants, successors and assigns. Prior to bringing an action for foreclosure of a lien, the Association shall record a "Notice of Lien" among the Public Records unless in the opinion of the Board, recording such notice is contrary to or prohibited by any then existing court order, statute or rule. A copy of such notice, whether recorded or not, shall be sent to the then Owner by United States mail, either certified or registered, return receipt requested at the Owner's address on the Association's records. Failure of the Association to obtain a receipt shall not prevent enforcement of a lien. If such Assessments, together with Delinquency Charges with respect thereto, are not paid in full within thirty (30) days after the date such notice is deposited in the United States mail, then thereafter the Association may institute suit to foreclose its lien. The recorded notice and lien shall secure not only the Assessments and Delinquency Charges reflected therein, but all unpaid Assessments and Delinquency Charges with respect to all such amounts which may accrue subsequent to the recordation of such notice and prior to the entry of a final judgment of foreclosure. The Association may at any time bring an action at law with respect to any Assessments and Delinquency Charges then due and payable but which have not been paid. Upon the timely payment or other satisfaction of all amounts specified in a Notice of Lien and all other Assessments and amounts which have become due and payable with respect to such Lot as to which such notice was recorded, together with Delinquency Charges as may be applicable, the Association shall furnish a release of such notice in recordable form, but shall not be responsible for the cost of recording. In addition to the foregoing remedies, the Association may also suspend the voting rights and suspend the use of any Common Areas of any Member for the nonpayment of Assessments that are delinquent in excess of ninety (90) days.



**5.16. Declarant Assessment.**

(a) Notwithstanding any provision of this Declaration, the Articles or By-Laws to the contrary, commencing with the execution of this Declaration and at all times prior to the Turnover Date, Declarant shall not be obligated for nor subject to any Assessment of any kind, whether it be a Regular Assessment, Neighborhood Assessment, Initial Assessment, Special Assessment or any other Assessment imposed by the Board, for any Lot that it may own and/or control, nor shall Declarant be responsible for the payment of any reserves, which the Declarant has expressly waived.

(b) In consideration of such exemption, Declarant shall be responsible for paying any cash shortages that result from the Association's regular Common Expenses (which Common Expenses shall never include expenses related to reserves and other matters for which Special Assessments are imposed) exceeding the amount received or receivable from Lot Owners other than Declarant in the payment of their Initial, Regular, Neighborhood and Special Assessments levied against such Lot Owners or their Lots, (the "Deficiency"). Notwithstanding the foregoing, the Association shall employ a fiscal management program designed to minimize the amount of any such Deficiency, including, without limitation, the deferral of expenses and elimination and/or waiver of reserves. In addition, the Declarant may loan to the Association such amounts as may be required by the Association to pay the Common Expenses not produced by all the Assessments actually received by the Association and the amount of the Deficiency paid by the Declarant. Such loans are intended to assist the Association in managing cash and provide short term borrowing to offset uncollected Assessments. The amount so loaned by the Declarant, together with interest at the rate then charged on delinquent Assessments, shall be repaid to the Declarant as funds are available to the Association, but in no event later than the Turnover Date.

(c) Declarant may at any time give written notice to the Association that it is withdrawing its obligation to fund the Deficiency, effective not sooner than sixty (60) days after such notice, whereupon Declarant shall waive its right to total exemption from Regular, Neighborhood and Special Assessments. Sixty (60) days after the giving of such notice or sixty (60) days after the Turnover Date, whichever first occurs, each Lot owned and/or controlled by Declarant shall thereafter be assessed at 100% of the Regular and Neighborhood Assessment level established for Lots owned by Regular Members; provided, however, Declarant shall continue to not be responsible for any reserves or for any Special Assessments for compliance, services, fines or improvements not consented to in writing by Declarant. All such Assessments shall be prorated for the remaining months of the then current fiscal year, if applicable.

**5.17. Initial Assessments.** There shall be a one-time assessment (the "Initial Assessment") payable to the Association by each Owner who purchases a Lot from Declarant. The Declarant is not required to pay an Initial Assessment. The Initial Assessment shall be equal to the then-current annual Regular and Neighborhood Assessment established for the Lot; and further provided, the Board may revise the Initial Assessment amount, at any time, to an amount not to exceed the then-current annual Regular and Neighborhood Assessment established for the Lot. The Initial Assessment shall be established as of and paid at the time legal title to a Lot is conveyed by Declarant to such Owner. Initial Assessments shall be expended solely for regular Common Expenses and not for reserves (if any). Initial Assessments are not advance payments of Assessments and shall not affect the liability of an Owner of a Lot for Assessments.

**5.18 Transfer and other Assessments.** The Declarant, and after turnover the Association, has the right to impose any other assessments, including transfer assessments associated with the transfer of ownership each Lot, as the Declarant, and after turnover the Association, deems necessary for the continued operation and maintenance of the Subdivision's Common Property.

**ARTICLE 6  
DUTIES AND POWERS OF ASSOCIATION**

**6.01. General Duties and Powers.** In addition to the duties and powers enumerated herein and under the Articles and By-Laws, and without limiting the generality thereof, the Association shall:

- (a) enforce this Declaration, the Articles, By-Laws and rules and regulations, including any standards, specifications, guidelines, or the like, adopted pursuant thereto by appropriate means and carry out the duties and authority of the Association hereunder, including the establishment of rules, regulations, standards and specifications to do same;
- (b) own, convey, maintain, regulate and otherwise manage and operate the Common Property;
- (c) pay any real and personal property taxes and other charges assessed against the Common Property unless same are separately assessed to the Owners;
- (d) obtain all required utility and other services associated with the carrying out of the Association's responsibilities hereunder;
- (e) contract for and maintain such policy or policies of insurance as may be required hereunder or as the Board deems necessary or desirable to further the purposes of and protect the interests of the Association and its Members; provided further that such policies of insurance shall cover all Common Areas, regardless of the current status of title to the Common Areas, and shall name Declarant, or its successors and assigns, as an additional named insured on such policies of insurance for so long as Declarant, or its successors and assigns, retains ownership or use of any portions of the Common Areas;
- (f) have the power of entry upon any Lot reasonably necessary in connection with the carrying out of Association responsibilities hereunder;
- (g) have the power to acquire, accept, maintain, repair, improve and replace Common Property;
- (h) have the power to negotiate and contract for such materials and services for the benefit of Owners who subscribe to or elect to accept such materials or services, with payment for same to be separately billed to the Owners or advanced by the Association and repaid to the Association by Special Assessment for services;
- (i) have the power and duty to maintain architectural control with respect to the Subdivision in accordance herewith;
- (j) sue and be sued, as further set forth in Article 12, below;

- (k) assess Members, establish fines, and enforce assessments and fines;
- (l) contract for other services and materials necessary to operate and maintain the Common Property, Common Element, and any other contract necessary to perform the Association's duties hereunder.

**6.02. Implied Powers of the Association.** The Association shall have all the power and authority reasonably necessary for it to carry out each and every of its duties set forth in this Declaration, the Articles, the By-Laws, or rules and regulations, including any standards, specifications, guidelines, or the like, made pursuant thereto, including any right or power reasonably to be inferred from the existence of any other right, power, duty or obligation given to it or reasonably necessary to effectuate its duties hereunder. The Association is hereby granted easements in, on, over, under, through and across all Lots (but not within any Dwelling Unit thereon), and all other property within the Subdivision, including all Common Property, as reasonably necessary, for the purpose of access, ingress/egress and to carry out the rights, duties and obligations of the Association as set forth in this Declaration, the Articles or By-Laws.

#### ARTICLE 7 REPAIR AND MAINTENANCE

**7.01. By the Association.** Except as otherwise expressly provided, the Association shall be responsible for the maintenance, repair and replacement of the Common Property under its ownership, control or maintenance responsibility. Additionally, the Association may be responsible for any Lot Maintenance Services provided by the Association as set forth herein Article 14, below. The expense of the foregoing and the maintenance, repair, and replacement of the Common Property in general will be a Common Expense; provided, however, that if an item of maintenance, repair or replacement is a result of any intentional or negligent act of an Owner, his family, agents, contractors, tenants, guests, invitees or licensees, then the cost of such maintenance, repair or replacement, to the extent so caused, shall be the sole responsibility of the Lot Owner, and even though the cost thereof may be advanced as a Common Expense, same shall be billed to the Lot Owner and his Lot for reimbursement as a Special Assessment hereunder.

Regarding nuisance and exotic plant species within the Common Property, the Association hereby adopts the following Maintenance Plan:

All upland areas including recreation, open space, conservation, wetland buffer and tree preserves areas are to be monitored annually to assure that no nuisance and exotic species is established. If any such species is found in the monitored areas, the vegetation will be removed by hand and stumps poisoned using appropriately labeled herbicides as needed. The hand removal of the nuisance and exotic species is to be done with care to not adversely impact surrounding vegetation.

**7.02. By Owners of Lots.** Except as provided for elsewhere herein this Declaration, each Lot Owner shall be responsible for the maintenance, repair and replacement of his Lot and all improvements thereon and thereto, including any sidewalks thereon or adjacent thereto. If required by the Association, the Lot Owner shall be required to have the sidewalk within and/or adjacent to his Lot pressure washed or otherwise maintained at his cost and expense. Each Lot Owner shall maintain all improvements and landscaping on his Lot in good condition and repair and in an attractive condition in keeping with the high standards of maintenance throughout the Subdivision. The Association may

establish various rules, regulations, standards and specifications, from time to time, regarding maintenance of Lots by Lot Owners, and all Lot Owners shall comply with same.

In addition, each Lot Owner shall routinely maintain any sodded or landscaped areas adjacent to his Lot from the platted Lot lines up to the curb(s) or edge(s) of right-of-way pavement, conservation/preservation/wetland buffer areas, lakes/ponds, and/or exterior Subdivision boundaries, including sidewalks, (the "Adjacent Areas"), excluding fences, walls, signs, or other structures designated as a "Common Area" to the Subdivision installed by Declarant or the Association, which shall be the responsibility of the Association to maintain. The maintenance of such Adjacent Areas by each Owner shall at all times be subject to the rights and duties of Declarant and the Association to regulate, manage, modify, improve and control said Adjacent Areas as set forth in this Declaration, including the right to take over the foregoing maintenance responsibilities and discontinue Owner maintenance at any time. In no event shall Declarant or the Association be responsible, in any manner or form, for the natural growth of trees and other landscaping over time, or for any impact that such growth may impart on sidewalks, utilities, foundations or other improvements constructed on the Lots. Each Owner shall maintain such Lot and improvements and the foregoing Adjacent Areas at his sole expense in good condition and repair and in an attractive condition in keeping with the high standards of maintenance throughout the Subdivision. Maintenance by the Owner shall include, but not necessarily be limited to, all maintenance, painting, repair, replacement and care of the structures, fixtures, equipment, appliances, roofs, gutters, downspouts, exterior building surfaces, screening and caging, shutters and other decorative and functional attachments to the exterior of the improvements, walks and other exterior improvements, street trees, exterior lawn, landscaping and Lot Irrigation System. All such maintenance and repair shall conform to such maintenance standards as may be promulgated from time to time by the Board in accordance herewith.

**7.03. Liability for Actions.** A Unit Owner shall be liable for any personal injuries and for the expense of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, negligence or carelessness, or by that of his family, agent, guest, employee, invitees or tenants.

**7.04. Repair and Maintenance Standards.** The Board and the ARC may from time to time adopt and promulgate repair and maintenance standards, specifications, guidelines, rules, regulations or the like, for the Subdivision, so long as such standards, specifications, guidelines, rules, regulations or the like, are reasonable and not contrary to the provisions of this Declaration.

**7.05. Right of Association to Maintain.** If an Owner has failed to maintain or repair his Lot or the improvements thereon as required by this Declaration, then the Association may, but is not obligated to, perform such maintenance and make such repairs that the Owner has failed to perform and make. All costs of maintenance and repairs shall be assessed to the particular Owner and his Lot as a Special Assessment. Until so collected, such costs shall be treated as a Common Expense. The Association may rely upon duly promulgated standards, specifications, guidelines, rules, regulations or the like for repair and/or maintenance in carrying out its responsibilities hereunder, and the Association shall not be liable for trespass or for any act or negligence in carrying out the maintenance using duly promulgated standards, specifications, guidelines, rules, regulations or the like, for repair and/or maintenance. The Unit Owner shall hold harmless and indemnify the Association for all acts associated with the Association's performance of repair and/or maintenance on a Unit Owner's Lot as set forth herein. In proceeding under this Section, the Association shall employ the procedures hereinafter set forth:

- a) In the case of an emergency, as determined by the Board, or when the Special Assessment to the Owner is \$500.00 or less (including, but not limited to routine mowing and landscape

maintenance), the Board or the Property Manager of the Association shall authorize, approve and cause the repair or maintenance to be performed.

b) In all other cases:

i) Upon finding by the Board of a deficiency in maintenance, the Board shall provide notice thereof in writing to the Owner, briefly describing the deficiency and setting forth the action needed to correct the deficiency.

ii) If the Owner does not correct such deficiency to the reasonable satisfaction of the Board within fourteen (14) days of the Board's delivery of the notice, then thereafter the Association may perform such maintenance or repairs, and all costs and expenses, including reasonable administrative costs, associated therewith shall be charged and assessed against the Owner and his Lot.

iii) All such maintenance and repair by the Association shall take place only during daylight hours on weekdays, excluding holidays, except in the case of an emergency.

**7.06. Transfer of Maintenance to Governmental Authority.** The Board may transfer any maintenance responsibility for any part of the Common Property, or for any item or items for which the Association has maintenance responsibility, to any special tax district, taxing unit, other public agency, authority or entity, organized or having jurisdiction of such matters without the necessity of Member approval, provided that such governmental authority or entity accepts such maintenance responsibility. If the transfer of such responsibility is accomplished, the Board shall retain the authority to supplement such maintenance to the extent such public authority does not maintain such items to an acceptable level as determined by the Board.

## **ARTICLE 8 INSURANCE AND RECONSTRUCTION**

**8.01. Insurance by Association.** The Association shall obtain and continue in effect such insurance in such amounts and coverages as the Board shall from time to time determine to be appropriate, necessary or desirable; provided further that such insurance shall cover all Common Areas, regardless of the current status of title to the Common Areas, and shall name Declarant, or its successors and assigns, as an additional named insured on such policies of insurance for so long as Declarant, or its successors and assigns, retains ownership, control or use of any portions of the Common Areas. All costs associated with such insurance shall be a Common Expense.

**8.02. Lot Owner's Insurance.** Each Owner shall be responsible for obtaining and maintaining in effect all such casualty, liability and other insurance with respect to such Owner and such Owner's Lot and Unit as the Owner may from time to time determine; provided however, the Owner shall be required to obtain and maintain in effect such casualty insurance policies in sufficient amounts to rebuild, repair or reconstruct any improvement on the Lot, including the Dwelling Unit, in the event of a casualty or other loss. The Association shall not obtain any such insurance on behalf of an Owner, nor shall the Association insure the Lots, Units or improvements thereto and thereon in any manner. Upon request, the Lot Owner shall provide insurance information, including name of the insurance carrier, policy number, amounts and limits of insurance coverage and liability to the Association.

**8.03. Destruction of Improvements.**

(a) If any dwelling structure or other improvement upon a Lot shall be substantially damaged or destroyed, the Owner thereof shall repair, rebuild or reconstruct the improvements as soon after such casualty as may be practical. All such work shall require Architectural Review and approval as provided herein.

(b) Notwithstanding damage to or destruction of improvements to a Lot, the Owner of such Lot shall remain liable to the Association for all Assessments in connection with such Lot, even though such Lot may not be fit for occupancy or habitation and even though such improvements are not reconstructed.

(c) Within a reasonable time after such casualty, the Lot Owner shall remove all debris and portions of the improvements that cannot be preserved for incorporation into the replacement structure. All dangerous conditions shall be addressed and neutralized immediately. Debris shall be removed from the Lot no later than thirty (30) days after the date of the casualty.

(d) Within thirty (30) days of the date of the casualty, the Owner of the affected Lot shall notify the Board in writing of the intention to rebuild or reconstruct. Failure so to notify shall be deemed evidence of such Owner's intention not to rebuild. Such Owner shall initiate Architectural Review within ninety (90) days of such notification, and shall commence rebuilding or reconstruction within sixty (60) days after final approval by the ARC as herein defined in Section 9.02, and prosecute same to full and swift completion. If for any reason the Owner of the affected Lot does not notify, initiate Architectural Review, commence, diligently pursue or complete such building or reconstruction within the time limits established herein, then such Owner shall be deemed to have elected not to rebuild, and the Association shall have the rights and duties hereinafter specified. An Owner may at any time notify the Association in writing of an election not to rebuild.

(e) If an Owner elects or is deemed to have elected not to rebuild the improvements so damaged or destroyed, then such Owner shall have the duty, at his expense, to remove all portions of the improvements remaining, including the slab and foundation, but excluding underground utility lines which shall be secured. The Owner shall supply fill and install sod so that the Lot shall give the appearance of a landscaped open space. Such work shall be completed not later than thirty (30) days after the date upon which the Owner elects or is deemed to have elected not to rebuild.

(f) If an Owner fails to comply with any of the requirements of Sections 8.02 and 8.03, then the Association may, at its option but not obligation, perform such acts as are of the responsibility of the Owner and the cost of same shall be treated initially as a Common Expense, but charged and assessed against the Lot and its Owner as a Special Assessment.

(g) Upon written application of an Owner, any of the time periods set forth in this Section may be extended by the Board for good cause.

(h) The duties of the Association hereunder shall be performed by the Board.

**8.04. Additional Provisions Relating To Paired Villas Lot Owner's Insurance.**

Notwithstanding anything to the contrary herein, and in addition to compliance with Sections 8.02 and

8.03, above, each Owner of the Paired Villas Lot Type shall be responsible for obtaining and maintaining in effect all such casualty, liability and other insurance with respect to such Owner and such Owner's Lot and Unit as the Owner may from time to time determine; provided however, the Owner shall be required to obtain and maintain in effect such mandatory casualty insurance policies in sufficient amounts to rebuild, repair or reconstruct the entire Paired Villas Unit in the event of a casualty. At the request of the Association, the Owner shall promptly provide the Association with the Owner's insurance company name, policy number(s), effective dates, coverage limits and amounts of coverage, or such other information as the Association may reasonably request, of and pertaining to the insurance requirements set forth herein. The Association shall not obtain any such insurance on behalf of an Owner, nor shall the Association insure the Lots, Units or improvements thereto and thereon, for the benefit of any Owners, in any manner.

**8.05. Additional Provisions Relating To Destruction of Paired Villas Improvements.** In addition to any of the requirements set forth in Sections 8.02 and 8.03, above, the following additional provisions specifically pertain to damage and destruction of the Paired Villas Lot Type:

(a) If any Paired Villas Unit [dwelling structure] upon a Lot shall be substantially damaged or destroyed, the Owner thereof shall repair, rebuild or reconstruct the improvements as soon after such casualty or other event as may be practical. All such work shall require Architectural Review and specific approval by the ARC as provided herein.

(b) Notwithstanding damage to or destruction of improvements to a Paired Villas Lot, the Owner of such Lot shall remain liable to the Association for all Assessments in connection with such Lot, even though such Lot may not be fit for occupancy or habitation and even during such times as the improvements are not yet reconstructed.

(c) Within a reasonable time after such casualty or other event, the Lot Owner shall remove all debris and portions of the improvements that cannot be preserved for incorporation into the replacement structure. All dangerous conditions shall be addressed and neutralized immediately. Debris shall be removed from the Lot no later than thirty (30) days after the date of the casualty.

(d) Within thirty (30) days of the date of the casualty or other event, the Owner of the affected Lot shall notify the Association Board in writing of the intention to rebuild or reconstruct, shall initiate Architectural Review within ninety (90) days of such notification, and shall commence rebuilding or reconstruction within sixty (60) days after final approval by the ARC of the Architectural Review, and shall diligently prosecute the construction to a timely completion. **Notwithstanding anything to the contrary herein this Declaration, including Article 14, it is the specific intention and requirement of this Section 8.05 to require the Owners of the Paired Villas Lot Type to repair, reconstruct, replace and rebuild the entire dwelling Unit and all improvements thereon the Lot at the Lot Owner's sole cost and expense, with approval and consent by the ARC, and to not leave the Lot vacant or the dwelling Unit in a state of disrepair, regardless of whether the Lot Owner's insurance carrier provides coverage, whether insurance coverage is available, or whether the replacement could be considered a Lot Maintenance Service applicable to the end of the improvement's useful life.**

(e) If an Owner fails to comply with any of the requirements of Sections 8.02 through 8.05, herein, or if for any reason the Owner of the affected Lot does not notify the Association, initiate Architectural Review, commence, diligently pursue and complete such building or reconstruction within the time limits established herein, then the Association shall have the right, but not the obligation, to elect to perform such acts as are of the responsibility of the Owner and the cost of same shall be charged and assessed against the Lot and its Owner as a Special Assessment, running with the land and binding the Lot and its Owner as well as all successors in title, including a first mortgagee that may obtain title through foreclosure or deed in lieu of foreclosure; provided however, the Association may first treat the costs as a Common Expense of the Neighborhood and then convert same into a specific Special Assessment against the affected Lot and its Owner. Notwithstanding anything to the contrary herein, the Association shall have no obligation to repair, rebuild or reconstruct the Unit, or any improvements on the Lot, and the Owner shall remain liable for all such work. The Association's rights herein shall not be deemed to supersede any conflicting rights of any first mortgagees.

(f) The Association, at its option, may obtain any such insurance as it deems reasonable and necessary, and all costs for same shall be Common Expenses associated with the Neighborhood and charged against all Owners as a Neighborhood Assessment or as a fee associated with any Lot Maintenance Services for the Paired Villas Lot Type.

(g) Upon written application of an Owner, any of the time periods set forth in this Section may be extended by the Association Boards for good cause.

(h) The duties of the Association hereunder shall be performed by their Boards.

(i) Casualty & Other Events – Paired Villas' Lot Maintenance Services Exclusions. Notwithstanding anything to the contrary contained herein this Declaration, for all casualty and all other events, including events caused by the negligent or intentional acts or omissions of the Lot Owner, his agents, guests or invitees, which necessitate the repair, maintenance and/or replacement of the Paired Villas' exterior roofs or exterior painting and repair of stucco, all of which are not deemed to be necessitated by the end of the useful life of the improvements, which determination shall be made by the Association, in its sole and absolute discretion, the Lot Owner shall be solely responsible for same, as such repairs, maintenance, replacement, repainting and the like shall not be a Lot Maintenance Service provided by the Association. In such an event, the Association may elect, in its sole and absolute discretion, but without any obligation, to either (i) review, approve the Architectural Review and then supervise the authorized work to be performed by the Lot Owner or (ii) perform the work itself, and the Lot Owner shall then be required to immediately (a) assign to Association any and all of Lot Owner's casualty or other insurance proceeds to perform the work, (b) obtain any required mortgagee joinders to fully and freely assign the insurance proceeds to Association, and (c) the Lot Owner shall directly pay to Association any additional costs and expenses reasonably necessary to complete the work that are not otherwise covered by the assignment of the insurance proceeds (if any). If the Lot Owner fails to timely perform the work and/or pay any costs and expenses related to the aforementioned work, then all costs and expenses related to the work shall be a Special Assessment due from the Lot Owner and continuing lien against the Lot Owner's Lot running with the land.

