

**NOTICE OF SPECIAL MEETING OF THE MEMBERS OF  
VENETIAN POINTE HOMEOWNERS ASSOCIATION, INC.**

A special meeting of the members of **VENETIAN POINTE HOMEOWNERS ASSOCIATION, INC.** ("Association"), will be held on **Tuesday, August 5, 2025 at 6:00 PM at Lakes Regional Library, Meeting Room A (Auditorium) located at 15290 Bass Road in Fort Myers, Florida.** The agenda for the meeting is as follows:

1. Call to Order by President
2. Appointment by the President of a Chairperson of the Meeting (who need not be a Member or Director)
3. Proof of Notice or Waiver of Notice
4. Reading or Disposal of Unapproved Minutes
5. Appointment of Inspectors of Election (Final call for Ballots)
6. New Special Business:
  - a. Key Points about Amended and Restated Documents
  - b. Vote to approve Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Venetian Pointe and Amended and Restated Bylaws of Venetian Pointe Homeowners Association, Inc.
7. Announce Election Results
8. Adjournment

If you are unable to attend the meeting in person, then you may vote electronically if you have duly consented to do so, or you may designate a proxy to attend the meeting and to cast your vote in your place. The purpose of the document re-write is to update the original governing documents, integrate subsequent registered amendments, purge "developer language" throughout, revise to current statutory standards, and revise to reflect best practices for an association of our size and scope. It is also to eliminate illogical, redundant, cumbersome language and scrivener errors, if present.

In order to pass, the Amended and Restated Documents must be approved by the affirmative vote of not less than two-thirds (2/3rds) of the voting interests present, in person or by proxy, and voting at a duly noticed membership meeting of the Association.

A quorum of the members for the purposes of this meeting is 30% of the membership. Since the business of the Association necessitates the participation of the voting interests, we respectfully request your presence in person or by proxy at the meeting. You may also vote electronically if you have duly consented to do so and be counted as part of the quorum for the meeting.

Mailed, hand-delivered, or electronically transmitted and posted: On or Before July 22, 2025

BY ORDER OF THE BOARD OF DIRECTORS

Sign:   
Print: David Marek  
Title: Secretary

## VOTING INSTRUCTIONS

Pursuant to the Governing Documents of the Association, each Lot is entitled to only one (1) indivisible vote per agenda item up for membership consideration, provided that the Lot has not had voting rights duly suspended. If there is more than one owner or if a Lot is held by an entity, such owners are collectively entitled to one (1) vote per agenda item per Lot owned by them.

Lot owners that submit more than one Proxy form, electronic Ballot, and/or paper Ballot for each Lot owned by them shall have their Proxies and/or Ballot(s) invalidated. A limited number of blank Ballots will be available at the meeting, if needed. If you cannot attend the special meeting in person, and do not wish to vote electronically, you may complete and sign the enclosed Proxy form. You or your proxyholder may return your Proxy form to the Association prior to the last call for Ballots during the meeting. Please note the following information about proxies:

1. A proxy is for the purpose of appointing another member to vote for you as you specifically direct (except for non-substantive items) in case you are not able to attend the meeting. It must be signed by all owners of the Lot, or one among them designated to vote on behalf of all owners of the Lot.
2. The Proxy form should be submitted to the Association before the scheduled time of the meeting. It can be hand delivered or mailed (either by you or by your proxy) to arrive no later than August 4, 2025, to:

Precedent Hospitality Management  
Attn: Amy Bush  
6216 Whiskey Creek Drive Suite A  
Fort Myers, FL 33919

The proxy should be submitted as far in advance of the meeting as possible, in order to avoid delay in registration.

3. If you appoint a proxy and later decide you will be able to attend the meeting in person, or vote electronically, you may withdraw your proxy when you register at the meeting and pick up a blank ballot or vote electronically.
4. A proxy may be revoked in writing or superseded by a later proxy to another person. It also may be assigned (substituted) by the person designated on the proxy to a third person if the person you designate as proxy decides that he or she will be unable to attend the meeting.
5. A proxy form is enclosed with this notice for your use, if needed.

Again, please be sure to submit your Proxy form, vote electronically, or attend the special meeting.

## PROXY FORM

The undersigned, owner or designated voter of \_\_\_\_\_ (Lot address) appoints \_\_\_\_\_ or, if left blank, the Secretary of **VENETIAN POINTE HOMEOWNERS ASSOCIATION, INC.** ("Association") as my proxyholder to attend the special meeting of the members of the Association on **Tuesday, August 5, 2025 at 6:00 PM at Lakes Regional Library located at 15290 Bass Road in Fort Myers, Florida.** The proxyholder named above has the authority to vote and to act for me to the same extent that I would if I were personally present, with power of substitution, except that my proxyholder's authority is limited as indicated below:

**GENERAL POWERS** *(You may choose to grant general powers, limited powers, or both. Check "General Powers" if you want your proxyholder to vote on other issues that might come up at the meeting and for which a limited proxy is not required.)*

\_\_\_\_\_ I authorize and instruct my proxyholder to use his or her best judgment on all other matters which properly come before the meeting and for which a general power may be used.

**LIMITED POWERS** *(For your vote to be counted on the following issues, YOU, the Lot Owner, must indicate your preference in the blanks provided below. The proxyholder cannot exercise their judgment in voting on these items for you.)*

I SPECIFICALLY AUTHORIZE AND INSTRUCT MY PROXYHOLDER TO CAST MY VOTE IN REFERENCE TO THE FOLLOWING MATTER(S) AS I HAVE INDICATED BELOW:

- Do you approve the proposed Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Venetian Pointe and proposed Amended and Restated Bylaws of Venetian Pointe Homeowners Association, Inc. (collectively the "Amended and Restated Documents")?** *(Proposed Amended and Restated Documents provided with Notice) (The Board recommends that you consider voting "YES")*

\_\_\_\_\_ YES, I APPROVE THE AMENDED AND RESTATED DOCUMENTS

\_\_\_\_\_ NO, I DO NOT APPROVE THE AMENDED AND RESTATED DOCUMENTS

\_\_\_\_\_  
Printed Name of Owner

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Date

\*\*\*\*\*

### SUBSTITUTION OF PROXYHOLDER

The undersigned, appointed as proxyholder above, designates \_\_\_\_\_ to substitute for me in voting the proxy set forth above.

\_\_\_\_\_  
Printed Name of Proxyholder

\_\_\_\_\_  
Signature of Proxyholder

\_\_\_\_\_  
Date

**THIS PROXY IS REVOCABLE BY THE OWNER AND IS VALID ONLY FOR THE MEETING FOR WHICH IT IS GIVEN AND ANY LAWFUL ADJOURNMENT. IN NO EVENT IS THE PROXY VALID FOR MORE THAN NINETY (90) DAYS FROM THE DATE OF THE ORIGINAL MEETING FOR WHICH IT WAS GIVEN.**

**This Instrument Prepared By:**  
Brooke N. Fisher, Esq.  
Pavese Law Firm  
1833 Hendry St.  
Fort Myers, FL 33901  
(239) 334-2195

***SUBSTANTIAL REWORDING OF DECLARATION OF COVENANTS. SEE GOVERNING DOCUMENTS FOR CURRENT TEXT.***

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR VENETIAN POINTE HOMEOWNERS' ASSOCIATION, INC.**

**THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (hereinafter referred as the “**Declaration**”) is made effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by **VENETIAN POINTE HOMEOWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation, hereinafter called the “**Association**.”

**PREMISES:**

**WHEREAS**, the Association is a Florida not-for-profit corporation responsible for the operation of a residential planned community located in Lee County, Florida, consisting of single-family residential homes and common area property known as “Venetian Pointe” (hereinafter referred to as the “**Community**”); and

**WHEREAS**, the Community is comprised of the real property that is described in **Exhibit “A”** to this Declaration (the “**Lands**”); and

**WHEREAS**, the Community was established and developed subject to the Declaration of Covenants, Conditions and Restrictions for Venetian Pointe, dated May 24, 2017 and as originally recorded in Instrument Number 2017000119591 of the Public Records of Lee County, Florida on June 1, 2017 (the “Original Declaration”); and

**WHEREAS**, to provide a means for meeting the purposes and intents herein set forth, the Association was formed as a Florida corporation, not-for-profit pursuant to Chapter 617, a portion of which is now found under Chapter 720, Florida Statutes; and

**WHEREAS**, to preserve, protect and enhance the values of the property and amenities in the Community, and the general health, safety and welfare of the Members of the Association, the Association deems it desirable to maintain and subject the Community to certain protective covenants, conditions and restrictions, but to also restate, update and amend the Original Declaration; and

**WHEREAS**, the Community has been turned over by the Declarant to the Owners of the Lots and Living Units within the Community, and the Association, by and through its Board, have decided to amend and restate the Original Declaration and as later amended, to reflect that the Declarant is no longer involved in the Association and to update the Original Declaration to address changes to the law as well as the needs of the Association;

**NOW THEREFORE**, the Association hereby declares that the Lands described in Exhibit “A” hereto, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Lands and be binding on all parties having any right,

title or interest in the Lands or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## **ARTICLE I**

### **DEFINITIONS**

The following words and terms when used in this Declaration or any supplemental declaration hereto or any amendment thereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

**Section 1. "Articles"** mean and refer to the Articles of Incorporation of the Venetian Pointe Homeowners' Association, Inc., a not-for-profit Florida corporation, attached hereto as **Exhibit "B"**, and all exhibits which are attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

**Section 2. "Association"** means the Venetian Pointe Homeowners' Association, Inc., a not-for-profit Florida corporation, its successors and assigns.

**Section 4. "By-Laws"** mean the By-Laws of Venetian Pointe Homeowners' Association, Inc., attached hereto as **Exhibit "C"** and all exhibits attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

**Section 5. "Common Area"** is the property owned by or dedicated to the Association for the common use and enjoyment of the Members and all improvements constructed thereon.

**Section 6. "County"** shall mean Lee County, Florida.

**Section 7. "Declaration"** means this instrument, together with the Exhibits attached hereto and made a part hereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms hereof.

**Section 8. "Home"** is a single-family dwelling constructed upon and including a Lot. Home shall mean both Villas and detached single family dwellings, where applicable.

**Section 9. "Institutional First Mortgage"** is a mortgage executed in favor of an Institutional First Mortgagee, which mortgage is a first and prior mortgage encumbering a Home.

**Section 10. "Institutional First Mortgagee"** is a bank, federal savings bank, and loan association, any insurance company, pension fund, real estate trust, Federal National Mortgage Association or its assigns, Federal Home Loan Mortgage Company or its assigns, or any other party engaged in the business of mortgage financing, which owns or holds a first and prior mortgage encumbering a Home, and shall include any corporate subsidiary of such entity.

**Section 11. "Venetian Pointe" or "Community"** means the planned community built upon the property described in **Exhibit "A"** or any property annexed as provided herein; the said being within Lee County, Florida.

**Section 12.** **"Lot"** is a designated lot within the property described on the Plat or any property annexed thereto and becoming a part of the Property conveyed or to be conveyed to an Owner upon which there has been constructed or will be constructed a Home.

**Section 13.** **"Member"** is every person or entity who is a Member in the Association due to ownership of a Lot or as otherwise provided herein.

**Section 14.** **"Owner"** is the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those parties having such interest merely as security for the performance of any obligation.

**Section 15.** **"Plat"** is the Plat of the Property to be recorded in the Public Records of Lee County, Florida, as the same may be amended from time to time.

**Section 16.** **"Property"** is the property described in **Exhibit "A"**, and such additions thereto as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

**Section 17.** **"Rules"** are collectively the rules and regulations which the Board of Directors of the Association may promulgate or impose and thereafter modify, alter, amend, rescind and augment any of the same with respect to the use, operation, and enjoyment of the Property, and any improvements located thereon.

**Section 18.** **"SWMS"** means that storm and surface water management system that is designed and constructed or implemented to control water discharges that are necessitated by rainfall events, incorporating methods to collect, convey, store absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quality and quality of discharges from the system, and includes, without limitation, all swales, ditches, berms, canals, lakes, preserves, retention ponds, inlets, culverts, weirs, bleeders, catch basins, baffle boxes, grates, manhole covers, and any pipes and outfall structures servicing any of the above in accordance with Environmental Resource Permit 36-02953-S as modified from time-to-time.

**Section 19.** **"Villa"** means an attached single-family dwelling sharing at least one party wall with an adjacent Villa constructed upon a Lot within the Community.

The foregoing definitions shall be applicable to this Declaration and to any supplemental declaration hereto or any amendment to this Declaration, unless otherwise expressly provided herein or therein.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS DECLARATION**

**Section 1. Legal Description.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County, and is the property described in **Exhibit "A"**, and such additions as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration, less the portions thereof dedicated and/or conveyed to other entities or subsequently withdrawn here from.

**Section 2. Application of Declaration.** The Property shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration, and any and all supplements and lawful amendments hereto and any and all supplements and lawful amendments thereto. By receipt of delivery of a deed to any of the Property or other instrument evidencing ownership, whether or not it shall be so expressed in any such deed or other conveyance or adjudication, each Owner hereby agrees to abide by and accept title to such portion of the Property and all terms and provisions of this Declaration.

### **ARTICLE III**

#### **MEMBERSHIP**

**Section 1. Membership.** Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to the covenants, conditions, restrictions, reservations, easements, liens and charges, of this Declaration, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to a Lot and may not be separated from ownership of the Lot. Ownership of a Lot shall be the sole qualification for membership. The Owner of record of each Lot shall be subject to assessment by the Association, as hereinafter provided, and shall be subject to enforcement by the Association in accordance with the terms and provisions of this Declaration.

### **ARTICLE IV**

#### **VOTING RIGHTS**

The Association has one (1) class of Member, which shall be the Owners of Lots within the Community. The term Owner shall neither mean nor refer to a holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure proceedings or by deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. Membership is appurtenant to, and may not be separated from, ownership of a Lot. Each Lot has only one (1) indivisible Voting Interest on all matters for which the Membership are entitled to vote, which Voting Interest may only be exercised by the Owner of the Lot as further provided in the Bylaws. In accordance with Florida Statute Section 720.305, the Association may suspend the Voting Interest(s) of any Owner who becomes more than ninety (90) days delinquent in the payment of any monetary obligation to the Association.

### **ARTICLE V**

#### **PROPERTY RIGHTS**

**Section 1. Membership Easements of Enjoyment.** Every Member shall have a right and easement of enjoyment in and to the non-exclusive use (if applicable) of the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area, and in aid thereof to mortgage said Common Area so long as the rights of such mortgagee in said Common Area shall be subordinate to the rights of the Owners hereunder. No such rights to mortgage shall be effective unless approved by two-thirds (2/3) of the Members at a duly noticed meeting for such purpose or approved in writing by two-thirds of the Members in lieu of a meeting therefore;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes, and subject to such conditions as may be agreed to by the Members, or to mortgage all or any part of the Common Area. No such dedication, transfer or mortgage, shall be effective unless approved by two-thirds (2/3) of the Members at a duly noticed meeting for such purpose, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the duly called meeting at which the vote on such dedication, transfer or mortgage is held;

(c) The right of the Association to establish, from time to time, certain easements over the Common Area for utilities, broadband communications, cable television and other common services purposes;

(d) The right of the Association to charge reasonable fees for the use of designated facilities (if any) on the Common Area;

(e) Existing easements and agreements of record;

(f) Easements referred to in Article X hereof;

(g) The right to the use and enjoyment of the Common Area and facilities thereon shall extend to all Members and their family, tenants, contract purchasers and invited guests, provided there is delegation of the right of enjoyment in accordance with the By-Laws and subject to regulation from time to time by the Association in its Rules;

(h) Access to certain Common Area within the Property may not be obtained from an Owner's or Member's Lot or other Common Area or publicly dedicated streets or properties. Thus, to obtain access to certain Common Area for which access cannot be obtained from the Owner's or Member's Lot, other Common Area or publicly dedicated streets or properties, the Owner or Member shall need to obtain the permission of a Lot Owner whose Lot is contiguous to said Common Area. The fact that a Member or Owner shall not have access to certain Common Area from his or her Lot, Common Area or publicly dedicated streets or properties does not allow an Owner to escape liability for assessments provided for in Article VI of this Declaration. Notwithstanding the foregoing, the Association shall have access to said Common Area through an Owner's or Member's Lot; and

(i) The other provisions of this Declaration, the Articles and By-Laws.

