

THIS INSTRUMENT PREPARED BY
AND RETURN TO:
Richard H. Turner III, Esq.
Whibbs Stone Barnett, P.A.
801 W. Romana St., Unit C
Pensacola, Florida 32502

STATE OF FLORIDA
COUNTY OF SANTA ROSA

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS
OF
THE SANCTUARY ON SOUND SIDE

THIS DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS (this "Declaration") is made this ____ day of _____, 2020 by ACADIA DEVELOPMENT, LLC, a Louisiana limited liability company ("Declarant"), whose address is 201 Albertson Parkway, Unit F, Broussard, Louisiana 70518..

WITNESSETH:

WHEREAS, on **NOVEMBER 20**, 2020 Declarant recorded in Plat Book **33**, Page **42-44** of the Public Records of Santa Rosa County, Florida, a subdivision plat for The Sanctuary (the "Plat") pertaining to certain real property owned by Declarant in Santa Rosa County, Florida, as more specifically described on Exhibit "A" hereto.

NOW, THEREFORE, DECLARANT HEREBY DECLARES, that subject to the provisions hereof, all of the Land (hereinafter defined) shall be held, sold and conveyed subject to the restrictions, covenants and conditions contained herein for the purposes of protecting the value and desirability of, and which shall run with, the Land and be binding on all parties having any right, title or interest in the Land or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of the Declarant, the Association and each Owner of any Lot.

ARTICLE ONE
GENERAL PROVISIONS

1.01 Restrictive Covenants and Easements Running with the Land. The use of the Lots and the Common Area shall be in accordance with the provisions and restrictions of this Declaration, all of which are to be construed as restrictive covenants and/or easements, as applicable, running with the land and with the title to each and every Lot and shall be binding upon

all Owners and other persons having interests therein and upon their heirs, personal representatives, successors, grantees and assigns.

1.02 Terminology. Whenever the context requires, words used in the singular shall be construed to mean or to include the plural and vice versa, and pronouns of any gender shall be deemed to include and to designate the masculine, feminine or neuter gender.

1.03 Definitions. The following terms, when capitalized herein, shall have the meaning set forth in this Section 1.03:

- (a) **“Architectural Review Committee”** shall refer to and mean the Architectural Review Committee as established by the Board of Directors in accordance with the Bylaws.
- (b) **“Articles of Incorporation”** shall mean the Articles of Incorporation of The Sanctuary on Soundside Owners Association, Inc., a Florida non-profit corporation, as filed in the records of the Florida Department of State, Division of Corporations, as the same may hereafter be amended, altered or repealed from time to time. A copy of the initial Articles of Incorporation is attached hereto as Exhibit “B”.
- (c) **“Association”** shall mean The Sanctuary on Soundside Owners Association, Inc., a Florida non-profit corporation.
- (d) **“Board” or “Board of Directors”** shall refer to the Board of Directors of the Association, established in accordance with the Articles of Incorporation and Bylaws of the Association.
- (e) **“Builder”** means any commercial home builder or contractor who owns one or more Lots in the Subdivision and is in the business of constructing residential structures to sell to owner-occupants.
- (f) **“Bylaws”** shall mean the Bylaws of the Association, as the same may hereafter be amended, altered or repealed from time to time. A copy of the initial Bylaws is attached hereto as Exhibit “C”.
- (g) **“Common Area”** shall mean the lands designated, respectively, as “Common Area”, “Landscape Buffer” and “Landscape Buffer / Common Area” on the Plat (but excluding the land designated as “Public”, “Wet Pond” on the Plat), and all other land, if any, within the Subdivision which is dedicated for use or maintenance by the Association or its members, in all cases regardless of whether title thereto has been conveyed to the Association.
- (h) **“Declarant”** shall mean Acadia Development, LLC, a Louisiana limited liability company, its successors and assigns which expressly are assigned the Declarant’s rights, and assume the Declarant’s obligations, as “Declarant” hereunder.

- (i) **“House” or “Home”** shall mean and refer to any single family residential dwelling unit situated upon a Lot.
- (j) **“Land”** shall mean all of land described in Exhibit “A” attached hereto and incorporated herein by reference.
- (k) **“Lot”** shall mean each and every numbered lot shown on the Plat of Subdivision.
- (m) **“Member”** shall mean and refer to every person or entity who is a member of the Association.
- (n) **“Owner”** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding mortgagees, lien holders, lessees, tenants, and those having such interests solely as security for the performance of an obligation.
- (o) **“Person”** means any individual, corporation, trust, partnership, joint venture, limited liability company or other entity.
- (p) **“Plat of Subdivision”** has the meaning ascribed to such term hereinabove and shall also include any additional plat or plats or real property that are hereafter recorded where such real property is annexed to this Declaration in accordance with the terms of Section 9.02 hereof.
- (q) **“Stormwater Management System”** shall mean a surface water management system that is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.
- (r) **“Stormwater Management Facility”** shall mean, collectively, the lands designated on the Plat as drainage easements and detention pond areas.
- (s) **“Subdivision”** shall mean The Sanctuary, being the subdivision as shown on the Plat of Subdivision, plus any Additional property made subject to this Declaration in accordance with the terms of Section 9.02.
- (t) **“Turnover”** means the earlier to occur of (i) Declarant relinquishing control of the Association in a written instrument recorded in the real property records of Escambia County, Florida, (ii) any event described in Florida Statutes, Section 720.307(1), or (iii) December 31, 20 NOTE = TO BE 20 YEARS FROM EFFECTIVE DATE; provided however, in the event of a conflict between the Florida Statutes and the foregoing, the applicable Florida Statute controls.

1.04 Purposes. It is intended that the Subdivision development will be a residential community of high esteem and quality homes.