(j) Notwithstanding of anything herein the Declaration to the contrary, including whether insurance proceeds may be available or cover a loss, the Lot Owner shall at all



times be solely financially responsible for any and all repairs to his Paired Villas Unit, including completely rebuilding same, as well as all improvements on the Paired Villas Lot.

**ARTICLE 9  
AUTHORIZED BUILDER AND ARCHITECTURAL REVIEW**

**9.01. Authorized Builder.** In order to assure that the improvements within the Subdivision will be constructed with the level of quality and consistency desired by the Declarant, no improvements may be constructed on any Lot within the Subdivision by any builder or contractor other than the builder(s) approved by Declarant, in its sole and absolute discretion; and after the Declarant no longer owns or controls any Lot within the Subdivision, then as approved by the ARC (the "Authorized Builder"). No improvements made, installed, constructed and/or built by Declarant, including its Authorized Builder, in the Subdivision shall be required to undergo ARC approval or any other approval by the Association.

**9.02. Architectural Review Committee.** There is hereby established an Architectural Review Committee (the "ARC"). The ARC shall use its best efforts to promote and insure a high level of design, quality, harmony, maintenance standards, quality of life and appearance throughout the Subdivision consistent with this Declaration. Prior to the Turnover Date, unless the Declarant shall otherwise specify in writing, the Declarant shall constitute the ARC, and may approve Plans and Submissions, as defined in Section 9.05, and make all Architectural Review decisions and approvals or take other actions on behalf of the ARC in Declarant's own name or in the name of the ARC. After the Turnover Date, or earlier determination by Declarant no longer to serve as the ARC, the ARC shall be composed of at least three (3) individuals appointed by the Board, each of whom shall be an Owner but not related or affiliated with a Board Member. The ARC shall act by simple majority vote. In the event of the death, resignation or other removal of any Board appointed member of the ARC, the Board shall appoint a successor. No member of the ARC shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of services performed pursuant to this Declaration. Members of the ARC shall serve terms established by the Board, and may be removed with or without cause by the Board.

**9.03. Architectural Standards.** The ARC may, from time to time, adopt and modify design and development standards, rules, guidelines and specifications for the Subdivision (the "Standards"). The Standards may be different for each Neighborhood and Lot Type. The Standards may include, but are not necessarily limited to, standards for (a) architectural design and size of improvements to be constructed upon a Lot; (b) fences, walls, pools, spas and similar structures; (c) exterior building materials and colors; (d) exterior lighting; (e) lawn and landscaping materials and minimum requirements; (f) setback, height, bulk and design criteria; (g) design, materials and colors for homes, roofs, improvements, drives and walks; and other matters assigned to the ARC by this Declaration, or the Board. The Standards shall be deemed to include any mandatory architectural requirements, prohibitions and guidelines contained in this Declaration.

**9.04. Approval Required.** Architectural review and the written approval of the ARC, ("Architectural Review"), shall be required for the construction, restoration, reconstruction or expansion of any improvement upon a Lot; for any reasonably visible exterior alteration or modification to an existing improvement on a Lot; for any maintenance or repair of an improvement to a Lot which will result in the application or use of materials of a different type, color or quality than those in use prior to this maintenance or repair; for any landscaping or material change or addition or reduction to the landscaping or lawn of any Lot, other than for plantings within a substantially enclosed courtyard area;

and for the construction, installation, restoration, reconstruction, enlargement or alteration of any fence, wall, tennis court, screen enclosure, pool, patio, utility line, solar energy device, decorative structure, outbuilding or other installation, device, equipment or structure which will alter the appearance of the Lot or existing improvements located thereon when viewed from adjacent Lots, the adjacent street or in any other instance where architectural review is required under this Declaration (collectively, the "Improvements"). Anything contained herein to the contrary notwithstanding, all such Improvements, alterations, installations, facilities and applications made by the Declarant as part of the original construction, improvement, development and sale of the Subdivision, including, without limitation, the construction of homes and units by Declarant, whether made before or after Turnover of control of the Association, shall not require architectural Review nor approval of the ARC. Notwithstanding anything to the contrary herein, in the event the Association is responsible for exterior maintenance of any dwelling unit, such as but not limited to, painting or roof maintenance or other Lot Maintenance Services, then the ARC may, in its sole and absolute discretion, prohibit any exterior attachment, modification, restoration, reconstruction, expansion or other improvement of any kind whatsoever.

**9.05. Procedure.** In order to obtain the approval of the ARC for any proposed Improvements, there shall be submitted to the ARC a written application for approval and at least one (1) complete set of plans and specifications for the proposed Improvements (the "Plans"). The Plans shall include, as appropriate to the proposed Improvements, (a) a site plan for the Lot showing location and dimensions of all proposed and existing structures, pavement and landscaping to be installed or removed; (b) complete floor plans and exterior elevations of all proposed structures, drawn to scale and reflecting the number of square feet within air conditioned living areas and other areas; (c) specification of all materials to be used, including type, color and nature; (d) specification of plant and other materials proposed for landscaping; (e) location, dimension, description and specifications for any other proposed Improvements; and (f) samples of material and proposed colors for external application. The ARC may also require the submission of additional information and materials as may be reasonably required by the ARC to evaluate the proposed Improvements (the "Submissions").

The ARC may waive formalities in the approval process, and may waive specific requirements if it deems the Plans and Submissions submitted provide the information reasonably necessary for ARC review. The ARC shall review and evaluate all applications and either approve or disapprove, or approve in part and disapprove in part, the application. The ARC shall issue its approval or disapproval in writing, and specify its reasons for disapproval and annotate its decision by reference to this Declaration and the Standards, if applicable. To the extent practical, the ARC shall indicate as part of any disapproval, the general or type of changes necessary in the submittal in order to achieve approval. The ARC may specify conditional approval, setting forth written stipulations for changes required for approval. If the applicant accepts such stipulations, the proposal shall be deemed approved, subject to the stipulations.

No work shall proceed except in strict compliance with this Declaration and the approval of the Architectural Review by the ARC, and any Improvements or work performed without such approval may be required to be removed by the Board at the Owner's sole cost and expense. If any landscaping, construction or other Improvements or alterations requiring ARC Architectural Review and approval shall be commenced and completed without Architectural Review and approval by the ARC, or at variance with approved Plans and Submissions, then such construction or other Improvements may at any time thereafter be required to be removed or altered to comply with such Plans and Submissions as may be approved by the ARC, and such removal or alteration shall be at the Owner's sole cost and expense. Nothing shall prevent an Owner from making application to the ARC for approval of Improvements already commenced or completed, but during the period of such application, the Owner shall not perform any more work until the ARC has acted. The ARC shall not have any increased

obligation to approve merely because an Owner has already commenced or completed Improvements in violation of this Declaration.

**9.06. Routine Matters.** In instances in which ARC has established specific written standards approving certain colors, materials, decorative or other items of routine maintenance, repair or minor improvements, an Owner may comply with such specific and written standards without the necessity of submitting an application to or obtaining formal approval of the ARC.

**9.07. Scope of Review.** The ARC shall review and approve or disapprove all Plans and Submissions solely on the basis of aesthetic standards as to the aesthetic quality of materials and workmanship to be used, suitability and harmony of location, structure and external design in relation to surrounding topography, structures and the overall benefit or detriment which would result to the immediate vicinity and to the Subdivision as a whole, and any other factors deemed relevant to the review by the ARC in its opinion, reasonably exercised. The ARC shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features, and shall not be responsible for reviewing, nor shall its approval of any Plans be deemed approval of any design or plan from the standpoint of structural safety or conformance with building or other codes.

**9.08. Miscellaneous Provisions.** The Board and the ARC may adopt reasonable rules and regulations, including any standards, specifications, guidelines, or the like, for the conduct of its authority, and the Board may establish reasonable fees for Architectural Review. The Association shall maintain records of all Architectural Review proceedings, and shall furnish a certificate in recordable form upon the request of any Owner verifying the compliance or non-compliance of such Owner and his Lot with the Architectural Review provisions of this Declaration.

**9.09. Mandatory Tree Planting and Maintenance.** Unless provided for as a Lot Maintenance Service, the Owner of each Lot shall be responsible for the planting and maintenance of replacement trees on such Lot as required by the County pursuant to final site plan approval for Canoe Creek. The number, size, type and location of trees to be planted shall be set forth on the Plans and Submissions approved by the ARC, as provided for herein. Existing native trees may be permitted to be used to fulfill these requirements whenever they meet spacing and size requirements as set forth herein. The Developer shall initially be responsible for the initial installation and maintenance of the trees until such time as the Lot is sold or transferred to a subsequent Lot Owner, at which time that Lot Owner shall be fully responsible for the maintenance and replacement of any street trees, all as set forth herein. Any costs borne by the Developer associated with the installation and maintenance of the street trees may be passed on and charged to the subsequent Lot Owner. In the event a street tree dies or is removed, the Lot Owner is responsible for replacing the street tree (per the requirements set forth herein) within thirty (30) days. If an Owner has failed to comply with the requirements of this Section 9.09, then after notice and compliance with the procedural requirements of this Declaration, the Association may take such action as is necessary to achieve compliance. All costs of the Association in so doing shall be assessed to the particular Owner and his Lot as a Special Assessment. Until so collected, such costs shall be treated as a Common Expense. No certificate of occupancy will be issued for any home to be constructed on a Lot until the conditions of this Section have been satisfied. ARC approval as required by this Article 9 shall be withheld until such time as the Plans and Submissions presented for each Lot comply with the replacement tree planting obligations provided for herein. Upon such initial planting, each Lot Owner shall be responsible for maintenance of the replacement trees and such trees may not be removed without appropriate permits and authorizations provided by the County and further approved by the ARC.

**ARTICLE 10  
USE RESTRICTIONS**

The following protective restrictions, limitations, covenants, conditions and agreements are hereby imposed upon the Subdivision and shall apply to all Property in the Subdivision, which includes all Lots, and shall also apply to all Members/Owners and their tenants and their respective guests, families, invitees, agents, employees, contractors, licensees and all other persons occupying such Lots or in actual or constructive possession, control or use thereof.

**10.01. Residential Use.** No Lot shall be used for anything other than residential purposes and in accordance with the Code and other applicable zoning and governmental land use regulations and this Declaration.

**10.02. Height Limitation.** No dwelling house or other building shall be more than two (2) stories in height, nor more than thirty five (35) feet above the grade of the crown of the street upon which the Lot fronts.

**10.03. Garages and Outbuildings.** All garages shall be private garages with a capacity for at least one (1) and no more than three (3) passenger vehicles.

**10.04. No View Easements.** Ownership of a Lot in the Subdivision does not carry with it any view easements. Adjacent property owners may be permitted to construct dwelling units, accessory structures, pool cages, install fences and/or landscaping that may obstruct views over and across other properties.

**10.05. Setbacks.** All structures shall be so located upon a Lot so as to comply with the setback requirements of the zoning regulations and Code. The ARC may require a greater, or approve a lesser, setback if it finds that under the specific circumstances such alteration is reasonable and appropriate and will result in a Lot developed and used in an appropriate manner not detrimental to surrounding properties; provided, however, that the approval by the ARC of a reduced setback shall not affect the obligation of the Owner of a Lot to comply with the Code.

**10.06. Recreational Vehicles.** No trailer, camper, motor home, boat, boat trailer, canoe, motorcycle, golf cart, ATV, or any similar recreational vehicle shall be permitted to remain upon a Lot unless within an enclosed garage, other than for temporary parking, unless prior approval has been granted by the ARC. Temporary parking shall mean the parking of such vehicles belonging to or being used by Owners or their guests for loading and unloading purposes only. All temporary parking shall be restricted to paved driveways, however, sidewalks may never be blocked or obstructed in whole or in part. The ARC may approve special storage arrangements for such vehicles, imposing such locational, time and other conditions as it may determine.

**10.07. Other Vehicles.** No trucks, commercial vans, tractors, service vehicles or other commercial vehicles shall be permitted to remain within the Subdivision or on a Lot other than for temporary parking unless parked within an enclosed garage. Temporary parking shall mean the parking of such vehicles while being used in the furnishing of services or materials to occupants of Lots, or being used by occupants of Lots for loading and unloading purposes only. This provision applies to trucks and utility vehicles whether used for commercial purposes or not. Notwithstanding the foregoing, Owners or other appropriate occupants of a Lot having a van or pick up truck for personal transportation purposes only, and not for commercial use, may park such vehicle on the driveway of their Lot, but no Lot may have more than one such vehicle regularly parked in the driveway. No vehicle may block or obstruct in anyway a sidewalk in whole or in part. No vehicle shall be permitted to park overnight in the Subdivision

streets, street right of ways and other Common Areas; nor shall any vehicle be permitted to park on the Subdivision streets, street right of ways or other Common Areas during the day, except that temporary day time parking shall be permitted for moving, construction, deliveries and the like. The streets in the Subdivision are "private", and the Association has the right to remove and tow, at the vehicle owner's expense, any vehicle which violates the provisions of this Section 10.07 or any other rule, regulation, standard, specification or the like, promulgated by the Board or the ARC regarding vehicles and parking in the Subdivision. The Board and the ARC may adopt additional rules, regulations, guidelines, standards, specifications, and the like, which are more stringent regarding permitted vehicles and parking restrictions in the Subdivision. Each Owner shall comply, and shall cause the Owner's family, guests, tenants, and invitees to comply with the restrictions and covenants, as well as all rules, regulations, standards, guidelines, specifications, and the like, set forth in this Declaration, and any amendments hereto, applicable to such Owner's Lot, as well as parking in the Subdivision streets, street right of ways and other Common Areas.

**10.08. Animals and Pets / Dog Park.** Only common domesticated household pets may be kept on any Lot or improvements thereto, and in no event may such pets be kept for breeding or any commercial purposes. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Subdivision. Approved household pets may not be kept in unreasonable numbers. Permitted pets shall be kept only subject to and in accordance with this Declaration and any other rules and regulations as shall be promulgated from time to time by the Board, and unless otherwise provided by the Board, shall be kept on a leash and accompanied by its owner except when within a fenced or other enclosed area, and further provided, while outside, such dogs and permitted pets shall not be permitted to bark or otherwise become a nuisance or annoyance to a neighbor. Pets may only be kept on a Lot and on the Property in a reasonable number, which shall be determined by the Association, in its sole and absolute discretion. All permitted pets shall be licensed and vaccinated as required by any local law or ordinance governing same. Any such pets, whether from number, disposition or otherwise, that cause, create or contribute to a nuisance or unreasonable disturbance or annoyance, may be required to be permanently removed within ten (10) days of receipt of written notice from the Board to the Owner or other person responsible for such pet. Pet owners are responsible for cleaning up any mess created by their pets within the Subdivision. Excrement which is not picked up shall be deemed a nuisance hereunder. All pet owners are responsible for the actions of their pets, and each pet owner 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 having any animal on or within the Subdivision. The Board may adopt rules and regulations, including any standards, specifications, guidelines, or the like, that are more restrictive than the provisions of this Declaration for the regulation of pets when necessary to promote the health, safety and welfare of the Subdivision and its occupants.

Failure of any Owner to fully comply with the provisions of this Article shall result in fines of Fifty Dollars (\$50.00) per diem for each day of noncompliance.

The Association may provide specific and gated areas of the Common Property for use as a Dog Park. All Owners utilizing the Dog Park shall abide by the provisions of this Article 10.08, the rules and regulations of the Association, and any local, state and federal laws regarding pets/animals. In addition to any other rules of the Association regarding pets and the Dog Park, which the Board may enact from time to time, the following rules shall apply to the Dog Park:

### **Dog Park Rules and Policy**

1. Owners must accompany their dogs in the park at all times.
2. No more than two (2) dogs per person are allowed at one time.
3. Children are not allowed in the dog park, unless accompanied by a guardian.
4. Owners are responsible for picking up after their dog.
5. All dogs must wear proof of license and have proper vaccinations.
6. Dogs in heat are not allowed in the park.
7. Dogs with bad behavior will be required to leave the park.
8. Persons and pets entering the Dog Park do so at their own risk; the Association and Declarant are not responsible or liable for any actions, damages, losses or injuries to persons, pets or property.

**10.09. Antennae and Masts.** No television, radio or other electronic or communications antenna, mast, dish, disk or other similar device for sending or receiving television, radio or other communication signals shall be permitted upon any Lot or improvement thereto, except in conformance with uniform rules and standards established by the ARC. No such device is permitted under any circumstances if it sends, contributes to or creates interference with any radio, television or other communication reception or interferes with the operation of other visual or sound equipment located within any part of the Subdivision. In the event the Association is responsible for exterior maintenance of any dwelling unit, such as but not limited to painting or roof maintenance, then the ARC may, in its sole and absolute discretion, prohibit any such antenna, mast, dish, disk or similar device.

### **10.10. Miscellaneous Visual Restrictions.**

(a) No clothes lines or clothes poles shall be erected, and no outside clothes drying is permitted, except where such activity is advised or mandated by governmental authorities for energy conservation purposes, in which event, the ARC shall be required to approve the portions of any Lot used for outdoor clothes drying purposes and the types of devices to be employed.

(b) Garage doors shall be kept in a closed position when not in use for ingress and egress.

(c) All garbage and refuse containers, air conditioning units, whole house generators, oil tanks, bottled gas tanks, and permanently affixed swimming pool equipment and housing shall be underground or placed in walled-in or landscaped areas as approved by the ARC so that they shall be substantially concealed or hidden from any eye-level view from any street, adjacent property, or Common Property. No window or wall air conditioning units shall be permitted on any Lot.

(d) The personal property of any resident shall be kept inside the residence dwelling, or a fenced or walled-in yard, except for patio furniture and accessories, and other personal property commonly kept outside, which must be kept in the rear of the Lot and must be neat appearing and in good condition.

(e) Window treatments shall consist of drapery, blinds, decorative panels or other tasteful window covering. No newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an

Owner or tenant first moves into a dwelling or when permanent window treatments are being cleaned or repaired.

(f) All solar heating and other alternative energy resource systems shall require ARC approval and shall be so installed and maintained as not to be visible from the street upon which the dwelling fronts, unless specifically otherwise authorized by the ARC. It is the intent hereof not to prohibit the use of renewable energy sources, but rather to direct that same be so designed, installed and maintained as to minimize visibility from the street in front of the dwelling and in compliance with ARC standards.

**10.11. Fences.** No fence of any kind (vertical or underground electric) shall be erected or maintained upon any Lot until the plans and specifications therefor have been approved in writing by the ARC. Underground electric fences will not be permitted in the front yard of any Lot. It shall be a condition of approval of any fence that the bottom of all fences along or within any drainage easements shall be elevated above ground to allow for the free flow of drainage; and further provided, fences within drainage easements shall not be approved, regardless of the elevation of the bottom of the fence, if such approval interferes with the drainage plans for the Subdivision or is prohibited by Code or rules of SWFWMD.

**10.12. Yards and Drives.** Yards shall be sodded with natural grass at the time of original construction of improvements, and lawns shall thereafter be maintained in good condition and replaced as may be necessary. Gravel or stone yards are prohibited. All driveways, walks and parking areas shall be approved by the ARC, must be constructed of concrete, Stampcrete, Bomanite, paver bricks, or other comparable material approved by the ARC. Poly-pebbled driveways are prohibited. This Declaration does not prohibit xeriscape or "Florida-Friendly" landscaping; provided however, all such landscaping must be approved by the ARC.

**10.13. Environmental Provisions.**

(a) No tree with a diameter of four (4) inches or more measured at the height of four feet above grade shall be removed, unless the removal of same is necessary for the erection and maintenance of structures and outbuildings permitted hereby, or driveways or walkways providing access thereto, unless such tree is diseased, except with the consent of the ARC. No tree within any tree preservation area created within the Subdivision shall be removed except as permitted by such tree preservation easement.

(b). **Compliance with SWFWMD and the County.** Each Owner is hereby notified that the Property within the Subdivision is subject to the requirements of Surface Water Management Permit(s) issued by the Southwest Florida Water Management District. Each property Owner within the subdivision at the time of construction of a building, residence or structure shall comply with the construction plans for the surfacewater management system, pursuant to Chapter 40D-4, F.A.C., approved and on file with the Southwest Florida Water Management District ("SWFWMD" or "District"). No construction activities may be conducted relative to any portion of the surface water management system facilities without the prior approval of the Association and SWFWMD pursuant to Chapter 40D-4, F.A.C. The term "surface water management system facilities" is hereby defined to include, but is not limited to, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any

associated buffer areas, and wetland mitigation areas. The surface water management system facilities shall be located on land designated as Common Areas on any plat for Canoe Creek, land over which the Association either owns or has an easement in its favor for operation, control and maintenance of the surface water management system facilities, or on land dedicated to and controlled by the Association as set forth on any plat Canoe Creek. Prohibited activities include, but are not limited to: the removal of littoral shelf vegetation (including cattails) from wet detention ponds, digging or excavation; depositing fill, debris or any other material or item; constructing or altering a water control structure; or any other construction to modify the surface water management system facilities. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. SWFWMD shall have the right to take enforcement actions to enforce the terms hereof and Chapter 40D-4, F.A.C., including a civil action for injunction and/or penalties against the Association to compel it to correct any outstanding problems with the surface water management system facilities. In the event the Association is dissolved or otherwise fails to maintain the surface water management system facilities in accordance with the applicable permits and regulations, SWFWMD, upon reasonable notice and hearing, may, but is not obligated to, enter the Common Property for the purpose of maintaining same. The cost of such maintenance by SWFWMD shall be assessed pro-ratedly against the Lots and such charges are payable by the Owners within sixty (60) days after receipt of a statement therefor from SWFWMD, and if unpaid at the end of such period shall become a lien on the Lots.

The Association is intended to exist in perpetuity as set forth in the Declaration, and as described in Section 12.03 of the Declaration; provided however, in the event the Association ceases to exist or is otherwise dissolved or terminated, the responsibility for the operation and maintenance of the Subdivision's surfacewater /stormwater management system facilities shall be transferred to and accepted for maintenance responsibilities by another similar entity that complies with Section 373.416(2), F.A.C. and Chapter 62-330, F.A.C., then in effect, and/or complies with any other rule or regulation then in effect issued and approved by SWFWMD, prior to the termination, dissolution or liquidation of the Association. The new maintenance entity described above shall have all the same powers listed in the Association's Articles of Incorporation. Neither this Section nor any provision of this Declaration affecting the surfacewater management system facilities or the operation and maintenance of the surfacewater management system facilities may be amended without the prior written consent of SWFWMD.

(c) Sedimentation and erosion control measures will be in compliance with the County's Code. To prevent sedimentary runoff during construction, staked hay bales, staked silt screens or inlet debris control screens are to be placed at storm inlets, outfall locations and adjacent property lines as required prior to any construction activities. The contractor is responsible for maintaining the sedimentation barriers in a working manner for the duration of construction and should be checked daily. Siltation accumulations greater than the lesser of 12 inches or one-half of the depth of the sedimentation barrier shall be immediately removed and replaced in upland areas, in addition to specified erosion control locations, the contractor shall perform daily site inspections for potential erosion



problems. If problems occur, the contractor is responsible for installing appropriate erosion control immediately. The contractor is responsible for removing temporary erosion control devices following completion of all construction and final stabilization

(d) The Association shall maintain the surface water management system for the Subdivision (including littoral zone planting, maintenance of littoral zone vegetation, removal of exotic and nuisance species from littoral zones and wetlands mitigation areas, any periodic dredging and silt removal from stormwater retention areas) in compliance with all applicable regulations of the County, SWFWMD, and other governmental authorities with jurisdiction over the Subdivision property.

