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J. K. IRBY

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**AMENDED AND RESTATED DECLARATION OF CHARTER, EASEMENTS, COVENANTS AND RESTRICTIONS FOR  
BRYTAN RESIDENTIAL PROPERTY**

This Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property ("Declaration") is made as of the ~~April 24~~<sup>30</sup>, 2016 (the "Effective Date"), by AMA Gainesville Investments Four LLC, a Florida limited liability company, its successors and assigns (the "Founder"), and is joined in by Brytan Association, Inc., a Florida not for profit corporation (the "Association"), Brytan Commercial Association, Inc., a Florida not for profit corporation and Skobel Development, Inc., a Florida for profit corporation.

**RECITALS:**

1. The Founder referred to in the original recorded Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property recorded on October 11, 2007 in O.R. Book 3690, Page 596 of the public records of Alachua County, Florida (the "Original Covenants, Articles, and Bylaws") has assigned all the rights of the Founder under the Original Covenants, Articles, and Bylaws to the Founder in an Assignment of Founder's Rights Agreement dated November 27, 2012 and recorded November 28, 2012 in O.R. Book 4153, Page 67 of the Public Records of Alachua County, Florida. The Founder is the successor-in-interest to the Founder referred to in the Original Covenants, Articles, and Bylaws.
2. As of the Effective Date, AMA Gainesville Investments Four LLC is the "Founder," "Developer," and "Declarant" for the Community. Hereafter, the term "Founder" shall have the same meaning as "Developer," or "Declarant" for any and all purposes.
3. Alachua County approved the Plat of Brytan Planned Development - Phase 1, as recorded in Plat Book 27, Page 58, Public Records of Alachua County, Florida and as amended by Surveyor's Affidavit for Brytan Phase 1 recorded September 20, 2006 in O.R. Book 3465, Page 969; Surveyor's Affidavit for Brytan Phase 1 recorded November 30, 2006 in O.R. Book 3505, Page 805; and Surveyor's Affidavit for Brytan Phase 1 recorded February 26, 2008 in O.R. Book 3748, Page 947, Public Records of Alachua County, Florida.
4. As of the Effective Date, all of the certain real property more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Property") is owned by Founder, except for:
  - 4.1. The common areas and non-exclusive easements described in the Plat of Brytan Planned Development - Phase 1, as recorded in Plat Book 27, Page 58, Public Records of Alachua County, Florida, which are owned by the Brytan Association, Inc., pursuant to that certain Special Warranty Deed recorded January 14, 2011 in O.R. Book 4008, Page 324 of the Public Records of Alachua County;
  - 4.2. The common areas and non-exclusive easements described in the Plat of Brytan Planned Development - Phase 1, as recorded in Plat Book 27, Page 58, Public Records of Alachua County, Florida, which are owned by the Brytan Commercial Association, Inc., pursuant to that certain Special Warranty Deed recorded March 25, 2008 in O.R. Book 3761, Page 610 of the Public Records of Alachua County;
  - 4.3. The parcel sold to Alachua C.D.C., LLC per O.R. Book 3815 Page 1040, Public Records of Alachua County, Florida, which is not residential property under this Declaration.
  - 4.4. Lots 31, 34, 35, 36, 37, 54, 55, 56, 59, 62, 65, 86, and 91 of Brytan Planned Development - Phase 1, as recorded in Plat Book 27, Page 58, Public Records of Alachua County, Florida, which is owned by Skobel Development, Inc., pursuant to that certain Special Warranty Deed recorded May 4, 2015 in O.R. Book 4347, Page 1318 of the Public Records of Alachua County; and
  - 4.5. Lots 45, 57, 58, 69, 70, 72, 82, 83, 84, and 85 of Brytan Planned Development - Phase 1, as recorded in Plat Book 27, Page 58, Public Records of Alachua County, Florida, which have been conveyed to individual members.
5. The Founder desires to amend and restate the Original Covenants, Articles, and Bylaws as hereinafter provided, and

the Brytan Association, Inc., Brytan Commercial Association, Inc. and Skobel Development, Inc. desire to provide its respective written consent and approval to such amended and restated Covenants, Articles, and Bylaws.