ARTICLE TWO COMMON AREA

2.01 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, the Articles of Incorporation and the Bylaws, shall be responsible for the exclusive maintenance, management, and control of the Common Area and all improvements thereon, and shall keep the Common Area in good, clean, attractive, and sanitary condition, order, and repair pursuant to the terms and conditions of this Declaration. Buildings and improvements of a permanent nature erected or placed on the Common Area and any activities that alter the nature of the Common Area shall require the prior approval of the Members. The Association has the right to restrict the use and govern the operation of the Common Area by promulgating reasonable rules and regulations, including with respect to any Common Area facilities, the right to charge reasonable one-time or monthly fees for the use thereof by the Owners as the Association deems necessary or appropriate. Rules and regulations may be established by the Association to regulate the use of the Common Area. The necessary work or maintenance, repair and replacement of the Common Area and the making of any additions or improvements thereto shall be carried out only as provided in this Declaration, the Articles of Incorporation and the Bylaws.

2.02 Right of Enjoyment. Subject to any rules and regulations promulgated by the Board of Directors, every Member shall have a right and easement of enjoyment of the Common Area for its intended purpose, and such easement shall be appurtenant to and pass with the title to each Lot.

2.03 Restrictive Covenant on Common Area. A restrictive covenant is hereby imposed on the Common Area such that no part of the Common Area may be developed for residential or commercial purposes; provided, however, that Declarant and/or the Association shall have the right, but not the obligation, to construct and install amenities on the Common Area that are for the use and enjoyment of the Members, subject to the terms and conditions hereof and any rules and regulations adopted by the Association. This restrictive covenant shall run with each Lot and shall exist for the benefit of the Owners and be binding upon, their successors and assigns.

2.04 Lots Subject to Covenants, Restrictions, Limitations and Term. Each Lot that shall be conveyed, held, devised, leased, or demised at any time hereafter shall be subject to all the terms, conditions, covenants, restrictions, and limitations herein contained, and the obligation to observe and perform the same whether or not it be so expressed in the deed or other instrument of conveyance of the Lot or property, and such shall run with the Lot or real property and be appurtenant thereto as if fully set out in such deed or instrument of conveyance, subject to the terms and conditions hereof.

2.05 Easements and Buffer Strips.

- (a) Access Easement. An easement for vehicular and pedestrian access is hereby reserved over and across all private roadways in the Subdivision for the benefit of the Association, all Owners, and all tenants and guests of all Owners (the “**Access Easement**”). The Association shall have the right to promulgate rules and regulations for the use of the Access Easement. The maintenance and repair of the road surface that constitutes the Access Easement shall be performed by the Association as a common expense.
- (b) Easements and Buffer Strips. All public areas, easements, buffer and landscape buffer strips shown on the Plat are hereby adopted as part of this Declaration and all Lots in the Subdivision shall be subject to such easements, buffer and landscape buffer strips. Further, that certain perpetual ingress and egress easement granted to Acadia Development, LLC, and recorded at _____ book, _____ page of the Public Records of Santa Rosa County, Florida is adopted as part of this Declaration.
- (c) Structures. No dwelling unit, house, home, and/or other structure of any kind shall be built, erected, or maintained upon any easement, and said easements shall at all times be open and accessible to public and quasi-public utility corporations for their respective intended purposes, and to other persons erecting, constructing, or servicing such utilities, and to the Association, its successors or assigns, all of whom shall have the right of ingress and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under, and upon said locations for the carrying out of any of the purposes for which said easements are hereby reserved and may hereafter be reserved.
- (d) No fences shall be constructed in the drainage easements, and such easements shall be accessible at all times. No structures shall be located within drainage easements or public areas that may prohibit or restrict the flow of stormwater.
- (e) Conservation or Preservation Easement. A conservation or preservation easement is present on the land.
- (1) Prohibited Uses. Any activity on or use of the easement inconsistent with the purpose of this easement is prohibited. Without limiting the foregoing, the following activities and uses are expressly prohibited, except for restoration, creation, enhancement, maintenance, and monitoring activities authorized by the Permit:
- aa. Construction or placing of structures on, above or below the ground, including but not limited to: buildings, roads, docks, piers, boardwalks, billboards, or other advertising, utilities, signs (other than those marking the conservation easement), or other structures.
- bb. Dumping or placing of soil or other substance of material as land fill, or dumping or placing of trash, waste or unsightly or

- offensive materials;
- cc. Removal or destruction of trees, shrubs or other vegetation, except nuisance, invasive, exotic or nonnative species upon prior written approval by the DEPARTMENT;
 - dd. Planting or seeding of exotic or nuisance species or other plants that are outside their natural range or zone of dispersal and have or are able to form self sustaining, expanding and free living populations in a natural community with which they have not previously associated;
 - ee. Exploration for or extraction of oil or gas, and excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface;
 - ff. Surface use except for purposes that permit the land or water area to remain in its natural condition;
 - gg. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation including, but not limited to, ditching, diking, dredging and fencing;
 - hh. Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas;
 - ii. Acts or uses detrimental to the preservation of the structural integrity of physical appearance of sites or properties of historical, architectural, archaeological or cultural significance.
 - jj. The use of All-Terrain Vehicles, other than those used for land management activities.

2.06 Control of Common Area. The Association may, upon approval the Members, sell, subdivide, lease, mortgage, grant easements over or otherwise encumber the Common Area, or exchange all or any portion of the Common Area for Lots or other real property, or purchase or acquire any additional real property and dedicate the same as Common Area subject to the terms of this Declaration.

2.07 Condemnation. In the event of a taking by eminent domain of any portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements so taken on the remaining Common Area, unless within sixty (60) days after such taking, an alternative plan is approved by at least 75% of the voting interests of the

Members. The provisions of this Declaration applicable to replacement or restoration of damaged improvements on the Common Area shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

2.08 Liability. Owners, occupants and their guests shall use and enjoy the Common Area at their own risk and shall assume sole responsibility for their personal belongings used or stored there. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the foregoing property. The Association shall not be liable for injury or damage to any person or property (a) caused by the elements or by an Owner or any other person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or occupant for loss or damage, by theft or otherwise, of any property of such Owner or occupant.

2.09 Right to Transfer. The Association shall have the right 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. No such dedications or transfers shall be effective unless an instrument signed by the Members entitled to cast sixty seven percent (67%) of the votes of the Association has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than (30) days and no more than sixty (60) in advance of such dedication or transfer.