(e) The Association shall provide all stormwater, hydroperiod, wetland mitigation, littoral zone planting, and wetland planted buffer monitoring data collection and reporting required by the County, SWFWMD, or other governmental authorities with jurisdiction over the Subdivision property.

(f) Nothing set forth herein this Article or the Declaration shall be construed to abrogate the Association's responsibility hereunder to operate and maintain the surface water management system of the Property in compliance with all applicable regulations of the County, SWFWMD, and other governmental authorities with jurisdiction over the Subdivision property. Any amendment to this Declaration that materially affects the interests of SWFWMD in and to the surfacewater management system facilities shall require the prior consent of SWFWMD.

(g) No fishing, swimming, wading or other recreational activities shall be permitted within any of the lakes or water within the Property, unless authorized by the Association.

(h) No owner of property within Canoe Creek Subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, wetland mitigation areas, buffer areas, wetland buffers, preservation areas, upland conservation areas and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District, Manatee Regulation Department.

(i) Each Owner of a Lot within the Canoe Creek Subdivision at the time of constructions of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the Southwest Florida Water Management Department.

(j) The Association shall have the obligation to manage, monitor and provide reports regarding the surfacewater management system for the Subdivision as set forth herein this Declaration and this Article 10.13.

**10.14. Swimming Pools.** No above-ground swimming pools are permitted within the Subdivision. This provision does not prohibit hot tubs, therapy pools or hydro-spas when they are incorporated into improvements and approved by the ARC. The ARC may approve pools incorporated

into improvements even though such pools may be above grade. All pools shall be enclosed and constructed to comply with applicable regulations and standards of governments having jurisdiction. All pools, enclosures, screening and caging shall be subject to Architectural Review.

**10.15. Utility Easements.** Easements for installation, maintenance, repair and replacement of utilities and drainage facilities are reserved and established as reflected on the recorded Plat of the Subdivision and as set forth herein the Declaration. Also, a ten (10) foot minimum utility easement will be located along all front Lot lines. Within those easements no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction, obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained by the Owner thereof except for those improvements and facilities for which the Association, or a public authority or utility company is responsible.

**10.16. Pool Cage Restrictions.** Any pool cages or other screened cages upon any Lot shall not exceed the height of the home and shall utilize materials and colors as approved by the ARC. Some Lots may not be suitable for pools and other enclosures; and all potential buyers of a Lot should inquire with the Association's ARC about the suitability of the Lot for buyer's intended use prior to purchasing the Lot.

**10.17. Sidewalks.** Sidewalks may be installed on or abutting a Lot as required by approved site and construction plans for the Subdivision and the County's Code. If required, sidewalks shall be installed in accordance with the aforementioned plans and code and upon approval of the ARC. All costs and expenses for the installation of the sidewalk shall be paid by the Lot Owner. Following installation, such sidewalk shall be maintained by the Lot Owner at his expense, including but not limited to, maintenance and repair, pressure washing, trimming of low overhanging tree branches and assuring landscaping and other items do not obstruct the sidewalk. In no event may a sidewalk be blocked or obstructed in anyway; no vehicles or other object may block, in whole or in part, a sidewalk. Sidewalks shall be kept clean and clear of any obstructions of any kind whatsoever.

**10.18. Reclaimed Effluent Irrigation System.** It shall be the responsibility of each Owner at the time of construction of a building, residence or structure, and at all times thereafter, to comply with the requirements, if any, of the County's Public Works Department, the Developer or the Association and to connect into any system for reclaimed effluent irrigation that may be installed in the future. In connection therewith, each Owner, at his sole cost and expense, shall install an effluent meter, backflow preventer, and such other equipment required for connection to the reclaimed effluent irrigation system. In the event the Declarant or the Association enter into any reclaimed water rights agreements with the County, or any third party, (hereinafter the "Reclaimed Water Agreements"), all Lot Owners do hereby consent to and appoint Declarant and/or the Association as their agent to execute any and all documents related thereto, including amendments to or assignments of the Reclaimed Water Agreements, which documents are deemed reasonably necessary in Declarant's and/or the Association's sole and absolute discretion, without any further consent, joinder or signatures necessary by the Lot Owners. Any and all costs of the Association associated with the connection to any reclaimed/reuse irrigation system shall be paid by all Lot Owners as an Assessment.

**10.19. Prohibition Against Further Subdivision.** Except as provided for herein, the Lots shall not be further subdivided, but Lot lines may be reconfigured, as set forth herein, without the requirement for re-platting. The prohibition against re-subdivision of any Lot shall not prevent the conveyance of several Lots and/or portions of Lot(s) to the Owner of a contiguous Lot to the end that platted Lot lines may be reconfigured without the need for re-platting. Upon any such conveyance, the parcel so created shall be deemed a "Lot" subject to the provisions hereof, as though originally platted as

such. Where said Lots are combined or reduced and reconfigured as set forth herein, the outside boundaries of the building site (which building site is the newly configured Lot) shall automatically carry the reconfigured side Lot Line Easements (and any previously identified or platted Lot Line Easements shall be then automatically released without the need for re-platting). The Owner of the reconfigured Lot shall be solely responsible for reimbursement to the utility for any and all costs of relocating any existing facilities affected by the reconfiguration of the Lot. Notwithstanding anything to the contrary herein, (i) any easements granted to the County shall require the prior written consent of the County prior to removal or relocation; and (ii) any easements granted to a utility shall require the consent of the utility prior to relocation and further the relocation of such utility easement shall be at the Owner's expense. The Declarant reserves the right to reconfigure without the need for re-platting, or, at the Developer's option to re-plat, any one or more Lots and adjacent Common Property to create a modified Lot or Lots, and/ or to decrease or combine Lots by reconfiguration as set forth herein with or without re-platting, in the Declarant's sole and absolute discretion, and to convey such combined or reduced Lots with reconfigured boundaries all as set forth herein. Notwithstanding anything to the contrary herein, nothing contained herein shall limit or impair, in anyway whatsoever, Declarant's rights to develop the Subdivision, including re-platting and reconfiguring Lots and Common Property as well as developing adjacent parcels, such as Future Development Tract 200, as per Plat thereof, and incorporating same into this Subdivision as a new plat, re-plat and/or new phase of the Subdivision.

**10.20. Wetlands, Wetland Buffers & Upland Preservation Areas.** The Plat contains wetlands, wetland buffers and upland preservation areas that are regulated in accordance with Section 706 of the Manatee County Land Development Code. Unless permitted by the Manatee County Land Development Code, the following acts and activities are expressly prohibited within the boundaries of the wetlands, wetland buffers and upland preservation areas without the prior consent of Manatee County:

- Construction or placing of buildings, roads, signs, billboards or other advertising, or other structure on or above the ground.
- Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.
- Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.
- Removal, mowing, or trimming of trees, shrubs or other vegetation.
- Application of herbicides, pesticides, or fertilizers.
- Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.
- Surface use except for purposes that permit the land or water areas to remain in its natural condition.
- Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.
- Acts or uses detrimental to such retention of land or water areas.

**10.21 Signs.** No sign of any kind shall be displayed on any Lot except as follows:

- a) Individual, ornamental house number and name plates may be displayed, provided their size, color, design, and location is approved by the ARC. Either Developer or the ARC may require the use of standard house number and name signage.
- b) During the course of construction of a home on a Lot, a construction sign not exceeding four square feet identifying the builder may be displayed on the Lot. Such sign shall be promptly removed upon issuance of a Certificate of Occupancy by the County for the home.
- c) Other signs may be displayed if such signs are approved by the Developer as to size, design, location and content.

**10.22 Temporary Structures.** No structure of a temporary character, whether a trailer, tent, shack, garage, barn or any other such building, shall be placed on any Lot, provided, however, a temporary construction trailer and/or a storage or out-building for materials and supplies may be used in connection with and during the construction of a dwelling provided that any such temporary structure shall be removed immediately from the Lot upon the completion of such construction.

**10.23 Completion of Construction and Repairs.** The construction of any new building or the repair of the exterior of any building damaged by fire or otherwise shall be completed with reasonable promptness.

**10.24 Sales Office of Declarant.** Notwithstanding anything in this Declaration to the contrary, Declarant may construct and maintain a sales office, together with any and all marketing signs relating thereto, on Lots and in the Common Property, including all street right of ways, of its choosing until such time as all of the Lots have been sold by Declarant. Declarant's sales office and marketing signs and location shall not be required to undergo Architectural Review. Declarant may maintain a garage sales office consisting of a garage with french doors facing the street, or such other sales office as Declarant deems appropriate in Declarant's sole and absolute discretion. In addition, Declarant may place sales and other promotional signs on all of the entrances, roadways and all other Common Property as Declarant may choose, until such time as all of the Lots have been sold by Declarant. For so long as Declarant owns one (1) Lot in the Subdivision, at no time may the Association deny, limit or restrict access to the Subdivision in anyway to Declarant or any of its invitees, construction and development crews, sales and marketing personnel, or proposed customers; and if such access is ever denied, limited or restricted in any manner deemed harmful in Declarant's sole and absolute discretion, then Association shall immediately cure same to Declarant's immediate and complete satisfaction.

**10.25 Garage or Yard Sales.** No garage or yard sale, including any estate or similar sale conducted inside a Dwelling Unit, may be conducted on any Lot within the Subdivision without the prior written approval of the Association. The Association shall have the authority to prescribe reasonable rules and regulations for the conduct of any such sale, including, without limitation, rules regarding the manner of conducting such sales, permitted frequency, duration, hours and the type, size, location and number of signs advertising such sales. The Association may authorize a specific date or dates for garage and yard sales within the entire Subdivision, or any Neighborhood, and may limit garage or yard sales to those dates. The failure of an Owner to observe such rules and regulations shall be grounds for the Association to withhold its approval of any future sales by such Owner, as well as the imposition of fines or other sanctions as authorized in this Declaration.

**10.26 Easements & Lot Line Easements.** Easements shall be as set forth on any Plat for Canoe Creek and as set forth herein this Declaration. All easements referenced herein this Declaration shall be in addition to all other easements as referenced on the Plats. All easements herein and on the Plat not specifically labeled as "public" shall be deemed private easements. "Lot Line Easements" are hereby reserved for the Declarant, its successors, assigns, agents and invitees, for access, ingress/egress, installation of utilities, and installation, construction and other uses associated with the development of the Subdivision, Common Property and adjacent Lots. The dimensions of the Lot Line Easements shall be ten feet (10') along the front Lot line, fifteen feet (15') along the rear Lot line, and two feet (2') along the side Lot lines. Where more than one Lot is intended as a building site, the outside boundaries of said building site shall automatically carry said easements, and the intervening Lot Line Easements shall no longer exist. The easement area of each Lot and all improvements therein shall be maintained by the Owner, at Owner's sole cost and expense, except for those improvements and facilities for which the Association, or a public authority or utility company is responsible.

**10.27 Elevations.** All proposed building finished floor elevations are to be a minimum of eighteen (18) inches above the crown of the adjacent roadway or if within the 100-year flood plain, a minimum of one (1) foot above the 100-year flood elevation and comply with all other FEMA requirements. Any encroachment of the 100-year flood plain or flood way shall be mitigated in accordance with FEMA and the County's standards.

**10.28 Docks.** No boat docks, common boat dock or boat ramps are permitted within this Subdivision, and no boats, canoes, electric boats or watercraft of any nature or type shall be permitted on or within any of the Property or any lakes constructed thereon, unless located within an enclosed garage.

**10.29 Leases/Rentals.** No portion of a Lot or Unit (other than an entire Lot and Unit) may be rented. All leases shall be in writing and shall provide (or be automatically deemed to provide) that the Association shall have the right to terminate the lease in the name of and as agent for the lessor/landlord upon default by lessee/tenant in observing any of the provisions of this Declaration, as same may be amended, the Articles of Incorporation and By-Laws of the Association and its applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing the Subdivision or as administered by the Association. The leasing of Lots and Units shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld and which shall be deemed given if the Association does not deny approval within fifteen (15) days of its receipt of a written request for approval together with a copy of the proposed lease and all supporting information reasonably requested by the Association. No Unit or Lot may be leased/rented for a term of less than six (6) consecutive months, nor more than twice per year, without (i) written approval of the ARC, which may be granted, withheld, or conditioned at its sole and absolute discretion, or (ii) specific written approval by the Declarant or Developer (which may be granted, withheld, or conditioned at its sole and absolute discretion), which written approval shall be recorded in the Public Records of Manatee County, Florida; provided however, the provisions set forth herein shall not apply to the Developer's leasing of any Unit or Lot owned and/or controlled by Developer.

Owners wishing to lease their Lots and Units (i) shall be required to obtain and provide to the Association a contract for providing landscaping and irrigation services to the Lot or Unit, and (ii) may, if the Board so elects, be required to place in escrow with the Association a sum of up to \$500.00 which may be used by the Association to repair any damage to the Common Areas or other portions of the Subdivision resulting from acts or omissions of lessees/ tenants (as determined in the sole and absolute discretion of the Association). The Association shall not be required to pay or remit any interest on any such escrowed funds. The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum that is required by the Association to effect such repairs or to pay

any claim for injury or damage to property caused by the negligence of the lessee/tenant. Any balance remaining in the escrow account, less an administrative charge not to exceed \$50.00 and exclusive of any interest retained by the Association, shall be returned to the Owner within sixty (60) days after the tenant vacates the Unit. It shall be the Owner's responsibility to require that its tenants comply with this Declaration and all rules and regulations of the Association.

**10.30. Awnings.** No awnings are permitted on any structures within the Lots unless approved by the ARC.

**10.31. Play Equipment.** No play equipment, tot lots or similar structures shall be permitted on the Lots unless approved by the ARC.

**10.32. Decks.** No decks shall be permitted unless approved by the ARC.

**10.33. Screened or Enclosed Porches.** All screened and/or enclosed porches shall be approved by the ARC.

**10.34. Storm Shutters.** Storm shutters may only be placed on a structure once a Storm Warning is issued by the appropriate governmental authority and shall not remain on the structure for more than seven (7) day after the storm event; provided however, clear storm shutters may remain on the structures for a reasonable period of time while the Lot Owner(s) is not present.

**10.35 Nature Trails.** Nature trails and boardwalks, if any, permitted and constructed within the Property shall be constructed in such a way to comply with any applicable Conservation, Preservation and/or Wetland Buffer Easements and approved site plans, and further, shall be constructed of such materials and in such a way as determined by Developer, in its sole and absolute discretion, to allow the land and water area below to remain predominantly in its natural condition.

**10.36 No Mining or Exploration.** No Owner shall permit or consent to any mining or exploration for oil, gas, minerals or the like on, within or under any Lot.

**10.37. Gate Transponders.** All transponders or similar devices (if any) used to operate any gates or fences on the Property shall be and remain the property of the Association. If applicable, each Lot may be provided two (2) transponders. Additional transponders may be provided at the Owner's request and expense. In the event an Owner loses, misplaces, destroys or damages the transponders, the Association shall charge the Owner all costs, including any administrative costs, associated with replacing the transponder. Transponders shall be surrendered to the Association by the Owner upon demand.

**10.38. Subdivision's Central Irrigation System & Mandatory Lot Irrigation System.**

(a) Central Irrigation System and Lot Irrigation System. Each Lot is required to have an automated lawn irrigation system with automated timers (the "Lot Irrigation System"). It is anticipated that the Lot Irrigation Systems shall be connected to the County's reuse/reclaimed water lines and metered at each Lot; provided however, in the event the Subdivision is required to have a master reclaimed water line, then the Lot Irrigation Systems shall be connected to the Association's Central Irrigation System. The "Central Irrigation System" of the Subdivision is owned, operated and maintained by the Association and is the Subdivision's master irrigation system supplying irrigation water to Common Areas (and in the event the County's reclaimed water lines are not available to each individual

Lot, then the Central Irrigation System shall also supply irrigation water to each Lot Irrigation System). All costs incurred by the Association associated with paying for and/or providing irrigation water, facilities for irrigation and any and all operation and maintenance of irrigation facilities, including the Central Irrigation System, shall be paid by Lot Owners as an Assessment.

The individual Lot Irrigation System shall be maintained by each Lot Owner at his sole cost and expense. The design and specification of materials used for the Lot Irrigation System shall be as specified and approved by the Declarant and after Turnover by the Association. In order to ensure the efficient operation of the Central Irrigation System and the individual Lot Irrigation Systems, the timer settings for each individual Lot Irrigation System shall be set in accordance with a watering schedule as established by the Association, which schedule shall be adjusted from time to time. All Lot Owners shall abide by all rules, regulations and specifications of the Association by setting the timers of the Lot Irrigation System in accordance with the Association's guidelines and maintaining same in a good and proper working order. All costs and expenses of the Association associated with the use, in any way, of the Central Irrigation System, including the use of reclaimed irrigation water supplied to any of the Property shall be included in the budget of the Association as an Assessment and paid by all Lot Owners. The respective obligations for maintenance, repair and replacement of the Central Irrigation System and the Lot Irrigation Systems shall be as follows:

(i) All components of the Central Irrigation System not located within a Lot up to the point of connection to each Lot (but not including the separate Lot Irrigation Systems of the Lot Owners on their respective Lots) shall be owned and maintained by the Association; provided, however, the Owner of a Lot shall do nothing to interfere with the operation of the Central Irrigation System, and shall be liable to the Association for any damage to the Central Irrigation System caused by the willful acts or negligence of such Owner, his tenants and any respective families, guests, contractors, licensees and invitees. The Declarant and the Association, and their employees, subcontractors, and agents, shall have the right to enter upon any Lot to (i) monitor and set Lot Irrigation System timers; and (ii) inspect, maintain, repair and replace portions of the Central Irrigation System on such Lot, and shall have the right to relocate such installations from time to time.

(ii) All components of the Lot Irrigation System and automatic timers up to the point of connection to the Central Irrigation System shall be regularly and properly maintained, repaired and replaced at the sole cost and expense of the Owner of such Lot.

(b) Easements. The Association and Declarant shall have easements for the benefit of the Association and Declarant, and their employees, subcontractors, successors, transferees, licensees, and assigns in, on, under, through or over all the Property in the Subdivision, as may be expedient or necessary for (i) access to and use of the reclaimed irrigation water and (ii) installing, operating and maintaining equipment, and ingress and egress to all of the Association's or Declarant's equipment, and connecting any water, or effluent water lines within the Property to additional properties, as may be brought under this Declaration by Declarant. The easements herein described shall be perpetual and at all times inure to the benefit of and be binding upon the Association, the Declarant, and all of their grantees and respective successors, transferees, designees, and assigns.

**10.39. Compliance with Site Plans, Construction Drawings and Other Development Approvals.** The Association and all Lot Owners shall comply with any and all approved site plans, construction drawings, development approvals, permits, authorizations and the like (the "Permits") affecting the Subdivision in anyway, including but not limited to, required participation in any shared maintenance obligations as may be required by and set forth in the Permits requiring the Association and Lot Owners to share and participate in any costs, expenses and obligations for shared maintenance of

properties owned by third parties adjacent to the Subdivision, including roadway and utility participation agreements.

**10.40. Reservation of Fill Dirt.** Developer hereby reserves the exclusive right to utilize, excavate, remove and store all fill dirt at the Property, not otherwise necessary for the development of this Subdivision, for other projects outside of the Property. The aforementioned reservation includes an easement of ingress, egress and access for Developer, and its successors, assigns and agents, to enter the Property, excavate fill dirt from the Property, including excavation on all Common Areas / Common Property such as lakes, and to remove the fill dirt for exclusive use by Developer on other projects offsite of the Property. While the Developer is actively developing the Property or owns at least one (1) Lot for sale in the ordinary course of business, Developer is also permitted to, and is hereby granted an additional easement to, store and preserve the fill dirt on site at the Property in an area chosen by Developer, in its sole and absolute discretion.

**10.41. Compliance with Matters of Title.** All covenants, conditions, easements, restrictions and other matters of title affecting the Property, as same are recorded in the Public Records of Manatee County, Florida, are hereby incorporated herein this Declaration.

#### **ARTICLE 11 COMPLIANCE WITH CODE**

The following provisions are mandated by the Code and are applicable to the Subdivision.

**11.01. Alternate Maintenance by County.** In the event the Association fails to maintain the Common Property in reasonable order and condition in accordance with applicable governmental approvals, the provisions of the Code allow for the County, upon specified notice and hearing, to enter the Common Property for the purpose of maintaining same. The cost of such maintenance by the County shall be assessed pro-ratedly against the Lots and such charges are payable by the Owners within sixty (60) days after receipt of a statement therefor from the County, and if unpaid at the end of such period shall become a lien on the Lots. The County has no obligation to perform maintenance.

**11.02. Further Disposition of Common Property.** With respect to such portions of the Common Property or any interest therein that may be deemed required common open space under applicable governmental regulations, subsequent to the conveyance to the Association, there shall be no further disposition of such Common Property that is real property by sale, dissolution of the Association or otherwise, except to an organization conceived and organized to own and maintain such property without first offering to dedicate the same to the County or other appropriate governmental agency; provided however, this provision shall not prohibit or restrict in anyway the Declarant from re-platting the Subdivision and/or reconfiguring the Common Property as reasonably necessary to develop the Subdivision.

**11.03. Disturbance of Common Property.** No portion of the Common Property shall be denuded, defaced or otherwise disturbed in any manner at any time, except for maintenance, repair, improvement and further development (which includes replatting, reconfiguration of Common Property for development purposes and the like), without the prior written approval of both the Association and the director of the County Planning, Permitting and Inspection Department, or such successor agency as may assume the duties of that department.



**11.04. Right of Entry by County.** A right of entry upon the Common Property is hereby granted to the County and other governmental law enforcement officers, health and pollution control personnel, emergency medical service personnel, and firefighting personnel, and to governmental suppliers of utilities, while in pursuit of their duties. The right of entry will be governed by a Right of Entry and Compliance with Manatee County Land Development Code Agreement, attached hereto as **Exhibit F.**

**11.05. Compliance with Law.** Notwithstanding any other provision of this Declaration to the contrary, there shall be no violation of federal, state or local law permitted within the Subdivision.

**11.06. Required Materials.** The Code mandates certain documents be submitted to the planning director of the County, which documents must be reviewed and approved by the planning director and, once approved, said documents must be recorded as part of the documentation for the Subdivision. The following described documents have been submitted, reviewed and approved by the planning director in accordance with the Code, and are attached hereto as exhibits in compliance with the Code.

(a) Attached hereto as **Exhibit "B"** is a Fiscal Program for the Association for a period of ten (10) years. The Fiscal Program reflects funds estimated to be adequate for the maintenance and care of the Common Property under the ownership or control of the Association. The Fiscal Program is in part based upon the assumption that the Association will follow the maintenance program described below. This Fiscal Program is a good faith estimate and may be changed by the Declarant and/or Association as reasonably necessary without further notice.

(b) There is attached hereto as **Exhibit "C"** a Maintenance Program providing a recommended program for the maintenance of all major facilities to be maintained by the Association.

(c) There is attached hereto as **Exhibit "D"** a proposed Notice to Buyer that will be given to prospective buyers regarding the flood zone determinations, organization of the Association, Assessments and the Fiscal Program.

(d) There is attached hereto as **Exhibit "E"** a List of Holdings of the Initial Property subject to the Plat, reflecting a listing of all lands, buildings, equipment, and facilities, as proposed.