6. The Founder desires to approve all attachments to this Declaration as hereinafter provided, and the Brytan Association, Inc., Brytan Commercial Association, Inc. and Skobel Development, Inc. desire to provide its respective written consent and approval to such attachments to this Declaration. The following are attachments to this Declaration and are hereby fully incorporated by reference ("Attachments"):

- 6.1. Exhibit A Legal Description of the Property
- 6.2. Amended and Restated Articles of Incorporation for Brytan Association, Inc.
- 6.3. Amended and Restated Bylaws for Brytan Association, Inc.
- 6.4. Grand Preserve at Kanapaha Maintenance Association, Inc. and Brytan Association, Inc. Agreement and License to Mutually Share Recreational Areas, Amenities, and associated Association Property.

7. Notwithstanding any provision to the contrary, St. Johns Water Management District retains all rights in the Original Covenants, Articles, and Bylaws and therefore this Declaration does not alter any rights relating to the surface water management system and therefore no prior written approval of the St. Johns Water Management District is required; and

8. At a meeting to discuss and vote upon this proposed Declaration, Articles, and Bylaws and all Attachments hereto, over three-fourths (¾) of the Allocated Interests of the voting membership (including all Townhome Owners and Mansion Apartments Owners, if any, and over three-fourths (¾) of the Allocated Interests of the Detached Homes) passed this proposed Declaration, Articles, and Bylaws and all Attachments hereto and do direct that a true and accurate copy thereon be recorded in the Public Records of Alachua County, Florida.

**THIS DECLARATION, ARTICLES AND BYLAWS SHALL AMEND AND RESTATE THE ORIGINAL COVENANTS, ARTICLES, AND BYLAWS, AND THIS DECLARATION, ARTICLES AND BYLAWS SHALL SUPERCEDE AND REPLACE THE ORIGINAL COVENANTS, ARTICLES, AND BYLAWS INCLUDING ALL ATTACHMENTS AND EXHIBITS; AND THE DESIGN CODE IN ITS ENTIRETY FOR THE BRYTAN RESIDENTIAL PROPERTY (BUT NOT INCLUDING THE BRYTAN COMMERCIAL PROPERTY) ENACTED BEFORE THE APPROVAL OF THIS INSTRUMENT.**

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged, the Founder and the Association hereby agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by reference.
2. In order to maintain association property and amenities, and to preserve the values, association property and amenities of Brytan, it is necessary to declare, commit and subject the Property and the improvements, now or hereafter constructed thereon to certain land use covenants, conditions, restrictions, reservations, regulations, burdens, liens, and easements; and to delegate and assign to the Association certain powers and duties of ownership, administration, operation, maintenance and enforcement under this Declaration, Articles, and Bylaws and all Attachments hereto; and
3. The Association is joining this Declaration, Articles, and Bylaws and all Attachments hereto in order to acknowledge its duties, responsibilities and obligations hereunder.
4. Founder hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

#### **Article I. DEFINITIONS**

The terms used in this Declaration shall be defined as set forth herein (unless the context shall prohibit or expressly provided otherwise).

**Section 1. "Additional Plat"** shall mean the plat of any portion of the Property which is not included in the Plat, if any, and the plat of any Additional Property provided a Supplemental Declaration for such Additional Property is recorded amongst the Public Records of the County. "Additional Plat" shall also mean the replat of all or any portion of the Plat or any other plat of all or any portion of the Property.

**Section 2. "Additional Property"** shall mean any real property (other than the Property) that may be submitted by Founder to this Declaration by a Supplemental Declaration which shall be executed by the owner of the Additional Property and need not be joined in by any other person or Owner. No portion of any Additional Property shall be encumbered by this Declaration unless and until such property is added by a Supplemental Declaration executed by the fee owner thereof and

Founder. In the event any Additional Property becomes encumbered by this Declaration, then, and only then in such event, the term "Property" as used herein shall also mean the Additional Property.

**Section 3. "Amendment(s)"** shall mean any and all amendments to this Declaration which shall be properly adopted pursuant to the terms of the Community Documents and recorded in the Public Records of the County. "Amendment(s)" shall also mean any and all amendments to any Supplemental Declaration, as recorded in the Public Records of the County.

**Section 4. "Architectural Control Committee" or "Committee"** shall mean the Committee created pursuant to Article VIII hereof.

**Section 5. "Articles"** shall mean the Articles of Incorporation of the Association, as such Articles may be amended from time to time.