## **Section 2. Common Area.**

(a) Maintenance. Except as otherwise set forth herein, the Association shall be responsible for the maintenance of the Common Areas together with any landscape buffer easement



areas located on the Lots as more specifically set forth on the Plat in a continuous and satisfactory manner in good order, condition, and repair. In addition, the Association shall replace as scheduled any and all improvements situated on the Common Areas, including, but not limited to, all landscaping, paving, signs, irrigation systems, cluster mailboxes and other structures, but excepting any public utilities. The Association shall be authorized, but not required, to provide other services and to make emergency repairs and perform other work on Lots reasonably necessary for the proper maintenance and operation of the Community. The Association shall have easement rights necessary to perform same. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments as provided in this Declaration; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of an Owner or its guest, tenants or other invitees or by the failure of an Owner to comply with the lawfully adopted rules and regulations of the Association shall be levied as an Individual Assessment against such Owner individually. No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use of the Common Areas or abandonment of their right to use the Common Areas. In addition to the foregoing, the Association shall perform any exterior Villa maintenance required in Article XI herein as well as emergency repairs to party walls.

(b) **Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board of Directors shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided herein and in the Bylaws of the Association.

**Section 3. No Dedication to Public Use.** Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area, unless so described on the Plat or any additions thereto.

**Section 4. Incorporation of Easements by Reference.** Reference in the respective deeds of conveyance, or any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

**Section 5. Surface and Storm Water Management & Conservation Areas.** The Association shall be responsible for the maintenance and operation of the SWMS in accordance with all applicable governmental regulations and permits. No structure of any kind (including docks) may be constructed or erected in any Conservation Areas nor in any other location that interferes with any applicable lake maintenance, buffer, or drainage easements. In no event shall there be any change, alteration, impediment, revision or otherwise that interferes with the flow or volume of water in, any portion of the SWMS including, but not limited to, lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters. No toys of any kind are permitted on any of the Land's lakes, ponds, swales, drainage ways, or wet retention ponds or other areas intended for the accumulation or movement of surface or storm waters. No one may unreasonably deny or prevent access to the Association or to any appropriate governmental agency to any portion of the SWMS and accompanying areas for maintenance, repair, or landscaping purposes. Nonexclusive easements therefore are hereby specifically reserved and created. There shall be no filling of any lake, pond, canal, or other water retention or drainage area which it abuts. No person shall fill, dike, riprap, block, divert, or change the established water retention and drainage areas that are part of the SWMS without the prior written

consent of the AERB, the Board, and the South Florida Water Management District. No person other than the Association may draw water for irrigation or other purposes from any lake, pond, canal, or other water management area that is part of the SWMS. No boating, swimming, or wading in such areas is permitted, except for the Community's boating canals. All portions of the SWMS and the Conservation Areas, excluding those areas (if any) that are maintained by Lee County, will be the ultimate responsibility of the Association. The Association may enter any portion of the Lands and make whatever alterations, improvements or repairs are deemed necessary to maintain and repair the SWMS. The cost shall be an expense of the Association.

**THERE SHALL BE NO ALTERATION OF THE CONSERVATION AREAS, NOR SHALL ANY PERSON ENGAGE IN ANY ACTIVITY IN A CONSERVATION AREA THAT IS PROHIBITED BY ANY PERMIT, BY ANY CONSERVATION OR PRESERVE EASEMENT, OR BY THE PLATS, INCLUDING, WITHOUT LIMITATION, CONSTRUCTION OR THE PLACING OF ANY STRUCTURE OR IMPROVEMENT IN A CONSERVATION AREA; PLACEMENT OR DUMPING OF SOIL, LAND CLEARING DEBRIS, OR OTHER SUBSTANCES, SUCH AS TRASH; REMOVAL OR DESTRUCTION OF ANY NATIVE VEGETATION; EXCAVATION, DREDGING, OR REMOVAL OF SOIL MATERIAL; DIKING OR DAMMING; THE USE OF HEAVY EQUIPMENT OR MACHINERY; AND ANY OTHER ACTIVITIES THAT ARE DETRIMENTAL TO DRAINAGE, FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.**

Nothing in this Section shall be construed to allow any person to construct any new water management facility or to alter the SWMS or the Conservation Areas in any way without abiding by all requirements of this Declaration and without obtaining the necessary permits from all governmental agencies having jurisdiction, including, without limitation, the South Florida Water Management District.

## **ARTICLE VI**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments to be Paid to the Association.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance (including any purchaser at a judicial sale), is deemed to covenant, which covenant shall run with the land and be binding on every Owner, and agrees to pay to the Association: (1) any regular assessments or charges for the operating expenses of the Association (including payment of property taxes which may be assessed against Common Area or any personal property which may in the future be owned by the Association) ("Regular Assessments" or "Annual Assessments"); and (2) any special assessments for improvements, or to fund any deficits between the amount collected for regular assessments in accordance with the annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Common Area, together with other costs and/or expenses levied or imposed against the Association or property of the Association ("Special Assessments"); and (3) any individual assessments or charges incurred by the Association on behalf of one or more Lots but not all Lots ("Individual Assessments"). In addition to Special Assessments and Individual Assessments, each Villa Owner covenants to pay its proportionate share of all expenses incurred by the Association directly related to its obligations for repair, replacements and maintenance of the Villa Lots as set forth in this Declaration ("Villa Assessments"). In addition to Regular Assessments, Special Assessments, and Individual Assessments, each detached

single family Homeowner covenants to pay its proportionate share of all expenses incurred by the Association directly related to its obligations for repair, replacements and maintenance of the detached single family Home Lot as set forth in this Declaration ("Detached Home Assessments"). All such Assessments shall be fixed, established and collected from time to time as hereinafter provided. The Regular, Special and Individual Assessments, Villa Assessments, and Detached Home Assessments, to the extent the same are collected by the Association (collectively "Assessments") together with such interest thereon and costs of collection thereof, including attorney's fees, as hereinafter provided and any applicable late fee imposed by the Board of Directors of the Association, shall be a charge on the Property and shall be a *continuing lien* relating back to the date of recordation of the Declaration upon any Lot against which each such Assessment is made, and said lien may be enforced in the same manner in which mortgages are enforced. Each such Assessment, together with interest, costs (including applicable late fees), and reasonable attorneys' fees for its collection, including attorneys' fees involved at all appellate levels and whether or not suit is instituted, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time when the Assessment becomes due. An Owner is jointly and severally liable with the previous Owner for all unpaid Assessments that came due up to the time of transfer of title, without prejudice to any right the present Owner may have to recover any amounts paid by the present Owner from the previous Owner.

**Section 2. Purpose of Assessments.** The Assessments to be levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Property and shall specifically include, but not limited to: payment of water charges for the Lots and Common Area billed through a master water meter (if applicable); any fees due under a bulk service agreement entered into on behalf of the Owners by the Association; the maintenance of the Common Area and any improvements or equipment maintained by the Association; the payment of taxes and insurances; payment for the improvement and maintenance of the Common Area; and services and facilities related to the use and enjoyment of the Common Area. Special Assessments shall be used to fund capital improvements, deficits in the collection of Regular Assessments to cover operating expenses of the Association, and other purposes deemed necessary by a majority vote of Owners of the Association as set forth in Section 5 hereof. Individual Assessments shall be for the costs incurred by the Association which by nature are applicable only to one or more Lots, but less than all Lots. By way of example and not limitation, in the event an Owner fails to maintain their Lot in a manner required by the Governing Documents, the Association shall have the right, through its agents and employees, to enter upon the Lot and to repair, restore, and maintain the Lot and/or Home as required by the Governing Documents. The costs of any such repair, restoration and/or maintenance, plus the reasonable administrative expenses of the Association and any costs incurred in bringing a Lot and/or Home into compliance with the Governing Documents shall be an Individual Assessment against such Lot. The Villa Assessments shall be levied against Villa Owners only and shall include any costs directly related to the Villa Lots only, to the exclusion of the other Owners. The Detached Home Assessments shall be levied against the Lot Owners upon which a detached single family home is constructed only and shall include any costs directly related to the Detached Home Lots only to the exclusion of the other Owners.

**Section 3. Basis of Annual Assessments.** The Annual Assessments shall be determined in accordance with the Articles of Incorporation and By-Laws of the Association taking into account current maintenance costs and future needs of the Association. The estimated operating budget for the Association shall include an itemized budget for Assessments (payable by all Owners), Villa Assessments (payable by Villa Owners only), and Detached Home Assessments (payable by detached single family Home Owners only) as well as a total amount of annual Assessments to be paid by each Owner. Each Owner acknowledges the Association is responsible

for the repair and maintenance of capital improvements that may result in a Special Assessment due to reserves not being collected. Any reserve accounts may be established by the Members of the Association upon the affirmative approval of a majority of the total voting interests of the Association obtained by a vote of the Members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the Association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the Board shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once reserves are established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided by Chapter 720, Florida Statutes.

(a) **Establishment of Reserves and Enactment of Pooled Reserves.** The Association has established statutory reserves, and it is the intent of the Section to enact pooled reserve accounting for its statutory reserves. The Association shall maintain a pooled reserve account pursuant to Chapter 720, Florida Statutes, for capital expenditures and deferred maintenance. The account must include, but is not limited to, the following common area components: roofs, building paint, and pavement resurfacing, pavers, and sidewalks, landscaping, pool, pool deck, and pool equipment, fencing, lake and lake bank maintenance, gym equipment, lighting, entrance gate, monument signs, and any deferred maintenance expense replacement cost that exceeds Ten Thousand Dollars (\$10,000). The amount to be reserved for an item is determined by using a formula based upon the estimated remaining useful life and estimated replacement cost or deferred maintenance expense of the reserve item. The Board of Directors has the right to set and may adjust the replacement reserve assessments annually to take into account any changes in estimates or extensions of the useful life of a reserve item caused by deferred maintenance or other repair or replacement.

**Section 4. Uniform Rate of Assessment.** Unless otherwise provided for herein, both Annual and Special Assessments must be fixed at a uniform rate for all Lots with a Home and may be collected on a quarterly basis or as determined by the Board of Directors. Payments of all assessments will be made directly to the Association or its designated management company and in no instance shall any mortgagees have the obligation to collect Assessments.

**Section 5. Special Assessment for Capital Improvements.** In addition to the Annual Assessment authorized above, the Association may levy in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, PROVIDED that any such Assessments shall have the assent of a majority of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 15 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

**Section 6. Quorum for Any Action Authorized Under Section 5.** At each meeting called, as provided in Section 5 hereof, the presence of the meeting of Members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, one additional meeting may be called, subject to the notice requirements set forth in Section 5 and the required quorum at any such subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7. Date of Commencement of Annual Assessments: Due Dates.** Subject to the provisions of this Declaration, each Owner of a Lot, by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay the Association Regular Assessments, Special Assessments, Charges, and Capital Contributions. The Board of Directors of the Association shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each year. Written notice of the Annual Assessment shall be sent to every Owner subject thereto together with the due date of such assessments established by the Board of Directors. The Board of Directors, if necessary to ensure cash flow, may institute reasonable late payment fees for delinquent payment of the Annual Assessment. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

**Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.** Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within ten (10) days (or such other period of time established by the Board) after the due date, an administrative late fee of the greater of Twenty-Five and no/100 Dollars (\$25.00) or 5% of the amount of the installment that is past due, together with interest in an amount equal to the maximum rate per annum allowable by law beginning from the due date until paid in full may be levied. The Association, acting through its Board of Directors, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot to which the Assessment is levied, and interest, costs and reasonable attorneys' fees, including at all appellate levels and whether or not suit is instituted, in collection or enforcement shall be added to the amount of such Assessment. Additionally, the Board of Directors of the Association may at its discretion accelerate the Assessments then due from a delinquent Owner for the next twelve (12) months. The Association may also notify any mortgagees or lenders of Owner, any co-borrowers and/or guarantor(s) without recourse to the Association of delinquencies in the payment of Assessments. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. All payments on accounts shall be first applied to fines levied in accordance with the terms of the Declaration, interest accrued by the Association, then to any administrative late fees, then to collection costs and attorney fees, and then to the delinquent Assessments. The allocation of payments described herein shall apply notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment. Additionally, if a Home is occupied by a Lessee and the Owner is delinquent in the payment of Assessments, the Association may demand from the Lessee payment to the Association of all monetary obligations, including without limitation, Assessments due from the Owner to the Association. So long as the Owner remains delinquent, future rent payments due to the Owner may be collected by the Association and shall be credited to the monetary obligations of the Owner to the Association. If within fourteen (14) days from written demand of the Association, the Lessee provides the Association with written evidence of making prepaid rent payments, the Lessee shall receive credit for the prepaid rent for the applicable period of such prepaid rent.

**Section 9. Individual Assessment Against a Particular Owner of Lot.** In the event an Owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by a majority of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such exterior maintenance to which such Lot is subject shall be subject to an Individual Assessment; and said

Assessment shall be enforced in the same manner as provided for in Section 8. In addition, in the event any Owner, its guests, tenants or invitees cause any damage to the Common Areas, including mail kiosks or sidewalks, such Owner shall be responsible for the cost of any repairs required to correct such damage and the cost thereof may be assessed to the Lot Owner as an Individual Assessment.

**Section 10. Subordination of the Lien to Mortgages.** The lien of the Assessments provided for herein shall be superior to all other liens except tax liens and the liens of any bona fide Institutional First Mortgage to an Institutional First Mortgagee recorded prior to any lien for Assessments by the Association; provided, however, that said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtedness payable in monthly, quarterly or annual payments over a period of not less than ten (10) years.

**Section 11. Exempt Property.** The following Property subject to this Declaration shall be exempt from the Assessments created herein: (a) any portion of the Property dedicated to and accepted by a local public authority; (b) the Common Area; (c) any portion of the Property which is designated and/or reserved for easements; and (d) any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida; however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## **ARTICLE VII**

### **CAPITAL CONTRIBUTION**

**Section 1. Capital Contribution on Sale by Owner Other Than Declarant.** At the time of the closing of a Home pursuant to a sale by an Owner other than Declarant, each purchaser shall pay the Association a sum of \$1,500.00, or such amount designated by the Board of Directors from time to time, which shall be charged by the Association at the time of conveyance as Capital Contribution. These monies shall be the Association's property and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and By-laws. The Capital Contribution shall be deemed ordinary association income and need not be separated from or held or applied differently than assessments. No refund of a Capital Contribution will be made on re-sale. Payment of the Capital Contribution shall be the legal obligation of the purchaser and shall be secured by a continuing lien, as provided for in Article VI of this Declaration. The contributions required by this Section shall constitute an Assessment against the Lot or Home and shall be subject to the same lien rights and other rights of collection applicable to all other Assessments under Article VI. In the event of a re-conveyance of title to a Lot or Home the following re-conveyances ("resales") shall be exempt from payment of the contributions required by this Section: (a) by co-Owner to any Person who was a co-Owner immediately prior to such conveyance; (b) to the Owner's estate, surviving spouse or child upon the death of the Owner; (c) to an entity owner by the grantor of title, and/or the grantor's spouse, provided upon subsequent re-conveyance the contribution shall become due; and (d) to a Mortgagee or the Association pursuant to a Final Judgement of Foreclosure or deed in lieu of foreclosure, provided upon the subsequent re-conveyance the contribution shall become due.

**Section 2. Charges.** Charges shall mean any legal or equitable indebtedness or monetary obligation of an Owner to the Association other than Regular Assessments and Special Assessments and Capital Contributions, and shall include, without limitation, sums owed to or due to the Association from an Owner or any cost or expense incurred by the Association on behalf of or because of an Owner which the Owner is obligated to pay to the Association. Said obligations may arise by oral or written contract, by

law or in equity, or may be created by these Governing Documents. Charges shall be collected in the same manner as any other Assessment and shall be secured by a continuing lien enforceable in the same manner as Regular and Special Assessments.