**11.07. Limitation.** The Maintenance Program and Fiscal Program are estimates only prepared by the Declarant based upon its experience, and reviewed and approved by the planning director of the County. The actual Maintenance Program will be as determined by the Association in accordance with this Declaration and the actual budget and amount of Assessments will be as determined by the Association in accordance with this Declaration. All amounts reflected on the Fiscal Program are estimates only, based on currently anticipated costs without taking into consideration the fluctuating purchasing power of the United States dollar. Such amounts can reasonably be expected to fluctuate with time, the economy, market conditions and in response to actual (as opposed to estimated or assumed) experience, unexpected circumstances, and specific services and levels of service determined by the Association. There is no guarantee, representation or warranty, either express or implied, by either the Declarant or the County of the figures contained in the Fiscal Program, nor is the Maintenance Program represented or warranted as representative of the actual maintenance that will be required. No one to whom the precision of these figures or programs is of any consequence should enter a purchase agreement to acquire a Lot in the Subdivision except with a full understanding of the purpose and nature of such materials.

**11.08. Limitation on Amendment.** Notwithstanding any other provision in this Declaration to the contrary, neither this Article 11 nor any provision of this Declaration directly affecting this Article 11 may be amended without the written consent of the County.

## **ARTICLE 12 GENERAL PROVISIONS**

**12.01. Enforcement.** Subject to the provisions set forth herein this Article 12, the Declarant, Association or any Owner shall have the right to enforce by proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such provisions and the right to recover damages for such violations; provided, however, that with respect to Assessments and Assessment liens, the Association, on determination of the Board, shall have the exclusive right to the enforcement thereof. Notwithstanding anything to the contrary herein this Declaration, no enforcement proceedings may be maintained by the Owners of fewer than fifteen (15) Lots, and further provided, no enforcement proceedings by Lot Owners may be brought, exclusive of a proceeding by the Association, unless and until the provisions of Article 12.13 have been fully satisfied as a condition precedent to the bringing of the enforcement proceeding. Failure of the Association, or any Owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**12.02. Severability, Article & Section Headings & Venue.** Invalidation of any part of this Declaration by a court of competent jurisdiction shall not affect any other provisions, which shall remain in full force and effect. Article and section headings have been inserted for convenience only and shall not be considered in interpretation or construction of the document. This Declaration shall be construed under the laws of Florida, and shall not be construed more strongly against any party regardless of the extent to which any party may have participated in the drafting of the Declaration or any amendment thereto. Whenever the context of this Declaration, the Articles or By-Laws require, the singular shall include the plural and the plural the singular, and any one gender may refer to any other gender. Venue for any dispute shall lie in Manatee County, Florida.

**12.03. Covenants.** The covenants, conditions, restrictions, easements and terms of this Declaration shall run with the land, bind all the Property subject hereto and inure to the benefit of and be enforceable as provided above, for a term of fifty (50) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of at least two-thirds (2/3) of the Lots and institutional mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages and held by institutional mortgagees has been recorded at least one (1) year prior to the end of any such period, agreeing to terminate this Declaration. In such event, this Declaration shall be terminated upon the expiration of the fifty (50) year term or applicable ten (10) year extension during which such instrument was recorded. In the event the Association is dissolved or otherwise terminated, then in addition to the restrictions set forth herein regarding the ability for SWFWMD to maintain certain surfacewater management system facilities on Common Property, the Owners shall establish a similar non-profit entity to own, operate and maintain the Common Property including the surfacewater management system facilities.

**12.04. Scheme of Development & Construction.** This Declaration shall be liberally construed to give effect to its purpose of creating a plan for a residential community with possible commercial and other non-residential uses and development planned; and for the maintenance of the

Common Property. The Declarant and Developer specifically and exclusively reserve the right to change, amend, modify, alter, supplement and clarify the scheme or general plan of development of the Canoe Creek Project, to include, but not limited to, (i) amend, modify, alter, and change the site and development plans, permits and approvals for the Subdivision; (ii) reconfigure the Lots and Common Property in the Subdivision with or without the need for a re-plat of the Subdivision; (iii) add or delete property from the Subdivision; (iv) reconfigure the Lots without re-platting, including granting variances from the provisions of this Declaration and Plat; (v) change the number, type, location and size of Lots and the architectural style and design of improvements to be constructed thereon; (vi) change, modify or alter all Subdivision Improvements; (vii) change, modify, alter, relocate and reconfigure the Common Property; and (viii) to amend this Declaration to effectuate the above and any other change or amendment deemed reasonable by the Declarant or Developer; and further provided, any such amendment or change shall be automatically deemed to be "REASONABLE" by the Association and all Lot Owners and shall not be deemed to unreasonably change the general scheme or plan of the Canoe Creek Subdivision, provided such change, amendment, modification or the like continues to maintain the Canoe Creek Subdivision as a residential development with possible commercial and non-residential uses. No Owner should rely upon, and the Developer and Declarant make no representation or warranty of any kind, whatsoever, as to whether the Subdivision shall be built out in conformance with any current plans, approvals, or permits, including any marketing related plans, brochures, posters or the like provided by Declarant, Developer and any Approved Builders. The Declarant, Developer and any Approved Builder, including their agents, employees and sales agents, make no representation as to (i) changing market conditions which may affect future sales prices of the Lots and Units, including any future sales or promotions which may reduce Lot and Unit prices; or (ii) the general scheme, layout, dimensions, architectural style, design or plan of the Canoe Creek development, other than that it is a residential development with possible commercial and non-residential uses and development planned. THIS ABSOLUTE RESERVATION BY DECLARANT AND DEVELOPER OF THE RIGHT TO AMEND, MODIFY, CHANGE, SUPPLEMENT, ALTER AND CLARIFY THE GENERAL SCHEME AND PLAN OF THE CANOE CREEK DEVELOPMENT, IN ANYWAY DEEMED REASONABLE BY DECLARANT AND DEVELOPER, IN THEIR SOLE AND ABSOLUTE DISCRETION, AND THE REQUIREMENT THAT THE ASSOCIATION, AND ALL LOT OWNERS BY ACCEPTANCE OF A DEED TO THEIR LOT, DO HEREBY AUTOMATICALLY CONSENT TO AND ACKNOWLEDGE DECLARANT AND DEVELOPER'S SPECIFIC RESERVED RIGHTS TO AMEND, CHANGE, MODIFY, ALTER, SUPPLEMENT AND CLARIFY THE GENERAL SCHEME AND PLAN OF THE CANOE CREEK DEVELOPMENT IS A MATERIAL INDUCEMENT TO DECLARANT AND DEVELOPER TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES. THE ASSOCIATION AND ALL LOT OWNERS HEREBY CONSENT TO, ACKNOWLEDGE, AND DEEM REASONABLE, ANY CHANGES TO THE GENERAL SCHEME OR PLAN OF DEVELOPMENT AS SET FORTH HEREIN, AND DO HEREBY APPOINT DECLARANT AND/OR DEVELOPER AS THEIR AGENT TO EXECUTE ANY AND ALL DOCUMENTS RELATED TO DECLARANT AND/OR DEVELOPER'S RESERVED RIGHTS HEREIN WITHOUT THE NEED FOR FURTHER CONSENT OF OR BY ASSOCIATION OR THE LOT OWNERS.

**12.05. Approval of Association Lawsuits.** In addition to all other provisions contained herein this Declaration, prior to initiating a lawsuit by or against the Association, the parties shall comply with the mandatory demand for pre-suit mediation and other alternative dispute resolution notices and requirements as set forth in Section 720.311, Florida Statutes. Lawsuits involving the Association may be further limited by Section 720.303, Florida Statutes.

Notwithstanding anything herein contained to the contrary, the Association shall be required, at a duly called meeting of the Members at which a quorum is present, to obtain the approval of the Owners of eighty percent (80%) of all of the Lots in the Subdivision prior to the payment of legal or

other fees or costs to persons or entities engaged by the Association for the purpose of suing or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) The collection of Assessments and foreclosure of liens for Assessments;
- (b) The collection of other charges which Owners are obligated to pay pursuant to this Declaration, the Articles or By-Laws or rules and regulations of the Association and ARC;
- (c) In an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Common Property or to the Owner(s) (the eminent expiration of a statute of limitation shall not be deemed an emergency obviating the need for the requisite vote); or,
- (d) Filing a compulsory counter claim.

Further, prior to filing the lawsuit, it shall be a material condition precedent to the institution of any lawsuit that: (i) the party or parties bringing same shall have first given written notice to Declarant or other party against whom relief or recovery is sought (the "Defendant") of the specific matter complained of and what action steps are necessary to cure or correct same, and (ii) the Defendant shall have been given at least one hundred twenty (120) days (subject to extension by reason of matters beyond the control of the Defendant or because of the nature of the applicable matter(s) and the time necessary to correct same) in which to cure or correct the applicable matters, and (iii) if the Defendant does not cure same as provided for herein, then the Association may not file the lawsuit without holding a meeting of the Members to reasonably consider its Attorney Statement Letter. The Attorney Statement Letter shall be a letter obtained by the Association from its legal counsel, which letter opines as to the following: (a) the likelihood for success by the Association of the lawsuit and all matters contained therein, and (b) the total cost of litigation (and all matters related thereto) and how the imposition of Assessments, including Special Assessments, by the Association to pay for such cost of litigation will affect each Lot Owner.

**12.06. Amendment.** This Declaration may be amended only in accordance with this Section.

(a) Prior to the Turnover Date, Declarant reserves the right to amend this Declaration, the Articles and By-Laws in any reasonable manner whatsoever, without the requirement of Association consent or the consent of any Lot Owner or the mortgagee of any Lot, so long as such amendments do not delete or convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property; provided however, this provision shall not limit or affect the Developer's ability to re-plat and/or reconfigure all or part of the Subdivision's Common Property and amend the Declaration in connection therewith. Notwithstanding anything to the contrary herein, the Declarant reserves the right to relocate or reconfigure the Common Areas, including the right to substitute relocated or similar Common Areas in other locations within the Subdivision, thereby deleting the Common Areas in the prior location. The right of Declarant to amend as herein set forth shall prevail, anything else contained herein to the contrary notwithstanding.

(b) This Declaration may be amended at any time by the affirmative vote of Members owning two-thirds (2/3) of all Lots in the Subdivision together with the approval or ratification of a majority of the entire Board. Provided, however, that at any

time by a majority vote of the Members of the Association, this Declaration may be amended where necessary to comply with regulations of the Veterans' Administration, the Federal Housing Administration, the Office of Interstate Land Sales Registration, the Federal National Mortgage Association, the Federal Home Loan Corporation, the Federal Home Loan Bank Board or other similar governmental agency. Provided further, no amendment shall be made that is in conflict with Section 11.08 or Sections, 12.04 and 12.08; and further provided, any amendment to Section 12.05 shall require the approval of the Owners of eighty percent (80%) of all Lots in the Subdivision. Anything contained in this Subsection to the contrary notwithstanding, no amendment adopted by the Members pursuant hereto shall be effective prior to the Turnover Date, except with the prior written consent of the Declarant, which consent may be withheld in the Declarant's sole and absolute discretion.

(c) Any amendment approved by the Owners pursuant to this Section shall be approved at an annual, regular or special meeting called for that purpose, pursuant to written notice setting forth the proposed amendment or a summary of the changes to be effected thereby, such notice to be given within the time and in the manner provided for in the By-Laws. In lieu of voting at an annual, regular or special meeting as herein provided, amendments may be approved in writing executed by the requisite number of Owners and directors.

(d) After the Turnover Date, this Section may only be amended by the affirmative vote of the Owners of not less than eighty percent (80%) of all Lots in the Subdivision.

(e) This Declaration may be amended, as provided for above, without the consent of any mortgagee of any Lot, unless the amendment would adversely affect the mortgagee's lien priority.

(f) Failure of the Association to provide notice of any recorded amendment to its Governing Documents shall not affect the validity of the amendment. Lot Owners are encouraged to contact the Association for copies of and information regarding current Governing Documents.

**12.07. Attorney's Fees.** In the event any action by the Association against the Lot Owner, Lot Owner against the Association, or Lot Owner against Lot Owner is instituted to enforce or construe the provisions of this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorney's fees and the costs of such suit. If the Association is a prevailing party in such action, the amount of such attorney's fees and costs shall be a Special Assessment with respect to any Lot and its Owner if such Owner was the non-prevailing party in such litigation.

**12.08. Declarant Provisions.**

(a) Declarant for itself, and its designees, further reserves the right to erect temporary structures for use in its development business and otherwise to establish and use any part of the Property covered hereby for the development, construction, marketing, promotion and sale of Lots and improvements thereto. So long as Declarant owns or controls any Lot of record in the Subdivision, it may (i) establish licenses, reservations, easements and rights-of-way in favor of itself, suppliers of utility and similar services, and other public or private authorities as may from time to time be reasonably consistent with use of the Subdivision for its intended purposes, and (ii) retain the right to further license, sell or transfer its rights to third parties for

consideration, including, but not limited to, the right to collect fees, royalties, commissions, and other residual and financial benefits in connection therewith. In any instance where a structure has been erected upon a Lot, or the construction thereof is substantially advanced in a manner that violates the restrictions of this Declaration or in such a manner that same encroaches on any Lot line, Lot Line Easement, easement area as shown on the Plat or set forth herein or setback or other restriction, Declarant reserves the right to release the Lot from the restriction and to grant an exception or variance to permit the encroachment by the structure so long as Declarant, in the exercise of its sole discretion, determines that the release, waiver, variance or exception will not materially and adversely affect the appearance of the Subdivision. The Declarant may grant franchises or concessions to commercial concerns on all or part of the Common Areas and/or common facilities and shall be entitled to all income derived therefrom.

(b) Declarant hereby reserves easements for the benefit of Declarant, its employees, subcontractors, successors, and assigns, in, on, under, through or over the Subdivision's Common Property, and the front ten (10) feet, side five (5) feet, and rear fifteen (15) feet of all yards of all Lots within the Subdivision, as may be expedient or necessary for the purpose of access, ingress/egress, installing its equipment, and connecting any water, sewer or effluent water lines within the Subdivision to additional properties, and for any other purpose the Declarant deems necessary, as Declarant determines in its sole and absolute discretion. The easements herein described shall be non-exclusive, perpetual and at all times inure to the benefit of and be binding upon the undersigned, all of their grantees and respective heirs, successors, personal representatives, and assigns.

(c) Notwithstanding the provisions of Section 12.06, there shall be no amendment to this Declaration which shall abridge, impair, prejudice, amend or alter the rights, privileges or priorities of Declarant without the prior written consent thereto by Declarant for so long as Declarant holds or controls at least one (1) Lot for sale in the ordinary course of business.

(d) For so long as Declarant holds or controls at least one (1) Lot for sale in the ordinary course of business, Declarant and its nominees shall have the right, at any time, to hold marketing and promotional events within the Common Property and any common facilities, without any charge for use. Declarant or its nominees, agents, affiliates, or assignees shall have the right to market the Subdivision and Lots in advertisements and other media by making references to the Subdivision, including, but not limited to, pictures or drawings of the Common Property and common facilities, Lots and completed homes within the Subdivision.

(e) The Declarant, for so long as it is developing any property with the Project, shall be permitted to grant variances to any provisions in the Declaration, including any easements reserved therein and easements reserved on the Plat, such as but not limited to, Lot Line Easements, as well as set backs and other restrictions that the Declarant deems necessary for development.

(f) The Declarant and Developer shall be permitted to exercise all rights set forth herein this Declaration without the consent or joinder of any Lot Owner, the Association or mortgagee of any Lot.

(e) Declarant and Developer hereby reserve and are granted easements for ingress, egress, access and use on, over, under, through and across all gates, entranceways, roadways, Lot Lines (including Lot Line Easements), and all Common Property within the Subdivision, which access and use easement shall continue until such time as Declarant and Developer no longer own or control any Lot within the Subdivision. Declarant and Developer hereby reserve and are

granted an easement for access, ingress and egress onto any Lot within the Subdivision for purposes associated with construction of dwelling units and other improvements associated with the development of the Subdivision.

(f) No provision of this Declaration pertaining to Declarant's rights, which term should be broadly defined and interpreted to include Declarant's easements, reservations, authorizations, covenants and the like, may be amended, modified, changed, supplemented or deleted without Declarant's prior written consent, which consent may be withheld in Declarant's sole and absolute discretion.

**12.09. Assignment by Declarant.** Declarant's rights hereunder may be assigned to any successor to all or any part of Declarant's interest in the Subdivision by express assignment incorporated in a deed or by separate instrument. Declarant may designate in writing one or more successor developers as to portions of the Subdivision, which instrument shall detail the extent and nature of the rights of Declarant assigned thereby. After any such assignment is recorded among the Public Records, the assignee shall stand in the place of Declarant as fully as if it had originally been the Declarant hereunder to the extent of the assignment described therein, upon which the Declarant hereunder shall automatically be released by the Association and its Members/ Owners from any and all obligations or responsibilities as a "Declarant" or "Developer" hereunder.

**12.10. Rights of Mortgagees.** The Association shall make available for inspection upon request, during normal business hours and under reasonable circumstances, this Declaration, the Articles, By-Laws and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Subdivision. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor, such holder, insurer or guarantor (the "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- (a) Any condemnation, loss or casualty loss that affects any material portion of the Common Property;
- (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and
- (d) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his obligations under this Declaration, including but not limited to, any delinquency in the payments of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements for the Association for the prior fiscal year free of charge and the same shall be furnished within a reasonable time following such request.

**12.11 Incorporation of the Land Use Documents.** Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this

Declaration and its exhibits, as amended, the Plat and any and all development approvals, Permits, conditions and stipulations associated with the Canoe Creek Project.

**12.12 Release from Minor Violations.** Where a building has been erected on a Lot or the construction thereof substantially advanced, in such manner that the same constitutes a violation or violations of the covenants set forth herein this Declaration, either the Declarant or the Board may and each of them shall have the right at any time to release such Lot from such paragraph or paragraphs as are violated, provided, however, that neither the Declarant or the Board shall release a violation or violations unless same are determined to be minor by the Declarant or Board, in their sole and absolute discretion.

**12.13 Dispute.** In the event Lot Owners seek to bring enforcement proceedings at law or in equity regarding the Declaration, restrictions, conditions, covenants, reservations, rules, regulations, specifications, guidelines, standards, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such provisions and the right to recover damages for such violations (except for enforcement of Assessments per Article 12.01), then as a condition precedent to the filing of such suit or proceeding at law or in equity, and in addition to any pre-suit mediation requirements as provided in Chapter 720, Florida Statutes, the Lot Owners shall refer the matter to the Association's Board for a final determination before filing a suit or claim at law or in equity; at which time, all other provisions of this Declaration regarding pre-suit conditions, notices and mandatory demand notices for mediation, including but not limited to all Attorney Statement Letters, must be fully complied with and met.

**12.14 Fines and Suspensions.** Each Owner shall comply, and shall cause the Owner's family, guests, tenants, and invitees to comply, with the restrictions and covenants, as well as all rules, regulations, standards, guidelines, specifications, and the like, set forth in this Declaration, and any amendments hereto, applicable to such Owner's Lot, as well as parking in the Subdivision streets and right of ways and use of all Common Areas. Each Owner shall further comply, and shall cause the Owner's family, guests, tenants, and invitees to comply with the architectural criteria established by the ARC and any and all rules and regulations established by the Association. Upon lack of compliance of an Owner, or the Owner's family, guests, tenants and invitees, the Association may, in addition to all other available remedies, impose a fine upon the Owner and/or suspend the rights of the Owner, or the Owner's family, tenants, guests, or invitees, to use the Common Property pursuant to the following provisions:

(a) **Notice.** The Association shall afford an opportunity for hearing to the Owner, after notice of not less than fourteen (14) days or such longer period as may be required by law. The notice shall include a statement of the date, time, and place of the hearing and a statement of the matters constituting the alleged violation. The hearing shall be before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. Notwithstanding anything to the contrary herein, in the event the Association, in its reasonable discretion, deems the violation of the Declaration, including all rules, regulations, standards, specifications, guidelines and the like, to be an emergency, such as, but not limited to, a violation of the Association's vehicle and parking restrictions, then the Association may declare the violation an emergency and follow the procedures set forth in Section 7.05(a), above, to immediately cure the violation without further notice, and any and all costs or expenses incurred by the Association in curing the violation shall become a Special Assessment against the Owner's Lot and a personal obligation of the Owner. All vehicle and parking violations within the Subdivision shall be deemed emergency circumstances, and the Board shall be authorized to immediately remove and tow the offending vehicle at the vehicle owner's expense. Notwithstanding anything to the contrary herein, only a single



notice and hearing is required to permit the Association to impose additional and multiple fines for each day the same or similar violation exists.

(b) Hearing. At the hearing, the Owner shall have the opportunity to review, challenge, and respond to any material considered; to present evidence; and to provide written and oral arguments on all issues involved.

(c) Imposition of Fine. The committee, by majority vote, may impose a fine not in excess of the maximum amount permitted by law per day from the date of the violation until such violation ceases; and further provided, there shall be no limitation as to the aggregate amount of the fine. Only a single notice and hearing is required to permit the Association to impose additional and multiple fines for each day the same or similar violation exists. Any fine levied by the committee against an Owner shall be a Special Assessment applicable to the Owner's Lot.

(d) Application of Fines. All proceeds received by the Association from fines shall be applied to the payment of the Common Expenses, or as the Board in its discretion may determine.

(e) Suspensions. In addition to or instead of imposing a fine, the committee, by majority vote, may suspend the rights of the Owner, or the Owner's family, tenants, guests, or invitees, to use the Common Property for a reasonable period of time.

(f) Nonexclusive Remedies. Fines and/or suspensions shall not be construed as exclusive remedies and shall exist in addition to all other rights and remedies to which the Association may be legally entitled at law or in equity; however, any fine paid by an Owner shall be deducted or offset against any damages that the Association may otherwise be entitled to recover from Owner.

**12.15. Notice as to On-Site and Off-Site Activities.** ALL OWNERS, OCCUPANTS, AND USERS OF THE PROPERTIES ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND OTHERS, WHETHER RELATED OR UNRELATED, MAY FROM TIME TO TIME CONDUCT DEVELOPMENT, CONSTRUCTION, RANCHING, FARMING, AGRICULTURAL, MINING, BLASTING, PLANT OPERATION AND OTHER ACTIVITIES NOT NORMALLY ASSOCIATED WITH A RESIDENTIAL SUBDIVISION, EITHER WITHIN, NEARBY OR WITHIN SIGHT OR SOUND OF THE PROPERTIES. SUCH ACTIVITIES MAY INCLUDE SITE CLEARING (INCLUDING THE REMOVAL OF LARGE AMOUNTS OF TREES), BLASTING, KEEPING OF LIVE STOCK, SPRAYING, FERTILIZING, EARTH MOVING, TRAFFIC-GENERATING AND OTHER PRACTICES CREATING UNSIGHTLY CONDITIONS, NOISE (AT ALL HOURS) AND DISTURBING ODORS.

ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTIES ARE HEREBY NOTIFIED OF THE FOREGOING ACTIVITIES AND, BY ACCEPTANCE OF TITLE TO THEIR RESPECTIVE PORTIONS OF THE PROPERTY OR MAKING ANY USE THEREOF, AUTOMATICALLY ACKNOWLEDGE, STIPULATE AND AGREE (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE AREAS WHERE SUCH ACTIVITIES ARE BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF

ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DECLARANT AND ANY OTHER PARTY CONDUCTING OR PARTICIPATING IN SUCH ACTIVITIES SHALL NOT BE LIABLE FOR ANY LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTIES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES.