Notwithstanding the foregoing provisions of this Section 2.09 or any other provisions of this Declaration, Declarant specifically reserves and retains the rights to transfer and convey to Santa Rosa County, a political subdivision of the State of Florida, or to any other appropriate entity which complies with Rule 62-330.310, F.A.C., and NFWMD Applicant's Handbook Volume 1, Section 12.3, as approved by NFWMD (defined below), the Stormwater Management Facility and any other stormwater management system now or hereafter on the Common Area of the Subdivision, upon such terms and for such consideration as the Declarant deems advisable in its sole and absolute discretion, without the vote, approval, consent or joinder of the Association or the directors or members of the Association.

2.10 Suspension from Common Area. In accordance with Chapter 720, Florida Statutes, the Association shall have the right to suspend the voting rights and the right of an Owner to use and enjoy any recreational facilities, if any, situated upon the Common Area for any period during which any assessment against an Owner's Lot remains unpaid or any violation of the provisions of this Declaration remain uncured by the Owner, but in no event shall the suspension of voting rights and the right of an Owner to use and enjoy any recreational facilities situated upon the Common Area exceed sixty (60) days for any infraction of its published rules and regulations pertaining to the use and enjoyment of any such recreational facilities.

ARTICLE THREE
ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

3.01 The Association. The operation and administration of the Common Area shall be handled by the Association. The Association shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of Owners with reference to the Common Area and with reference to any and all other matters in which all of the Owners have a common interest. The Association shall have all the powers and duties set forth in the Articles of Incorporation and the Bylaws. The Association shall have a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Common Area and further, shall have the right to grant permits, licenses, and easements over the Common Area for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Common Area. The Board of Directors shall have the authority and duty to levy and enforce the collection of general and specific assessments for common expenses and is further authorized to provide adequate remedies for failure to pay such assessments.

3.02 Membership. Each Owner shall be a Member, subject to the terms and conditions of the Articles of Incorporation and the Bylaws.

3.03 Voting. Voting by Owners shall be in accordance with the Articles of Incorporation and the Bylaws.

3.04 Assignment. The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as an appurtenance of said Owner's Lot.

3.05 Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area (the "Reserve Account"). The Reserve Account shall be maintained out of regular assessments for common expenses.

3.06 Delegation of Management Duties. The Association, through its Board of Directors and in accordance with the authority granted to the Board in the Bylaws, may, but shall not be obligated to, contract for the management and maintenance of the Common Area with a licensed manager or a management company to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, keeping of records, enforcement of rules and maintenance, repair and replacement of the Common Area with funds made available by the Association for such purposes. The Association and its officers however, shall retain at all times the powers and duties provided in Chapter 720, *Florida Statutes*, as amended from time to time.

ARTICLE FOUR
COVENANT FOR MAINTENANCE ASSESSMENTS

4.01 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot, hereby covenants, and each Owner of any Lot, regardless of how his or her title has been acquired, upon acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments for capital improvements to the Common Area, and (3) the lien for assessments for capital improvements to the Common Area by any governmental entity ("Governmental Assessments"), as such assessments are hereinafter established and shall be collected as hereinafter provided. The annual, special, and Governmental Assessments, together with interest, costs, an administrative late fee not to exceed the greater of \$25 or 5% of the amount of each installment that is paid past the due date, and reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which each such assessment is made. Any payment received and accepted by the Association shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees, and then to the delinquent assessments. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall pass to successors in title.

4.02 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to provide for the management, care and maintenance of the Common Area and any improvements constructed thereon, including provision for appropriate insurance against casualty and liability. The Association shall have the obligation to maintain the Common Area (including, without limiting the generality of the foregoing, any and all easements, drainage facilities, landscaping, structures, holding and retention ponds, and the like, whether denominated as such or otherwise, excluding, however, the Stormwater Management Facility and any drainage facilities and holding and retention ponds conveyed to and accepted by any public or quasi-public entity in accordance with this Declaration) and shall pay all ad valorem property taxes assessed upon them. The Association may fund in the Reserve Account such sums as it determines in good faith are necessary and adequate to make periodic repairs and improvements to any part of the Common Area.

4.03 Annual Assessments. To provide the total sum necessary for the insurance, Reserve Account and improvements within the Subdivision, each Member for each Lot owned shall pay a portion of the total amount necessary for such purposes to the Association equal to one-twenty-seventh (1/27) of such total amount. The amount of assessment assessed against each Member as provided under the foregoing sentence shall be assessed by the Association as a lien at the beginning of each annual assessment period.

4.04 Special Assessments for Capital Improvements Upon Common Area. In addition to the annual assessments authorized above, the Board of Directors 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, reconstruction, repair or replacement of a capital improvement upon the Common Area and any entrance wall or signage, including fixtures and personal property

related thereto; provided, however, that the total of all such special assessments for any given calendar year shall not exceed \$500 per Lot, unless such special assessments in excess of such total are approved by the affirmative vote of the Members holding a majority of the voting rights in the Association. Notwithstanding the foregoing, before Turnover, the Board of Directors may not levy a special assessment unless a majority of Members, other than the Declarant, has approved the special assessment at a duly called special meeting.

4.05 Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein shall commence as to a particular Lot upon conveyance of the Lot to any Owner who is not Declarant or a Builder. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and one-fourth (1/4th) of any annual maintenance or other special assessment shall be due each calendar quarter. Within thirty (30) days after a written request, the Association shall, for a reasonable charge as established by the Board of Directors, furnish a certificate signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. DSLD Homes (Florida) LLC, shall be exempt from any and all assessments.

4.06 Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest thereon at a rate to be set by the Board of Directors but in no event greater than the maximum percentage rate as may then be permitted under the laws of the State of Florida. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same, foreclose a lien against the property or seek injunctive relief. Interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to or other conveyance of an interest in a Lot, hereby expressly vests in the Association the right and power to bring all actions against such Owner personally for the collection of each charge as a debt and to foreclose the aforesaid lien by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of the Association in a like manner as a mortgage lien on real property. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all Owners. The Association, acting on behalf of the Owners, shall have the power to bid for an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of said Owner's Lot. The Board of Directors may also suspend the use rights of any Owner of the Common Area in the event of a failure to pay any assessment within thirty (30) days of the applicable due date. Prior to such suspension, any Owners will be given 14 days' notice of the suspension and an opportunity for hearing, if required, pursuant to Florida law.