## **ARTICLE VIII**

### **ARCHITECTURAL CONTROL**

**Section 1. Review of Proposed Construction.** Subject to Section 2 below, no improvement or alteration of any kind, including, but not limited to, a fence, wall or other addition, structure, or equipment (including landscaping, antennas, awnings, and shutters) shall be installed, painted, erected, removed or maintained within the Property, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by the ARC. The Association must reasonably and equitably apply and enforce the architectural and construction standards authorized by the Declaration of Covenants and ARC Guidelines. The ARC Guidelines of the Association must be published. The ARC may condition its approval of proposals and plans and specifications as it deems appropriate and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of the Association of any required plans and specifications, the ARC may postpone review of any plans submitted for approval. The ARC shall have forty-five (45) days after delivery of all required materials to approve or reject any such plans. If rejected, the ARC must provide written notice stating with specificity the rule or covenant relied upon to deny the request and the specific aspect or part of the proposed improvement that does not conform to such rule or covenant. If an Owner's submitted plans are not responded to by approval or disapproval within the 45-day period, said plans shall be deemed approved. All changes and alterations shall be subject independently to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any alteration or modification to the location and/or placement of exterior walls of any Home shall be further conditioned on compliance with the County ordinances and the obtaining of applicable governmental approvals, if any. The Association may not enforce or adopt any rule or guideline that: (1) places limitation or requirements on the interior of a structure that is not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course; or (2) requires the review and approval of the association for plans and specifications of central air-conditioning, refrigeration, or heating or ventilating systems, if such system is not visible from the parcel's frontage or an adjacent parcel or an adjacent common area. The Board or ARC must adopt hurricane protection specifications for each structure or other improvement on a parcel governed by the association. The specifications may include the color and style of hurricane protection products and any other factor deemed relevant by the Board or ARC. All specifications adopted by the Board must comply with the applicable building code. The Board or ARC may not deny an application for the installation, enhancement, or replacement of hurricane protection by a parcel owner which conforms to the specifications adopted by the Board or ARC. The Board or ARC may require a parcel owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel for hurricane protection.

**Section 2. No Waiver of Future Approvals.** The approval of the Board of Directors of the Association of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board

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

**Section 3. Liability of the Board of Directors of the Association.** No member of the Board of Directors of the Association shall be liable to any Owner or other person by reason of mistake in judgment, failure to point out deficiencies in plans, or any other act or omission in connection with the approval of any plans. Any Owner submitting plans hereunder by the submitting of same, agrees (i) not to seek any damages or make any claim arising out of approval or disapproval of plans hereunder, and (ii) to indemnify and hold the Board of Directors of the Association, the Association harmless from any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and costs at all tribunal and appellate levels (and whether or not suit is instituted), arising out of the approval or disapproval of any plans regardless of the negligence of the committee members, their representatives, or appointing entity.

**Section 4. Inspection of Work.** Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required hereunder the applicant for such approval ("**Applicant**") shall give written notice of completion to the Board of Directors of the Association.

(b) Within thirty (30) days thereafter, the Board of Directors of the Association (or its duly authorized representative) may inspect such completed work. If the Board of Directors of the Association finds that such work was not affected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

(c) If an Applicant is notified of any noncompliance, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If Applicant does not comply with the Board of Directors of the Association ruling within such period, the Board, at its option, may either remove the noncomplying improvement or remedy the noncompliance (an easement therefore being hereby created), and Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. This amount, together with interest thereon at the rate of eighteen (18%) percent per annum from the date the noncompliance was to have been remedied or removed, the maximum late fee allowed under Florida Statutes for each month that a violation exists if payment is not made within thirty (30) days after announcement, and all costs and reasonable attorneys' fees incurred by the Association in collection, enforcement or abatement, as appropriate (including attorneys' fees incurred at all appellate levels and whether or not suit is instituted) shall be a personal obligation of Owner and shall not pass to the successors in title of Owner unless expressly assumed by such successors. Such amount (including interest, costs, late fees and attorneys' fees as provided above) shall also be a ***continuing lien*** and run with the land on the Owner's Property if not paid within thirty (30) days after notice enforceable in the same manner in which mortgages are enforced by foreclosure, or by bringing an action at law or equity against the Owner.

(d) If for any reason the Board of Directors of the Association fails to notify the Applicant of any noncompliance within forty-five (45) days after receipt of written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with the approved plans.



**Section 5. Variances.** The Board of Directors of the Association may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variance must be evidenced in writing and must be signed by at least two (2) members of the Board of Directors of the Association. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting their use of the Lot and Home, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by any governmental or municipal authority.

**Section 6. Architectural Review Committee.** The Board of Directors of the Association may assign all of its responsibilities under Article VIII to an Architectural Review Committee to be appointed by the Board of Directors of the Association (the "ARC").

## **ARTICLE IX**

### **USE RESTRICTIONS**

**Section 1.** No Lot shall be used except for residential purposes. The occupancy of each Home shall be limited to the maximum number of people allowable in accordance with Federal Regulation and local ordinances based on the size and configuration of the Home. No building shall be erected, altered, placed or permitted to remain on any Lot other than a Home and other structures originally constructed by the Declarant or approved by the ARC.

**Section 2.** No structure of a temporary character, trailer, basement, tent, shack, barn, shed or other out-building shall be used on any Lot at any time as a residence or appendage to such residence, either temporary or permanent.

**Section 3.** No portion of the Community shall be used for any immoral, improper or unlawful purpose. Further, no use or behavior shall be allowed that will: (i) create a public or private nuisance; (ii) unreasonably interfere with the quiet possession or enjoyment of any Owner or any Resident of the Community; (iii) be a source of annoyance to any Residents of the Community; (iv) increase insurance rates; (v) negatively affect the value of the Lots; or (vi) present an unreasonable risk to the health, safety, or welfare of others. In the event that there is a dispute regarding whether a specific activity or behavior qualifies as a nuisance or any one of the prohibited uses above, the Board reserves the right to make the final determination in its sole and absolute discretion. All property in the Community shall be kept in a neat and orderly manner. All parcels in the Community shall be used in accordance with all federal, state, and local laws and ordinances. No unsightly growth shall be permitted to grow or remain upon any Lot or Common Area and no refuse pile or other unsightly object shall be allowed to be placed or to remain anywhere. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles, or any items which may unreasonably interfere with television or radio reception of any Owner may be located, used, or placed on any Lot or exposed to the view of other Owners without the prior written approval of the Board, which approval may be conditioned or denied by the Board for any reason or for no reason in the Board's sole discretion. All loose items of personal property, such as tools, toys, furniture (excluding patio

furniture), appliances, and household items must be kept indoors or in the rear yard of a Lot screened from view and not fronting any street.

**Section 4.** No livestock or poultry shall be kept, maintained, or bred in any Home or elsewhere within the Property, except for fish in an aquarium and birds in cages maintained in the interior of the Home and not more than a total of three (3) domestic dogs (other than breeds prohibited by the Association's insurance policy, applicable governmental regulations or other dogs which in the reasonable determination of the Board of Directors are determined to be a threat to the safety of the occupants of the Property which shall not be allowed under any circumstances in the Property) and/or domestic cats shall be permitted to be kept in a Home or Lot, provided such animals are not kept, bred or raised for commercial purposes. Notwithstanding the foregoing, the Board of Directors shall specifically have the power to either permit additional animals by an Owner if in the determination of the Board such animals shall not cause or be deemed by the Board of Directors to constitute a nuisance to any other Owner in the determination of the Board of Directors. Each person bringing or keeping an animal within the Property shall be absolutely liable to the Association, other Owners and their invitees for any damage to persons or property caused by any animal brought upon or kept upon the Property and it shall be the duty and responsibility of each such Owner to clean up after such animals which have deposited droppings or otherwise used any portion of the Property or public street abutting or visible from the Property. Animals belonging to Owners or invitees of any Owner must be kept within an enclosure or on a leash held by a person capable of controlling the animal. No animals shall be "tied out" in a yard or on a pole or patio and left unattended for any extended period of time. The Association shall have the right to promulgate Rules and Regulations relating to animals and the right to restrict or require removal any such animals determined by the Board to constitute a nuisance. In addition, all animal owners shall be required to maintain at all times adequate homeowners' insurance coverage for any and all liabilities related to the animal(s) owned and kept on the Lot, which insurance shall name the Association as an additional insured. Proof of such insurance coverage shall be provided by the Owner to the Association upon reasonable request not more than one time per calendar year. If such coverage is not provided as required herein, the Association shall have the right to require the animal to be removed from the Lot until the appropriate insurance coverage is obtained.

**Section 5.** No sign of any kind shall be displayed to the public view on any Lot, except one sign not larger than 18" x 24" and placed in front of the property advertising it is for sale..

**Section 6.** No Lot shall be used or maintained as a dumping ground for rubbish. All trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Trash, garbage or other waste shall be kept in sanitary, covered containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. In no event shall such equipment and/or containers be visible from the Common Area streets, from neighboring Property or within property contained in the Plat, except for a reasonable time immediately prior to and after scheduled trash collection, and in all events in compliance with the County Code. All garbage cans and bags must be: (i) kept in a safe and clean condition without noxious or offense odors emanating; and (ii) sealed in such a way as to prevent the attraction of vermin and insects. An Owner may place a dumpster on their Lot temporarily for construction projects and for other projects that are anticipated to involve the production of a large amount of Garbage, and no dumpster may be placed on a Lot without the Board's prior written consent which shall not be withheld or delayed unreasonably.

**Section 7.** No garments, rugs, towels or blankets or any other materials may be hung, exposed or dusted from the windows or from the front facade of any Home. Further, unless otherwise specifically prohibited by applicable local, State or Federal law, no outside clotheslines or other facilities for drying or airing clothes shall be erected in the front yard, side yard or back

yard of any Home. All personal property of Owners or other occupants shall be stored inside; provided, however, patio furniture or other personal property which is specifically for the use and enjoyment of designated outdoor areas of the Home shall be permitted.

**Section 8.** There shall be no parking on any portion of any sidewalk which is not part of a designated driveway, grass or street within the Property. An Owner may park in the Home's garage or in the driveway on the Lot, no vehicle may extend beyond the driveway. Car covers are prohibited and license tags on all vehicles must be current. No vehicle which cannot operate on its own power shall remain in the Community for more than twenty-four (24) hours, except in the garage of a Home. No repair or maintenance, except for emergency repairs of vehicles shall be made unless in the garage of a Home. No vehicles shall be stored on blocks. No vehicles shall be parked overnight on streets within the Property. No tarpaulin covers on vehicles shall be permitted anywhere within the public view. Any trailer, commercial vehicle, recreational vehicle, boat, rowboat, canoe, jet ski or boat trailer shall not be permitted to be parked outside of an enclosed garage. This restriction shall not be deemed to limit service vehicles whose purpose is to perform maintenance and delivery service to the Lot Owners or the Association during normal working hours or for work performed for the Association which is necessary in the development, maintenance or management of the Association. The term "commercial vehicle" means any vehicle which is not owned or operated by a governmental entity, which uses special fuel or motor fuel on the public highways, and which has a gross vehicle weight of 26,001 pounds or more, or has three or more axles regardless of weight, or is used in combination when the weight of such combination exceeds 26,001 pounds gross vehicle weight. Automobiles issued by the County or other governmental entity (i.e., police cars), such automobiles shall not be deemed to be a "commercial vehicle" and may be parked in the garage or driveway of the Lot. No vehicle shall be used as a domicile or residence either temporarily or permanently. No all terrain vehicles (ATVs), scooters or mini motorcycles are permitted at any time on any paved surfaces forming a part of the Common Areas. Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein, the Association is authorized to order the towing of any vehicle (at said vehicle owner's expense) for a violation of this Section if a vehicle remains in violation of this Section for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such a vehicle was cited for such violation within the preceding fourteen (14) day period. A speed limit of *fifteen (15) miles per hour* applies throughout the Community's roadways. Engine revving and the operation of a vehicle without a stock muffler, manifold pipe, and tail piping in the Community are prohibited. No vehicles may be driven or operated except on driveways and the Community's roadways.

**Section 9.** Each Owner by acceptance of title to a Home irrevocably grants the Association and its designated towing service the right to enter a Lot and tow vehicles in violation of this Declaration. Neither the Association nor the towing company shall be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing or removal and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. By accepting title to a Home, the Owner provides to the Association the irrevocable right to tow or remove vehicles parked on the Owner's Lot and Common Area which are in violation of this Declaration. An affidavit of the person posting the foresaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

**Section 10.** The Association may permit the use of golf carts within Venetian pointe subject to the following conditions. Owners and/or operators of golf carts shall execute a waiver of liability and indemnification agreement in favor of the Association when requested. Owners and operators of golf carts are required to provide proof of proper insurance to the Association. The use of golf

cars shall be subject to applicable laws, including Section 316.212, Florida Statutes, as amended from time to time, and ordinances promulgated by Lee County, Florida and the State of Florida. If properly licensed and used in accordance with said laws and ordinances, golf carts may be used within Venetian Pointe for transportation and driven only on roadways, and parked only in areas designated for parking. Golf carts may not be driven on any laws, grassy areas or any other area not meant for vehicular traffic. Golf carts must be able to fit completely within designated parking areas and may not be parked or positioned in a manner that will obstruct the safe passage of other vehicles or person. Golf carts must be kept in an enclosed garage overnight and are not permitted to be parked outside overnight.

For the purpose of this section. "golf cart" means any motor or electric vehicle, other than a bicycle, motorcycle, or moped, designed and manufactured for operation on a golf course, or other conveyance for sporting or recreational purposes.

**Section 11.** No septic tanks or individual wells will be permitted on any Lot.

**Section 12.** No garage may be improved for purposes of making same a living area, nor shall garage doors be removed except for replacement (in which case the Owner must obtain approval of any replacement door from the Board of Directors of the Association). No garage may be used for the operation of a business or for any commercial purpose of any kind.

**Section 13.** No external window covering, reflective window covering or iron or decorative bars (either interior or exterior) may be placed or permitted to remain on any window of any building without the prior written approval of the Board of Directors of the Association. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and 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 Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ARC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ARC unless installed by the Builder or Developer. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ARC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones. Window or wall air conditioner units are prohibited.

**Section 14.** No flags or banners other than a Flag permitted by Chapter 720.304, Florida Statutes, or other local, state or federal law, which must be displayed in a respectful manner and which is subject to reasonable standards for size, placement and safety as may be adopted by the Association will be permitted.

**Section 15.** Above ground swimming pools are not permitted on Lots. Above ground hot tubs may be permitted on lanais or patios. All pools and hot tubs must be approved by the ARC prior to installation, or such improvements are subject to removal at the Owner's expense. Owners must regularly clean and service their pools, spas, and accompanying equipment. Pool and spa water shall not become stagnant, discolored from algae or other biological growth, or a habitation for mosquitos. No pools may be left empty, except temporarily while undergoing maintenance, repair, or construction and only with sufficient signage and barriers to prevent an unreasonable risk of harm. Pool and spa maintenance equipment stored or used on a Lot must be stored in such manner as not to be visible from any road easement, street or other Lot. These items must be stored behind a visual barrier of an aesthetically pleasing appearance, which must be approved by the ARC.

**Section 16.** In the event a Home or other improvement is damaged or destroyed by casualty loss or other loss, then the Owner thereof shall commence to rebuild or repair the damaged Home or improvement in accordance this Declaration within 6 months of the date of the loss. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the ARC. Notwithstanding anything to the contrary herein, to the extent that insurance coverage obtained and maintained by the Association covers such casualty destruction, the Owner of such damaged or destroyed Home shall not perform any activities that would negate such coverage or impair the availability of such coverage. If any Owner fails to comply with this Section within the time periods provided, then the Association shall be deemed to have been granted the right, but not the obligation, by the Owner as his or her or its attorney-in-fact, to either commence and complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements; or to remove the damaged improvements completely. If the Association exercises the rights afforded to it by this Section, then the Owner shall be deemed to have assigned to the Association any right he or it may have to insurance proceeds that may be available because of the damage or destruction, and any Association expense not covered by insurance shall be assessed against Owner as a Charge. With prior and reasonable notice to the Owner of the Lot for the purpose of performing the duties authorized by this Section, the Association, through its duly authorized agents and employees, shall have the right to enter upon any Lot at reasonable hours and perform such duties.

**Section 17.** No commercial or business activity shall be conducted in the Community that disrupts the residents, including without limitation, within any Home. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall not disrupt the residential nature of the Community unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within the Community. No solicitors of a commercial nature shall be allowed within the Community, without the prior written consent of Association. No daycare center or facility, substance abuse center or facility, or elderly care center or facility may be operated out of a Home. No garage sales are permitted, except as permitted by Association.

**Section 18.** No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration. The ARC may require, among other things, that all such improvements be screened so that they are not visible from adjacent Homes, or from the Common Areas. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Board and shall be governed by the then current rules of the FCC.

**Section 19.** No fences of any kind or in any location shall be permitted to be installed on a Lot by any Owner without approval of the ARC. The ARC shall provide guidelines as to acceptable fence height, materials and locations.

## **ARTICLE X**

### **EASEMENTS**

**Section 1.** Easements are reserved over each Lot and the Common Area for public service purposes including but not limited to police protection, fire protection, emergency services, postal service and meter reading.