**Section 6. "Assessment"** shall mean assessments for which all Owners are obligated to pay to the Association and includes "Individual Residential Unit Assessments," "Benefited Assessments," "Maintenance Districts Assessments" and "Special Assessments" (as such terms are defined in Article VII hereof) and any and all other assessments and monetary fines which are or may be levied by the Association in accordance with the Community Documents.

**Section 7. "Association"** shall mean and refer to Brytan Association, Inc., a not-for-profit Florida corporation, its successors and assigns, existing pursuant to the Articles, as amended by any amendments thereto, and which Association is responsible for the ownership, administration, operation, maintenance, preservation, enforcement and architectural control of the Community as provided in this Declaration. The Association is not a condominium association and is not intended to be governed by Chapter 718, the Condominium Act, Florida Statutes.

**Section 8. "Association Property"** shall mean such portions of the Property which are not included in any Lot, except those areas dedicated to the public by the Plat or Additional Plat(s), if any, and which are or shall be owned or maintained by the Association, as set forth in this Declaration and/or the Plat or Additional Plat(s), if any, for the common use and enjoyment of the Owners within the Community and the owners of residential units within Grand Preserve at Kanapaha, and, together with landscaping, personal property and any other Improvements thereon, including, without limitation, all of the following if and to the extent located thereon, all structures, recreational areas, common areas, open space(s), private streets, asphalt bike paths, sidewalks, irrigation facilities, "Street Lights" and "Decorative Street Lights" (as those terms are hereinafter defined), perimeter fences and walls, entry or other lighting, entrance features, fountains, buffer tracts, monument walls, monument signs, site walls, retaining walls and decorative street signs, if any, but specifically excluding any public utility installations thereon, and all portions of any "Community Systems" (as hereinafter defined) not made Association Property, and any other property of Founder not intended to be made Association Property. "Association Property" shall also include the Drainage System, any Limited Association Property and such portions of the Property as are declared to be Association Property in any Supplemental Declaration, less whatever portions of the Property are declared to be withdrawn from the provisions of this Declaration in any Supplemental Declaration.

**Section 9. "Board"** shall mean the board of directors and the members of the board of directors, from time to time, of the Association.

**Section 10. "Buffer Area(s)"** shall mean any strips of land of varying widths which run along the outer perimeter of the Community, or abutting the streets or roads in the Community for portions or all of their entire length, notwithstanding that any such strips of land may lie within the Association Property, which are designated for or intended to be used for landscaping, open space or pedestrian purposes. Founder shall have the absolute right to determine the boundaries of the Buffer Areas and such determination shall be binding on the Association and all affected associations and Owners within the Community.

**Section 11. "Building"** shall mean a structure in which Units are located.

**Section 12. "Bylaws"** shall mean the Bylaws of the Association, which have been or will be adopted by the Board, as such Bylaws may be amended from time to time.

**Section 13. "Commercial Association"** shall mean the association formed under the Town Center Declaration to manage the commercial property within the Town Center.

**Section 14. "Common Elements"** shall mean and include (a) the portions of Townhome Buildings which are not a part of or included within the Townhome Units; (b) non-exclusive easements through the Townhome Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to the Townhome Units and to the Common Elements; (c) an easement of support in every portion of a Townhome Unit which contributes to the support of the Building; (d) the property and installations required for the furnishing of utilities and other services to more than one Townhome Unit or to the Common Elements; and (e) any other parts of the Townhome Building designated as Common Elements or Common Structural Elements in this Declaration.

**Section 15. "Community" or "Brytan"** shall mean that planned development located in Alachua County, Florida, which is intended to encompass the Property and Association Property, and which may be expanded to include additional property or reduced by withdrawal of Property, all by the recording of one or more Supplemental Declaration(s).

**Section 16. "Community Documents"** shall mean in the aggregate this Declaration, the Articles, the Bylaws, the Rules and Regulations, the Plat, the Additional Plat(s), if any, and all of the instruments and documents referred to herein and therein, including, but not limited to, any Amendment(s) and Supplemental Declaration(s), all as may be amended and/or supplemented from time to time.

**Section 17. "Community Systems"** shall mean and refer to any and all television (cable, satellite or otherwise), telecommunication, internet access, alarm/monitoring, utility or other lines, conduits, wires, satellites, amplifiers, towers, antennae, equipment, materials, installations and fixtures (including those based on, containing or serving future technological advances not now known) installed by the Founder, Founder's Affiliates, any other entity in which Founder or Founder's Affiliates may have an interest (financial or otherwise), or any third party expressly granted the rights by Founder or the Association to provide Community Systems within the Property, or pursuant to any grant of easement or authority by Founder and serving the Association Property and/or more than one Lot.