LANDS NEARBY OR WITHIN SIGHT OR SOUND OF THE SUBDIVISION MAY BE USED FOR AGRICULTURAL AND OTHER NON-RESIDENTIAL PURPOSES, INCLUDING, WITHOUT LIMITATION, DEVELOPMENT, CONSTRUCTION, RANCHING, FARMING, AGRICULTURE, MINING, BLASTING, PLANT OPERATION, COMMERCIAL AND/OR INDUSTRIAL USES, AND OTHER ACTIVITIES NOT NORMALLY ASSOCIATED WITH A RESIDENTIAL SUBDIVISION. SUCH ACTIVITIES MAY INCLUDE SITE CLEARING (INCLUDING THE REMOVAL OF LARGE AMOUNTS OF TREES), BLASTING, KEEPING OF LIVE STOCK, SPRAYING, FERTILIZING, EARTH MOVING, TRAFFIC-GENERATING AND OTHER PRACTICES CREATING UNSIGHTLY CONDITIONS, NOISE (AT ALL HOURS) AND DISTURBING ODORS. LANDS NEXT TO THE SUBDIVISION MAY ALSO INCLUDE IMPACTS RELATING TO THE USE OF AIRCRAFT AND OTHER DEVICES ASSOCIATED WITH LOCAL GOVERNMENT MOSQUITO CONTROL DISTRICTS AND THE LIKE, INCLUDING, BUT NOT LIMITED TO, AIRCRAFT NOISE, VIBRATIONS, ODORS, VAPORS, EXHAUST, SMOKE, DUST, EMISSION OF PESTICIDES, AND OTHER EFFECTS INHERENT IN THE OPERATION OF AIRCRAFT OVER AND THROUGH AIRSPACE ABOVE AND ADJACENT TO THE SUBDIVISION, INCLUDING THE OPERATION OF HELIPADS AND RUNWAYS. DEVELOPER MAKES NO REPRESENTATIONS TO ANY LOT OWNER AS TO THE NATURE OF CURRENT AND FUTURE USES OF ADJACENT PROPERTY.

**12.16. Notices and Disclaimers as to Water Bodies, Common Areas, and Other Matters.** NEITHER DECLARANT, THE DEVELOPER, THE ASSOCIATION, NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR, WITH AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK.

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

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS, SNAKES, MICE AND OTHER WILDLIFE (AS DEFINED IN ARTICLE 4.05) MAY HABITAT OR ENTER INTO WATER BODIES, COMMON PROPERTY, LOTS AND DWELLING UNITS WITHIN OR NEARBY THE PROPERTIES AND MAY POSE A THREAT TO PERSONS, PETS AND

PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

THE LISTED PARTIES SHALL NOT BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY OF, OR TO PROVIDE SUPERVISORY PERSONNEL FOR ANY LAKE, RECREATION AREA, NATURE AREA OR ANY OTHER COMPONENT OF THE COMMON AREAS OR THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. ANY OWNER OR INDIVIDUAL USING SUCH AREAS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES, PROPERTY DAMAGE, PERSONAL INJURY OR DEATH ARISING FROM SUCH USE.

THE LISTED PARTIES SHALL NOT BE LIABLE FOR LOSS OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY OR DEATH ARISING DIRECTLY OR INDIRECTLY FROM ENTRY BY ANY PERSON INTO THE PROPERTIES OR FROM THE CONSEQUENCES ARISING FROM SUCH ENTRY. EVERY OWNER OR INDIVIDUAL SHALL BE RESPONSIBLE FOR THEIR OWN SECURITY AND PERSONAL PROTECTION AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES, PROPERTY DAMAGE, PERSONAL INJURY INCLUDING DEATH ARISING DIRECTLY OR INDIRECTLY FROM ENTRY BY PERSONS INTO THE PROPERTIES OR FROM THE CONSEQUENCES ARISING FROM SUCH ENTRY. REGARDLESS OF WHETHER THE PROPERTY HAS A GATE, SECURITY DEVICE, SECURITY CAMERA, SECURITY PERSONNEL, IS MONITORED, OR THE LIKE, DECLARANT, DEVELOPER AND ASSOCIATION MAKE NO REPRESENTATION OR WARRANTY, WHATSOEVER, WHETHER EXPRESS OR IMPLIED, AS TO THE SAFETY OF ANY OWNER AND HIS GUEST INCLUDING THE SAFETY OF ANY PROPERTY, AND ALL OWNERS AND THEIR GUESTS SHALL USE SUCH PROPERTY AND ENTER THE SUBDIVISION AT HIS OWN RISK.

THE LISTED PARTIES SHALL NOT BE LIABLE OR RESPONSIBLE FOR OR MAKE ANY GUARANTY OR WARRANTY WITH REGARD TO THE INSTALLATION, MAINTENANCE AND OPERATION OF ANY THIRD PARTY EQUIPMENT, FACILITIES, SYSTEMS AND RELATED IMPROVEMENTS, INCLUDING, WITHOUT LIMITATION, UTILITY FACILITIES, WATER AND SEWER UTILITY FACILITIES, AND LIFT STATION EQUIPMENT (HEREINAFTER REFERRED TO AS "THIRD PARTY UTILITIES"), EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. THE LISTED PARTIES SHALL NOT BE LIABLE FOR LOSS OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY OR DEATH ARISING DIRECTLY OR INDIRECTLY FROM THE INSTALLATION, MAINTENANCE OR OPERATION OF ANY SUCH THIRD PARTY UTILITIES. EVERY OWNER OR INDIVIDUAL SHALL BE RESPONSIBLE FOR THEIR OWN USAGE OF AND RELIANCE UPON SUCH THIRD PARTY UTILITIES AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES ARISING DIRECTLY OR INDIRECTLY FROM THE INSTALLATION, MAINTENANCE AND OPERATION OF SUCH THIRD PARTY UTILITIES.

THE LISTED PARTIES SHALL NOT BE LIABLE OR RESPONSIBLE FOR OR MAKE ANY GUARANTY OR WARRANTY WITH REGARD TO THE NATURAL GROWTH OF ANY TREES OR OTHER LANDSCAPING INSTALLED ON THE PROPERTY AND FOR ANY IMPACT THAT SUCH GROWTH MAY IMPART ON SIDEWALKS, UTILITIES, FOUNDATIONS OR OTHER IMPROVEMENTS CONSTRUCTED ON THE LOTS.

LANDS WITHIN THE STATE OF FLORIDA, INCLUDING CANOE CREEK, HAVE HISTORICALLY BEEN WIDELY USED FOR AGRICULTURAL PURPOSES AND CONTINUE TO BE USED FOR SUCH PURPOSES. ALL OR PART OF THE PROPERTY ON WHICH THE SUBDIVISION IS BEING DEVELOPED IS KNOWN TO HAVE BEEN USED AT SOME TIME FOR AGRICULTURAL PURPOSES, WHICH, IN ALMOST ALL CASES, WOULD HAVE INVOLVED THE USE OF SOME FORMS OF PESTICIDES, HERBICIDES, FERTILIZERS OR OTHER AGRICULTURAL AGENTS. REMNANTS OF THESE COMPOUNDS AND THEIR DERIVATIVES, INCLUDING, WITHOUT LIMITATION, PHOSPHATES, NITRATES, NITRITES, ARSENIC, CHROMIUM, LEAD AND PESTICIDES ARE MOST CERTAINLY PRESENT IN THE SOIL AND WATER WITHIN FORMER AGRICULTURAL AREAS AND EXPOSURE TO THESE AGENTS MAY PRESENT POTENTIAL HEALTH RISKS. EXPOSURE TO THESE AGENTS MAY OCCUR THROUGH CONTACT WITH THE SOIL AND GROUNDWATER. NO GROUND DISTURBANCE, DIGGING OR EXCAVATION OF EIGHTEEN INCHES OR MORE DEEP SHALL BE PERMITTED ON A LOT OR ANYWHERE WITHIN THE SUBDIVISION PROPERTY WITHOUT PRIOR APPROVAL OF THE ARC AND SAME SHALL BE CONDUCTED IN CONFORMITY WITH ALL ARC RULES REGARDING DIGGING AND EXCAVATION. ALL PERSONS, BUT ESPECIALLY INFANTS, CHILDREN, AND WOMEN WHO ARE PREGNANT OR MAY BECOME PREGNANT, SHOULD NOT BE EXPOSED TO SOIL OR WATER OF UNKNOWN CONTENT.

LANDS NEARBY OR WITHIN SIGHT OR SOUND OF THE SUBDIVISION MAY BE USED FOR AGRICULTURAL AND OTHER NON-RESIDENTIAL PURPOSES, INCLUDING, WITHOUT LIMITATION, DEVELOPMENT, CONSTRUCTION, TRANSPORTATION, RANCHING, FARMING, AGRICULTURE, MINING, BLASTING, PLANT OPERATION AND OTHER ACTIVITIES NOT NORMALLY ASSOCIATED WITH A RESIDENTIAL SUBDIVISION. SUCH ACTIVITIES MAY INCLUDE SITE CLEARING (INCLUDING THE REMOVAL OF LARGE AMOUNTS OF TREES), BLASTING, KEEPING OF LIVE STOCK, SPRAYING, FERTILIZING, EARTH MOVING, TRAFFIC-GENERATING AND OTHER PRACTICES CREATING UNSIGHTLY CONDITIONS, NOISE (AT ALL HOURS) AND DISTURBING ODORS.

RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING OR UNIT IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH DEPARTMENT.

ALL OWNERS ARE DEEMED BY ACCEPTANCE OF THEIR LOT TO ACKNOWLEDGE THAT THE PROPERTY MAY CONTAIN OR MAY BE ADJACENT TO A COUNTY, COUNTY OR STATE PROTECTED PRESERVE, WETLAND, OR ENVIRONMENTALLY SENSITIVE LAND AND THAT THE ABILITY TO BUILD, TRIM, CUT, MOW, OR OTHERWISE PERFORM ANY ACTIVITY THEREIN MAY BE LIMITED.

JUST AS THIS DEVELOPMENT WILL IMPACT THE SURROUNDING AREAS, THE EXISTING AND FUTURE DEVELOPMENT OF SURROUNDING AREAS WILL IMPACT THE SUBDIVISION AND YOUR USE AND ENJOYMENT OF YOUR PROPERTY. AS SURROUNDING

AREAS ARE DEVELOPED, PEOPLE LIVING IN THIS SUBDIVISION MAY BE IMPACTED BY NEW OR EXPANDED ROADWAYS, EXISTING AND INCREASED POPULATION AND TRAFFIC, INCLUDING THE POSSIBILITY THAT RESIDENTS AND THEIR CHILDREN IN THE SURROUNDING DEVELOPMENTS MAY ENTER AND USE PUBLIC INFRASTRUCTURE IN THE SUBDIVISION, AND ADDITIONAL NOISE AND OTHER EFFECTS OF LAND AND ROADWAY DEVELOPMENT. DECLARANT AND DEVELOPER MAKE NO REPRESENTATIONS TO OWNER AS TO THE NATURE OF CURRENT AND FUTURE ROADWAYS IMPROVEMENTS, INCLUDING COUNTY THOROUGHFARE PLANS. ROADS IN AND ADJACENT TO THE SUBDIVISION MAY BE EXPANDED, WIDENED AND FURTHER DEVELOPED AND DECLARANT AND DEVELOPER MAKE NO REPRESENTATION TO OWNER AS TO HOW FUTURE ROADWAY PLAN MAY AFFECT THE SUBDIVISION AND THE OWNER'S USE OF HIS LOT.

THE NAMES AND ADDRESSES OF SEXUAL OFFENDERS AND PREDATORS ARE AVAILABLE UNDER THE PUBLIC SAFETY INFORMATION ACT, FLORIDA SEXUAL OFFENDER/PREDATOR REGISTRATION AND NOTIFICATION PROGRAM, FLORIDA STATUTE § 775.21. INFORMATION CAN BE OBTAINED BY CALLING 1-888-357-7332 OR VIA THE INTERNET AT <http://offender.fdle.state.fl.us/offender/About.htm> OR [WWW.FDLE.STATE.FL.US](http://WWW.FDLE.STATE.FL.US). OWNERS ARE URGED TO EXERCISE DUE DILIGENCE AND SEEK OUT THIS INFORMATION BEFORE BUYING A LOT WITHIN THE SUBDIVISION.

TRANSMISSION POWER LINES MAY CROSS OVER AREAS OF THE SUBDIVISION. TRANSMISSION POWER LINES EMIT TWO TYPES OF FIELDS, ELECTRIC AND MAGNETIC, TOGETHER THEY ARE CALLED ELECTRO-MAGNETIC FIELDS (EMF). EMF MAY CAUSE CERTAIN ELECTRONIC DEVICES AND CELL PHONES IN CLOSE PROXIMITY TO THE EMF TO OPERATE IMPROPERLY. WHILE THERE IS LITTLE EVIDENCE THAT EMF DIRECTLY IMPACTS HUMAN HEALTH, DIRECT EXPOSURE TO MAGNETIC FIELDS MAY CAUSE OR INCREASE HEALTH RISKS, ESPECIALLY TO CHILDREN AND PREGNANT WOMEN.

**12.17. Express Disclaimer of Warranties and Causes of Action.** EXCEPT FOR ANY SPECIFIC WARRANTIES CONTAINED IN THE DEED OF CONVEYANCE AND ANY SPECIFIC WRITTEN WARRANTIES DELIVERED AT CLOSING, NO WARRANTIES, EXPRESSED OR IMPLIED, REPRESENTATIONS, UNDERSTANDINGS, GUARANTIES OR PROMISES HAVE BEEN MADE TO OR SHALL BE RELIED UPON BY ANY LOT OWNER, HIS AGENTS, HEIRS, REPRESENTATIVES OR ASSIGNS (OR ANY MORTGAGEE OR ITS ASSIGNS HOLDING A SECURITY INSTRUMENT FOR ANY LOT IN THE SUBDIVISION) PURCHASING A LOT IN THE SUBDIVISION OR UNDER THE TERMS OF THIS DECLARATION AGREEMENT; AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL WARRANTIES, INCLUDING IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND HABITABILITY, AND ALL WARRANTIES IMPOSED BY STATUTE AND CASE LAW (EXCEPT TO THE EXTENT THEY CANNOT BE DISCLAIMED) AND STATUTORY CAUSES OF ACTION INCLUDING BUT NOT LIMITED TO A CAUSE OF ACTION UNDER CHAPTER 553.84, FLORIDA STATUTES AND ACTIONS IN TORT ARE HEREBY FULLY AND COMPLETELY DISCLAIMED. AS TO ANY IMPLIED WARRANTIES, STATUTORY CAUSES OF ACTION OR ACTIONS IN TORT WHICH CANNOT BE DISCLAIMED EITHER IN WHOLE OR IN PART, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE DISCLAIMED AND AFFIRMATIVELY WAIVED, AND DECLARANT AND/OR DEVELOPER SHALL HAVE NO RESPONSIBILITY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, ANY CLAIMS FOR PERSONAL INJURY, DEATH, PROPERTY DAMAGE, OR EMOTIONAL DISTRESS. DECLARANT AND DEVELOPER MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE NOR

MERCHANTABILITY NOR HABITABILITY OF THE SUBDIVISION IMPROVEMENTS, AS SAME MAY BE REFLECTED ON THE PLAT FOR THIS SUBDIVISION OR ARE OTHERWISE CONSTRUCTED IN, ON, OVER, UNDER OR ACROSS THE SUBDIVISION, INCLUDING BUT NOT LIMITED TO, ANY AND ALL PRODUCTS AND MATERIALS USED IN, ON OR IN CONNECTION WITH THE SUBDIVISION IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, MATERIALS ASSOCIATED WITH THE ROADWAYS, INCLUDING ASPHALT. DECLARANT AND DEVELOPER SPECIFICALLY DISCLAIM ANY AND ALL NEGLIGENCE ASSOCIATED WITH THE SUBDIVISION IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, THINNING, WEARING OR OTHER DESTRUCTION TO ASPHALT OR CONCRETE ON THE ROADWAYS RESULTING IN WEAR AND TEAR, THINNING, HOLES, SUBSURFACE FAILURES, CRACKS AND THE LIKE; IMPROPER DRAINAGE OR RETENTION FAILURES ASSOCIATED WITH THE STORMWATER SYSTEM, LAKES, PONDS, DRAINS AND SWALES; AND ANY DEFECTS ASSOCIATED WITH FAILURES OF THE WATER AND SEWER SYSTEM. ALL LOT OWNERS AND THE ASSOCIATION, TO THE EXTENT PERMITTED BY LAW, SHALL RECEIVE THIS PROJECT AND THE SUBDIVISION IMPROVEMENTS THEREIN "AS IS" AND "WHERE IS" AND PRIOR TO PURCHASING ANY LOT IN THE SUBDIVISION SHOULD CONDUCT WHATEVER INSPECTION OR INQUIRY AS MAY BE CONSIDERED NECESSARY TO BE CERTAIN OF THE QUALITY AND CONDITION OF THE SUBDIVISION IMPROVEMENTS. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE OF THIS DOCUMENT. THIS ABSOLUTE DISCLAIMER OF WARRANTY OF ALL SUBDIVISION IMPROVEMENTS IS OF THE ESSENCE OF THIS AGREEMENT AND BY PURCHASING A LOT HEREIN SUBJECT TO THE RESTRICTIONS, RESERVATIONS AND COVENANTS SET FORTH HEREIN THIS AGREEMENT, ALL LOT OWNERS (AND MORTGAGEES), AS WELL AS THE ASSOCIATION, AGREE, ACCEPT AND ACKNOWLEDGE THAT DEVELOPER AND DECLARANT HAVE HEREBY DISCLAIMED ANY AND ALL LIABILITY ASSOCIATED WITH THE SUBDIVISION IMPROVEMENTS.

**ARTICLE 13**  
**PAIRED VILLAS ADDITIONAL PROVISIONS**

**13.01. Lot Line Maintenance Easement.** All easements referenced herein this Declaration shall be in addition to all other easements as referenced on the Plats. When any Lot (the "Servient Lot") abuts another Lot (the "Dominant Lot") on which the wall of a Unit has been or can be constructed within two (2) feet of the property line shared by the Dominant Lot and the Servient Lot, the Owner of the Dominant Lot shall have an easement over the Servient Lot, which easement shall be five (5) feet wide measured from the common property line reasonably necessary for the following purposes:

- a) For installation, maintenance, repair, replacement and the provision of utility services, equipment and fixtures to serve the Dominant Lot, including, but not limited to electricity, telephones, sewer, water, lighting, irrigation, drainage and other communication and community systems.
- b) For entry upon, and for ingress and egress through the Servient Lot, with persons, materials and equipment to the extent reasonably necessary in the performance of the maintenance, repair, replacement of the Unit or any improvements on the Dominant Lot.
- c) For overhanging troughs or gutters, down-spouts and the discharge therefrom of rainwater and the subsequent flow thereof over the easement area and the Common Property.

An Owner of the Servient Lot shall do nothing on his Lot that unreasonably interferes with or impairs the use of this easement.

**13.02. Zero Lot Line Maintenance Easement.** When any Lot (the "Servient Lot") abuts another Lot (the "Dominant Lot") on which the exterior wall of a Unit has been or can be constructed against or immediately contiguous to the interior property (perimeter) line shared by the Dominant Lot and the Servient Lot, then the Owner of the Dominant Lot shall have an easement over the Servient Lot, which easement shall be of a width contiguous to the interior property line running from the front property line to the rear property line of the Servient Lot reasonably necessary for the following purposes:

- a) For ingress, egress, installation, maintenance, repair, replacement and the provision of utility services, equipment and fixtures to serve the Dominant Lot, including, but not limited to, electricity, telephones, sewer, water, lighting, irrigation, drainage and other communication and community systems.
- b) Of support in and to all structural members, footings and foundations of the Unit or other improvements that are necessary for support of the Unit or other improvements on the Dominant Lot. Nothing in this Declaration shall be construed to require the Owner of the Servient Lot to erect, or permit the erection of, additional columns, bearing walls or other structures on his Lot for the support of the Dominant Lot.
- c) For entry upon, and for ingress and egress through the Servient Lot, with persons, materials and equipment, to the extent reasonably necessary in the performance of the maintenance, repair, replacement of the Unit or any improvements on the Dominant Lot.
- d) For overhanging troughs or gutters, down-spouts and the discharge therefrom of rainwater and the subsequent flow thereof over the easement area and the Common Property.

An Owner of a Servient Lot shall do nothing on his Lot that unreasonably interferes with or impairs the use of this easement.

**13.03. Party Walls.** Each wall and fence, if any, built as part of the original construction of the Units or Lots within the Subdivision and placed on the dividing line between the Lots or Units and acting as a commonly shared wall or fence shall constitute a party wall, and each Owner shall own that portion of the wall and fence which stands on his own Lot, with a cross-easement of support in the other portion. If a wall or fence separating two (2) Units or Lots, and extensions of such wall or fence, shall lie entirely within the boundaries of one Lot, such wall or fence, together with its extensions, shall also be a party wall and the Owner of the adjacent Lot shall have a perpetual easement to benefit from the party wall as if same were subject to the foregoing sentence.

Easements are reserved in favor in all Lots over all other Lots and the Common Areas and/or Common Property for overhangs or other encroachments resulting from original construction and reconstruction as aforesaid.

Anything to the contrary herein notwithstanding, where adjacent Units share only a portion of a wall (e.g., where a one-story Unit abuts a two-story Unit), only that portion of the wall actually shared by both Units shall be deemed a party wall. That portion of the wall lying above the one-story Unit and used exclusively as a wall for the second floor of the abutting two-story Unit shall not be deemed a party wall, but shall be maintained and repaired exclusively by the Owner of the two-story Unit even if lying in whole or in part on the abutting Lot on which the one-story Unit is constructed and over the roof and

other portions of such abutting one-story Unit to permit the upper portion of the wall of the two-story Unit to be maintained and repaired by the Owners of the Lot on which such two-story Unit is constructed.

The costs of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall.

If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore same, but shall not construct or extend same to any greater dimension than that existing prior to such fire or other casualty, without the prior written consent of the adjacent Lot Owner. The extension of a party wall used by only a two-story Unit abutting a one-story Unit shall be promptly and diligently repaired and/or replaced by the Owner of the two-story Unit at his sole cost and expense, even if lying in whole or in part on the abutting Lot. No part of any addition to the dimensions of said party wall or of any extension thereof already built that may be made by any of said Owners, or by those claiming under any of them, respectively, shall be placed upon the Lot of the other Owner, without the written consent of the latter first obtained, except in the case of the aforesaid wall of a two-story Unit. If the other Owner thereafter makes use of the party wall, he shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

Notwithstanding any other provision of this Section, if any Owner, or his family members, guests, tenants and invitees, by any of their negligent or willful acts, causes that part of the party wall not previously exposed to be exposed to the elements, such Owner shall bear the whole cost of furnishing the necessary protection against such elements.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. Upon a conveyance or other transfer of title, the liability hereunder of the prior Owner shall cease.

In the event of any dispute arising concerning a party wall, or otherwise under the provisions of this Section, such dispute shall be resolved per the dispute resolution process set forth in the Declaration.