**Section 2.** Easements for ingress and egress and for the installation, access and maintenance of all irrigation lines and equipment, utilities, surface water management, drainage facilities, and landscaping are reserved on and over each Lot and the Common Area in favor of the Association and those entities or agencies requiring such easements. Such easements are reserved for their intended purpose and shall not be removed by subsequent Owners. The right is also reserved to the Association to create additional utility easements by separate instruments as may be required from time to time.

**Section 3.** The Association shall have the responsibility to maintain all drainage easements, drainage facilities and drainage pipes and equipment within the Property and the expense for same will be a common expense of the Association. The Association shall further maintain any landscape buffers, nature preserves or lakes located on Common Areas or within landscape buffer easement areas, easements together with irrigation lines and facilities within the landscape and utility easements and the expense for same will be a common expense of the Association. The Association may also maintain an easement granted to the Association or other property not within the Community by agreement to assume such obligation and the cost thereof will be a common expense of the Association. Additionally, the Association shall have the right to ingress/egress across the Lots in order to access the drainage facilities, drainage pipes and equipment and landscape buffer easement areas and/or lakes located within the lake areas (as identified on the Plat) and perform the Association's obligations under this easement.

**Section 4.** An easement is reserved over the Property, including each Lot, in favor of the Association for maintenance of the Common Area and the roadways within the Property and to allow the Association to fulfill any and all of its maintenance obligations hereunder.

**Section 5.** An easement is reserved in favor of the Association in the Landscape Buffer Easement located on the Lots, as more specifically identified on the Plat, for the installation, access, maintenance and repair of all surface water management and/or drainage facilities or drainage pipes. Additionally, the Association shall have the right of ingress/egress across the Lots in order to access this area to perform the Association's obligations under this easement. An ingress/egress easement is reserved in favor of the Association in the Landscape Buffer Easement to provide the Association with access to maintain and repair the perimeter fence for the Community.

**Section 6.** In the event that any improvement on a Lot shall encroach upon any of the Common Area, Limited Common Area or upon any other Lot, or in the event that any improvement in the Common Area or the Limited Common Area shall encroach upon any Lot, then a temporary easement shall exist to the extent of accommodating and abating that encroachment, for so long as the encroachment shall exist.

## **ARTICLE XI**

### **COVENANTS FOR MAINTENANCE**

**Section 1. Maintenance of Detached Single-Family Homes.** Each Lot Owner shall be responsible for the maintaining, repairing, replacing and insuring of the detached single family Home and all other improvements situated on their Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for structural maintenance, repair or replacement of walls, windows and roofs, gutters, downspouts and skylights, patio screens, screen enclosures, doors, fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Lot by any Owner, including its agents, or other designees, and/or any other maintenance obligations designated as the Owners' responsibilities from time to time in the Declaration or the Rules. Each Owner shall also maintain, repair and replace its own mailbox; provided, however, any common mail kiosks shall be maintained, repaired and replaced by the Association. The Lot Owner shall obtain the written consent of the Association, as applicable, prior to making any modifications requiring approval under Article VIII hereof. It will also be the duty of each Lot Owner to maintain in good repair any driveway servicing a single Lot. If any Lot Owner breaches these covenants, the Association may enforce these covenants in accordance with the provisions of this Declaration.

**Section 2. Maintenance of Villas.** Except as otherwise provided herein, each Villa Owner shall be responsible for the maintaining, repairing, and replacing of the Villa and all other improvements situated on the Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for structural maintenance, repair or replacement of walls, windows and roofs, gutters, downspouts and skylights, patio screens, screen enclosures, doors, fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Lot by any Owner, including its agents, or other designees, and/or any other maintenance obligations designated as the Owners' responsibilities from time to time in the Declaration or the Rules. The Lot Owner shall obtain the written consent of the Association prior to making any modifications requiring approval under Article VIII hereof. It will be the duty of each Villa Owner to maintain in good repair any driveway servicing a single Lot. If any Lot Owner breaches these covenants, the Association may enforce these covenants in accordance with the provisions of this Declaration. Except as otherwise provided herein, each Owner shall bear the responsibility to repair and maintain the unfinished surface of the exterior portion of the party wall which is located within their residence. Both Owners shall equally share the cost of repair and maintenance of the structural and interior portions of the party wall. However, if either Owner's negligence or willful misconduct causes damage to the party wall, such Owner shall bear the entire cost of repair. Each Owner shall have the right to enter the adjacent Villa Lot, including the residence located thereon, where necessary in connection with the repair or maintenance of a party wall, upon reasonable prior notice to the affected Owner(s) and at reasonable times and an easement for same is hereby created. Any repair or reconstruction shall utilize substantially similar materials, design and location as originally existed. No openings may be cut in the party wall or structural changes made thereto, unless agreed upon by Owners sharing the party wall.

**Section 3. Lawn Maintenance.** It shall be the duty of each Owner to maintain and cut the grass located on the Owner's Lot. Notwithstanding the foregoing, the Association may enter into the agreements with landscape maintenance contractors on behalf of the Lot Owners and the Villa Owners to maintain and cut the grass on the Owner's property. In the event the Association enters into said agreements, the cost of the grass maintenance for the Owner's property being assumed by the Association shall be considered with the budget as part of grounds' maintenance. The Lot Owner shall not plant any trees or shrubbery on their Lot without first obtaining the prior

written consent of the Association, unless the planting is the replacement of existing landscaping that has died or otherwise requires replacement. The Association is hereby granted an easement over and across the Lot Owner's Lot for the purpose of maintaining and cutting the grass, and the Lot Owner shall not place any obstruction, fence, wall, tree or shrubbery on such ground without the consent of the Association, the said consent being conditioned on the Association having free access to the property for the purpose of maintaining and cutting the grass.

**Section 4. Irrigation.** It shall be the duty of the Association to maintain the irrigation system for the Community, including irrigation of Common Areas and Lots. Said irrigation system will run both on Lots and Common Area. The cost of such maintenance of the irrigation system on a Lot being assumed by the Association for the benefit of the entire Property as if same were Common Area, and such costs being considered with the budget as part of grounds' maintenance. The Association is hereby granted an easement over and across the Lot Owner's Lot for the purpose of installing and maintaining the irrigation system, and the Lot Owner shall not place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the consent of the Association. A Lot Owner shall be responsible for payment of any costs related to the repair and/or replacement necessary as a result of any damage done to the irrigation system, whether on the Owner's Lot or the Common Area, caused by Owner, any member of Owner's family, any guests, invitees, tenants, contractors, workers or agents of Owner. Further, the Owner shall not place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the written consent of the Association.

**Section 5. Landscaping.** The Association shall be responsible for the maintenance and replacement of landscaping within any landscape buffer easement or landscaping on Common Area originally installed by the Declarant or by the Association within the public utility easement areas or the Common Area to comply with applicable codes and permits. Such maintenance shall include routine trimming, weeding and pruning of the landscaping and all other necessary maintenance, repair and replacement to keep any landscape or landscape buffer in compliance with applicable codes or permits. Each Owner shall be solely responsible for all maintenance and replacement of any landscaping installed on the Lot by or at the direction of the owner, to replace sod installed and/or removed by or at the direction of the Owner, and to replace any and all trees and shrubs on their Lot. The Association is hereby granted an easement over and across an Owner's Lot for the purpose of maintaining the landscaping in accordance herewith. Owners hereby acknowledge the landscape material on the Property and within any landscape buffer easement or public utility easement is intended to fulfill requirements of governing jurisdictions and to provide landscape buffers to the adjacent properties and roadways. Owners shall not cut or remove any landscape materials on landscape easements, landscape materials installed by the Declarant or the Association or any landscape materials required to remain pursuant to a permit or other governmental regulation. Any Owner violating the restrictions of this section resulting in landscaping needing to be repaired or replaced will be charged the cost of such work. In addition, in the event an Owner fails to replace landscaping materials as required herein, the Association has the right, after applicable notice to the Owner of the Owner's failure to replace landscaping, to replace the landscaping and charge the Owner the expense thereof as an Individual Assessment.

**Section 6. Insurance.** Each Owner of a Lot shall obtain insurance coverage upon the Lot insuring the Home and any improvements located thereon in an amount equal to the maximum insurable replacement value. Such coverage shall afford protection against (i) loss or damage by fire, hurricane, tornado, wind-storm, or other hazards covered by a standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to similar construction, location and use as the Home including but not limited to vandalism and



malicious mischief. Such coverage shall name the Association as an additional insured party. The Owner shall furnish proof of insurance to the Association at the time of purchase of a Lot and shall furnish proof of renewal of such insurance on the anniversary date thereof, if requested by the Association. In addition, any Owner owning or keeping an animal on a Lot shall also obtain and maintain adequate homeowners' insurance to cover animal liability, naming the Association as an additional insured. In the event an Owner fails to obtain insurance coverage required to comply with the Master Declaration, and the Association incurs any expense related to bringing a Lot into compliance, the Association may force place the required insurance and charge the cost thereof to the Lot Owner in violation hereof as an Individual Assessment.

**Section 7. Exterior Painting and Pressure Cleaning.** Each Detached Single-Family Homeowner shall be responsible for exterior painting and pressure cleaning of the Home and improvements thereon as required by the Association in accordance with this section.

(a) The Board shall convene a duly noticed meeting to determine when the uniform exterior painting and pressuring washing shall be required for all Homes in the Community and each Owner, or the Association (as applicable) shall have at least 90 days to commence the work after the Association provides written notification of required painting or cleaning. Each Owner shall have the right to paint or clean more frequently than required by the Association, provided that prior written approval of paint color is obtained from the Board. If any Lot Owner fails or refuses to paint or pressure wash its Home or other improvements as required herein, the Association may perform the work and charge the Owner the cost thereof as an Individual Assessment. The Association shall be responsible for exterior painting and pressure cleaning of the Villa Lots, the cost and expense of the same to be billed to the Villa Lots as a Villa Assessment.

(b) Roof Cleaning. Villa roof cleaning shall be arranged by the Board, as the Board deems necessary, and shall be billed to the Villa lots as a Villa Assessment. Detached Single-Family Home Owners are responsible for their roof cleaning, as deemed necessary by the Board.

**Section 8. Fences.** If, whether on a Lot or not, any fencing is located on a retaining wall, then this fencing will be maintained, repaired and/or replaced by the Association. The maintenance, repair and/or replacement of this fencing by the Association shall be considered a Common Expense. If a Lot Owner or the Developer installs fencing along the boundary line and/or boundary lines of the Lot, the fence or wall dividing the two adjacent Lots shall be considered a Lot divider ("Lot Divider"). The Owner or the Developer who installed the Lot Divider shall install said Lot Divider on the boundary line between the two adjacent Lots. Both Lot Owners shall be jointly and severally responsible for any and all maintenance, repair and/or replacement associated the Lot Divider and shall equally absorb any and all costs associated therewith. All maintenance, repair and replacement of the Lot Divider will be in accordance with the standards set forth by the ARC. The Association shall not be responsible for the maintenance, repair and/or replacement of this Lot Divider. Each Lot Owner will have a limited easement during reasonable hours onto the adjacent Owner's Lot in order to construct the Lot Divider within the boundaries of his or her Lot or construct the Lot Divider on the dividing line between the two adjoining Lots whichever be the case or to tie his or her fence into the already constructed Lot Divider, and the Lot Owners shall have a limited easement to effectuate the maintenance, repair and/or replacement of the Lot Divider; provided that, any such entry is during reasonable hours. All maintenance, repair and replacement of the Lot Divider shall be in accordance with the standards set forth by the ARC. The Association shall have free access through the fence gates on the Property for the purpose of maintaining and cutting the grass.

## **ARTICLE XII**

### **COVENANTS RELATING TO FIRST MORTGAGEES**

**Section 1.** The following actions will require the prior written approval of two-thirds (2/3) of the holders of record of Institutional First Mortgages on Lots within the Property, (based upon one (1) vote for each Institutional First Mortgage holder): the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area by the Association, other than the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area; a material change in the method of determining the assessments or other charges that may be levied against an Owner; the failure of the Association to maintain fire and extended coverage on any insurable improvements hereafter on the Common Area and any insurable improvements thereon in an amount that shall not be less than one hundred (100%) percent of the insurable value, based on the current replacement costs; the use of the insurance proceeds paid to the Association for any loss to the Common Area, or the improvements thereon, for any purpose other than the repair, replacement or reconstruction of the Common Area and the improvements thereon; the amendment of the Declaration in any manner which materially affects or impairs the rights of an Institutional First Mortgagee; the conveyance, encumbrance or hypothecation in any manner of the Common Area.

**Section 2.** An Institutional First Mortgage encumbering any Lot in the Property may singly or jointly with other Institutional First Mortgages: pay the taxes or other charges which are in default and which may or have become a charge against the Common Area; pay overdue premiums on hazard insurance policies for the Common Area; or secure new hazard insurance coverage for the Common Area after lapse of the existing coverage. In the event any Institutional First Mortgagee makes any of the aforementioned payments, such Institutional First Mortgagee shall be entitled to immediate reimbursement from the Association for the payments advanced, and such Mortgagee shall be subrogated to the Assessment and lien rights of the Association against the Owners for the repayment of such advance, and the expense of making such reimbursement to the Institutional First Mortgagee shall be deemed a common expense of the Association.

**Section 3.** No provision of this Declaration shall be interpreted to give an Owner, or any other party, priority over the rights of any Institutional First Mortgagee pursuant to the terms of its Mortgage on any Lot on the Property in the event of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

**Section 4.** Any Institutional First Mortgagee of a Lot on the Property who obtains title to a Lot pursuant to the remedies provided in said Mortgagee's Institutional First Mortgage on that Lot, or obtains title by deed in lieu of foreclosure, shall not be jointly and severally liable with the prior owner for unpaid Assessments or charges accrued against said Lot prior to the acquisition of title to said Lot by such Mortgagee; however, such Mortgagee, or its successors or assigns as a subsequent holder of the first mortgage, acquiring title to a Lot by foreclosure or by deed in lieu of foreclosure, shall be liable for the unpaid Assessments that became due before the mortgagee's acquisition of title in the amount equal to the lesser of (i) the Lot's unpaid Assessments and Special Assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (ii) one percent of the original mortgage debt on the Lot. The limitations on Assessment liability for Institutional First Mortgagees obtaining title through foreclosure provided by this paragraph apply only if the Institutional First Mortgagee filed suit against the Lot Owner and initially joined the Association as a defendant in the mortgagee foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for

service of process at a location that was known to or reasonably discoverable. Institutional First Mortgagees shall be responsible for all Assessments on the Lot as of the date of acquisition, including any Special Assessment assessed or coming due after the date of acquisition of title to the Lot.

**Section 5.** The Institutional First Mortgagee of any Lot on the Property is entitled, upon request, to written notification from the Association of any default in the performance by the Owner of any of such Owner's obligations pursuant to the terms of this Declaration, which default is not cured after sixty (60) days' notice to such Owner.

### **ARTICLE XIII**

#### **LEASE AND OCCUPANCY RESTRICTIONS**

**Section 1. Leases.** All leases shall be in writing and a copy of such lease shall be provided to the Association for review. All leases shall provide that the Association shall have the right to terminate the lease in the name of and as agent for the lessor upon default by tenant in observing any of the provisions of the Declaration, the Articles of Incorporation, By-Laws of the Association and applicable rules and regulations, if any. The Owner or lessee requesting the review shall pay to the Association or its management agent a fee of One Hundred and No/100 (\$100.00) Dollars or such other amount as determined by the Board from time to time to cover the costs of reviewing the lease and examining records plus all reasonable costs incurred by the Association to conduct a background check. No lease shall be for a term of less than ninety (90) days. No Home may be leased more than three (3) times in any calendar year unless otherwise approved by Association in the case of hardship. Subleasing is prohibited. The person leasing or renting the Home must reside in the Home for the duration of the lease or rental period. The Owner will be jointly and severally liable with the tenant to the Association for any sum which is required by the Association to affect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The number of occupants must comply with applicable codes regarding the size of the Home and shall be only one family with their immediate family members. The tenant, as part of the Lease Agreement, shall agree to abide by and adhere to the terms and conditions of this Declaration together with all Rules and Regulations and all policies adopted by Association. By acceptance of a deed to a Home, the Owner hereby agrees to remove, at the Owner's sole expense, by legal means including eviction, his or her tenant should the tenant refuse or fail to abide by and adhere to this Declaration, the Rules and Regulations and any other policies adopted by Association. Notwithstanding the foregoing, should an Owner fail to perform his or her obligations under this Section, the Association shall have the right, but not the obligation, to evict such tenant and the costs of the same shall be charged to the Owner as an Individual Assessment. During such time as a Home is leased, the Owner of such Home shall not enjoy the use privileges of the Common Areas appurtenant to such Home. If a Lot or Home is occupied by a tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association all rental payments becoming due and continue to make such payments until all the monetary obligations of the Owner related to the Lot have been paid in full and the Association releases the tenant or until the tenant discontinues tenancy, in accordance with the terms of Florida law. The ability to lease one's Home or Lot is a privilege, not a right, which privilege may be revoked by the Board of Directors for violations of this Article by the Owner or tenant(s).