**Section 18. "Completed Residential Unit"** shall mean Condominium Unit, Townhome Unit, or Single Family Lot, as applicable, upon which the construction of a Home has been completed, for which Home a certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency and the title to such Unit has been conveyed by Founder.

**Section 19. "Completed Residential Unit Owner"** shall mean the Owner of a Completed Residential Unit.

**Section 20. "Condominium"** shall mean any condominium that may be created within the Community by the recording of a Condominium Declaration.

**Section 21. "Condominium Declaration"** shall mean a Declaration of Condominium, and any amendments thereto, by which a portion of the Community is submitted to the condominium form of ownership.

**Section 22. "Condominium Unit"** shall mean a condominium unit in a Condominium created within the Community.

**Section 23. "County"** shall mean Alachua County, Florida.

**Section 24. "Declaration"** shall mean this instrument as it may be amended from time to time, together with any Supplemental Declaration(s) or Amendments thereto, which may be recorded in the Public Records.

**Section 25. "Development and Sale Period"** shall mean the period of time during which Founder and/or Founder's Affiliates are using the Community for the sale and marketing of Homes in the Community and/or in any other communities developed or to be developed by Founder or Founder's Affiliates, including, but not limited to, the holding of sales and marketing meetings, the use of one or more "model row(s)", the use of design centers, the use of service and construction trailers, and engaging in sales promotions and related sales and marketing activities for the general public.

**Section 26. "Director"** shall mean a member of the Board.

**Section 27. "Dominant Lot"** shall mean a Single Family Lot to which an easement over a Servient Lot created by Article IV of this Declaration is appurtenant (i.e., a Single Family Lot owned by an Owner entitled to access to such Owner's Lot over certain portions of an adjoining Single Family Lot). A Single Family Lot may be both a Dominant Lot and a Servient Lot as to different easements created by Article IV hereof, but not as to the same easement.

**Section 28. "Drainage System"** shall mean a system of structures and other improvements, including, without limitation, control structures, basins, culverts, headwalls and/or swales, which is designed, constructed and installed to, among other things, collect and convey rainwater runoff from the Community to the drainage easements and basins within the Property. The Drainage System is located upon and designed to serve the Property.

**Section 29. "Founder"** shall mean and refer to AMA Gainesville Investments Four LLC, a Florida limited liability company, and any successor or assign thereof to which AMA Gainesville Investments Four LLC specifically assigns all or part of the rights of Founder hereunder by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Founder are to be transferred and as to which portion of the Property. In any event, any subsequent founder shall not be liable for any default or obligations incurred by any prior founder, except as may be expressly assumed by the subsequent founder. An Owner shall not, solely by the purchase of a Home and/or Lot, be deemed a successor or assign of Founder under the Community Documents unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Founder. Whether or not specifically stated, a predecessor founder shall be afforded the same protection with respect to matters arising during its tenure as Founder as the predecessor founder would have if it were still Founder.

**Section 30. "Founder's Affiliates"** shall mean the Founder's partners, agents, employees, subsidiary companies, parent companies, entities with common ownership, entities with common ownership with a family member of Founder including but not limited to entities owned by a sibling, spouse, son, daughter, mother or father of an owner of the Founder's company, subcontractors, successors and assigns.

**Section 31. "Home"** shall mean a residential dwelling unit constructed within the Community, which is designed and intended for use and occupancy as a single-family residence, Townhome Unit or Condominium Unit; provided, however, that no portion of any Community System, even if installed in a Home, shall be deemed to be a part of a Home unless and until same is made such pursuant to Article II, Section 7 hereof, if at all. Upon completion of construction of a Home on a Lot, the Lot and Improvements thereon are sometimes collectively referred to as a Home in this Declaration and the Community Documents. In this Declaration and the Community Documents, the term Home shall be interpreted broadly to include any type of "Unit" when the context allows such interpretation.