4.07 Subordination of the Lien to Mortgages. All sums assessed by the Association for common charges applicable to any Lot remaining unpaid will constitute a lien on the Lot prior to all other liens except, subject to Section 4.08 below, any amounts unpaid under first mortgages and trust

deed instruments duly recorded in the public records prior to the Association's recording of a claim of lien in the public records. The lien of the Association is perfected upon recording a claim of lien in the Public Records of Santa Rosa County, Florida, stating the description of the Lot, the name of the record owner, the name and address of the Association, the assessment amounts due and the due dates.

4.08 Acquisition of Lot at Foreclosure or Other Sale; Effect.

- (a) An Owner, regardless of how his or her title to a Lot has been acquired, including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments, including any Governmental Assessment, which come due while he or she is the Owner. Additionally, an Owner is jointly and severally liable with the previous owner for all unpaid assessments, including any Governmental Assessment, that came due up to the time of transfer of title. This liability is without prejudice to any right the Owner may have to recover from the previous owner the amounts paid by the Owner.
- (b) Notwithstanding any contrary provision in Section 4.07 or Section 4.08(a) above, a first mortgagee, or its successor or assignees as a subsequent holder of a first mortgage, who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure shall be liable for payment of the unpaid assessments that became due before the mortgagee's acquisition of title, up to, but not exceeding, the lesser of:
1. The Lot's unpaid common expenses and regular periodic or special assessments which 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
 2. One percent (1%) of the original mortgage debt.

The limitations set forth in subparagraphs 1 and 2 of this paragraph (b) shall apply only if the first mortgagee joined the Association as a defendant in the foreclosure action; otherwise, a first mortgagee's liability for unpaid assessments that became due before the mortgagee's acquisition of title shall not be limited by said subparagraphs 1 and 2. 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 which was known to or reasonably discoverable by the mortgagee.

4.09 Estoppel Letter. The Association shall, within thirty (30) days after receiving a written request therefor and for a reasonable charge, as established by the Board of Directors, certify to the amount of any unpaid assessments constituting a lien on a specified Lot. A certification letter signed by an officer of the Association or the Association's managing agent, if any, as to the amount of assessments due with respect to a Lot shall be binding upon the Association.

4.10 Declarant Exemption; Assessments during Declarant Control. Notwithstanding anything contained in this Declaration to the contrary, all Lots owned by Declarant shall be exempt from assessments of any type by the Association until the first to occur of (i) Declarant's execution and recording in the real property records of Escambia County, Florida of a written waiver of the exemption from assessments set forth in this Section 4.10 or (ii) Turnover; provided, however, that for so long as Declarant's Lots are exempt from assessments, Declarant shall be responsible for and shall pay any and all operating expenses of the Association that exceed the amount of assessments receivable hereunder from the other Members and other income sources (if any) of the Association.

ARTICLE FIVE MAINTENANCE AND REPAIR

5.01 Maintenance. The Association shall provide maintenance of the Common Area. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Subdivision and to enter into easement and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. Each Owner shall maintain his or her respective Lot and shall also maintain and repair, at such Owner's sole cost and expense, said Owner's House, patio and yard area keeping the same in good condition and making all structural repairs and maintenance, external and internal, as may be required from time to time, including, but not limited to maintenance and repairs of any enclosed patio area, screens and screen doors, exterior door and window fixtures, glass, and other hardware. Each Owner shall also be responsible for the maintenance and repair of any fence or fences erected on such Owner's Lot and gates appurtenant thereto.

5.02 Failure to Maintain. In the event an Owner shall fail to maintain and repair his Lot and the improvements situated thereon, as provided for herein and provided that the failure to so maintain shall cause damage or injury to the adjoining Lot or to common structural elements which affect an adjoining Lot, the Association, after approval by a majority vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the House and any other improvements erected thereon. The cost of the same shall be added to and become part of the assessment to which such Lot is subject; provided, however, if a dispute arises concerning the foregoing between the Lot Owner and the Association, the matter may be submitted to arbitration in accordance with the mutual agreement of the parties.

5.03 Damage to Common Area. Notwithstanding anything contained in this Article Five to the contrary, each Owner shall be personally responsible and personally liable for any damage to the Common Area, or any portion thereof, caused by the Owner and/or the Owner's family members, guests, invitees, lessees or licensees as a consequence of the negligence, recklessness or willful misconduct of such person. The cost of repair for any damage so caused by the Owner, the Owner's family members, guests, invitees, lessees or licensees shall be a special assessment against the Owner responsible therefor and the Lot of such Owner.

ARTICLE SIX
ARCHITECTURAL CONTROL

6.01 Submission of Plans and Specifications. No House, building, fence, wall, or other structure or improvement shall be constructed, erected, or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted by a Lot Owner to and approved in writing as in harmony with this Declaration and the external design and location of the surrounding structures and topography by the Architectural Review Committee. Two (2) copies of the final building or construction plans, specifications, and plot plat showing the location of each building, structure, or improvement (collectively, the "Plans") shall be submitted to the Architectural Review Committee. Prior to commencement of any construction activities on a Lot, a Lot Owner's Plans must be approved by the Architectural Review Committee as to conformity and harmony with this Declaration and of external design with the existing or planned structures in the Subdivision and as to location of the building, structure, or improvement with respect to topography and finished ground elevation. The Architectural Review Committee may, from time to time, establish additional written design guidelines for the Subdivision.

6.02 Approval or Disapproval. The Architectural Review Committee shall indicate its approval or disapproval of such plans and specifications by delivering, in writing, notice of such approval or disapproval to the requesting Lot Owner. In the event the Architectural Review Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval shall be deemed automatically given. DSLD Homes (Florida), LLC, shall have full architectural approval on all Lots owned by DSLD Homes (Florida), LLC.

6.03 Right of Inspection. The Architectural Review Committee shall have the right, but not the obligation, to inspect the Owner's Lot and improvements during construction and prior to occupancy to insure construction in accordance with the construction plans submitted and approved by the Architectural Review Committee. Failure of an Owner to comply with the provisions of this Section 6.03, or failure of an Owner to carry out construction in accordance with the provisions of this Article, shall subject such Owner to such remedies as might be available at law or in equity (including, but not limited to, specific performance and injunction, payment of the prosecuting parties' reasonable legal fees and expenses).