## **ARTICLE XIV**

### **WATER MANAGEMENT SYSTEMS**

**Section 1. Transfer of Surface Water Management System.** The Association is intended to exist in perpetuity; however, should the Association cease to exist, property containing the surface water management system and water management portions of the Common Area shall be conveyed to an agency of local government determined to be acceptable by the SFWMD. If said agency of local government declines to accept the conveyance, then the surface water management system, property containing the surface water management system and water management portions of the Common Area will be dedicated to a non-profit corporation similar to the Association.

**Section 2. Amendments Pertaining to Surface Water Management System.** Any amendment of this Declaration which would affect the Surface Water Management System or the responsibility of the Association, or its agents, to maintain, or cause to be maintained, the Surface Water Management System must be approved by the Association and SFWMD for a determination of whether the amendment necessitates a modification of the surface water management permit. The amendment may not be finalized until any necessary permit modification is approved.

**Section 3. Surface Water Management.** No Owner or any other person or entity shall do anything to adversely affect the surface water management and drainage of the Property without the prior written approval of the Association and any controlling governmental authority, including but not limited to the excavation or filling in of any lake or canal, or the changing of the elevation of any portion of the Property. In particular, no Owner other than the Association shall install any landscaping, place any fill on a Lot, remove or cut littoral plantings or native vegetation, spray herbicide or grade portions of the Property which would adversely affect the drainage of any contiguous Lot. No construction activities may be conducted relative to any portion of the surface water management system, including but 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 system as permitted without the consent of SFWMD. No Owner or other person or entity shall unreasonably deny or prevent access to water management areas for maintenance, repair or landscaping purposes by the Association, the SFWMD or any appropriate governmental agency that may require access. No person shall fill, dike, rip-rap, block, divert or change the water retention and drainage areas that have been or may be created without the prior written consent of the Association and SFWMD. If such actions are permitted by SFWMD, the Association may draw water for irrigation or other purposes from any water management area. All recreational activities, including without limitation, boating, swimming, wading or fishing, in water management areas are strictly prohibited.

**Section 4. Conservation Easements.** The Property, including the Common Areas and some Lots, may contain conservation tracts, wetland preservation areas and upland buffers (collectively, the "Conservation Areas") subject to conservation and preservation easements for same. Conservation and preservation easements on the Property may be established or dedicated on the Plat, in this Declaration. In addition to any additional restrictions set forth in the foregoing documents, the following activities are prohibited in the Conservation Areas: (1) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground; (2) dumping or placing of soil or other substances or materials as landfill, or dumping or placing of trash, waste or unsightly or offensive materials; (3) removal or destruction of trees, shrubs or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with a district approved maintenance plan; (4) excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface; (5) surface

use, except for purposes that permit the land or water easement to remain in its natural condition; (6) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including, but not limited to, ditching, digging and fencing; (7) acts or uses detrimental to aforementioned retention of land or water easement; and (8) acts or uses which are detrimental to the preservation of any features or aspects of the conservation easements having historical or archaeological significance.

**Section 5. Rights of Enforcement.** SFWMD, the Association, and each Owner shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, monitoring, repair and replacement of the Surface Water Management System. Notwithstanding the foregoing, SFWMD has the right to take enforcement action, including a civil action for injunction and penalties, against the Association to compel it to correct any outstanding problems with the Surface Water Management System facilities or the mitigation or conservation areas under the responsibility or control of the Association.

## **ARTICLE XV**

### **INSURANCE AND HAZARD LOSSES**

**Section 1. Authority.** The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if available at commercially reasonable rates, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not available at commercially reasonable rates, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. Insurance that shall be carried on the Common Areas and the Association Property, to the extent provided in this Article XV, shall be governed by the following provisions:

**Section 2. Named Insured.** All insurance policies upon the Common Areas and the Association Property shall be purchased by the Association and shall be placed in a single agency or company, if possible, licensed by the State of Florida. The named insured shall be the Association. The Association has the authority to use their discretion in obtaining the coverage listed hereinafter, as some of the requirements may be or become unobtainable or may be cost prohibitive.

**Section 3. Coverage.** The Association shall use its best efforts to maintain insurance covering the following:

(a) **Casualty.** The Common Areas including any structures thereon, and all fixtures, installations or additions comprising that part of the Common Areas to be insured under the Association's policy(ies) and such improvements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Areas or owned by the Association (collectively the "Insured Property"), shall be insured in an amount not less than 100% of the full insurance replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors of the Association. Such coverage shall afford protection against:

(b) **Loss or Damage by Fire and Other Hazards** covered by a standard extended coverage endorsement; and

(c) **Such Other Risks** as from time to time are customarily covered with respect to the Common Areas and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(d) **Flood Insurance.** If any part of the Common Areas or Association Property is in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Association may maintain a master or blanket policy of flood insurance. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

(e) **Liability Insurance.** If the policy does not include "severability of interest" in its terms, a specific endorsement must be obtained to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or of other Owners.

(f) **Public Liability Insurance.** The Association shall obtain public liability and property damage insurance covering all of the Common Areas and the Association Property and insuring the Association and the Members as their interests appear in such amounts and providing such coverage as the Board of Directors of the Association may determine from time to time. The liability insurance shall include, but not be limited to, hired and non- owned automobile coverage.

(g) **Workmen's Compensation Insurance.** The Association shall obtain workmen's compensation insurance in order to meet the requirements of law, as necessary.

(h) **Directors and Officers Liability Insurance.** The Association shall obtain directors and officers' liability insurance providing such coverage as the Board of Directors of the Association may determine from time to time.

(i) **Other Insurance.** The Board of Directors of the Association shall obtain such other insurance as they shall determine from time to time to be desirable.

**Section 4. Subrogation Waiver.** If available, the Association shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.

**Section 5. Premiums.** Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Section shall be assessed against and collected from Members as part of the Annual Assessments.

**Section 6. Association's Power to Compromise Claims.** The Board of Directors of the Association is hereby irrevocably appointed agent for each Member and for each holder of a mortgage or other lien, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon payment of claims.

## **ARTICLE XVI**

### **GENERAL PROVISIONS**

**Section 1. Covenants Run With Land.** All covenants, conditions, restrictions, reservations, easements, liens and charges contained in this Declaration shall constitute covenants running with the land encumbered hereby, and all grantees, devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons, agree to be bound by the provisions of (a) this Declaration of Covenants, Restrictions, Conditions and Easements, and (b) the Articles of Incorporation and By-Laws of the Association. The Association shall be the entity responsible for the operation and maintenance of the Common Area.

**Section 2. Enforcement.** The Association or any lot 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. In any such legal or equitable proceedings to enforce any restriction, condition, covenant, reservation, lien, or charge now or hereafter imposed by these covenants, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs including at all appellate levels.

**Section 3. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

**Section 4. Duration.** The covenants, conditions, restrictions, reservations, easements, liens and charges provided for in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. In the event the Association ceases to exist, except as provided in Article XIV, Section 1 herein, any Owner may petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association and all Common Area, and the corresponding infrastructure will be dedicated or conveyed to a similar non-profit organization or entity to assure continued maintenance and operation.

**Section 5. Amendment.** Except as elsewhere provided otherwise, this Declaration may be amended as follows:

(i) **Proposal of Amendments.** An amendment may be proposed by the President of the Association, the Directors, or by twenty-five (25%) of the entire Voting Interests of the Association.

(ii) **Proposed Amendment Format.** Proposals to amend the existing Declaration of Covenants shall contain the full text of the article to be amended. New words shall be underlined and words to be deleted shall be lined through. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF DECLARATION OF COVENANTS, SEE ARTICLE NUMBER FOR PRESENT TEXT".

(iii) **Notice.** The subject matter of proposed amendments shall be included in the notice of any meeting at which a proposed amendment is to be considered or in connection with documentation for action without a meeting.

(iv) Adoption of Amendments. A resolution for the adoption of a proposed amendment may be adopted by a vote of at least two-thirds (2/3<sup>rd</sup>) of the voting interests of the Association present (in person or by proxy) and voting at a duly noticed meeting at which a quorum has been attained, or by the written agreement of at least two-thirds (2/3<sup>rd</sup>) of the entire Voting Interests, Amendments correcting errors, omissions, scrivener's errors, violation of application law, conflicts between the Governing Documents, or if determined necessary and desirable by the Board to comply with the requirements of the secondary mortgage market, may be executed by the Officers of the Association, upon Board approval, without need for Association membership vote. The Board may also adopt amendments necessary to comply with the requirements of any governmental entity.

(v) Notwithstanding anything in this Declaration to the contrary, any amendment to the Declaration, Articles or By-Laws affecting any aspect of the surface water management system must receive prior written approval of the South Florida Water Management District. Any amendments must be properly recorded in the Public Records of the County, Florida.

(vi) Effective Date. An amendment when adopted shall become effective after being recorded in the Public Records of Lee County, Florida, according to law.

(vii) Automatic Amendment. Whenever the Chapter 720, Florida Statutes, Chapter 617, Florida Statutes, or other applicable statutes or administrative regulations, as amended from time to time, are amended to impose procedural requirements less stringent than set forth in this Declaration, the Board may operate the Association pursuant to the less stringent requirements without the need to change this Declaration. The Board of Directors, without a vote of the Owners, may also adopt by majority vote, amendments to this Declaration as the Board deems necessary to comply with such operational changes as may be enacted by future amendments to Chapters 607, 617, and 720, or such other statutes or administrative regulations as required for the operation of the Association, all as amended from time to time.

**Section 6. Remedies for Violation.** In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, their family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) **Notice:** The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of a committee of the Association seated for the purpose of hearing such violation matters, at which time the Owner shall present reasons why a fine(s) should not be imposed. At least fourteen (14) days' notice of such meeting shall be given. The parcel owner's 14-day notice of right to a hearing must be made in writing and with notice of the alleged violation.

**Hearing:** The alleged non-compliance shall be presented to the committee after which the Compliance Committee shall hear reasons why a fine(s) should not be imposed. A written decision of the committee shall be submitted to the Owner by not later than fifteen (15) days after the committee's meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses. The hearing must be held within 90 days after issuance of the notice and may be held by telephone or other electronic means. The notice must include how the owner may cure the violation, if applicable. If an owner cures the violation alleged in the notice before the hearing, a fine or suspension may not be imposed. Within 7 days after the hearing, the association shall provide written notice to the parcel owner or occupant, licensee, or invitee, of the fining



committee's findings, any applicable fines or suspensions approved or rejected, information pertaining to the fulfillment procedure of a suspension, and the date by which a fine must be paid, which must be at least 30 days from the delivery of the notice delivered after the hearing.

If a violation is not cured or if the fine is not paid by the deadline established in the written notice, reasonable attorney fees and costs may be awarded to the Association for pursuit of payment. Attorney fees and costs may not begin to accrue until after the date noticed for payment and the time for an appeal has expired.

(b) **Amounts:** The Board of Directors (if the committee's findings are made against the Owner) may impose special assessments against the Lot owned by the Owner as follows:

In accordance with the Act, the Association may levy reasonable fines against Owners and lessees, Guests, and invitees for each violation Act or the Governing Documents. Each such fine may not exceed \$250 per violation. Fines may be levied on the basis of each day of a continuing violation, in an amount up to \$250 per day capped at \$5,000 in the aggregate for a specific, continuing violation. Duly levied fines shall be a Charge against the applicable Lot which the Owner, lessee, Guest invitee or agent in violation was residing or was invited to visit or service. The Association may suspend, for a reasonable period of time, the right of an Owner or an Owner's tenant, guest or invitee to use Common Areas and an Owner's Voting Interest in accordance with the Act.

(c) **Payment of Penalties.** Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(d) **Collection of Fines.** Fines shall be treated as an Assessment subject to the provisions for the collection of assessments as set forth herein.

(e) **Application of Proceeds.** All monies received from fines shall be allocated as directed by the Board of Directors of the Association.

(f) **Non-Exclusive Remedies.** These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

(g) **Right of Entry.** In addition to the foregoing rights, whenever (a) there shall have been built within the Property any structure which is in violation of this Declaration or in the event of any damage or destruction of any of the Property or portion thereof by an Owner or any of its guests, invitees, lessees or occupants, into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, or (b) any portion of the Property and/or Home owned by an Owner has fallen into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, a duly authorized representative of the Association may enter upon the Property where such violation, damage or destruction exists and summarily abate, remove or correct the same at the expense of the Owner; provided, however, that the Association shall then make the necessary repairs, constructions, etc., to insure that the Property and improvements where such violation occurred is restored to the same condition in which it existed (or should have existed) prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass. All amounts expended by the Association, together with interest thereon at the rate of eighteen (18%) percent per annum from thirty (30) days after the date of notification of the violation and all costs and reasonable attorney's fees incurred by the Association shall be treated as an

assessment subject to the provisions for the collection of assessments as set forth herein.

**Section 7. Effect of Waiver of Violation.** No waiver of a breach of or violation of any of the terms, provisions and covenants in this Declaration, or in the Articles or By-Laws, shall be construed to be a waiver of any succeeding breach or violation of the same term, provision or covenant of this Declaration, or the Articles or By-Laws.

**Section 8. Instruments Governing Common Area and Owners of Lots.** This Declaration and the Articles and By-Laws, and any lawful amendments thereto shall govern the Common Area and the rights, duties and responsibilities of the Owners of Lots.

**Section 9. Notice to Owners.** Whenever notices are required to be given hereunder, the same shall be sent to the Owner by United States First Class Mail, postage prepaid, at the address of the Home situated upon the Lot. Such notices shall be deemed given when deposited in the United States Mail. Any Owner may change their mailing address by written notice given the Association in the official records of the Florida Department of State, Division of Corporations, or the official address of the Association as it may be designated from time to time.

**Section 10. Official Records.** The official records of the Association shall be maintained within the State of Florida and as required by Florida Statute Section 720.303 and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt by the Association of a written request for access. Under certain circumstances, the Association is entitled to charge for records requests and copying records. Official Records must be retained for at least seven (7) years.

**Section 11. Services.** The Association may, if the Board decides to do so, perform or provide any of the following, additional services:

(a) Provide maintenance of any real property upon which the Association has accepted, in an amendment hereto or in another writing, an easement for said maintenance.

(b) Take any and all actions the Board deems necessary to enforce all covenants, conditions and restrictions affecting any part of the Lands and to perform any of the functions or services delegated to the Association in any of the Neighborhood Documents and to be entitled to be reimbursed by the Owner or the Neighborhood Association for the expense or Take any and all actions the Board deems necessary to enforce all covenants, conditions and restrictions affecting any part of the Lands and to perform any of the functions or services delegated to the Association in any of the Neighborhood Documents and to be entitled to be reimbursed by the Owner or the Neighborhood Association for the expense or any cost associated with such services.

(c) Conduct the business of the Association, including, but not limited to, the hiring of professionals to provide services such as legal, accounting, financial and communication services and inform Members of activities, meetings and other important events as the Board deems necessary or appropriate.

(d) Publish and provide notice of and enforce, as the Association deems necessary, the Rules.

(e) Provide and maintain traffic calming devices or install lighting for roads, sidewalks, and bike paths, if any.

(f) Construct, repair and maintain improvements in the Community as further specified herein.

(g) Provide, to the extent deemed necessary by the Board, any and all services, and do any and all things which are incidental to or in furtherance of things listed above, or to carry out the Association mandate to keep and maintain the Common Area, Association Property, and the Lots in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls and enforcements which will enhance the quality of life in the Community.

**Section 12. Grammatical Construction.** Wherever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular.

**Section 13. Conflicts.** In the event of any conflict between the provisions of this Declaration, the Articles and the By-Laws, the provisions of this Declaration, the Articles and the By-Laws shall control in that order.