**Section 32. "Improvement"** shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located within the Community, including, but not limited to, buildings, walkways, recreation areas and facilities, parking areas, berms, fountains, sprinkler systems, streets, roads, driveways, fences, retaining walls, underground footers and other foundation supports, stairs, landscaping, trees, hedges, plantings, poles, swings, gym sets and play structures, tennis courts, swimming pools, covered patios, screen enclosures, jogging, bicycling and walking paths, basketball courts, backboards and hoops, signs, site and perimeter walls, gazebos, benches, mailboxes, Street Lights and Decorative Street Lights and signs.

**Section 33. "Incomplete Lot"** shall mean a Lot which is not a Completed Residential Unit.

**Section 34. "Incomplete Lot Owner"** shall mean the Owner of an Incomplete Lot.

**Section 35. "Institutional Mortgage"** shall mean a mortgage held by an Institutional Mortgagee on any property within the Community.

**Section 36. "Institutional Mortgagee or Institutional Lender"** shall mean any lending institution owning a first mortgage encumbering any Home or Lot within the Community, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any "secondary mortgage market institution," including the Federal National Mortgage Association ("FNMA"), Government National Mortgage Association ("GNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Founder and which hold a mortgage on any portion of the Property securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration, the Federal Housing Administration or the Department of Housing and Urban Development or such other lender as is generally recognized in the community as an institutional lender; or Founder, its successors and assigns.

**Section 37. "Interest"** shall mean the maximum nonusurious interest rate allowed by law, as amended from time to time, on the subject debt or obligation, and if no such rate is designated by law, then eighteen percent (18%) per annum.

**Section 38. "Legal Fees"** shall mean reasonable fees for attorney and paralegal services and all costs and court costs through and including all trial and appellate levels and post judgment proceedings incurred in connection with: (i) negotiation and preparation for mediation, arbitration and/or litigation, whether or not an action is actually begun, and (ii) collection of past due Assessments including, but not limited to, preparation of notices and liens.

**Section 39. "Limited Association Property"** shall mean a portion of the Association Property primarily benefiting one or more, but less than all, Units, Homes or Maintenance Districts.

**Section 40. "Limited Operating Expenses"** shall mean the actual and estimated expenses which the Association incurs, or expects to incur, for the benefit of Owners of Units or Homes benefiting from a Limited Association Property, Common Elements, Common Structural Elements, or within a particular Maintenance District, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Maintenance District or Lots.

**Section 41. "Lot"** shall mean and refer to any parcel of land within the Community upon which a Home or Unit is permitted to be constructed, together with the Improvements thereon, and any portion of the Property within the Community that is declared to be a Lot by a Supplemental Declaration and is not subsequently withdrawn from the provisions of this Declaration by a Supplemental Declaration; provided, however, that no portion of any Community System shall be deemed to be part of a Lot unless and until such Community System (or Portion thereof) is made a part of a Lot pursuant to Article II, Section 7 hereof,

if at all. In the case of a Building containing multiple Homes or Units for independent sale (e.g., Condominium Units, Townhome Units), each Home or Unit that may be sold independently shall be a separate Lot. Even individual Condominium Units with ownership of only the air space confining the boundaries of the Home is considered a separate Lot. For purposes of Individual Residential Unit Assessments, a Lot is either a Completed Residential Unit or an Incomplete Lot. Upon completion of construction of a Home or Unit on a Lot, such Lot and the Improvements thereon are sometimes collectively referred to as a Lot in this Declaration and the Community Documents. In this Declaration and the Community Documents, the terms "Townhome Unit" or "Condominium Unit" may be used when referring to the entire Lot that the Unit is located on.

**Section 42. "Maintenance District"** shall mean a group of Lots designated as a separate Maintenance District pursuant to this Declaration, as assigned by the Association or Founder, or a Supplemental Declaration for purposes of sharing Limited Association Property, Common Elements, Common Structural Elements and/or receiving other benefits or services from the Association which are not provided to all Lots. A Maintenance District may be comprised of more than one housing type and may include noncontiguous parcels of property. A Lot may be assigned to more than one Maintenance District. Maintenance District boundaries may be established and modified as provided in Article IX, Section 3.

**Section 43. "Maintenance District Assessment"** shall mean the expenses for which Owners including but not limited to Single Family Lot Owners, Townhome Unit Owners, or Condominium Unit Owners in a particular Maintenance District are liable to the Association as described in this Declaration and any other Community Documents.

**Section 44. "Management Company"** shall mean the person, firm or corporation, if any, employed by the Association as its agent to assist in fulfilling or carrying out certain duties, powers or functions of the Association.