#### **ARTICLE 14 LOT MAINTENANCE SERVICES**

**14.01. Services at Discretion of Developer and/or Association.** Developer, and after the Turnover Date, the Association, in their discretion may elect that the Association provide from time to time certain Lot Maintenance Services, such as by way of example, mowing, fertilizing, yard pest control, tree trimming, landscape maintenance or other similar services, (the "Lot Maintenance Services"), for all or certain Lots in the Subdivision, or for a particular Neighborhood or Lot Type therein. Developer, and after the Turnover Date, the Association, shall have the discretion of implementing such services on an optional or mandatory basis for the selected Lots. The type and scope of the Lot Maintenance Services may be changed, expanded or deleted at the discretion of the Developer, and after Turnover, the Association. Once implemented, the Lot Maintenance Services shall be required of each selected Lot unless and until discontinued by the Developer or Association, as set forth below. Each Owner shall be obligated to pay its respective share of the monthly service charges and all other costs and expenses of the Association in providing the Lot Maintenance Services, which service charges, costs and expenses shall be payable as a Regular Assessment or Neighborhood Assessment, and assessed, charged and collected as any other Regular or Neighborhood Assessment provided for herein. The Lot Maintenance Services shall be selected and may be discontinued at the discretion of the Developer, and after the Turnover Date, by the Association. The Developer and Association, and their assigns, shall have a non-exclusive, perpetual



easement on, over, under and across all Common Property and Lots in the Subdivision for access, ingress, egress and use by the Developer and/or Association to perform or cause to be performed the aforementioned Lot Maintenance Services.

Lot Maintenance Services shall not include replacement of any landscaping or trees; all Lot Owners shall be required to replace landscaping and/or trees per the requirements set forth herein this Declaration and the Code, at the Owner's sole cost and expense. Notwithstanding anything to the contrary herein, any and all costs and expenses of any Lot Maintenance Services which are caused or necessitated by any act or omission, of any nature whatsoever, by any Owner, including his agents, assigns, guests, or invitees, shall be a personal liability of the Owner in the form of a Special Assessment to be paid directly by the Owner to the Association and shall be a continuing lien upon his Lot until paid. The specific Lot Maintenance Services provided by the Association for any Lot at any particular time may be changed, from time to time, and shall be provided to the Lot Owner by the Association.

**14.02. Lot Maintenance Services for the Paired Villas Lot Type.** For the Paired Villas Lot Type, and until terminated, discontinued or changed, the Association shall provide the following Lot Maintenance Services: (a) lawn maintenance, such as by way of example, mowing, fertilizing, yard pest control, tree trimming, landscape maintenance or other similar services (but not tree or landscaping replacement, which replacement shall be required to be performed by each Lot Owner, at his sole cost and expense, in compliance with this Declaration, the Code and the rules, regulations and standards of the Association and its ARC); (b) lot irrigation and watering schedules, which schedules shall be mandated by the Association and paid for by the Lot Owners; (c) exterior roof repair, maintenance and replacement of the Paired Villas exterior roofs and exterior painting of stucco and related stucco repairs of the Paired Villas Units; provided however, and notwithstanding anything to the contrary herein this Declaration, the aforementioned Paired Villas' Lot Maintenance Services related to exterior roof repair, maintenance and replacement and exterior painting of the Paired Villas' stucco and related stucco repairs **shall only be performed by the Association for what the Association, in its sole and absolute discretion, deems to be non-casualty, non-insurable events (regardless of whether the Lot Owner's insurance carrier provides coverage or whether insurance coverage is available), that are not otherwise caused by the negligent or intentional acts or omissions of the Lot Owner, his agents, guests, family, tenants or invitees, and which are deemed to be necessitated because the improvement has reached the end of its useful life, as determined by the Association in its sole and absolute discretion.** The Lot Maintenance Services of replacement, including repair and maintenance, of Paired Villas' exterior roofs and exterior repainting, including repair of Paired Villas' exterior stucco, shall only be performed at the end of their useful life, as confirmed and determined by the Association, in its sole and absolute discretion. All costs and expenses of the Association in performing the aforementioned Lot Maintenance Services shall be paid by the Lot Owners in the form of Assessments. Lot Owners shall be required to give Association, and its assigns, reasonable access, upon prior written notice, to the interior of any dwelling unit if necessary in order for the Association to perform its Lot Maintenance Services relating to exterior roof repair, maintenance and replacement. The provisions of Article 14 and specifically this Section 14.02 shall be subject to those additional provisions and terms requiring the Lot Owner to repair, maintain and replace all aspects of his dwelling unit, including the exterior roof and exterior stucco and painting, all as set forth in Article 8, above, regardless of whether the Association performs, or has agreed to perform, any of the Lot Maintenance Services.

Notwithstanding anything to the contrary herein, (a) any and all costs and expenses of any Lot Maintenance Services which are caused or necessitated by any act or omission, of any nature whatsoever, by any Owner, including his agents, assigns, family, guests, or invitees, shall be a personal liability of the Owner in the form of a Special Assessment to be paid directly by the Owner to the Association and shall be a continuing lien upon his Lot, running with the land, until paid; and (b) the Lot Owner shall at all times be solely financially responsible for any and all repairs to his Paired Villas Unit,

including completely rebuilding same, as well as for all improvements on the Paired Villas Lot, regardless of whether the Association has elected to perform Lot Maintenance Services. The Lot Owner shall not permit his Lot and dwelling Unit thereon to waste or remain in a state of disrepair if the Association fails to perform the Lot Maintenance Services.

**14.03. No Third Party Claims / Notice to Association.** In performing the Lot Maintenance Services, the Association is acting as the Lot Owner's agent only and not in its "representative capacity." The Association's performance of the Lot Maintenance Services does not in anyway make the Lot Maintenance Services Common Elements or Common Property of the Association or Subdivision. The Association is not authorized nor permitted to bring any claims, lawsuits or other actions against any third parties relating to the Lot Maintenance Services; and, any such claims, lawsuits or other actions against third parties relating to the Lot Maintenance Services may only be brought by the individual Lot Owner himself. In the event of any dispute between the Lot Owner and the Association regarding the Lot Maintenance Services, and prior to initiating any claim, lawsuit or other action against the Association, and in addition to all other provisions in this Declaration regarding "Disputes" and prerequisites to the filing of lawsuits, the Lot Owner shall first give Association thirty (30) days written notice of the Lot Owner's disputed claim, upon the receipt of which, the Association shall have thirty (30) days to either cure or commence to cure, if the work cannot reasonably be performed in thirty (30) days, the matters set forth in the disputed claim. The Lot Owner shall at all times be responsible for insuring that his Lot and Unit are properly maintained and repaired; any failure by the Association to adequately perform the Lot Maintenance Services shall not relieve the Lot Owner from his responsibility to maintain and repair his Lot and Unit.

(Signature Page to Follow)

IN WITNESS WHEREOF, Declarant has caused these presents to be executed in its name by its members thereunto duly authorized as of the day and year first above written.

Signed, sealed in the presence of:

“DEVELOPER” / “DECLARANT”:

CANOE CREEK INVESTMENTS, LLC, a Florida limited liability company

By: NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, a Florida limited liability company, its Manager

By: NCDG Management, LLC, a Florida limited liability company, its Manager

By: [Signature]  
Name: James R. Schier  
Its: Manager

[Signature]  
Witness

**Veronica McGuire**  
Print Name of Witness

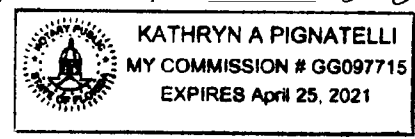
[Signature]  
Witness

**Amy R. Mallon**  
Print Name of Witness

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 23 day of May, 2018, by James R. Schier, as Manager of NCDG Management, LLC, a Florida limited liability company, as Manager of Neal Communities of Southwest Florida, LLC, a Florida limited liability company, as Manager of Canoe Creek Investments, LLC, a Florida limited liability company, on behalf of the Company, () who is personally known to me or () who has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public  
My Commission Expires: 04-25-2021



**JOINDER BY ASSOCIATION**

The **CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC.**, a Florida not for profit corporation, hereby joins in and consents to this Declaration for the purpose of accepting all terms, covenants, restrictions, conditions, reservations and easements therein, as well as accepting all rights, obligations and responsibilities of the Association as set forth therein the Declaration, including specifically the acceptance of all operation and maintenance responsibilities associated with all Common Property.

IN WITNESS WHEREOF, the undersigned party has executed this document on the 23 day of May, 2018.

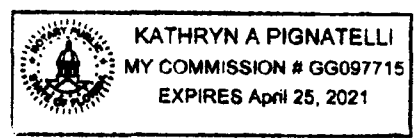
Veronica McGuire  
Signature  
**Veronica McGuire**  
Printed Name  
Amy R. Mailon  
Signature  
**Amy R. Mailon**  
Printed Name

**CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC.**, a Florida not for profit corporation  
By: James R. Schier  
James R. Schier, its President

**STATE OF FLORIDA  
COUNTY OF SARASOTA**

The foregoing instrument was acknowledged before me this 23 day of May, 2018, by James R. Schier, as President of the Canoe Creek Neighborhood Association, Inc., on behalf of the Corporation, ( ) who is personally known to me or (  ) who has produced \_\_\_\_\_ as identification.

Kathryn A Pignatelli  
Notary Public  
My Commission Expires: 04-25-2021



**EXHIBITS**

|                    |  |
|--------------------|--|
| <b>Exhibit "A"</b> | <b>Legal Description</b>                         |
| <b>Exhibit "B"</b> | <b>Fiscal Program</b>                            |
| <b>Exhibit "C"</b> | <b>Maintenance Program</b>                       |
| <b>Exhibit "D"</b> | <b>Notice to Buyers</b>                          |
| <b>Exhibit "E"</b> | <b>List of Holdings</b>                          |
| <b>Exhibit "F"</b> | <b>Right of Entry</b>                            |
| <b>Exhibit "G"</b> | <b>Articles of Incorporation for Association</b> |
| <b>Exhibit "H"</b> | <b>By-Laws for the Association</b>               |

**EXHIBIT "A"**  
**CANOE CREEK PHASE I LEGAL DESCRIPTION**

**PAGE 1 OF 2**

**CANOE CREEK PHASE I**

**LEGAL DESCRIPTION:** (BY KING ENGINEERING)

A PARCEL OF LAND BEING A PORTION OF THAT CERTAIN PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 2090, PAGE 6515 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, LYING IN THE NORTHEAST 1/4 OF SECTION 4 AND THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 34 SOUTH, RANGE 19 EAST OF MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4 OF SECTION 4; THENCE NORTH 00°04'08" EAST, ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4 OF SECTION 4, A DISTANCE OF 1,331.88 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 4; THENCE SOUTH 89°58'31" WEST, ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 4, A DISTANCE OF 1,328.10 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 4; THENCE SOUTH 00°06'07" WEST, ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 4, A DISTANCE OF 841.30 FEET; THENCE SOUTH 89°56'34" WEST, A DISTANCE OF 995.80 FEET; THENCE NORTH 00°02'10" EAST, A DISTANCE OF 2,133.16 FEET TO THE SOUTH RIGHT-OF-WAY OF GOLF COURSE ROAD ACCORDING TO OFFICIAL RECORD BOOK 231, PAGE 44 OF THE PUBLIC RECORDS OF MANATEE COUNTY FLORIDA, SAME BEING A POINT ON A LINE LYING 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 4; THENCE ALONG SAID SOUTH RIGHT-OF-WAY ACCORDING TO OFFICIAL RECORDS BOOK 231, PAGE 44, AND THE SOUTH RIGHT-OF-WAY ACCORDING TO OFFICIAL RECORD BOOK 228, PAGE 664, AND THE SOUTH RIGHT-OF-WAY ACCORDING TO OFFICIAL RECORD BOOK 1162, PAGE 159, RESPECTIVELY, ALL OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, THE FOLLOWING FIVE (5) COURSES: (1) NORTH 89°55'33" EAST, ALONG SAID LINE 40.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SECTION 4, A DISTANCE OF 1,508.22 FEET TO A POINT ON A CURVE TO THE RIGHT; (2) EASTERLY 632.31 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 1,869.86 FEET, A CENTRAL ANGLE OF 19°22'30", AND A CHORD BEARING AND DISTANCE OF SOUTH 80°23'12" EAST 629.30 FEET; (3) SOUTH 70°37'30" EAST, A DISTANCE OF 208.71 FEET; (4) NORTH 00°04'22" EAST, A DISTANCE OF 3.11 FEET; (5) SOUTH 70°40'04" EAST, A DISTANCE OF 337.80 FEET; THENCE SOUTH 04°37'53" EAST, A DISTANCE OF 940.44 FEET; THENCE SOUTH 60°30'17" EAST, A DISTANCE OF 158.57 FEET; THENCE SOUTH 28°27'01" WEST, A DISTANCE OF 109.02 FEET; THENCE NORTH 60°30'17" WEST, A DISTANCE OF 62.01 FEET; THENCE NORTH 28°27'01" EAST, A DISTANCE OF 59.01 FEET; THENCE NORTH 60°30'17" WEST, A DISTANCE OF 63.59 FEET; THENCE SOUTH 04°37'53" EAST, A DISTANCE OF 606.48 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE SOUTHERLY 124.53 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 540.00 FEET, A CENTRAL ANGLE OF 13°12'46", AND A CHORD BEARING AND DISTANCE OF SOUTH 01°58'30" WEST 124.25 FEET; THENCE SOUTH 08°34'53" WEST, A DISTANCE OF 251.70 FEET TO A POINT ON A CURVE TO THE LEFT; THENCE SOUTHERLY 124.59 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 460.00 FEET, A CENTRAL ANGLE OF 15°31'06", AND A CHORD BEARING AND DISTANCE OF SOUTH 00°49'21" WEST 124.21 FEET; THENCE SOUTH 80°08'48" EAST, A DISTANCE OF 328.73 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE SOUTHEASTERLY 38.90 FEET ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 89°08'48", AND A CHORD BEARING AND DISTANCE OF SOUTH 35°34'24" EAST 35.09 FEET; THENCE SOUTH 09°00'00" WEST, A DISTANCE OF 174.05 FEET TO THE

PAGE 2 OF 2  
CANOE CREEK PHASE I  
LEGAL DESCRIPTION: (BY KING ENGINEERING)

SOUTH LINE OF THE NORTHWEST 1/4 OF AFORESAID SECTION 3; THENCE NORTH 88°49'06" WEST,  
ALONG SAID SOUTH LINE, A DISTANCE OF 725.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 110.817 ACRES.

LESS AND EXCEPT:

A PARCEL OF LAND BEING A PORTION OF THAT CERTAIN PROPERTY DESCRIBED IN OFFICIAL RECORDS  
BOOK 2090, PAGE 6515 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, LYING IN THE  
NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 34 SOUTH, RANGE 19 EAST OF MANATEE COUNTY,  
FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 3; THENCE SOUTH  
88°49'06" EAST, ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4, 113.51 FEET TO THE ORDINARY  
HIGH WATER LINE OF GAMBLE CREEK, SAME BEING THE POINT OF BEGINNING; THENCE ALONG SAID  
ORDINARY HIGH WATER LINE THE FOLLOWING SEVEN (7) COURSES: (1) NORTH 43°16'36" EAST, A  
DISTANCE OF 42.47 FEET; (2) NORTH 59°47'03" EAST, A DISTANCE OF 193.70 FEET; (3) NORTH 68°54'05"  
EAST, A DISTANCE OF 72.96 FEET; (4) NORTH 77°56'27" EAST, A DISTANCE OF 31.67 FEET; (5) SOUTH  
61°16'34" EAST, A DISTANCE OF 36.92 FEET; (6) SOUTH 17°19'00" EAST, A DISTANCE OF 63.89 FEET; (7)  
SOUTH 02°50'41" EAST, A DISTANCE OF 89.90 FEET TO AFORESAID SOUTH LINE OF THE NORTHWEST  
1/4; THENCE NORTH 88°49'06" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 43.48 FEET TO THE  
ORDINARY HIGH WATER LINE OF GAMBLE CREEK; THENCE ALONG SAID ORDINARY HIGH WATER LINE  
THE FOLLOWING FIVE (5) COURSES: (1) NORTH 02°38'44" WEST, A DISTANCE OF 64.95 FEET; (2) NORTH  
12°08'55" WEST, A DISTANCE OF 33.13 FEET; (3) NORTH 80°37'10" WEST, A DISTANCE OF 18.00 FEET; (4)  
SOUTH 83°05'20" WEST, A DISTANCE OF 54.96 FEET; (5) SOUTH 59°16'29" WEST, A DISTANCE OF 173.81  
FEET TO AFORESAID SOUTH LINE OF THE NORTHWEST 1/4; THENCE NORTH 88°49'06" WEST, ALONG  
SAID SOUTH LINE, A DISTANCE OF 76.23 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.513 ACRES.

TOTAL SUBJECT PROPERTY CONTAINING 110.304 ACRES.





**EXHIBIT "C"**

**CANOE CREEK  
MAINTENANCE PROGRAM**

A Maintenance Program has been established for the operation and care of the Subdivision amenities and Common Property. The following is a schedule for the inspection and maintenance of all lands, signs and facilities considered Common Property and under the purview of the Canoe Creek Neighborhood Association, Inc., with all costs and expenses associated with such maintenance being a common obligation of the Lot Owners and paid by Lot Owners through Assessments:

- Weekly: Landscape and lawn service.  
Irrigation sprinkler head inspection and maintenance.  
Landscape maintenance and inspection and maintenance of plantings  
Inspect for and remove nuisance, exotic plant species.
- Monthly: Cleaning of streets from construction of homes (during construction only).  
Inspection and repair of irrigation pump and lines.  
Inspection and maintenance of pond and lake areas.
- Quarterly: Fertilization (based on fertilization schedule, may not be as often as quarterly.)
- Bi-Yearly: Inspection and report to Southwest Florida Water Management District.  
Conduct any wetland buffer restorations, including wetland buffer enhancement plantings and maintenance thereof.  
Inspect for adequate and proper conservation, preservation and/or wetland buffer easement signage
- Yearly: Mulch and labor on Common Property.  
Inspect and repair mailboxes (if mailboxes are Common Property and not individually maintained).  
Inspection of and maintenance on entry medians and sign.  
Inspection of and maintenance of streets, sidewalks and reclaimed water lines.  
Annual monitoring and maintenance, including removal, of nuisance, exotic plant species.

Items listed above may be performed more often or less often than scheduled depending on circumstances beyond the control of the Association. Other items as shown on the Fiscal Program such as utilities, fees, insurances and other line items will be paid in accordance with contracts or as invoiced.

It is anticipated that the budgetary information submitted for the first year of operations indicates more than adequate funds for maintenance as well as operation of the facilities provided by Declarant.

Subsequent years may require additional funds, which will be assessed and collected as required by the Declaration to which each Lot is subject.

The pond and lake areas require constant inspection and maintenance, provision for which is being made at least quarterly in compliance with various regulatory permits, not limited to Southwest Florida Water Management Districts and the County. The above permit conditions are regulated and performed by the Association, to which the Declaration is subject.

At all events, a program is being established and will be established respecting all areas of the Subdivision, responsibility for which is Declarant and/or the Association, and which will comply in all respects with the requirements of the regulatory bodies of the County and its Code.

**EXHIBIT "D"**

**CANOE CREEK**

**NOTICE TO BUYERS**

To the Purchasers of Lots in the Canoe Creek Subdivision, County of Manatee, Florida:

YOU ARE HEREBY NOTIFIED that the purchase of your Lot is subject to:

1. The Declaration of Covenants, Conditions and Restrictions for Canoe Creek, as amended from time to time; including all rules and regulations of the Canoe Creek Neighborhood Association, Inc., (the "Association"); the Articles of Incorporation of the Association; the By-Laws of the Association; and all charges, fees, assessments and liens of the Association, (collectively the "Canoe Creek Declaration" or the "Governing Documents").
2. Ownership of a Lot in said Subdivision automatically makes you a member of the Canoe Creek Neighborhood Association, Inc., (the "Association"), and you are subject to its Articles, By-Laws, this Declaration and any and all Association rules and regulations made pursuant thereto, including standards, specifications and guidelines of the ARC. Each Lot entitles its Owner to one vote in the affairs of the Association.
3. The Association has the right and power to assess and collect, as provided for in its By-Laws and the Declaration, the costs of operation and maintenance of all Common Areas/ Common Property, and other shared amenities, under its ownership or maintenance control which you have a right to enjoy, in accordance with the Declaration.
4. The initial proposed assessments by the Association for each Lot is as reflected in the Fiscal Program, attached as Exhibit "B" to the Declaration, as same may be revised, amended and supplemented from time to time, including annually by the Association's Board and for each new phase. You are hereby notified that the Association may increase that assessment amount as may be required to maintain the amenities of the Subdivision. There shall be a onetime assessment (the "Initial Assessment") payable to the Association by each Owner who purchases a Lot from Declarant. The Initial Assessment shall be in the amount equal to the then-current annual Regular Assessment for a Lot. The Initial Assessment shall be established as of and paid at the time legal title to a Lot is conveyed to any Owner. Initial Assessments shall be expended solely for regular Common Expenses and not for any reserves. Initial Assessments are not advance payments of Assessments and shall not affect the liability of an Owner or a Lot for Assessments.
5. The Owner of each Lot shall be responsible for the planting and maintenance of all street trees and replacement trees on such Lot, all as required by the Declaration, Manatee County Codes and Ordinances and pursuant to final site plan approval for Canoe Creek. Prior to Certificate of Occupancy for a Unit, one (1) canopy tree shall be planted within twenty-five (25) feet of the right-of-way of each local street within the Subdivision for every fifty (50) linear feet, or substantial fraction thereof. The number of trees to be planted and the location thereof shall be set forth on the Plans

and Submissions approved by the ARC. Existing native trees can be used to fulfill these requirements whenever they meet spacing and size requirements as set forth herein. The Developer shall initially be responsible for the initial installation and maintenance of the trees until such time as the Lot is sold or transferred to a subsequent Lot Owner, at which time **the Lot Owner shall be fully responsible for the maintenance and replacement of any street trees, all as set forth herein.** Any costs borne by the Developer associated with the installation and maintenance of the street trees may be passed on and charged to the subsequent Lot Owner. In the event a street tree dies or is removed, the Lot Owner is responsible for replacing the street tree (per the requirements set forth herein and the Manatee County Land Development Code) within thirty (30) days. Maintenance of street trees by Lot Owners shall include proper root pruning to avoid interference of the tree roots with sidewalks, utilities, foundations of other improvements, etc.