**Section 14. CABLE TELEVISION INTERNET AND HOME SECURITY MONITORING SERVICES.** THE ASSOCIATION IS NOT OBLIGATED TO BUT MAY ENTER TO AN AGREEMENT WITH A CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY PURSUANT TO WHICH ALL OF THE OWNERS WILL BE PROVIDED CABLE TELEVISION AND/OR INTERNET SERVICE AND/OR HOME SECURITY MONITORING SERVICES WHICH WILL BE CHARGED AS ASSESSMENTS. THE ASSOCIATION MAY REFUSE ENTRY INTO THE PROPERTY BY ANY REPRESENTATIVE OF ANY CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANIES OTHER THAN THE CABLE TELEVISION, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY WHICH HAS ENTERED INTO AN AGREEMENT WITH THE ASSOCIATION. IN THE EVENT SECURITY MONITORING IS PROVIDED TO THE OWNERS BY THE ASSOCIATION, THE ASSOCIATION WILL HAVE NO LIABILITY OF ANY KIND OR NATURE DUE TO THE FAILURE OF THE SECURITY MONITORING COMPANY TO DETECT OR REACT TO FIRE, UNAUTHORIZED ENTRY, OR OTHER SECURITY PROBLEM IN ANY HOME.

**Section 15. LIMITATION OF LIABILITY OF ASSOCIATION.** NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "ASSOCIATION DOCUMENTS"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

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

(b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED,

TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

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

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

(e) AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

**Section 18. WATER BODIES AND WILDLIFE.** THE SUBDIVISION MAY CONTAIN WATER BODIES SUCH AS LAKES, PONDS, CANALS, CREEKS, STREAMS, PRESERVES OR OTHER BODIES OF WATER IN OR IN THE VICINITY OF THE SUBDIVISION ("WATER BODIES"). SUCH WATER BODIES MAY POSE HEALTH AND SAFETY RISKS TO OWNERS, OCCUPANTS AND USERS OF THE PROPERTY IN AND AROUND THE SUBDIVISION, INCLUDING THE RISK OF DANGEROUS WILDLIFE. ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT THE ASSOCIATION, AND ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (THE "LISTED PARTIES") SHALL NOT BE LIABLE TO OWNERS, OCCUPANTS AND USERS OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR WATER LEVEL OF OR IN ANY WATER BODIES. ALL OWNERS, OCCUPANTS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY, TO HAVE RELEASED THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH WATER BODIES. FURTHER, THE LISTED PARTIES ARE NOT RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY OF ANY OWNERS, OCCUPANTS OR USERS OF WATER BODIES OR AREAS IN OR AROUND SUCH WATER BODIES. NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO ANY WATER BODIES. ALL PERSONS USING OR ENJOYING WATER BODIES OR SURROUNDING AREAS OF THE WATER BODIES SHALL DO SO AT THEIR OWN RISK. ALL OWNERS, OCCUPANTS AND USERS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALL TYPES OF

WILDLIFE, INCLUDING ALLIGATORS, SNAKES, PANTHERS, BEARS AND OTHER ANIMALS, MAY LIVE, MIGRATE, CREATE HABITATS OR ENTER INTO WATER BODIES AND SURROUNDING PROPERTY AND MAY POSE A HEALTH AND SAFETY THREAT TO PERSONS, ANIMALS 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. NO PERSONS SHALL SWIM IN ANY WATER BODIES WITHIN THE COMMUNITY NOT SPECIFICALLY DESIGNATED FOR SWIMMING AND NO PERSONS IN THE COMMUNITY SHALL FEED ANY WILDLIFE IN OR AROUND THE COMMUNITY.

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**EXHIBIT "A"**  
**PROPERTY**

A TRACT OF LAND LYING IN SECTION 34, TOWNSHIP 45 SOUTH, RANGE 24 EAST, IN LEE COUNTY, FLORIDA, BEING IN THE NORTHEAST (NE¼) QUARTER OF SECTION 34, TOWNSHIP 45 SOUTH, RANGE 24 EAST, AND BEING FURTHER BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 34; THENCE N.00°56'29"W. ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34 FOR 50.00 FEET; THENCE S.88°59'16"W. ALONG A LINE PARALLEL WITH AND 50.00 FEET NORTH OF THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34 FOR 65.00 FEET TO THE **POINT OF BEGINNING**; THENCE N.00°56'29"W. ALONG A LINE PARALLEL WITH AND 65.00 FEET WEST OF THE EAST LINE OF SAID FRACTION FOR 1164.09 FEET; THENCE N.45°21'52"W. FOR 19.49 FEET TO THE SOUTH LINE OF A RIGHT-OF-WAY TAKING FOR GLADIOLUS DRIVE (STATE ROAD 865) RECORDED IN OFFICIAL RECORDS BOOK 4484 AT PAGE 3184 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE S.89°41'24"W. ALONG SAID SOUTH LINE FOR 1101.58 FEET TO AN INTERSECTION WITH A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 488.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.15°28'38"W.; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 12°52'23" FOR 109.64 FEET; TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SUMMERLIN ROAD (STATE ROAD 86.9 - 225.00 FEET WIDE);

THENCE S.44°18'36"W. ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 1084.71 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT HAVING A RADIUS OF 5844.58 FEET; THENCE SOUTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 5°44'03" FOR 584.93 FEET; THENCE N.88°59'16"E. ALONG A LINE PARALLEL WITH AND 50.00 FEET NORTH OF THE SOUTH LINE OF SAID FRACTION OF SECTION 34 FOR 2423.03 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 48.60 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON STATE PLANE COORDINATE FLORIDA ZONE WEST NAD 83 (CORS) AND THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 34 AS BEARING N.88°59'16"E.

N 17000005197

\_\_\_\_\_  
(Requestor's Name)

\_\_\_\_\_  
(Address)

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(Address)

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(City/State/Zip/Phone #)

☐ PICK-UP    ☐ WAIT    ☐ MAIL

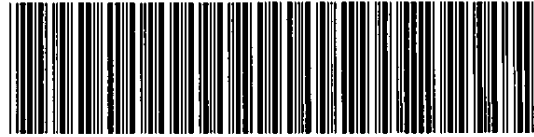
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

C. GOLDEN  
MAY 17 2017

# CAPITAL CONNECTION, INC.

417 E. Virginia Street, Suite 1 • Tallahassee, Florida 32301  
(850) 224-8870 • 1-800-342-8062 • Fax (850) 222-1222

VENETIAN POINTE HOMEOWNERS

ASSOCIATION, INC.

Signature \_\_\_\_\_

Requested by: \_\_\_\_\_

Name \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Walk-In \_\_\_\_\_ Will Pick Up \_\_\_\_\_

- ✓ Art of Inc. File \_\_\_\_\_  
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Art. of Amend. File \_\_\_\_\_  
RA Resignation \_\_\_\_\_  
Dissolution / Withdrawal \_\_\_\_\_  
Annual Report / Reinstatement \_\_\_\_\_  
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Certificate of Good Standing \_\_\_\_\_  
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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

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**ARTICLES OF INCORPORATION FOR  
VENETIAN POINTE HOMEOWNERS ASSOCIATION, INC.  
(a corporation not-for-profit)**

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned, acting as Incorporator(s) of a corporation pursuant to Chapter 617, Florida Statutes, and Chapter 720, Florida Statutes, adopt(s) the following Articles of Incorporation:

**ARTICLE I - NAME**

The name of the corporation shall be the Venetian Pointe Homeowners Association, Inc., a Florida corporation not for profit (the "Association").

**ARTICLE II - DEFINITIONS**

Each term used herein, except as otherwise defined herein, is defined in the Declaration of Covenants, Restrictions, Conditions and Easements of Venetian Pointe ("Declaration") recorded, or to be recorded, among the Public Records of Lee County, Florida by Lynx Zuckerman at Naples, LLC, a Florida limited liability company (the "Developer") and shall have the same meaning or definition ascribed thereto in the Declaration.

**ARTICLE III - PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS**

The principal place of business and mailing address of the corporation shall be 6131 Lyons Road, Suite 200, Coconut Creek, Florida 33073.

**ARTICLE IV - PURPOSE(S)**

The corporation is organized as a corporation not-for-profit under Chapter 617 of the laws of the State of Florida, subject to the extent applicable, to Chapter 720 of the laws of the State of Florida. The specific purposes for which the corporation is organized are:

Section 1. To promote the health, safety and social welfare of the Owners of Property within the residential community of Venetian Pointe as described in the Declaration.

Section 2. To own and maintain, repair and replace the Association Property and the Common Areas and other items, including landscaping and other improvements in and/or benefiting said Association Property and Common Areas, for which the obligation to maintain and repair has been delegated and accepted.

Section 3. To control the specifications, architecture, design, appearance, elevation and location of, and landscaping around, all buildings and improvements as provided in the Declaration, which may include walls, fences, sewers, drains, disposal systems or other structures constructed, placed or permitted to remain in the Property, as well as the alteration, improvement, addition or change thereto.

Section 4. To operate without profit for the benefit of its Members.

Section 5. To perform those functions granted to or reserved by the Association in the Declaration.

**ARTICLE V - GENERAL POWERS**

The Association shall have all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws or the Declaration including, without limitation, the following:

Section 1. To hold funds solely and exclusively for the benefit of the Members for the purposes set forth in these Articles of Incorporation.

Section 2. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

Section 3. To delegate power or powers where such is deemed in the interest of the Association.

Section 4. To affix assessments to be levied against Lots within the Property and the costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors, in its discretion, to enter into agreements with mortgage companies and other organizations for the collection of such assessments.

Section 5. To pay taxes and other charges, if any, on or against the Association Property and the Common Area.

Section 6. To have all express powers conferred upon the Association by the Declaration, Chapter 617, Florida Statutes, and Chapter 720, Florida Statutes, except as prohibited herein.

Section 7. To engage in activities which will actively foster, promote and advance the common interests of all Owners of any portion of the Property, including contracting for services to be provided to the Association.

Section 8. To own, convey, buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real, personal and mixed property of all kinds and any right or interest therein of the Association for purposes of advancing the common interests of all Owners of any portion of the Property.

Section 9. To borrow money for any purpose subject to all limitations in the Declaration or Bylaws.

Section 10. To sue and be sued.

Section 11. To adopt, alter and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration.

Section 12. To contract for services for the operation, maintenance, and management of Common Areas and Association Property and all other property dedicated to or maintained by the Association.

Section 13. To mortgage or convey Common Area with the affirmative vote of at least two-thirds of the Class A Membership.

#### **ARTICLE VI - MANNER OF ELECTION OF DIRECTORS**

Directors shall be elected or appointed in accordance with the provisions of the Bylaws of the Association.

#### **ARTICLE VII - MEMBERS**

Section 1. Every Owner of a Lot which is subject to Assessment shall be a Member of the Association and subject to the terms and conditions of the Declaration. Membership shall be appurtenant

to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Developer and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to five (5) votes for each of the votes held by all other Members of the Association; provided, however, that notwithstanding any provision to the contrary, the Developer shall have the right to appoint the entire Board of Directors of the Association until three months after 90% of the Lots have been conveyed to Owners other than the Developer or its designated successor or assigns or to Builders, or at an earlier date at the sole discretion of the Developer or as otherwise required by applicable law ("Turnover"). At such time, the Developer shall call a meeting in accordance with the provisions herein for Special Meetings, to provide for the turnover of control of the Board of Directors to the Owners. The Developer shall have the right, in its sole discretion, to appoint one member of the Board of Directors for so long as the Developer owns at least five percent (5%) of the Lots within the Property. Upon expiration of the Class B membership, the Declarant shall become a Class A Member for each Lot it still owns.

#### ARTICLE VIII - DIRECTORS

The Board of Directors of the Corporation shall be comprised of at least three (3) directors. The members of the Board of Directors and their street addresses are:

Address:

<u>Steven Zuckerman</u>	<u>6131 Lyons Road, Suite 200</u> <u>Coconut Creek, Florida 33073</u>
<u>David Zuckerman</u>	<u>6131 Lyons Road, Suite 200</u> <u>Coconut Creek, Florida 33073</u>
<u>Ryan Zuckerman</u>	<u>6131 Lyons Road, Suite 200</u> <u>Coconut Creek, Florida 33073</u>

As long as Developer or its designated successor or assigns shall have the right to appoint the entire Board of Directors, Directors need not be Members of the Association and need not be residents of the State of Florida. All Directors appointed by the Developer shall serve at the pleasure of the Developer, and may be removed from office, and a successor Director may be appointed at any time by the Developer.

At the first annual election to the Board of Directors where Directors are elected by the Members, the term of office of the elected Director receiving the highest plurality of votes shall be established at two (2) years, with the other elected Directors to serve for a term of one (1) year. Elections shall be by plurality votes. All Directors shall hold office until the election of new directors at the next annual meeting or resignation of said Director. Each year thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and

qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them.

#### ARTICLE IX - OFFICERS

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

President:	Name:	<u>Steven Zuckerman</u>
	Address:	<u>6131 Lyons Road, Suite 200</u> <u>Coconut Creek, Florida 33073</u>
Vice President and:	Name:	<u>Ryan Zuckerman</u>
Treasurer	Address:	<u>6131 Lyons Road, Suite 200</u> <u>Coconut Creek, Florida 33073</u>
Secretary	Name:	<u>David Zuckerman</u>
	Address:	<u>6131 Lyons Road, Suite 200</u> <u>Coconut Creek, Florida 33073</u>

#### ARTICLE X - REGISTERED AGENT, MAILING ADDRESS AND STREET ADDRESS

The street and mailing address of the Corporation's initial registered office is 1 East Broward Blvd., Suite 1800, Fort Lauderdale, Florida 33301 and the name of the Initial Registered Agent at such address is Becker & Poliakoff, P.A.

#### ARTICLE XI - CORPORATE EXISTENCE

The Association shall have perpetual existence. If the Association is dissolved, the control or right of access to the property containing the surface water management system facilities and other dedicated property and related infrastructure shall be conveyed or dedicated to an appropriate governmental unit or public unit 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 XII - BYLAWS

The Board of Directors shall adopt Bylaws consistent with these Articles.

#### ARTICLE XIII - AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS

Amendment of these Articles requires the approval of at least two-thirds of the membership votes. Notwithstanding the foregoing; (a) for so long as the Developer has the right to appoint the entire Board of Directors of the Association, the Developer or its successor or assign shall be permitted to unilaterally amend these Articles; and (b) for so long as Developer owns any portion of the Property, no amendment of these Articles shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Developer, unless the Developer joins in the execution of the amendment.

Such amendments shall be subject to the prior approval required by any appropriate governmental agency. Notwithstanding anything to the contrary herein contained, amendments for correction of scrivener's errors may be made by the Board of Directors of the Association alone without the need of consent of any other person. Notwithstanding the foregoing, matters stated herein to be or which are in fact governed by the Declaration may not be amended except as provided in such Declaration. Additionally, the provisions which are governed by the By-laws of this Association may not be amended except as provided in the By-laws.

#### ARTICLE XIV- INDEMNIFICATION OF OFFICERS AND DIRECTORS

Section 1. The Association hereby indemnifies any Director or Officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

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

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

Section 2. The Board of Directors shall determine whether amounts for which a Director or Officer seeks indemnification were properly incurred and whether such Director or Officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

Section 3. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

#### ARTICLE XV - TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED

Section 1. With the exception of Directors and Officers appointed by the Class B Members, any financial or familial interest of an Officer or Director in any contract or transaction between the Association and one (1) or more of its Directors or Officers, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Directors or Officers are directors or officers, or have a financial interest, shall be disclosed, and further shall not be voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction or solely because his or their votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

Section 2. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction, but must abstain from voting on the issue.

#### ARTICLE XVI - DISSOLUTION

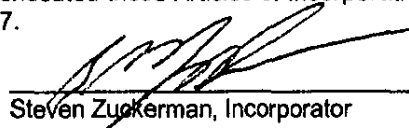
The Association may be dissolved if three-fourths (3/4) of the votes cast at a duly held meeting of the Members of the Association vote in favor of dissolution. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

#### ARTICLE XVII - INCORPORATOR

The name and address of the Incorporator is:

Name: Steven Zuckerman  
Address: 6131 Lyons Road  
Suite 200  
Coconut Creek, Florida 33073

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation as Incorporator thereof this 11 day of May, 2017.

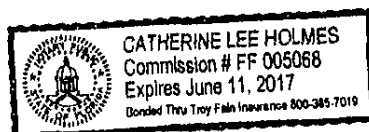
  
Steven Zuckerman, Incorporator

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of May, 2017, by Steven Zuckerman who is personally known to me.

  
Notary Public

Name: Catherine Lee Holmes  
Serial Number: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_



**REGISTERED AGENT**

The undersigned hereby accepts appointment as Registered Agent of Venetian Pointe Homeowners Association, Inc. this 11 day of May, 2017.