6.04 Limited Review. The scope of review by the Architectural Review Committee is limited to appearance only and does not include any responsibility for structural soundness, suitability of construction or materials, compliance with building or zoning codes or standards, this Declaration, or any other similar or dissimilar factors.

6.05 Waiver of Liability. Neither the Architectural Review Committee nor any architect nor agent thereof nor the Association nor any agent or employee of any of the foregoing shall be responsible in any way for the failure of any improvements to comply with the requirements of this Declaration, nor for any defects in any plans and specifications submitted, revised or approved

in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, and all persons relying thereon or benefiting therefrom agree not to sue or claim against the entities and persons referred to in this Section for any cause arising out of the matters referred to herein and further agree to and do hereby release said entities and persons for any and every such cause.

ARTICLE SEVEN
USE RESTRICTIONS

7.01 Residential Use. All Lots within the Subdivision shall be used, known and described only as residential lots. No building or structure shall be erected, altered, placed or permitted to remain on any Lot other than a single-family residential dwelling and, if any, customary and usual accessory structures. No building or structure intended for or adapted to business purposes, shall be erected, placed permitted or maintained. This covenant shall be construed as prohibiting the engaging in or practice of any commerce, industry, business, trade or profession within the Subdivision. Notwithstanding the foregoing, Declarant, in its discretion, may allow one or more homebuilders to build, own and operate model homes in the Subdivision. DSLD Homes (Florida) LLC shall be allowed to build and operate a model home as long as DSLD Homes (Florida) LLC owns a lot in the subdivision.

7.02 General Restrictions. Each Lot shall be impressed with the following restrictions, covenants and conditions for the purpose of carrying out a general plan of development and maintenance of the premises:

- a. All dwellings shall be constructed to front on the street on which the Lot fronts unless any Lot in question fronts on two streets in which case the dwelling constructed on such Lots shall as the Architectural Review Committee may approve. All dwellings are approved for either a front and/or side entry garage.
- b. All dwellings and accessory structure shall be erected and maintained behind the building line shown on the Lot, or as otherwise approved by the Architectural Review Committee.
- c. No dwelling or accessory structure shall be erected or maintained nearer to the side line of any Lot as may be required by the Santa Rosa County. Building setbacks are not to exceed 7' either side, 25' front and 25' rear.
- d. The floor area (that enclosed for heating and /or air conditioning) of any living unit shall be not less the 1400 square feet.
- e. All dwellings shall be constructed of approved material including stucco, brick, hardy board, dimensional shingles, vinyl windows, vinyl fascia, vinyl soffit, vinyl porch ceilings, vinyl chimneys, and fiberglass doors, or such other

materials as may be approved by the Architectural Review Committee. In no event shall any used building be moved onto any Lot.

- f. No dwelling, accessory structure or fence shall be erected or maintained on any Lot until the building plans and specifications for same and a plot plan showing the proposed location of the same have been approved by the Declarant, or a representative designated by it. This section shall be applicable to initial construction and to alterations, changes and additions at any time subsequently made. Roofs shall be of architectural shingles.
- g. Where a wall, fence, planter, hedge or other screening material is approved by the Architectural Review Committee, or a representative designated by it, the following shall apply. No wall, fence, planter, hedge or other screening material in excess of 2 ½' high shall be erected or maintained nearer to the front Lot line than the front building setback line, nor on the corner Lots nearer to the side Lot line than the building setback line parallel to the side street. No rear or side fence, wall, hedge or other screening material shall be more than six (6') feet high. All fences shall be limited to rear yards only and constructed of wood.
- h. All Lots shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family residence per Lot, which residence may not exceed 2 ½ stories in height, and a private garage as provided below.
- i. Each living unit may be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living together as a single housekeeping unit, together with any household servants.
- j. None of the Lots shall be subdivided into smaller Lots.
- k. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose nor allowed to roam freely throughout the subdivision.
- l. No noxious or offensive act or activity shall be allowed upon any Lots, nor shall anything be done thereon which may become an annoyance or a nuisance to the neighborhood.
- m. No sign shall be erected or maintained on any Lot except a "for sale" sign which sign shall not exceed six (6) square feet in size; provided that during construction a home builder may, with Declarant's prior written consent, erect and maintain reasonable promotional signage. Further, Declarant, may, in its discretion, allow one or more home builders to erect and maintain reasonable promotional signage at or near the entrance of the Subdivision. DSLD Homes

(Florida) LLC shall be allowed to erect signage at DSLD Homes (Florida) LLC sole discretion.

- n. Satellite dishes shall be installed in the rear only and any television dishes that are larger than 18 inches in diameter must not exceed fence height and shall be screened from street view.
- o. The garage door of any house or residence within the Subdivision may be front or side entry.
- p. A Lot or any portion of any Lot that is exposed to the public view must be maintained by the property owner in a neat and orderly fashion. In the event this restriction is not complied with, the Association has the right to cause this maintenance to be done at the expense of the property owner.
- q. No Lot affected hereby shall be used for the dumping or storage of rubbish, trash, debris, surplus soil or rocks, etc.
- r. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot.
- s. No outbuilding, shop or trailer or residence of a temporary character shall be permitted. No building material of any kind or character shall be stored upon the Lot until the Owner is ready to commence improvement.
- t. No house trailer, mobile home, camper, boat trailer or similar wheeled vehicle shall be stored or parked on any Lot except in a closed garage or completely screened behind a six foot wooden privacy fence.
- u. All houses and structures permitted shall be completed within nine (9) months from date of commencement of construction and all temporary structures shall be removed unless otherwise extended by the Architectural Review Committee. No structure shall be occupied unless and until the premises are connected in a proper way with the public sewage system.