6. Sidewalks may be installed in front of a Lot as required by approved site and construction plans for the Subdivision and the County's Code. If required, sidewalks shall be installed in accordance with the aforementioned plans and code and upon approval of the ARC. The cost for the installation of the sidewalk shall be paid by the Lot Owner. Following installation, such portion of the sidewalk abutting the Lot shall be maintained by Lot Owner at his expense, including but not limited to, maintenance and repair, pressure washing, trimming of low overhanging tree branches and assuring landscaping, debris and other items do not obstruct the sidewalk. In no event may a sidewalk be blocked or obstructed in anyway.
7. It shall be the responsibility of each Owner at the time of construction of a building, residence or structure, to comply with the requirements, if any, of the County to have the ability to connect into any system for reclaimed effluent irrigation which may be installed in the future, and to maintain and repair such connection for it proper and intended use.
8. The project site lies in flood zones X, A and AE per Flood Insurance Rate Map for Manatee County, Florida, and Incorporated Areas, Map Number 12081C 0195E, Effective Date March 17, 2014.
9. THE BUYER IS HEREBY NOTIFIED THAT THEIR MORTGAGE LENDER'S OR OTHER FLOOD DETERMINATION MAY DIFFER FROM THE DETERMINATION MADE BY THE MANATEE COUNTY BUILDING DEPARTMENT'S FLOODPLAIN SECTION THROUGH THE REVIEW OF THE FEMA FLOOD INSURANCE RATE MAP, MANATEE COUNTY GIS MAP, THE FINAL PLAT, AND THE APPROVED FINAL SITE PLAN.
10. The following language pertaining to SWFWMD is included as part of the deed restrictions for each Lot:
  - Unless otherwise specified by the terms of the applicable Southwest Florida Water Management District permit, two copies of all information and reports required by the applicable permit shall be submitted to:

Manatee Regulation Department  
Southwest Florida Water Management District

670 Fruitville Road  
Sarasota, FL 34240-9711

The applicable permit number, title of report or information and event (for recurring report or information submittal) shall be identified on all information and reports submitted

- No Owner within the Subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the buffer area(s) and drainage easement(s) described in the approved permit and recorded Plat of the Subdivision, unless prior approval is received from the Southwest Florida Water Management District, Manatee Regulation Department.
- No construction activities may be conducted relative to any portion of the surface water management system facilities. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the surface water management system facilities. If the Subdivision includes a wetland mitigation area, as defined in Section 1.7.24, or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the District. Construction and maintenance activities that are consistent with the design and permit conditions approved by the District in the Environmental Resource Permit may be conducted without specific written approval from the District.
- The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities.
- Any amendment of the declaration of protective covenants, deed restrictions or declaration of condominium affecting the surface water management system facilities.
- If the Association ceases to exist, all of the Lot Owners, parcel owners or unit owners shall be jointly and severally responsible for operation and maintenance of the surface water management system facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility as explained in Subsection 2.6.2.2.4.h.
- For Subdivisions which have on-site wetland mitigation as defined in Section 1.7.24, which requires on going monitoring and maintenance, the declaration of protective covenants, deed restrictions or declaration of condominium shall include a provision requiring the Association to allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until the District determines that the area(s) is (are) successful in accordance with the Environmental Resource Permit.
- Each property Owner within the Subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the Southwest Florida Water Management District (SWFWMD).
- The operation and maintenance entity shall submit inspection reports when and as required by the District and in the form required by the District and per the permit for the Subdivision.
- The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the District. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Any questions

regarding authorized activities within the wet detention ponds shall be addressed to the District's Regulation Manager, Manatee Service Office.

- All Lots abutting wet detention ponds shall have the following language (or similar language as approved in writing by the Manatee Regulation Department) as part of the deed restrictions:

"The Lot Owners shall not remove native vegetation (including cattails) that becomes established within the wet detention ponds abutting their property. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Lot Owners shall address any questions regarding authorized activities within the wet detention ponds to SWFWMD, Manatee Service Office, Regulation Manager."

11. Each Lot Owner is encouraged to participate in the Florida Yards and Neighborhood Program. This is a program sponsored in part by the Florida Department of State that describes how to minimize non-point source pollution from landscapes, especially residential ones. More detailed information about this program can be obtained online at [www.dcp.state.fl.us/water/nonpoint/pubs.htm](http://www.dcp.state.fl.us/water/nonpoint/pubs.htm) or by contacting the Florida Department of State at 850-245-8336.
12. The lowest quality water possible shall be used for irrigation; and in-ground irrigation using County potable water supply shall be prohibited, including on individual Lots.
13. Declarant and/or Developer reserve the right to make any modifications, changes, or deletions to the landscaping and landscape buffers of the Property upon the addition of property to the Subdivision.
14. All Lot Owners are put on notice that the Manatee County Board of County Commissioners could impose an impact fee or special assessment for emergency shelter facilities against each Lot due at the time of Certificate of Occupancy.
15. Information pertaining to Hurricane Evacuation Zones may be obtained online at [www.myanatee.org](http://www.myanatee.org); you are encouraged to review this information frequently as hurricane evacuation zones may change.
16. Visibility triangles shall be maintained per the Land Development Code of Manatee County, Florida.
17. Notice is hereby given that properties neighboring and adjacent to the Subdivision may be used for agricultural purposes that may include the use of pesticides and herbicides. Odors and noises consistent with such agricultural uses may affect the Subdivision. Adjacent properties to the Subdivision may also be used for horse riding stables, pasture land with farm animals, such as cattle, and the like.
18. The internal streets located within the Subdivision are private and shall be operated and maintained by the Canoe Creek Neighborhood Association, Inc. If requested by the Association, after a Lot Owner vote in accordance with the Declaration, any possible future conversion of the internal streets from private to public shall require that the streets meet County standards as a condition of Manatee County's acceptance of the dedication.

19. The Subdivision is adjacent to agricultural uses that may include the use of pesticides and herbicides and may have odors and noises associated with such agricultural uses.
20. The Subdivision is adjacent to rural, agricultural and/or natural resource land management areas. Smoke from burning, odors, dusts and noises associated with these existing land uses may occur on an ongoing basis.
21. Nuisance and exotic plant species are prohibited within the Subdivision and removal of any such species is required of the Lot Owners and Association, including the continual monitoring and removal thereof.
22. Wetlands, Wetland Buffers & Upland Preservation Areas. The Plat contains wetlands, wetland buffers and upland preservation areas that are regulated in accordance with Section 706 of the Manatee County Land Development Code. Unless permitted by the Manatee County Land Development Code, the following acts and activities are expressly prohibited within the boundaries of the wetlands, wetland buffers and upland preservation areas without the prior consent of Manatee County:
  - Construction or placing of buildings, roads, signs, billboards or other advertising, or other structure on or above the ground.
  - Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.
  - Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.
  - Removal, mowing, or trimming of trees, shrubs or other vegetation.
  - Application of herbicides, pesticides, or fertilizers.
  - Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.
  - Surface use except for purposes that permit the land or water areas to remain in its natural condition.
  - Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.
  - Acts or uses detrimental to such retention of land or water areas.

**EXHIBIT "E"**

**List of Holdings For CANOE CREEK PHASE I**

**As set forth on Plat for "CANOE CREEK PHASE I":**

200's: Private Recreation Area, Drainage and Public Utility Easement  
300's: Private Road, Private Drainage and Public Utility Easement  
400's: Open Space, Common Space, Drainage and Public Utility Easement  
500's: Lake, Drainage, Open Space and Public Utility Easement  
600's: Drainage Easement, Wetland, Wetland Buffer, and Open Space

Tract A1: Future Right-of-Way Setback  
Tract A2: Future Right-of-Way Setback  
Tract B: Flood Plain Compensation, Open Space  
Tract C: Future Development, Private Access, Drainage and Public Utility Easement

**Operation and Maintenance Responsibilities:**

Tracts 200's, 300's, 400's, 500's, 600's and Tract B shall be privately operated and maintained by the Canoe Creek Neighborhood Association, Inc., in accordance with the Declaration; provided however, all infrastructure and facilities within all "Public" easements shall be operated and maintained by the public entity accepting the dedication by plat.

**Future Development Reserved for Declarant/Developer:**

Tracts A1, A2 and C are hereby specifically reserved for and by Declarant, Canoe Creek Investments, LLC, for its use and future development, subject to any public easements noted thereon.

**EXHIBIT "F"**

**CANOE CREEK**

**RIGHT OF ENTRY**

**and**

**COMPLIANCE WITH MANATEE COUNTY ORDINANCE**

- I. **Right of Entry by County.** The Manatee County law enforcement officers, health and pollution control personnel, emergency medical service personnel, and fire fighters, while in pursuit of their duties, are hereby granted authority to enter upon any and all portions of the Common Property as may be necessary to perform those duties.
- II. **Ownership of the Community Common Areas.** Notwithstanding anything herein contained to the contrary, the Association shall not dispose of any Common Property, by sale or otherwise, except to an organization conceived and organized to own and maintain such Common Property, without first offering to dedicate the same to Manatee County or other appropriate governmental agency.
- III. **Disturbance of Common Areas.** No lands in the Common Property shall be denuded, defaced, or otherwise disturbed in any manner at any time, except for development, construction, maintenance or repair, without the prior written approval of the Manatee County Planning Director.
- IV. **Maintenance and Care.** In the event the Association, or its successors fail to maintain the Common Property in reasonable order and condition, the provisions of the Manatee county Land Development Code allow for Manatee County, upon notice and hearing, to enter said Common Property for the purpose of maintaining same. The cost of such maintenance by the County shall be assessed pro-ratedly and such charges will be made payable by property Owners within sixty (60) days after receipt of a statement therefore, and shall become a lien on the property if unpaid at the end of such period.
- V. **Violations.** Notwithstanding any other provision of this Declaration, no violation of federal, state, or local law shall be permitted.
- VI. **Amendments.** Notwithstanding any other provision of this Declaration relating to amendments, neither this Exhibit, nor any provision of this Declaration affecting this Exhibit, may be amended without the written consent of Manatee County.



EXHIBIT "G"

*State of Florida*  
*Department of State*

I certify from the records of this office that CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed electronically on October 13, 2017, effective October 13, 2017.

The document number of this corporation is N17000010356.

I further certify that said corporation has paid all fees due this office through December 31, 2017, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code noted below.

Authentication Code: 171016081942-300304562523#1

Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capital, this the  
Sixteenth day of October, 2017

**ARTICLES OF INCORPORATION  
OF  
CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC.  
A Corporation Not For Profit**

The undersigned hereby forms a corporation not for profit under Chapter 617, Florida Statutes, and certifies as follows:

**ARTICLE I. NAME AND ADDRESS**

The name of the corporation shall be **CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC.**, a corporation not for profit. For convenience, the corporation shall herein be referred to as the "Association". The initial address of the corporation's principal office shall be 5800 Lakewood Ranch Blvd, Sarasota, Florida, 34240. These Articles of Incorporation supplement, amend and restate those Articles of Incorporation filed electronically with the State of Florida, Division of Corporations on October 13, 2017, when incorporating the Association for such status with the State of Florida, all as set forth and consistent with said original Articles of Incorporation.

**ARTICLE II. PURPOSE**

2.1 Purpose: The purpose for which the Association is organized is to provide an entity for the maintenance, preservation, and management of the Lots and Common Property within Canoe Creek (the "Subdivision"), a subdivision located in the County of Manatee, Florida, same to be in accordance with the "Declaration of Covenants, Conditions and Restrictions for Canoe Creek," herein called the "Declaration", which is to be recorded in the Public Records of Manatee County, Florida, as same may be amended as provided for therein.

2.2 Distribution of Income: The Association shall make no distribution of income to its members, directors, or officers.

**ARTICLE III. POWERS**

3.1 Common Law and Statutory Powers: The Association shall have all of the common law and statutory powers of a corporation not for profit, which powers are not in conflict with the terms of these Articles of Incorporation, the Declaration, or the Purposes of the Association as described in Paragraph 2.1 above.

3.2 Specific Powers. The Association shall have all of the powers and duties set forth in the Declaration, as amended from time to time, except as validly limited by these Articles and by said Declaration, and all of the powers and duties reasonably necessary to own and/or operate the Common Property of the Subdivision pursuant to said Declaration and to perform the maintenance, administration, managerial and other functions for the Subdivision as provided in said Declaration, as it may be amended from time to time, including, but not limited to the following:

- (a) To make and collect Assessments against Members as Lot Owners to defray the cost of Common Expenses of the Subdivision as provided in the Declaration.
- (b) To use the proceeds of Assessments in the exercise of its powers and duties.

- (c) To accept, hold title to, own, purchase, acquire, replace, improve, manage, maintain, sell, convey and administer the use of the Common Property of the Subdivision in accordance with the Declaration.
- (d) To purchase insurance upon the Common Property, and for the protection of the Association and its Members.
- (e) To reconstruct improvements to the Common Property after casualties and further to improve the Common Property in accordance with the Declaration.
- (f) To adopt and amend reasonable rules and regulations respecting the use of the Common Property in accordance with the Declaration.
- (g) To enforce by legal means against an Owner as defined in the Declaration, the provisions of the Declaration, the By-Laws of the Association and rules and regulations duly adopted by the Association.
- (h) To furnish or otherwise provide for private security, fire protection or such other services as the Board in its discretion determines necessary or appropriate.
- (i) To pay any real and personal property taxes and other charges assessed against the Common Property unless same are separately assessed to the Owners.
- (j) To obtain all required utility and other services for the Common Property.
- (k) To maintain architectural control over the Subdivision in accordance with the Declaration.
- (l) To operate and maintain the surface water management system facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas.
- (m) To exercise such further authority as may be reasonably necessary to carry out each and every of the obligations of the Association set forth in the Declaration, these Articles or the By-Laws.
- (n) Sue and be sued, as set forth in the Declaration.

**3.3 Assets Held in Trust:** All funds and the title of all properties acquired by the Association and the proceeds thereof shall be held in trust for the Members, in accordance with the provisions of the Declaration, these Articles of Incorporation and the By-Laws of the Association. Upon the dissolution or winding up of this Association, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Association shall be distributed pro-rata among all Members, or, alternatively, upon the affirmative vote of two thirds (2/3) of the Owners of Lots in the Subdivision, the assets of the Association may be conveyed or dedicated to (i) a public body willing to accept such assets; or (ii) a not for profit organization located in Manatee County, Florida, or the one closest to the Association, if none are located in Manatee County, having the same or similar purposes; provided that in the event of the dissolution of the Association, the property consisting of the surface water management system of the Subdivision shall be conveyed to an appropriate agency of local government, and if not accepted, the surface water management system shall be dedicated to a similar non-profit corporation.

3.4 Limitation on Exercise of Powers: The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the laws of the State of Florida, the Declaration, these Articles and the By-Laws of the Association.

#### **ARTICLE IV. MEMBERS**

4.1 Members: The Members of the Association shall consist of all of the record Owners of Lots in the Subdivision subject to the Declaration and operated hereby.

4.2 Change of Membership: Change of membership in the Association shall be established by the recording in the Public Records of Manatee County, Florida, of a deed or other instrument establishing a change of record title to a Lot in the Subdivision. A copy of such instrument shall be delivered to the Association. The Owner designated in such instrument shall thereupon become a member of the Association and the membership of the prior owner shall thereupon be terminated, as provided in the By-Laws.

4.3 Limitation on a Transfer of Shares of Assets: The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the Member's Lot.

4.4 Voting: Subject to the provisions of Section 3.02 of the Declaration, the Owner of each Lot shall be entitled to one vote as a member of the Association, provided, however, that the Declarant shall, during development, be entitled to the number of votes as provided in the Declaration, which votes may be apportioned to successor developers, or partial successor developers, as provided in the Declaration. The manner of exercising voting rights shall be determined by the By-Laws of the Association. Subject to the provisions of Section 3.02 of the Declaration, Owners owning more than one Lot shall be entitled to one vote for each Lot owned.

#### **ARTICLE V. DIRECTORS**

5.1 Board of Directors: The affairs of the Association shall be managed by a Board of Directors consisting of an odd number of Members determined from time to time in accordance with the By-Laws. In no event shall the Board of Directors consist of fewer than three (3) directors. Directors shall be Members of the Association except as otherwise provided.

5.2 Election of Directors: Directors of the Association shall be elected at the annual meeting of the Members, in the manner provided by the By-Laws. Directors may be removed and vacancies on the Board shall be filled in the manner provided by the By-Laws.

5.3 First Board of Directors: The names and addresses of the initial Board of Directors, who have been selected by the Declarant and who shall serve until their successors are elected and have qualified or until they resign or are removed, are as follows:

James R. Schier  
5800 Lakewood Ranch Blvd.,  
Sarasota, FL 34240

John Leinaweaver  
5800 Lakewood Ranch Blvd.,  
Sarasota, FL 34240

Priscilla Heim  
5800 Lakewood Ranch Blvd.,  
Sarasota, FL 34240

The initial Board of Directors designated by Declarant herein, and any directors subsequently designated or appointed or elected by Declarant need not be members of the Association. All other Board members shall be Members of the Association.

#### **ARTICLE VI. OFFICERS**

6.1 Officers: The affairs of the Association shall be administered by a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be created by the Board of Directors as permitted by the By-Laws. Officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the Association and shall serve at the pleasure of the Board. Offices may be combined as provided in the By-Laws. The names and addresses of the officers who shall serve until their successors are designated by the Board of Directors are as follows:

President: James R. Schier  
5800 Lakewood Ranch Blvd.,  
Sarasota, FL 34240

Vice President/Treasurer: John Leinaweaver  
5800 Lakewood Ranch Blvd.,  
Sarasota, FL 34240

Secretary: Priscilla Heim  
5800 Lakewood Ranch Blvd.,  
Sarasota, FL 34240

#### **ARTICLE VII. INDEMNIFICATION**

7.1 Indemnification: Every director and every officer of the Association shall be indemnified by the Association against all expense and liabilities, including legal fees, reasonably incurred by, or imposed upon him in connection with any proceeding or the settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when the director or officer is adjudged guilty of willful and wanton misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

7.2 Insurance: The Board of Directors of the Association may purchase liability insurance to insure all directors, officers or agents, past and present, against all expenses and liabilities as set forth above. The premiums for such insurance shall be paid by the Members of the Association as part of the common expenses.

**ARTICLE VIII. BY-LAWS**

8.1 By-Laws: The first By-Laws of the Association shall be adopted by the Board of Directors, and may be altered, amended or rescinded by a majority of the Board, except as otherwise may be provided by the By-Laws and the Declaration.

**ARTICLE IX. AMENDMENTS**

9.1 Amendments: These Articles may be altered, amended or modified upon the affirmative vote of the owners of two thirds (2/3) of the Lots in the Subdivision; provided however, that these Articles may be altered, amended or modified by Declarant alone (without votes by the Owners), or its successor, during the time that Declarant has the right to and does control the Association in accordance with the Declaration. Amendments may be proposed by resolution of the Board of Directors or by the Owners of any three (3) Lots. Provided, however, that no amendment affecting the Declarant, or its successors or assigns as the developer of the Subdivision, as defined in the Declaration, shall be effective without the prior written consent of the Declarant, its successors or assigns as such Declarant. Provided, further, that no amendment shall make any change in the qualification for membership nor the voting rights of Members without the approval of all Members. No amendment shall be made which is in conflict with the Declaration.

**ARTICLE X. EXISTENCE**

10.1 Term: The term of the Association shall be perpetual; provided, however, in the event that the Association is ever dissolved, the control or right of access to the Subdivision property containing the surface water management system facilities shall be conveyed or dedicated to an appropriate governmental unit or public utility and that if not accepted, then the surface water management system facilities shall be conveyed to a non-profit corporation similar to the Association.

**ARTICLE XI. INCORPORATOR**

11.1 Incorporator: The name and address of the incorporator of this Corporation is as follows: Canoe Creek Investments, LLC, 5800 Lakewood Ranch Blvd, Sarasota, Florida, 34240.

**ARTICLE XII. REGISTERED OFFICE AND AGENT**

12.1 Registered Office and Agent: The Association initially appointed MML II, LLC, a Florida limited liability company, whose address is 5800 Lakewood Ranch Blvd., Sarasota, Florida, 34240, as its Registered Agent under the Laws of Florida; and the Association hereby amends such initial appointment and now appoints **CANOE CREEK INVESTMENTS, LLC**, a Florida limited liability company, whose address is 5800 Lakewood Ranch Blvd, Sarasota, Florida, 34240, to serve as its Registered Agent under the Laws of Florida. By affixing its signature hereto, the said Registered Agent does hereby accept said designation and appointment, and the office of the Resident Agent shall be at said address.

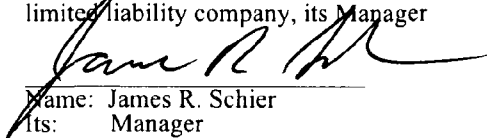
**ACCEPTANCE BY REGISTERED AGENT**

Having been named as Registered Agent and to accept service of process for the above stated corporation at the place designated in this certificate, the undersigned hereby accepts the appointment as Registered Agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of its duties, and is familiar with and accepts the obligations of its position as Registered Agent.

**CANOE CREEK INVESTMENTS, LLC**, a Florida limited liability company

By: NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, a Florida limited liability company, its Manager

By: NCDG Management, LLC, a Florida limited liability company, its Manager

By:   
Name: James R. Schier  
Its: Manager

**ARTICLE XIII. CONFLICT**

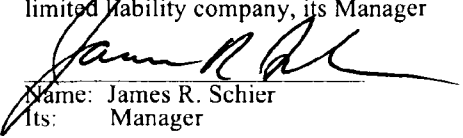
13.1 Declaration Prevails & Controls. In the event of any conflict between the terms of these Articles and those of the Declaration, the terms of the Declaration shall prevail and control.

IN WITNESS WHEREOF, the undersigned has caused these amended and restated Articles to be executed this 23 day of May, 2018.

**CANOE CREEK INVESTMENTS, LLC**, a Florida limited liability company

By: NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, a Florida limited liability company, its Manager

By: NCDG Management, LLC, a Florida limited liability company, its Manager

By:   
Name: James R. Schier  
Its: Manager

**EXHIBIT "H"**

**BY-LAWS  
OF  
CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC.  
A Corporation Not For Profit**

**ARTICLE I. IDENTIFICATION**

1.01 Identity: These are the By-Laws of **CANOE CREEK NEIGHBORHOOD ASSOCIATION, INC.**, a corporation not for profit organized and existing under the laws of Florida, hereinafter called "Association".

1.02 Purpose: The Association has been organized for the purpose of maintaining, preserving, and managing the Lots and Common Property within Canoe Creek (the "Subdivision"), a subdivision located in the unincorporated area of the County of Manatee, Florida, same to be in accordance with the "Declaration of Covenants, Conditions and Restrictions for Canoe Creek", herein called the "Declaration."

1.03 Office: The office of the Association shall be at 5800 Lakewood Ranch Blvd., Sarasota, Florida 34240, until otherwise changed by the Board of Directors.

1.04 Fiscal Year: The fiscal year of the Association shall be the calendar year.

1.05 Seal: The seal of the corporation shall bear the name of the corporation, the word "Florida", and the words "Corporation Not For Profit" and the year of incorporation.

**ARTICLE II. MEMBERS**

2.01 Qualification: The Members of the Association shall consist of all of the record Owners of Lots in the Subdivision which are subject to the Declaration, in accordance with the Declaration.

2.02 Change of Membership: Change of membership in the Association shall be established by the recording in the Public Records of Manatee County, Florida, of a deed or other instrument establishing a change of record title to a Lot in the Subdivision. A copy of such instrument shall be delivered to the Association. Upon recording, the owner established by such instrument of conveyance shall thereupon become a member of the Association and the membership of the prior owner shall thereupon be terminated.

2.03 Multiple Owners: When a Lot is owned by more than one person, whether as co-tenants, joint tenants, tenants by the entirety or otherwise, each owner shall be a member of the Association by virtue of being a record Owner of an interest in a Lot. Lessees of Lots shall not be members. All matters of voting shall, however, be determined on a Lot basis, as provided in Article III.

2.04 Restraint upon Assignment of Membership, Shares and Assets: The membership of an Owner, and the share of a member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Lot.

2.05 Evidence of Membership: There shall be no stock or membership certificates in the Association. Membership shall be determined by ownership as herein provided.



### **ARTICLE III. VOTING**

3.01 **Voting Rights:** The Member, Members, or Regular Members who are the record Owners of each Lot in the Subdivision shall be collectively entitled to one (1) vote for each such Lot, as provided in the Declaration and the Articles of Incorporation. Subject to Section 3.02 of the Declaration, if Members own more than one Lot, they shall be entitled to one vote for each Lot owned. A Lot vote may not be divided. As provided in Section 3.02 of the Declaration, and notwithstanding the number of Lots actually owned by the Declarant, if any, the Declarant, together with any partial successor declarants, shall be entitled to three (3) times the total number of votes then held by Regular Members (as defined in Section 3.02 of the Declaration), plus one additional vote. After Turnover, the Declarant Member shall be deemed to be a Regular Member and shall be entitled to one (1) vote for each Lot owned and/or controlled by Declarant.