By:   
Name: Jennifer Bales Drake  
Title: Shareholder

**FILED**

2017 MAY 17 PM 2:56

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

## EXHIBIT "C"

### AMENDED AND RESTATED BYLAWS OF VENETIAN POINTE HOMEOWNERS ASSOCIATION, INC.

1. **Identity.** These are the Bylaws of VENETIAN POINTE HOMEOWNERS ASSOCIATION, INC., (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida and organized for the purpose of administering that residential Community known as Venetian Pointe located in Lee County, Florida (the "Property").
  - 1.1 **Principal Office.** The principal office of the Association shall be at such location as may be designated from time to time by the Board.
  - 1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.
2. **Definitions.** For convenience, these Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the "Articles." The other terms used in these Bylaws shall have the same definition and meaning as those set forth in that certain Declaration of Covenants, Conditions and Restrictions of Venetian Pointe (the "Declaration"), unless herein provided to the contrary, or unless the context otherwise requires.
3. **Members.** The members of the Association ("Members") shall be as specified in the Articles and Declaration.
  - 3.1 **Annual Meeting.** To the extent possible, the annual Members' meeting shall be held in January, at the place and at the time determined by the Board from time to time, provided that there shall be an annual meeting every calendar year and no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to Members in advance thereof.
  - 3.2 **Special Meeting.** Special Members' meetings shall be held at such places as provided herein for annual meetings and may be called by the President or by a majority of the Board. A special meeting must be called by the President or Secretary upon receipt of a written request from a majority of the Members of the Association. The business conducted at a special meeting shall be limited to the purposes stated in the notice of the meeting.
  - 3.3 **Notice of Meeting: Waiver of Notice.** Notice of a meeting of Members stating the time and place and the purpose(s) for which the meeting is called shall be given by the President, Secretary, or management. A copy of the notice shall be posted at a conspicuous place within the Property. The notice of the annual meeting shall be electronically transmitted to those who consent, hand delivered or sent by mail to each Owner, unless the Owner waives in writing the right to receive notice of the annual



meeting by signing a waiver of notice, in person or by proxy, either before or after the meeting. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members described in Section 10 hereof, or to the address provided in any consent for electronic transmission of notice. The posting and transmission of the notice shall be affected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of notice may be given by affidavit. Notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting was called.

Notice of Member annual or special meetings may be waived before or after the meeting. The attendance of any Member (or person authorized to vote for such member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

- 3.4 **Quorum.** A quorum at Members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast thirty percent (30%) of the votes of Members, unless a higher number is specifically provided elsewhere in the Declaration, the Articles or these Bylaws. If voting rights of any Member are suspended pursuant to the provisions of the Declaration or these Bylaws, the vote(s) of such Member shall not be counted for the purpose of determining the presence of a quorum and the total number of authorized votes shall be reduced accordingly during the period of such suspension.

3.5 **Voting.**

- (a) Voting may be performed in person, by proxy, or electronically for those who consent to vote electronically utilizing the electronic voting systems implemented by the Board of Directors.
- (b) Members shall be entitled to one (1) vote for each Lot they own.
- (c) **Majority Vote.** The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Members for all purposes except where otherwise provided by law, the Declaration, the Articles or these Bylaws. As used in these Bylaws, the Articles or the Declaration, the terms "majority of the Members" and "majority of the Members" shall mean a majority of the votes of Members and not a majority of the Members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Members at which a quorum shall have been attained. Similarly, if some greater percentage of Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Members and not of the Members themselves.
- (d) **Voting Interests.** The Members of the Association are entitled to one (1) vote for each Lot owned by them. The total number of Voting Interests equals the total number of Lots subject to the Declaration (i.e., 11). Suspension of a Voting

Interest shall not affect the basis for which Common Expenses are shared or Common Surplus is owned. However, suspended Voting Interests shall be subtracted from the total number of votes required when calculating any required vote or quorum during the period for which said Voting Interest is suspended. If a Lot is owned by one (1) natural person, his right to vote shall be established by the record title of the Lot. If a Lot is owned jointly by two (2) or more natural persons that are not acting as trustees, then that Lot's vote may be cast by any one (1) of the Owners. If two (2) or more Owners of a Lot do not agree among themselves how their one (1) vote shall be cast, then that vote shall not be counted for any purpose. If a Lot is owned by a corporation, then any officer of the corporation may vote on behalf of said corporation. If a Lot is owned by a partnership, then any general partner may vote on behalf of the partnership. If a Lot is owned in trust, then the grantor of the trust or any beneficiaries residing in the Lot shall be entitled to vote. If a Lot is owned by a limited liability company, then any member (if member managed) or manager (if manager managed) may vote on behalf of the limited liability company. Subject to the qualifications above, any person with apparent authority asserting the right to vote on behalf of a Lot owned by an artificial entity shall be conclusively presumed to be entitled to vote on behalf of said Lot, unless the Lot has filed voting instructions with the Association designating some other person entitled to vote. Voting certificates are not necessary. If multiple Owners or non-individual Owners of a Lot cannot agree on a vote, the vote shall not be counted as to the issue upon which disagreement exists. No individual may cast a vote assigned to a Lot where the voting rights assigned to the Lot are suspended pursuant to the terms of the Governing Documents and/or Florida law.

- (e) **Approval or Disapproval of Matters.** Whenever the decision or approval of the Owner of a Lot is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person authorized to cast the vote of such Lot at an Association meeting as stated in Section above, unless the joinder of all Owners is specifically required by law or an express requirement in the Governing Documents.

- 3.6 **Proxies.** A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be dated, must state the date, time, and place of the meeting for which it was given, and signed by the person authorized to cast the vote for the Lot (as above described) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies need not be Owners. If the proxy form expressly so provided, any proxy holder may appoint, in writing, a substitute to act in his place.
- 3.7 **Adjourned Meetings.** Adjournment of an Annual or Special meeting to a different date, time, or place must be announced at the meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to the notice provision of the Bylaws. If a new record date for the adjourned meeting is or must be fixed, notice of the adjourned meeting must be given to persons who are entitled to vote and are Members as

of the new record date but were not Members as of the previous record date. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as provided by law, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.

3.8 **Order of Business.** If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:

- (a) Call to order by President;
- (b) Appointment by the President of a chairman of the meeting (who need not be a Member or a Director);
- (c) Proof of notice of the meeting or waiver of notice;
- (d) Reading of minutes;
- (e) Reports of officers;
- (f) Reports of committees;
- (g) Appointment of inspectors of election;
- (h) Determination of number of Directors;
- (i) Election of Directors;
- (j) Unfinished business;
- (k) New business;
- (l) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

3.9 **Minutes of Meeting.** Minutes of all meetings of the Members of an Association must be maintained in written form or in another form that can be converted into written form within a reasonable time. The minutes of all meetings of Members shall be kept in a book available for inspection by Members or their authorized representatives or board members at any reasonable time with three days prior written notice to the Association. The Association shall retain these minutes for a period of not less than seven years.

3.10 **Delinquent Members.** If any Assessment or portion thereof imposed against a Member remains unpaid for ninety (90) days following its due date, such Member's voting rights in the Association shall be automatically suspended until all past due Assessments and other sums then due are paid, whereupon the voting rights shall be automatically reinstated. Delinquent Members shall not be eligible to serve on the Board of Directors.

- 3.11 **Action Without A Meeting.** Anything to the contrary herein notwithstanding, to the extent lawful, any action herein required to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken shall be signed by the Members (or persons authorized to cast the vote of any such Member as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of such Members at which a quorum of such Members (or authorized persons) entitled to vote thereon were present and voted.

Written consent shall not be effective to take the Association action referred to in the consent unless the consent is signed by the Members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and is delivered in the manner required by this Section.

Any written consent may be revoked prior to the date that the Association receives the required number of consents to authorize the proposed action. A revocation is not effective unless in writing and until received by the Association, or received by the Secretary or other officer or agent of the Association.

A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Whenever action is taken pursuant to this Section, the written consent of the Members consenting to such action or the written reports of inspectors appointed to tabulate such consents must be filed with the minutes of proceedings of the Members.

Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

- 3.12 **Recording.** Any Member may tape record or videotape meetings of the Membership. The Board of Directors of the Association may adopt reasonable rules governing the taping of meetings of the Membership.

#### 4. **Directors**

- 4.1 **Membership.** The property, business and affairs of the Association shall be managed by a Board consisting of at least three (3) Directors, and, nor more than five (5) Directors, unless these Bylaws are amended at a future date, the number of Directors is at least three (3). The term of each Director's service shall be two (2) years and until a successor is duly elected and qualified or until resignation, death, or removal in the manner provided elsewhere herein. Resignations of directors are effective when received by the Association in writing, unless a later date is stated.
- 4.2 **Election of Directors.** The election of Directors shall be conducted in accordance with Chapter 720, Florida Statutes, and the following manner:
- (a) Election of Directors shall be held at the annual Members' meeting, except as provided herein to the contrary.

- (b) Nominations for Directors shall be made in advance of the meeting and no nominations from the floor shall be accepted.
- (c) Not less than sixty (60) days before a scheduled election, the Association shall mail, hand deliver, or electronically transmit to each Member entitled to vote, a First Notice of Annual Meeting with the date of the election. Any eligible person who nominates himself to be a candidate may do so no later than forty (40) days prior to the annual meeting and may also submit a resume by such deadline on one side of an 8 ½ x 11 sheet of paper. As Members have been given the opportunity to nominate themselves in advance and prior to the annual meeting where the election will take place, nominations from the floor will not be accepted.
- (d) Not less than fourteen (14) days prior to the annual meeting, the Association shall send a Second Notice of Annual Meeting to all Member, along with an election ballot for the election of Directors, any timely submitted candidates' resumes, a proxy, and any other documents at the Board's discretion. The election ballot shall contain the names of all candidates who nominated themselves in a timely manner, listed alphabetically by surname.
- (e) Elections shall be determined by a plurality of the votes cast. A quorum of Members need not cast a vote for a valid election to occur, so long as at least then percent (10%) of the eligible Voting Interest cast a ballot. The Board may require all election ballots to be received by the Association at some point prior to the annual meeting so that votes can be mailed prior to the annual meeting and the results announced at the annual meeting. If a voter checks off the name of more candidates than the number of Directors to be elected, the election ballot shall not be counted for the election. Secret balloting is not required. If a member has a consent to electronic voting, ballots may be submitted through the electronic voting system implemented by the Board of Directors.
- (f) All Members of the Association shall be eligible to serve on the Board of Directors unless otherwise provided by Florida law. No election shall be necessary if the number of candidates is less than or equal to the number of open seats or vacancies. The candidates who are elected shall take office upon the adjournment of the annual meeting. Within 90 days of election or appointment, each director must submit a certificate of completion of department approved educational curriculum. The program must include training related to financial literacy and transparency, recordkeeping, levying of fines, and notes and meeting requirements. In addition, Directors must complete at least 4 hours of continuing education each year.
- (g) Directors must comply with the standards under Florida Statutes Section 617, which requires that a Director discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, in a manner he or she reasonably believes to be in the best interests of the corporation.

#### 4.3 **Vacancies and Removal.**

- (a) Except as to vacancies resulting from removal of Directors by Members, vacancies on the Board occurring between annual meetings of Members shall be filled by majority action of the remaining Director(s).
- (b) Any Director elected by the Members may be removed from office with or without cause by the vote or agreement by a majority of all votes of the Membership. The vacancy in the Board so created shall be filled by the Members at the same meeting or at a meeting of the Membership shortly thereafter. The conveyance of all Lots owned by a Director in the Community who owned one or more Lots at the time he was elected or appointed shall constitute the resignation of such Director.
- (c) If a vacancy on the Board of Directors results in there being no incumbent Directors, any Member may apply to the Circuit Court within whose jurisdiction the Property lies for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Member shall mail to the Association and post in a conspicuous place in the Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancy(ies), the Member may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.

4.4 **Term.** Except as provided herein to the contrary, the term of each Director's service shall be a two (2) year term, or subsequently until his successor is duly elected and qualified as provided for in the Articles of Incorporation, or until he is removed in the manner elsewhere provided.

4.5 **Organizational Meeting.** The organizational meeting of newly-elected or appointed members of the Board shall be held within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting at which they were elected or appointed, and no further notice to or by the Board of the organizational meeting shall be necessary.

- (a) All meetings of the Board must 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 otherwise be governed by attorney client privilege. Notices of all Board meetings must be posted in a conspicuous place in the Property at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Property, notice of each Board meeting must be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. 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. This subsection also applies to the meetings of any committees or other similar

body, including anybody vested with the powers to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a Member.

- 4.6 **Regular Meetings.** Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Regular meetings of the Board shall be open to all Members and notice of such meetings shall be posted conspicuously in the Community at least forty-eight (48) hours in advance for the attention of the Members of the Association, except in the event of an emergency. Members shall not be permitted to participate, and need not be recognized at any such meeting, with the exception of complying with the provisions of Florida Statutes 720.
- 4.7 **Special Meetings.** Special meetings of the Directors may be called by the President and must be called by the President or Secretary at the written request of two-thirds (2/3rds) of the Directors. Notice of the meeting shall be given personally by mail, telephone or electronically transmitted in the manner set forth in Chapter 720 and Section 617.0141, Florida Statutes to each Director, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than three (3) days prior to the meeting. Special meetings of the Board shall be open to all Members and notice of a special meeting shall be posted conspicuously in the Property at least forty-eight (48) hours in advance for the attention of the Members of the Association, except in the event of an emergency. Members shall not be permitted to participate, and need not be recognized at any such meeting, with the exception of complying with the provisions of Florida Statutes 720.
- 4.8 **Waiver of Notice.** Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.
- 4.9 **Quorum.** A quorum at Directors' meetings shall consist of a majority of the then incumbent Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these Bylaws.
- 4.10 **Adjourned Meetings.** If, at any proposed meeting of the Board, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.
- 4.11 **Presiding Officer.** The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside).
- 4.12 **Order of Business.** If a quorum has been attained, the order of business at Directors'

meetings shall be:

- (a) Proof of due notice of meeting;
- (b) Reading and disposal of any unapproved minutes;
- (c) Reports of officers and committees;
- (d) Unfinished business;
- (e) New business;
- (f) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

- 4.13 **Minutes of Meetings.** Minutes of all meetings of the Board of Directors must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each Director present at the Board meeting must be recorded in the minutes. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Members or their authorized representative or board member at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.
- 4.14 **Recording.** Any Member may tape record or videotape meetings of the Board of Directors. The Board of Directors of the Association may adopt reasonable rules governing the taping of meetings of the Board of Directors.
- 4.15 **Committees.** The Board may appoint, by resolution or by motion, from time to time, such standing or temporary committees as the Board deems necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. Where required by the Act, committee meetings shall be open to attendance by any Members, and notice of those committee meetings shall be posted in the same manner as required in Section 4.6 above. All other committees may meet and conduct their affairs in private without prior notice or Owner participation, except in meetings where a final decision will be made regarding the expenditure of association funds or to approve, or disapprove, architectural decisions with respect to a specific parcel of residential property owned by a member of the community.
- 4.16 **Architectural** Review Committee. As provided in the Declaration, the Board of Directors may create an Architectural Review Committee ("ARC") or, in the Board's discretion, the Board may constitute itself as the ARC. To the extent not inconsistent with the Declaration, the provisions of the Bylaws governing meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors shall apply to the ARC.
- 4.17 **Official Records.** The Association shall maintain each of the following items, when applicable, for at least seven (7) years, which constitute the Official Records of the



Association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the common areas or other property that the association is obligated to maintain, repair, or replace.
- (b) A copy of the bylaws of the association and of each amendment to the bylaws.
- (c) A copy of the articles of incorporation of the association and of each amendment thereto.
- (d) A copy of the declaration of covenants and a copy of each amendment thereto.
- (e) The current Rules and Regulations of the Association.
- (f) The minutes of all meetings of the board of directors and of the members.
- (g) A current roster of all members and their designated mailing addresses and parcel identifications. A member's designated mailing address is the member's property address, unless the member has sent written notice to the association requesting that a different mailing address be used for all required notices. The association shall also maintain the e-mail addresses and the facsimile numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. A member's e-mail address is the e-mail address the member provided when consenting in writing to receiving notice by electronic transmission, unless the member has sent written notice to the association requesting that a different e-mail address be used for all required notices. The e-mail addresses and facsimile numbers provided by members to receive notice by electronic transmission must be removed from association records when the member revokes consent to receive notice by electronic transmission. However, the association is not liable for an erroneous disclosure of the e-mail address or the facsimile number for receiving electronic transmission of notices.
- (h) All of the association's insurance policies or a copy thereof.
- (i) A current copy of all contracts to which the association is a party, including, without limitation, any management agreement, lease, or other contract under which the association has any obligation or responsibility. Bids received by the association for work to be performed are considered official records and must be kept for a period of 1 year.
- (j) A list of all current executory contracts or documents to which the association is a party or under which the association or the parcel owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the Association within the past year.
- (k) Any monthly income or expense statement to be considered at a meeting.
- (l) The annual budget and any proposed budget to be considered at the annual meeting.
- (m) The financial reports and any monthly income or expense statement to be considered at a meeting.
- (n) The certification of each Director as required by Florida Statutes Section 720.
- (o) All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated homeowners' association or any other entity in which a director of an association is also a director or an officer and has a financial interest.
- (p) All contracts or transactions between the Association and any director, officer, corporation, firm, or association that is not an affiliated homeowners'

association or any other entity in which a Director of an Association is also a Director or an Officer and has a financial interest.