- v. Storage of commercial transport or delivery vehicles including, but not limited to, tractor trailers and heavy equipment are strictly prohibited. No vehicle of any size which transports inflammatory or explosive cargo may be kept, parked or stored.
- w. Mailboxes shall be uniform style, or as approved by the Architectural Review Committee.
- x. Each Lot on which a living unit is constructed shall have landscaping done in accordance with preliminary drawings to be approved by the Architectural Review Committee prior to beginning work. Landscaping of a Lot shall be completed within ninety (90) days after the date on which the living unit is substantially complete and a certificate of occupancy is issued. Lot owners shall preserve, keep and maintain the landscaping, including all sodded areas, in a healthy and attractive condition.
- y. Each Lot owner shall mow and maintain the landscaping and vegetation on his Lot in such a manner as to control weeds, grass and/or other unsightly growth. If after ten (10) day's prior written notices an owner shall fail to (1) control weeds, grass and /or other unsightly growth; (2) remove trash, rubble, building and construction debris; or (3) exercise reasonable care of conduct to prevent or remedy an unclean, untidy or unsightly condition, then the Association shall have the easement, authority and right to go onto said Lots for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect from the Lot owner a reasonable fee for mowing and cleaning said Lot on each respective occasion of such mowing and cleaning. The assessments, together with such interest thereon and costs of collection thereof, shall be a charge on the land shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof, shall also be the continuing personal obligation of the person who was the owner of such Lots at the time when the assessments occurred. The lien securing any such assessment shall be subordinate and inferior to the lien of any mortgage or any renewals or extensions thereof existing prior to the assessment date.
- aa. Each owner of any Lot or living unit shall have the duty and responsibility to keep his/her property including House and grounds in connection therewith and including any landscaped area located within the public street or right-of-way immediately adjacent to such property in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:
- i. Keeping all improvements, parking areas, driveways and roads in good repair.
 - ii. Repainting of Houses, where applicable.

- iii. Repair of exterior damage to Houses.
 - iv. Keeping exterior lighting and mechanical facilities in good working order
 - v. Keeping all lawn, garden and green areas alive and attractive; properly mowed, trimmed, watered and fertilized; and free of weeds and vegetation destroying insects.
- bb. All driveways shall be entirely of concrete and shall be paved before any living unit may be occupied.
 - cc. No window or wall type air conditioner or heater shall be permitted to be used, erected, placed or maintained on or in any living unit.
 - dd. On street parking is restricted to approved deliveries, pick-up or short-time guest and invitees and shall be subject to such reasonable rules and regulations as shall be adopted by the Association. No overnight parking on streets is permitted.
 - ee. No exterior storage of any items of any kind shall be permitted, except with prior written approval and authorization of the Association. Any such storage as is approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals) from view from neighboring property, living units, pathways, and streets. This provision shall apply, without limitation, to woodpiles, camping trailers, boat trailers, travel trailers, boats, mobile homes, and unmounted pick-up camper units. Also, without limitation, no automobile, truck or other vehicle, regardless of ownership, age, condition, or appearance shall remain on any Lot in any manner which could be construed as being stored, neglected, abandoned, or otherwise not in frequent use, except pursuant to written approval and authorization of the Association.
 - ff. No owner shall permit anything or condition to exist upon any Lot, which shall induce, breed, or harbor plant disease or noxious insects.
 - gg. A minimum roof pitch of 7/12 (7" rise per foot of run) shall be required on one story homes (excluding porches, patios and breezeways) and maintain a minimum roof pitch of 6/12 (6" rise per foot of run) shall be required on two story houses (excluding porches, patios, and breezeways) unless otherwise approved by the Architectural Review Committee.

7.03 Compliance With Law. In all cases, each Owner shall comply in all respects with all applicable laws, rules and regulations (including, without limitation, applicable zoning ordinances) promulgated by any governmental authority having jurisdiction over the Lots and the Common Area.

ARTICLE EIGHT
ENFORCEMENT; DURATION; AMENDMENT

8.01 **Enforcement.** The Association, the Board of Directors, the Architectural Review Committee and/or any Owner shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed by the provisions of this Declaration. Failure by the Association, the Board of Directors, the Architectural Review Committee and/or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.02 **Enforcement by Owners.** An Owner may file a legal action for the violation of this Declaration (the "Complainant"), provided that the following procedure is strictly followed:

- (a) The Complainant must first give the Association written notice of the alleged violation of this Declaration together with a demand seeking that the Association enforce the terms of this Declaration as against said violator; and
- (b) The Association must fail to cause a cure of the alleged violation or, if the alleged violation has not been cured, fail to commence legal proceedings against said violator for the enforcement of the terms and conditions of this Declaration within one hundred twenty (120) days of the date of the Association's receipt of the notice referenced in subsection (a) hereof.

8.03 **Attorneys' Fees.** In any action (whether in advance of or prior to the initiation of any legal or equitable proceeding, in arbitration, in trial, in any administrative or other similar proceedings, or in any appeal from any of the same) pertaining to any condition, restriction or covenant herein contained (due to their alleged violation or breach) or for the enforcement of any lien against any Lot or against any person or entity, unless otherwise expressly provided in this Declaration to the contrary for specific instances and conflicts, the prevailing party shall be entitled to recover all costs, including reasonable legal fees and expenses.

8.04 **Term.** This Declaration is to take effect upon recordation and shall be binding upon the Association and all Owners and all persons and entities claiming title under and through them for twenty-five (25) years after the date this Declaration is recorded in the public records, after which it shall be automatically extended for successive ten (10) year periods unless an instrument in writing, signed by Members holding at least seventy percent (70%) of the voting interests in the Association, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

8.05 **No Additional Burden.** No amendment of this Declaration shall place an additional burden or restriction or requirement on any Lot where the Owner of such Lot does not join in said amending instrument.

8.06 Amendments. This Declaration may be amended by vote of the Members having seventy-five percent (75%) of the voting interests in the Association, or by a written instrument signed by the same percentage of Members. The Declarant shall have and reserves the right at any time and from time to time, without the joinder or consent of any other party to amend this Declaration by any instrument in writing duly signed, acknowledged and filed for record for the purpose of correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or adversely affect the vested property or other rights of any Owner or his mortgagee.