3.02 **Voting Procedure:** Subject to Section 3.02 of the Declaration, the single or multiple owners of each Lot who are Regular Members shall have one vote for each Lot, and the Declarant Member shall have the number of votes provided for in the Declaration. All determinations of requisite majorities and quorums for all purposes under the Declaration, the Articles of Incorporation and these By-laws shall be made by reference to the number of votes to which the Member is entitled. Decisions of the Association shall be made by a simple majority of votes entitled to be cast by Members represented at a meeting at which a quorum is present, unless a greater percentage is required by the Declaration, the Articles of Incorporation, or these By-Laws.

3.03 **Quorum:** A quorum shall exist when Members entitled to cast not less than twenty five percent (25%) of all votes are present, either in person, by designated voting representative or by proxy.

3.04 **Designation of Voting Representative:** The right to cast the vote attributable to each Lot shall be determined, established and limited pursuant to the provisions of this Section:

- (a) **Single Owner:** If the Lot is owned by one natural person, that person shall be entitled to cast the vote for his Lot.
- (b) **Multiple Owners:** If a Lot is owned by more than one person, either as co-tenants or joint tenants, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record Owners and filed with the Secretary of the Association.
- (c) **Life Estate with Remainder Interest:** If a Lot is owned by a life tenant, with others owning the remainder interest, the life tenant shall be entitled to cast the vote for the Lot. If the life estate is owned by more than one person, the authority to vote shall be determined as herein otherwise provided for voting by persons owning a Lot in fee in the same manner as the life tenants own the life estate.
- (d) **Corporations:** If a Lot is owned by a corporation, the officers or employees thereof entitled to cast the vote for the Lot shall be designated by a certificate executed by an executive officer of the corporation and attested by the Secretary or an Assistant Secretary, and filed with the Secretary of the Association.
- (e) **Partnership:** If a Lot is owned by a general or limited partnership, the general partner entitled to cast the vote for the Lot shall be designated by certificate executed by all general partners and filed with the Secretary of the Association.

- (f) Trustees: If a Lot is owned by a trustee or trustees, such trustee or trustees shall be entitled to cast the vote for the Lot. Multiple trustees may designate a single trustee, or a beneficiary entitled to possession, and a single trustee may likewise designate such beneficiary as the person entitled to cast the vote for the Lot by a certificate executed by all trustees and filed with the Secretary of the Association.
- (g) Estates and Guardianships: If a Lot is subject to administration by a duly authorized and acting Personal Representative or Guardian of the property, then such Personal Representative or Guardian shall be entitled to cast the vote for such Lot upon filing with the Secretary of the Association a current certified copy of his Letters of Administration or Guardianship.
- (h) Tenants by the Entirety: If a Lot is owned by a husband and wife as tenants by the entirety, they may designate a voting member in the same manner as other multiple owners. If no certificate designating a voting member is on file with the Association, and only one of the husband and wife is present at a meeting, he or she may cast the vote for their Lot without the concurrence of the other owner. If both spouses are present, they may jointly cast the vote for their Lot, but if they are unable to agree on the manner of casting such vote, they shall lose their right to vote on such matter, although the Lot may still be counted for purposes of a quorum.
- (i) Leases: If a Lot is leased, the owner-lessor shall be entitled to cast the vote for the Lot, except that the owner may designate a lessee as the person entitled to cast the vote for the Lot by a certificate executed by all owners and filed with the Secretary of the Association.
- (j) Certificate: Whenever a certificate designating a voting representative is permitted or required, such certificate shall, once filed, be valid until revoked. In the absence of a valid certificate, a Lot shall not be counted in determining a quorum unless all owners required to execute such certificate are present, in person or by proxy, and such Lot Owners shall lose their vote on any particular matter unless they concur on the manner in which the vote of the Lot is to be cast on that matter.

3.05 Approval or Disapproval of Matters: Whenever the decision of a Lot Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner if at an Association meeting, unless the joinder of record Owners is specifically required by the Declaration or these By-Laws.

3.06 Proxies: Votes may be cast in person or by proxy. A proxy shall be in writing and signed by the designated voting representative, or the Owner, if no voting representative has been designated. A proxy shall be valid only for the particular meeting designated in the proxy, and must be filed with the Secretary of the Association before the appointed time of the meeting or any adjournments thereof. A properly executed and delivered proxy may be revoked by a writing delivered to the Secretary prior to the appointed time of the meeting or any adjournments thereof, or by the attendance in person of the persons executing said proxy at any meeting or adjournment thereof. No one person may be designated to hold more than fifteen (15) proxies. In no event shall a proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given.

3.07 Method of Voting: Subject to the provisions of the Declaration, voting may be by roll call, voice vote or by written ballot; provided, however, that whenever written approval is required by the

Declaration, or whenever any amendment to the Declaration is proposed, or when any borrowing of funds, pledge, or other disposition of common properties or assets is proposed, the voting shall be by written ballot. Routine matters such as approval of minutes, adjournment, acceptance of reports, parliamentary questions and social business may be determined by "Yeas" and "Nays" provided that any five (5) voting Members, or the chairman, may require a roll call vote or vote by written ballot.

#### **ARTICLE IV. MEETINGS OF MEMBERS**

4.01 Annual Meeting: The annual meeting of the Members shall be held during the month of November of each year on a day and at a time determined by the Board of Directors; provided that notice pursuant to Section 4.03 is given at least thirty (30) days prior to the date set for the annual meeting. The annual meeting shall be for the purpose of electing directors, and transacting any other business authorized to be transacted by the Members. No annual meeting shall be held until such time as the Regular Members are entitled to elect a director pursuant to the provisions of the Declaration.

4.02 Special Meetings: Special meetings of the Members shall be held whenever called by the President or Vice President, or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from voting members entitled to cast not fewer than fifteen percent (15%) of the total number of votes.

4.03 Notice of Meetings: Notice of all meetings of the Members, stating the time, place and subjects for which the meeting is called, shall be given by the President or Vice President or Secretary, unless waived in writing. All such notices shall be given in writing to each member's address, as it appears on the books of the Association; as the Member may have otherwise directed in writing; or as it appears upon the instrument of conveyance establishing the membership interest. The notice shall be mailed or delivered not fewer than fourteen (14) days, nor more than thirty (30) days, prior to the date of the meeting. A duplicate notice shall be furnished to the designated voting representative if such voting representative is not also an Owner. The notice for any meeting at which assessments against Lot Owners are to be considered shall contain a statement of the nature of such assessments and that such assessments will be considered. Proof of such mailing or delivery shall be given by an Affidavit of the person giving the notice. Notice of meetings may be waived in writing before, during or after meetings.

4.04 Place: Meetings of the Association Members shall be held at such place in the County of Manatee County, Florida, as the Board of Directors may designate in the Notice of Meeting.

4.05 Adjournments: If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

4.06 Order of Business: The order of business at annual meetings, and as far as practical at all special meetings, shall be:

- (a) Election of Chairman of the meeting (if necessary).
- (b) Calling of the roll and certifying of the proxies.
- (c) Proof of notice of the meeting or waiver of notice.
- (d) Reading and disposal of any unapproved minutes.

- (e) Reports of officers.
- (f) Reports of committees.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.
- (j) Announcements.
- (k) Adjournment.

4.07 Action Without Meeting: Whenever the affirmative vote or approval of the Members is required or permitted by the Declaration or these By-Laws, such action may be taken without a meeting if Members entitled to cast not fewer than seventy five percent (75%) of the votes if such meeting were held, shall agree in writing that such action be taken and waive the necessity of such meeting. Provided, however, that if a greater percentage approval is required, then not less than such percentage must so agree in writing. Provided further that the Declaration, Articles of Incorporation and these By-Laws may not be amended without a meeting. Notice of the action so taken shall be given in writing to all Members who did not approve such action in writing within ten (10) days of such approval.

4.08 Proviso: Provided, however, that until the Declarant has terminated its control of the Association and its affairs in accordance with the Declaration, the proceedings of all meetings of the Members of the Association shall have no effect unless approved by the Board of Directors, except for the rights of the Regular Members to elect directors.

#### **ARTICLE V. DIRECTORS**

5.01 Number: The affairs of the Association shall be managed by a Board of not less than three (3) nor more than seven (7) directors (the "Directors") the exact number to be determined by the Members from time to time prior to the annual election of Directors. The Board of Directors shall at all times be comprised of an odd number of Members. Until otherwise determined by the Members, there shall be three (3) Directors.

5.02 Election of Directors: The election of Directors shall be conducted in the following manner:

- (a) Election of Directors shall be held at the annual meeting of the Members. A nominating committee of not less than three (3) nor more than five (5) Members may be appointed by the Board of Directors not less than thirty (30) days prior to the annual meeting of the Members. The nominating committee shall nominate at least one (1) person for each directorship. Other nominations may be made from the floor, and nominations for additional directorships, if any, created at the meeting shall be made from the floor.
- (b) The election shall be by ballots, unless dispensed with by unanimous consent, and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(c) Any Director may be recalled and removed from office, with or without cause, by the vote or agreement in writing by a majority of all Lot Owners. A special meeting of the Lot Owners to recall a Member or Members of the Board may be called by ten percent (10%) of the Lot Owners giving notice of the meeting as required for a meeting of Lot Owners, and the notice shall state the purpose of the meeting. The vacancy in the Board of Directors so created shall be filled by vote of the Members of the Association at the same meeting.

(d) The Declarant shall be vested with the power to designate the initial Board of Directors, the Members of which need not be owners of Lots. The initial Board of Directors shall serve until the first election of Directors. Any vacancies occurring prior to the first election shall be filled by the remaining Directors.

(e) The first election of Directors shall be held when Declarant membership terminates.

(f) When Declarant membership terminates and the Declarant Member is deemed to be a Regular Member pursuant to the Declaration, then the Declarant shall call a special meeting within sixty (60) days after such date, as provided in the Declaration. At such special meeting all Regular Members shall elect a Board of Directors, to serve until the next annual meeting. Thereafter, Directors shall be elected annually at the annual meeting.

(g) Declarant may waive its right to elect or designate any one or more Directors it otherwise has the right to designate under the Declaration and these By-Laws, which waiver shall, however, apply only to the specific election at which the waiver is made. If Declarant does waive such right, the Regular Members shall elect the Board member or members who would otherwise have been elected or designated by Declarant.

5.03 Term: Subject to the provisions of Section 5.02, the term of each Director's service shall extend to the next annual meeting of the Members and thereafter until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.

5.04 Qualifications: All Directors shall be Members of the Association; provided, however, that any Director elected or designated by Declarant pursuant to these By-Laws need not be Members. An officer of any corporate owner and a general partner of any partnership owner shall be deemed Members for the purposes of qualifying for election to the Board of Directors.

5.05 Vacancies: Except as otherwise provided herein, if the office of any Director becomes vacant, whether by reason of death, resignation, retirement, disqualification, incapacity or otherwise, a majority of the remaining Directors shall select a successor, who shall hold the office for the unexpired term of the Director he is replacing. Vacancies following removal of office pursuant to Section 5.02(c) shall be filled as therein provided.

5.06 Disqualification and Resignation: Any Director may resign at any time by sending written notice to the Secretary of the Association. Such resignation shall take effect upon receipt by the Secretary, unless otherwise specified in the resignation. Any Director who must be a member of the Association shall be deemed to have resigned if he transfers his Lot so that he ceases to be a member of the Association. After the Declarant membership status has terminated pursuant to the Declaration, more

than three (3) consecutive unexcused absences from regular Board meetings shall be deemed a resignation, which shall be effective upon acceptance by the Board.

5.07 Voting: All voting for the election of Directors shall be as provided in Article III hereof. Notwithstanding the foregoing, Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of Officers. A vote or abstention from voting on each matter voted upon for each Director present at a Board meeting must be recorded in the minutes.

5.08 Organization Meeting: The organization meeting of a newly elected Board of Directors shall be held within thirty (30) days of its election, at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

5.09 Regular Meetings: The Board may, from time to time, establish a schedule of regular meetings to be held at such time and place as the Board may designate. Any regular scheduled meetings may be dispensed with upon written concurrence of not less than two-thirds (2/3) of the Members of the Board.

5.10 Special Meetings: Special Meetings of the Directors may be called by the President and must be called by the Secretary or an Assistant Secretary at the written request of one-third (1/3) of the Directors.

5.11 Notice:

- (a) To Directors: Notice of each regular or special meeting shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the meeting date. All notices shall state the time and place of the meeting, and if a special meeting, the purposes thereof. Any Director may waive notice of a meeting before, during or after the meeting, and all such waivers shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall be deemed a waiver of notice by him.
- (b) To Members: Notices of all Board meetings, and meetings of any committee or similar body of the Board, shall be posted in a conspicuous place in the Subdivision at least forty eight (48) hours in advance of the meeting except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Subdivision, notice shall be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency. Notwithstanding the foregoing, in the event the number of Members is in excess of 100, a reasonable alternative to posting or mailing may be provided, including publication of notice or provision of a schedule of Board meetings. The notice for any meeting at which assessments against Lot Owners are to be considered shall contain a statement of the nature of such assessments and that such assessments will be considered. Proof of such posting, mailing or delivery shall be given by an Affidavit of the person giving the notice. Notice of meetings may be waived in writing before, during or after meetings.

5.12 Quorum: A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the act of the Board of Directors; except where approval of a greater number of Directors is required by the Declaration or these By-Laws.

5.13 Adjourned Meeting: If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

5.14 Joinder in Meeting by Approval of Minutes: The joinder of a Director in the action of a meeting, by signing and concurring in the minutes thereof shall constitute the concurrence of such Director for the purpose of determining requisite majorities on any action taken and reflected in such minutes or to create a quorum. Directors may join in minutes under this Section only after an open meeting, for the purposes herein provided.

5.15 Meetings Open: Meetings of the Board of Directors shall be open to all Members, except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would be otherwise be governed by the attorney/client privilege.

5.16 Presiding Officer: The presiding officer at Directors' meetings shall be the President. In the absence of the President, the Vice President shall preside. In the absence of both, the Directors shall designate one of their Members to preside.

5.17 Directors' Fees: Directors shall not be entitled to receive Directors' fees, but may be reimbursed out of pocket expenses advanced by the Director.

5.18 Electronic Voting, Electronic Signatures and Electronic Notices: Voting, notices and all other matters affecting the Association may be conducted electronically, with electronic signatures and the like, all as permitted by law.

5.19 Order of Business: The order of business of Directors' meetings shall be:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.
- (d) Reports of officers and committees.
- (e) Election of officers, if any.
- (f) Unfinished business.
- (g) New business.
- (h) Announcements.
- (i) Adjournment.

#### **ARTICLE VI. POWERS AND DUTIES OF BOARD OF DIRECTORS**

The Board of Directors shall have all powers, authority, discretion and duties necessary for the administration of the Association and operation of the Subdivision, except as may be reserved or granted to the Lot Owners, Declarant or a specific committee or committees of the Association by the

Declaration, Articles of Incorporation, or these By-Laws. The powers of the Board shall include, but shall not be limited to, the following:

6.01 General Powers: All powers specifically set forth in the Declaration, Articles of Incorporation and these By-Laws, and all powers incident thereto or reasonably to be inferred therefrom.

6.02 Enforcement: The Board of Directors shall, when deemed necessary by the Board, enforce by legal means, provisions of the Declaration, the Articles of Incorporation, the By-Laws and rules and regulations for the use of the Common Property.

6.03 Budget and Assessments: To adopt budgets and make assessments, and to use and expend assessments and other receipts of the Association to carry out the powers and duties of the Association pursuant to the Declaration and these By-Laws.

6.04 Employment: To employ, dismiss, control and contract for personnel and contractors for the administration of the Association, including but not limited to managers, maintenance personnel, attorneys, accountants and other professionals, by employment or contract, as the Board may determine.

6.05 Rules and Regulations: To adopt, amend and rescind reasonable rules and regulations relating to the administration of the Association and operation and use of any Common Property, subject to the Declaration and By-Laws. Provided, however, that any rules or regulations adopted by the Board may be supplemented, amended or rescinded by affirmative vote of the Owners of not less than two-thirds (2/3) of the Lots subject to the Declaration. Any such rules or regulations approved by the Owners shall not thereafter be amended or rescinded except upon affirmative vote of the Owners of not less than two-thirds (2/3) of the Lots in the Subdivision subject to the Declaration.

6.06 Committees: To create and disband such committees as the Board may from time to time determine as reasonably necessary or useful in and about the administration of the Association, and to delegate such authority to such committees as may be reasonable in connection with their purpose, subject always to the provisions of the Declaration, Articles of Incorporation and By-Laws. All committees of the Association shall keep records and conduct meetings in the same manner, to the extent applicable, as is required of the Board of Directors.

## **ARTICLE VII. OFFICERS**

7.01 Officers and Election: The officers of the Association shall be a President, who shall be a Director; a Vice President, who shall be a Director; a Treasurer, a Secretary and such other officers as may be determined from time to time by the Board, all of whom shall be elected annually by the Board of Directors, and who may be peremptorily removed by a majority vote of all Directors at any meeting. Any person may hold two offices except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors shall designate the powers and duties of such other officers as it may create.

7.02 President: The President shall be the chief executive officer of the Association. The President shall have all of the powers and duties which are usually vested in the office of President of an Association; including but not limited to the power to appoint advisory committees from time to time, from among the Members or others as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. The President shall serve as Chairman at all Board and membership meetings.



7.03 Vice President: The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also generally assist the President, and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

7.04 Secretary and Assistant Secretary: The Secretary shall keep the minutes of all proceedings of the Directors and the Members. The Secretary shall attend to the giving and serving of all notice to the Members and Directors. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association, as may be required by the Directors or the President. The Assistant Secretary, if such office is created, shall perform the duties of the Secretary, when the Secretary is absent. The minutes of all meetings of the Members and the Board of Directors shall be kept in books available for inspection by Members, or their authorized representatives, and Board members at any reasonable time. All such records shall be retained for not less than seven (7) years.

7.05 Treasurer: The Treasurer shall have the custody of all the property of the Association including funds, securities and evidences of indebtedness. The Treasurer shall keep the books of the Association in accordance with good accounting practices, and provide for collection of assessments, and perform all other duties incident to the office of Treasurer.

7.06 Compensation: The compensation of all officers and employees of the Association shall be fixed by the Directors. The provisions that Directors' fees shall be determined by Members shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude contracting with a Director for the management services. No officer who is a designee of the Declarant shall receive any compensation for his services.

7.07 Indemnification of Directors and Officers: Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which such Director or officer may be a party or in which such Director or officer may become involved by reason of being or having been a Director or officer of the Association, whether or not such Director or officer is a Director or officer at the time such expenses are incurred, except in such cases when the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of such Director's or officer's duties. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

7.08 Term: All officers shall hold office until their successors are chosen and qualify.

#### **ARTICLE VIII. FISCAL MANAGEMENT**

The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

8.01 Accounting: Receipts and expenditures of the Association shall be credited and charged to Association accounts in accordance with generally accepted accounting principles consistently applied.

8.02 Budget: The Board of Directors shall adopt a budget for each calendar year which shall include the estimated funds required to defray the current expenses and funds for required reserves if deemed necessary by the Board. The budget may provide funds for specifically proposed and approved improvements.

8.03 Procedure: The Board of Directors shall adopt a budget in accordance with the Declaration.

8.04 Assessments: Regular annual assessments against a Lot Owner for such Owner's share of the items of the budget shall be made in advance on or before December 20 preceding the year for which the assessment is made. Such assessment shall be due either annually or, at the discretion of the Board, in periodic installments, which shall come due on intervals established by the Board. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly payments thereon shall be due from the 1st day of each month until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget may be amended at any time by the Board and a supplementary assessment levied. The supplementary assessment shall be due on the 1st day of the month next following the month in which the supplementary assessment is made or as otherwise provided by the Board of Directors.

8.05 Acceleration of Assessments: Upon default in payment the Board may elect to accelerate remaining installments of any assessments in accordance with the Declaration.

8.06 Expenditures: All funds of the Association shall be expended only upon authorization of the Board of Directors. Approval of the budget shall be deemed authority to expend funds for the items and contingency funds within the budget. Funds derived from special assessments and funds in specifically designated reserves shall be expended solely for the purpose for which such assessment was made or reserve established. Contingency funds may be expended for any legitimate purpose by action of the Board.

8.07 Depository: The depository of the Association shall be in such bank or banks as shall be designated from time to time by the Directors, and in which the moneys of the Association shall be deposited.

Withdrawal of moneys from such accounts shall be only by checks signed by such persons as are authorized by appropriate resolution of the Board of Directors. Funds of the Association may be commingled or kept in separate accounts, except as otherwise required by the Declaration.

8.08 Audit: After Declarant transfers complete control of the Association, a report of the accounts of the Association shall be made annually by the Board, and a copy of the report shall be furnished to each member not later than April 1 of the year following the year for which the report is made.

8.09 Fidelity Bonds: Fidelity Bonds may be required by the Board of Directors from all persons handling or responsible for the Association's funds. The amounts of such bonds shall be determined by the Directors of the Association. The premiums on such bonds, if required by the Board, shall be paid by the Association as a Common Expense.

#### **ARTICLE IX. PARLIAMENTARY RULES**

Roberts Rules of Order, the latest edition, shall govern the conduct of the meetings of the Association, the Board of Directors and Committees of the Association when not in conflict with the Declaration, Articles of Incorporation or these By-Laws.

#### **ARTICLE X. AMENDMENT**

These By-Laws may be amended by the Members of the Association at any regular or special meeting duly called for that purpose by the affirmative vote of an absolute majority of all votes entitled to be cast. Notwithstanding the foregoing, no amendment shall be made that is in conflict with the

Declaration or the Articles of Incorporation, except as provided in said Declaration or Articles. Provided, however, that these By-Laws may be amended at any time by the Declarant Members during the time that the Declarant Members have and exercise the right to control the Association, provided that such amendment is not in conflict with the Declaration.

**ARTICLE XI. MISCELLANEOUS**

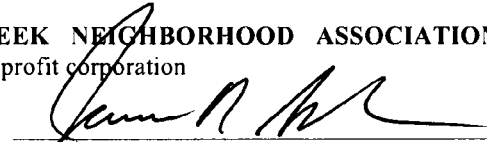
The provisions of these By-Laws shall be construed together with the Declaration and the Articles of Incorporation. In the event of a conflict between the provisions hereof and the provisions of the Declaration or Articles, the provisions of the Declaration or Articles shall control. Unless otherwise specifically provided, terms used herein shall have the meanings set forth in the Declaration. The provisions hereof shall be liberally construed to grant to the Association sufficient practical authority to implement its obligations and authorities under the Declaration. Whenever the context so requires, the use of any gender herein shall be deemed to include all genders, and the use of the plural shall include the singular and the singular shall include the plural.

In the event there is any conflict between the terms and provisions of these By-Laws or the Declaration of Covenants, Conditions and Restrictions for Canoe Creek (the "Declaration"), then the terms of the Declaration shall prevail and control.

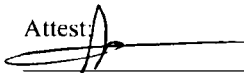
The foregoing was adopted as the By-Laws of the Association at the first meeting of the Board of Directors on the 13<sup>th</sup> day of October, 2017.

**CANOE CREEK NEIGHBORHOOD ASSOCIATION INC., a  
Florida not for profit corporation**

By:

  
James R. Schier, President

Attest:

  
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Priscilla Heim, Secretary

JOHN LEINAWCAYER

BOARD MEMBER