- (q) Any contract or document regarding a conflict of interest or possible conflict of interest as provided in Florida Statutes Section 468 and Section 720.
- (r) Notice of any scheduled meeting of members and the agenda for the meeting, as required by Florida Statute 720, at least 14 days before such meeting.
- (s) Notice of any Board meeting, the agenda, the meeting minutes, and any other document required for such meeting. 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.
- (t) Notice of any meetings of the members, the agenda, the meeting minutes, and any other document required for such meeting. 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.
- (u) A current roster of all Members and their mailing addresses and parcel identification.
- (v) Accurate, itemized, and detailed records of all records and expenditures.
- (w) A current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay assessments, the due date and the amount of each assessment or other charge against the Member, the date and amount of each payment on the account, and the balance due.
- (x) All tax returns, financial statements, and financial reports of the Association.
- (y) Any other records that identify, measure, record, or communicate financial information.
- (z) A copy of the disclosure summary provided to a prospective parcel in the Community.
- (aa) Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by parcel owners, which must be maintained for at least 1 year after the date of the election, vote, or meeting.

4.18 Notwithstanding subsection 4.17, the following records are not accessible to members or parcel owners:

- (a) Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, a record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.
- (b) Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel.
- (c) Information an association obtains in a gated community in connection with guests' visits to parcel owners or community residents.
- (d) Personnel records of association or management company employees, including,

but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term “personnel records” does not include written employment agreements with an association or management company employee or budgetary or financial records that indicate the compensation paid to an association or management company employee.

- (e) Medical records of parcel owners or community residents.
- (f) Social security numbers, driver license numbers, credit card numbers, electronic mailing addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a parcel owner other than as provided for association notice requirements, and other personal identifying information of any person, excluding the person’s name, parcel designation, mailing address, and property address. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association
- (g) Any electronic security measure that is used by the association to safeguard data, including passwords.
- (h) The software and operating system used by the association which allows the manipulation of data, even if the owner owns a copy of the same software used by the association. The data is part of the official records of the association.
- (i) All affirmative acknowledgments made pursuant to s. 720.3085(3)(c)3.

4.19 **Inspection and Copying of Records.** The Official Records shall be maintained within the State in accordance with Chapter 720, Florida Statutes, and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. This subsection may be complied with by having a copy of the Official Records available for inspection or copying in the Property.

- (a) The failure of the Association to provide access to the records within ten (10) business days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this subsection.
- (b) A Member who is denied access to the Official Records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this subsection. The minimum damages are to be \$50.00 per calendar day up to ten (10) days, the calculation to begin on the eleventh (11th) business day after receipt of the written request.
- (c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but

may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members.

5. **Powers and Duties.** The Board shall have the powers and duties necessary for the management and administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board by the Members. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein), the following:

- (a) Operating and maintaining the Common Areas and other property owned by the Association.
- (b) Determining the expenses required for the operation of the Association.
- (c) Collecting the Assessments for Common Expenses of the Association from all Owners.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Areas and other property owned by the Association.
- (e) Adopting and amending rules and regulations concerning the details of the operation and use of the Property and any Association Property, subject to a right of the Members to overrule the Board as provided in Section 13 hereof.
- (f) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Purchasing, leasing or otherwise acquiring Lots or other property in the name of the Association, or its designee.
- (h) Purchasing Lots at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (i) Selling, leasing, mortgaging or otherwise dealing with Lots acquired by the Association.
- (j) Settling or compromising claims of or against the Association in which all Members have a common interest.
- (k) Obtaining and reviewing insurance for the Common Areas and other property owned by the Association.
- (l) Making repairs, additions and improvements to, or alterations of, the Common Areas in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.

- (m) Enforcing obligations of the Members, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Property.
- (n) Levying fines against appropriate Members for violations of the Declaration or rules and regulations established by the Association to govern the conduct of such Members.
- (o) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Common Areas or the acquisition of property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the consent of the holders of at least two-thirds (2/3rds) of the votes of the Membership represented at a meeting of Members at which a quorum has been attained in accordance with the provisions of these Bylaws shall be required. If any sum borrowed by the Board on behalf of the Association pursuant to the authority contained in this subsection (o) is not repaid by the Association, any Member who pays to the creditor such portion thereof as his interest in the property owned by the Association bears, to the interest of all the Members in the property owned by the Association, shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Member's Lot.
- (p) Contracting for the management and maintenance of the Common Areas or other property owned by the Association and authorizing a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Areas or other Association property with funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (q) At its discretion, authorizing Members or other persons to use portions of the Common Areas or other property owned by the Association for private parties and gatherings and imposing reasonable charges for such private use.
- (r) Exercising (i) all powers specifically set forth in the Declaration, the Articles, and these Bylaws, and (ii) all powers incidental thereto, and all other powers of a Florida corporation not for profit.
- (s) Imposing a lawful fee in connection with the approval of the transfer, lease, or sale of Lots, not to exceed the maximum amount permitted by law in any one case.
- (t) Contracting with and creating special taxing districts.
- (u) Adopt and appoint executive committees.

Anything herein to the contrary notwithstanding, no general funds of the Association shall be utilized for bringing, supporting, investigating, or otherwise abetting any legal action, claim or extra-judicial action except for: (i) imposition, enforcement and collection of assessments, including lien rights, (ii) collecting of debts owed to the Association, (iii) bringing any contest or appeal of tax assessments relating to any property owned by the Association, (iv) actions brought by the Association to enforce the provisions of the Declaration, and (v) counterclaims brought by the Association in proceedings instituted against it, unless such legal action, claim

or extra-judicial action shall be specifically approved for such purposes by seventy-five percent (75%) of the vote of the Members of the Association.

6. **Officers.** The executive office of the Association shall be the President, Vice-President, a Treasurer and a Secretary, all of whom shall be elected by the Board and who may be peremptorily removed at any meeting at which a quorum of Directors is attained by concurrence of a majority of all of the present Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers need not be Members.
  - 6.1 **President.** The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
  - 6.2 **Vice-President.** The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as shall otherwise be prescribed by the Directors.
  - 6.3 **Secretary.** The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving of all notices to the Members and Directors and other notices required by law. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
  - 6.4 **Treasurer.** The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.
7. **Compensation.** Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for actual and appropriate out-of-pocket expenses relating to the proper discharge of their respective duties, subject to any procedures adopted by the Board with respect to reimbursement. Assistant officers, if any, may be compensated as approved by the Board.
8. **Resignations.** Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such later date unless withdrawn. The acceptance of a resignation shall not be required to make it effective.

The conveyance of all Lots owned by any Director or officer shall constitute a written resignation of such Director or officer.

9. **Fiscal Management.** The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

9.1 **Budget.**

- (a) **Adoption By Board: Items.** The Board shall from time to time, and at least annually, prepare a budget for the Common Expenses, determine the amount of Assessments payable by the Members to meet the expenses of the Association, and allocate and assess such expenses among the Members, in accordance with the provisions of the Declaration.

The budgets must reflect the estimated revenues and expenses for the year and the estimated surplus or deficit as of the end of the current year including all fees and charges for exterior maintenance, landscaping, upkeep and insurance, if applicable, of Common Areas and structures thereon. In addition to the annual operating expenses, and to the extent applicable, the budgets may include reserve accounts for capital expenditures and deferred maintenance. Reserves, however, may be waived in accordance with the Declaration and applicable Florida law. In the event of such waiver the budget need not reflect or include reserve accounts for capital expenditures and deferred maintenance; provided, however the budget shall contain a disclosure stating reserves have been properly waived. The adoption of the budgets for the Association by the Board shall comply with the requirements hereinafter set forth. A copy of the proposed budget shall be mailed to each Member not less than fourteen (14) days prior to the meeting of the Board at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting. The Board shall have the power to adopt the budget at the duly noticed meeting by a majority vote.

- (b) **Adoption by Membership.** In the event that the Board shall be unable to adopt a budget in accordance with the requirements of Subsection 9.1(a) above, the Board may call a special meeting of Members for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection. Alternatively, the Board may propose a budget in writing to all Members of the Association or a specified sub-group of Members, where applicable. If either such budget is adopted by a majority of the votes of Members to which the budget applies, present at such meeting, or receiving such written budget, upon ratification by a majority of the Board, it shall become the budget for such year.

- 9.2 **Depository.** The depository of the Association shall be such bank(s) or savings and loan association(s) in the State of Florida as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors. All sums collected by the Association from Assessments or contributions to working capital or otherwise may be commingled in a single fund or divided into more than one fund, as determined by the Board.

- 9.3 **Acceleration of Assessment Installments upon Default.** If a Member shall be in default in the payment of an installment upon an Assessment for more than thirty (30) days, the Board or its agent may accelerate the remaining installments of the Annual Assessment

upon written notice to such Member, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice or ten (10) days after mailing of the notice, whichever shall first occur.

- 9.4 **Fidelity Bonds.** Fidelity bonds may be required by the Board for all persons handling or responsible for Association funds in such amount as shall be determined by a majority of the Board, but no less than \$10,000 for each such person so bonded, if any. The premiums on such bonds shall be paid by the Association as a Common Expense.

- 9.5 **Accounting Records and Reports.** The Association shall maintain accounting records in the State of Florida, according to accounting practices normally used by similar associations or the manager under any applicable management contract. The records shall be open to inspection by Members or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to: (a) record of all receipts and expenditures, and (b) an account for each Lot designating the name and current mailing address of the Member, the amount of each Assessment, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due.

Within ninety (90) days following the end of the fiscal year, the Association shall prepare or contract with a third party to prepare and complete a financial report for the previous twelve (12) months. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall provide each Member with a copy of the annual financial report or a written notice that a copy of the annual financial report is available upon request at no charge to the Member. The financial report shall be prepared in accordance with Chapter 720, Florida Statutes, and may consist of either financial statements presented in conformity with general accepted accounting principals or a financial report of actual receipts and expenditures, cash basis, which report must show the amounts of receipts by accounts and receipt classifications and may show the amounts of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- (a) Cost for security;
- (b) Professional and management fees and expenses;
- (c) Taxes;
- (d) Cost for Common Areas;
- (e) Expenses for refuse collection and utility services;
- (f) Expenses for lawn care;
- (g) Cost for building maintenance and repair;
- (h) Insurance costs;
- (i) Administrative and salary expenses;
- (j) General reserves, maintenance reserves and depreciation reserves; and
- (k) Beginning and ending cash balances of the Association.

- 9.6 **Application of Payment.** All payments made by a Member shall be applied as provided in these Bylaws and in the Declaration or as determined by the Board.

- 9.7 **Notice of Meetings.** Notice of any meeting where Assessments against Members are to be considered for any reason shall specifically contain a statement that Assessments will be



considered and the nature of any such assessments.

10. **Roster of Owners.** The Association shall maintain current information regarding the title holders of all Owners. Such information shall be obtained by requiring each Member to file with the Association a copy of the deed or other document showing his ownership. The Association may rely upon the accuracy of any such information for all purposes until notified in writing of changes therein.

Only Members of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Members shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

11. **Parliamentary Rules.** Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.

12. **Amendments.** Except as otherwise provided in the Declaration, these Bylaws may be amended in the following manner:

- (a) A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than 1/3 of the votes of Members of the Association. A majority of the Board shall thereupon adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be the annual or a special meeting.
- (b) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member entitled to vote thereon within the time and in the manner provided in these Bylaws for the giving of notice of a meeting of the Members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.
- (c) At such meeting, a vote of the Members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of at least a majority of the Members present in person or by proxy at the meeting (at which a quorum is attained).
- (d) Any number of amendments may be submitted to the Members and voted upon by them at any one meeting.
- (e) If all of the Directors and all of the Members eligible to vote sign a written statement manifesting their intention that an amendment to these Bylaws be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.
- (f) No amendment shall make any changes in the qualifications for membership nor in the voting rights of Members without approval by all of the Members and the joinder of all Institutional Mortgagees holding Institutional Mortgages upon the Lot(s). No amendment shall be made that is in conflict with the Declaration or the Articles.
- (g) No amendment to these Bylaws shall be made which discriminates against any

Member(s) or affects less than all of the Members within the Community, without the written approval of all of the Members so discriminated against or affected.

- (h) Upon the approval of an amendment to these Bylaws, the certificate of amendment shall be executed and a copy shall be recorded in the public records of the County.
- (i) Notwithstanding the foregoing, the Federal Housing Administration and the Veterans Administration shall have the right to veto any amendments to these Bylaws as long as there is a Class B membership if such amendments require the review and approval of either agency in accordance with applicable regulations and if such agencies are providing financing to Homes in the Community.

13. **Rules and Regulations.** The Board may, from time to time, adopt, modify, amend or add to rules and regulations concerning the use and operation of the Community, Members of a majority of the Lots represented at a meeting at which a quorum is present may overrule the Board with respect to the adoption or modification of any rules and regulations. Copies of such rules and regulations shall be furnished by the Board to each affected Member not less than thirty (30) days prior to the effective date thereof.
14. **Construction.** Wherever the context permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders. If any portion hereof shall be found by competent judicial authority to be unenforceable, then only that portion shall be deemed deleted and the remainder shall be given its nearest permissible meaning and effect.
15. **Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.
16. **Conflict.** In the event there should be found any irreconcilable conflict among or between the Declaration, the Articles and/or these Bylaws and in the absence of any express language indicating which document controls the particular subject matter, then the provisions of the Declaration shall be paramount, the Articles next paramount and these Bylaws subordinate.
17. **Indemnification of Officers and Directors.** Subject to the further provisions of this Section, the Association shall indemnify and hold harmless all officers and Directors, (and members of a Committee or Tribunal, as provided in Section 18.3 hereof) past or incumbent, from and against all costs, claims, damages, expenses and liabilities of any kind whatsoever, including attorneys' fees and costs at all tribunal levels, arising out of the performance of such person's duties hereunder. Such indemnification and hold harmless provision shall (i) exist regardless of whether the Association itself is named as a party defendant or alleged to have any liability, (ii) include the payment of any settlements upon approval by the Board, and (iii) include indemnification of the estate and heirs of the indemnified party. Such indemnification and hold harmless provision shall not be applicable (i) to the extent the claim or liability is covered by insurance, or (ii) in the event a court of competent jurisdiction finally determines, after all appeals have been exhausted or not timely pursued, that the indemnified party did not act in good faith within what he reasonably believed to be the scope of his duty and/or authority and for purposes which he reasonably believed to be in the best interests of the Association or its Members generally and such court further specifically determines that indemnification should be denied. The provision of this Section may not be amended to terminate the effect hereof as to any persons who became officers or Directors while this Section was effective.

18. **Suspension of Privileges, Fines.** In accordance with the Act, the Association may lev reasonable fines against Owners and lessees, Guests, and invites for each violation Act or the Governing Documents. Each such fine may not exceed \$250 per violation. Fines may be levied on the basis of each day of a continuing violation, in an amount up to \$250 per day capped at \$5,000 in the aggregate for a specific, continuing violation. Duly levied fines shall be a Charge against the applicable Lot which the Owner, lessee, Guest invitee or agent in violation was residing or was invited to visit or service. The Association may suspend, for a reasonable period of time, the right of an Owner or an Owner's tenant, guest or invitee to use Common Areas and an Owner's Voting Interest in accordance with the Act.
19. **Suspension of Privileges for Failure to Pay Assessments.** The Association may, without notice of a hearing, or an opportunity for a hearing, impose a suspension upon any Member because of the failure of the Member to pay assessments or other charges when due. However, in no event shall a suspension of common area use rights impair the right of an Owner or tenant of a Lot to have vehicular and/or pedestrian ingress to and egress from the Lot, including, but not limited to the right to park.

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