8.07 Fines. Failure by an Owner, or by an Owner's tenant, guest or invitee, to comply with the terms of this Declaration, the Bylaws or with any rules and/or regulations as reasonably imposed by the Association shall result in a fine payable to the Association by the Owner of said Lot in an amount not to exceed \$100.00 per day for as long as the violation continues. The aggregate amount of fines imposed under this provision is unlimited. The Owner shall be given written notice and an opportunity to cure any such violations at least fifteen (15) days prior to the imposition of any such fine. The Owner shall be given the opportunity for a hearing before a committee of at least three (3) Members of the Association appointed by the Board of Directors, who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. If the committee does not approve the proposed fine or suspension by majority vote, it may not be imposed. If the committee does approve the proposed fine or suspension, the Association must provide written notice of such fine or suspension by mail or hand delivery to the Owner, and, if applicable, to any tenant, licensee, or invitee of the Owner. In any action to recover a fine, the Association is entitled to collect its attorney's fees and costs from the offending Owner. This provision shall not apply to a violation which consists only of an Owner's failure to pay assessments when due.

ARTICLE NINE RESERVED DECLARANT RIGHTS

9.01 General Reserved Rights. Until Turnover, Declarant reserves unto itself, its successors and assigns:

- (a) A right-of-way and easement for ingress and egress and easement for utilities, drainage, maintenance, repairs and other related uses over, along, and across the Common Area for all purposes relating in any manner to the subdividing, developing or aiding in the development of the Subdivision or any parts or parts thereof or additions thereto by Declarant or others.
- (b) The right to grant easements and rights-of-way of ingress and egress and for drainage, utilities, maintenance and repairs along, over, across and under the Common Area to any person, firm, corporation or entity for use as ingress or egress or for drainage, utilities, maintenance and repairs.
- (c) The right to maintain, and grant Builders the right to maintain, a sales office and/or a management office and/or one or more model homes in the Subdivision and to

maintain signs therein advertising the Subdivision and to conduct its business and sales activities pertaining to the Subdivision therein and therefrom.

All of the above rights and interests reserved by Declarant may be exercised by Declarant without the consent or concurrence of the Association or any Member.

9.02 Right to Annex Property. Declarant hereby reserves the right, exercisable in its sole and absolute discretion, to (a) make any real property adjacent to the Subdivision (the "Additional Property") subject to all or any of the terms and conditions of this Declaration and/or (b) permit owners of Additional Property to become Members of the Association. No assurances can be made as to whether any Additional Property will be added. Furthermore, Declarant expressly reserves the right to exercise this right on multiple occasions until Turnover. No assurances can be made with respect to the boundaries of any portions of any Additional Property that might be added. Declarant's option to add any Additional Property in accordance with this Section shall expire upon Turnover. The Additional Property may be added in accordance with this Section by an amendment to this Declaration, which amendment may be made and entered into by Declarant in its sole and absolute authority and discretion without the consent, approval or signature of the Association or any Member (except for the consent rights granted in Section 9.05). Notwithstanding anything contained in this Section to the contrary, no Additional Property shall be subject to this Declaration unless and until Declarant executes and records in the amendment to this Declaration affirmatively exercising Declarant's rights hereunder in the office in which this Declaration is recorded.

9.03 Amendment of Declaration by Declarant. Until Turnover, Declarant reserves unto itself the right, authority, and power to amend this Declaration in any manner Declarant deems necessary and appropriate. Any amendment to this Declaration made in accordance with this Section shall require only the signature of Declarant and shall not require the signature of any other Lot Owner or any mortgagee of any Lot Owner.

9.04 Turnover. All rights of Declarant hereunder shall automatically terminate upon Turnover, except those rights that Declarant holds as an Owner and not by virtue of being the declarant under this Declaration, which shall continue as long as Declarant is an Owner. Further, Declarant's easement granted in Section 2.05 shall survive turnover and shall exist until Declarant has completed development.

9.05 Insurance on Common Area. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U.S. Department of Housing and Urban Development, as applicable to the Subdivision. Accordingly, the Board shall obtain casualty insurance for all insurable improvements, whether or not located on the Common Area, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall obtain a public liability policy applicable to the Common Area covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and, if reasonably available, directors' and officers'

liability insurance. Policies may contain a reasonable deductible as determined by the Board. In addition to the other insurance required by this section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the policy is in force, or any lesser amount of fidelity coverage allowable under the applicable Fannie Mae guidelines. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

9.06 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policies required hereunder shall be in effect at all times.

9.07 Damage and Destruction – Insured by Association. Not later than ninety (90) days after damage or destruction by fire or other casualty to any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within 120 days after the casualty, a proposal not to repair or reconstruct such property is approved by at least seventy-five percent (75%) of the voting interests of the Members. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred eighty (180) days. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or

reconstructed and no alternative improvements are authorized, the property shall thereafter be maintained by the Association in a neat and attractive condition.

9.08 Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within ninety (90) days after such damage or destruction, or, where repairs cannot be completed within ninety (90) days, they shall be commenced within such period and shall be diligently and continuously pursued until full completion, but in no event shall completion of such repairs take longer than two hundred seventy (270) days from the date of such damage or destruction. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within ninety (90) days after such damage or destruction. Upon demolition of all improvements on the Lot, the Owner shall ensure that the Lot does not become overgrown with weeds or other nuisance vegetation (as reasonably determined by the Association), shall maintain the Lot free and clear of all debris, and shall maintain the Lot in accordance with any written guidelines for the Subdivision established by the Architectural Review Committee.

ARTICLE TEN MISCELLANEOUS

10.01 Savings. If any provision or provisions of this Declaration, or any article, section, sentence, clause, phrase, or word herein, or the application thereof, is in any circumstances held invalid, the validity of the remainder of this Declaration and the application thereof shall not be affected thereby.

10.02 Captions. The captions in this Declaration are for convenience only and are not a part of this Declaration and do not in any way limit or amplify the terms and provisions of this Declaration.

10.03 Applicable Law. The laws of the State of Florida shall govern this Declaration. All actions or proceedings in any way, manner or respect, arising out of or from or related to this Declaration shall be litigated only in courts having situs within the county in which the Subdivision is located. Each Owner hereby consents and submits to the jurisdiction of any local, state or federal court located within said county and state and hereby waives any rights it may have to transfer or change the venue of any such litigation. The prevailing party in any litigation in connection with this Declaration shall be entitled to recover from the other party all costs and expenses, including without limitation fees of attorneys and paralegals, incurred by such party in connection with any such litigation.

10.04 Effect of Waiver or Consent. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations hereunder is not a consent or waiver to or of any breach or default in the performance by that Person of the same or any other obligations of that Person. Failure on the part of a Person to complain of any act or to declare any Person in default hereunder, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default.

10.05 Headings. The headings and captions herein are used solely as a matter of convenience and shall not define, limit or expand any term or provision of this Declaration.

10.06 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a subdivision in accordance with Alabama law. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

10.07 Notice. All notices required or desired under this Declaration to be sent to the Association shall be sent certified mail, return receipt requested, by hand delivery or by a recognized overnight courier who maintains verification of delivery, to the Secretary of the Association, at such address as the Association may designate from time to time by notice in writing to all Owners. All notices to any Owner shall be delivered by hand delivery, by a recognized overnight courier who maintains verification of delivery in person, or sent by first (1st) class mail to the address of such Owner's Lot, or to such other address as he may have designated from time to time, in a writing duly received, to the Association.

10.08 Conflict Between Documents. If there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles of Incorporation, the Bylaws or any rules and regulations promulgated hereunder, the terms and conditions of this Declaration shall control. If there is any conflict or inconsistency between the terms and conditions of the Articles and the terms and conditions of the Bylaws or any rules and regulations promulgated hereunder, the terms and conditions of the Articles shall control. If there is any conflict or inconsistency between the terms and conditions of the Bylaws and the terms and conditions of any rules and regulations promulgated hereunder, the terms and conditions of the Bylaws shall control.

10.09 Light Poles. The light poles are considered HOA property and the maintenance and cost thereof shall be provided by the HOA.

ARTICLE ELEVEN **STORMWATER MANAGEMENT**

11.01 Stormwater Management

- (a) The Stormwater Management System shall be owned by the Association and shall be located: (i) on land that is designated Common Area on the Plat of Subdivision; (ii) on land that is owned by the Association; or (iii) on land that is subject to an easement in favor of the Association and its successors.
- (b) No construction activities may be conducted relative to any portion of the Stormwater Management System. Prohibited activities include, but are not limited to, digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the Stormwater Management System. If the project includes a wetland mitigation area, or a wet detention pond, no vegetation in these areas shall be

removed, cut, trimmed or sprayed with herbicide without specific written approval from the Northwest Florida Water Management District ("NFWFMD").

- (c) The Association shall operate, maintain and manage the Stormwater Management System(s) as a common expense in a manner consistent with the requirements of NFWFMD Permit No. IND-033-977802 and applicable NFWFMD rules, and shall assist in the enforcement of the restrictions and covenants contained herein. Maintenance of the Stormwater Management System(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the NFWFMD. Any repair or reconstruction of the Stormwater Management System shall be as permitted, or if modified as approved, by the NFWFMD.
- (d) NFWFMD has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the Stormwater Management System.
- (e) Any amendment of this Declaration affecting the Stormwater Management System shall have the prior written approval of NFWFMD.
- (f) In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Stormwater Management System must be transferred to and accepted by an entity which complies with Rule 62-330.310 F.A.C., and NFWFMD Applicant's Handbook Volume 1, Section 12.3, and be approved by the NFWFMD prior to such termination, dissolution or liquidation.
- (g) If any property within the Subdivision has on-site wetland mitigation which requires ongoing monitoring and maintenance, the Association shall allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until NFWFMD determines that the area(s) is successful in accordance with any environmental resource permit(s).
- (h) Each Owner, at the time of construction of their building or structure, shall comply with the construction plans for the Stormwater Management System approved and on file with NFWFMD.
- (i) No Owner may construct or maintain any building or structure, or undertake to perform any activity in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements described in the approved permit and Plat of Subdivision, unless prior written approval is received from the NFWFMD, which shall include without limitation, the construction of any fence within the Drainage Easements in accordance with Section 2.05(c) hereof.
- (j) The Owners of Lots abutting wet detention ponds shall not remove native vegetation, including cattails, that becomes established within the wet detention ponds abutting their Lot. Removal shall include, but not be limited to, dredging, the application of herbicide, cutting and the introduction of grass carp. Owners shall address any questions regarding authorization activities within the wet detention ponds to a NFWFMD Regulation Manager.

- (k) A "Recorded Notice of Environmental Resource Permit," in form and content reasonably approved by the Florida Department of Environmental Protection, or other applicable governmental agency, shall be recorded in the public records of _____ County, Florida. The Association shall maintain copies of all permitting actions undertaken for the benefit of the Association.

11.02 Right to Transfer. The Association shall have the right to dedicate or transfer all or any part of the Common Area, to any public agency, authority or utility for such purposes of stormwater management and subject to such conditions as may be agreed to by the Members. No such dedications or transfers shall be effective unless an instrument signed by the Members entitled to cast sixty seven percent (67%) of the votes of the Association has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than (30) days and no more than sixty (60) in advance of such dedication or transfer. Notwithstanding the foregoing, Declarant specifically reserves and retains the rights to transfer and convey to Emerald Coast Utilities Authority (ECUA), or to any other appropriate entity which complies with Rule 62-330.310, F.A.C., and NFWFMD Applicant's Handbook Volume 1, Section 12.3, as approved by NFWFMD, any Stormwater Management System on the Common Area of the Subdivision.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE ON FOLLOWING PAGE.]*

IN WITNESS WHEREOF, Declarant has executed this Declaration by and through its duly authorized representative as of the date first set forth above.

DECLARANT:

ACADIA DEVELOPMENT, LLC, LLC,
a Louisiana limited liability company

Witness: [Signature]
Print Name: Richard Turner

By: John H Romero
John Romero, its Manager

Witness: [Signature]
Print Name: Hillary Kozbiel

STATE OF FL
COUNTY OF Escambia

The foregoing instrument was acknowledged before me this 13th day of November, 2020 by John Romero, as Manager of Acadia Development, LLC, LLC, a Louisiana limited liability company, on behalf of said company. Said person is personally known to me or produced a current Louisiana driver's license as identification.

[SEAL]

[Signature]
Notary Public Signature

Notary Public Printed Name