**Section 45. "Members"** shall mean and refer to all of the Owners who are also members of the Association, as provided herein.

**Section 46. "Notice and Hearing"** shall mean written notice and a public hearing before a tribunal appointed by the Board at which the Owner concerned shall have an opportunity to be heard in person or by counsel, at Owner's expense, in the manner set forth in Article X herein. Owner shall have the right, but not the obligation, to have legal counsel of Owner's choice present at such hearing at Owner's expense.

**Section 47. "Operating Expenses"** shall mean the expenses for which Owners are liable to the Association as described in this Declaration and any other Community Documents and include, but are not limited to: (a) the costs and expenses incurred by the Association in owning, administering, operating, maintaining, financing, or repairing (but not reconstructing, replacing or improving), the Association Property or any portion thereof and Improvements thereon, all other property owned by the Association (including, without limitation, the Drainage System), and (b) all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Community Documents.

**Section 48. "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, holding fee simple title to any Home or Unit within the Community and includes Founder for as long as Founder owns fee simple title to a Home or Unit, but excluding therefrom those having such interest as security for the performance of an obligation.

**Section 49. "Plat"** shall mean the plat of Bryan Planned Development - Phase 1 recorded in the Public Records of the County. In the event an Additional Plat is recorded in the Public Records of the County, then the term "Plat" as used herein shall also mean and refer to the Additional Plat(s) or the replat of all or any portion of the Plat.

**Section 50. "Property"** shall initially mean and refer to that certain real property heretofore described in Exhibit "A" attached hereto and made a part hereof, and thereafter, as applicable to such additions thereto as may hereafter be brought within the jurisdiction of this Declaration and/or the Association; provided, however, Founder reserves the right to withdraw from the provisions hereof, such portion or portions of the Property as Founder from time to time elects, upon the execution by Founder of a Supplemental Declaration.

**Section 51. "Servient Lot"** shall mean a Lot within the Community over which an easement is created by Article IV of this Declaration in favor of a Dominant Lot (i.e., a Lot over certain portions of which the Owner of an adjoining Lot has a right of access). A Lot may be both a Servient Lot and a Dominant Lot as to different easements created by Article IV hereof, but not as to the same easement.

**Section 52. "Single Family Lot"** shall mean a Lot upon which a single family residence has or will be constructed by Founder, together with the Improvements thereon, and any other portion of the Property within the Community that is declared to be a Single Family Lot by a Supplemental Declaration, provided, however, that no portion of any Community System shall be deemed to be part of a Single Family Lot unless and until same is made such pursuant to the terms of this Declaration, if at all.

**Section 53. "Sub-Association"** shall mean any homeowners, condominium or other common interest association which is formed to govern the business affairs of any portion of the Community.

**Section 54. "Supplemental Declaration"** shall mean any instrument executed by Founder which, when recorded in the Public Records of the County, shall: (a) commit Additional Property, if any (provided Founder is the owner thereof) to the provisions of this Declaration, and shall be the method of committing such property to the provisions of this Declaration, (b) withdraw any portion(s) of the Property from the lien and effect of this Declaration, (c) designate portion(s) of the Property or Additional Property to be or not to be Association Property hereunder, and/or (d) be for such other purposes as are provided in this Declaration. A Supplemental Declaration may also be used to impose additional covenants, conditions, restrictions, reservations, regulations, burdens, liens and easements upon the Property or any portion thereof and/or remove any of same. The Association shall join in the execution of any Supplemental Declaration at the request of Founder but such joinder shall not be required to make any such Supplemental Declaration effective. The Owners shall not be required to join in the execution of any Supplemental Declaration but shall nevertheless be bound thereby.

**Section 55. "Townhome Unit"** shall mean an Unit within an attached single-family residential Building that shares a roof structure with the adjacent Unit (or is otherwise designed in such a way as to require unified maintenance with the adjacent Townhome) and is not submitted to a condominium form of ownership. The Townhome Unit also includes any outbuilding such as a garage in the Community.

**Section 56. "Town Center"** shall mean the commercial portion of the Property. The commercial property within the Town Center is intended to be subject to a Town Center Declaration and is intended to have a separate management entity or association to maintain its common areas and regulate commercial uses.

**Section 57. "Town Center Declaration"** shall mean a separate instrument, known as the Town Center Declaration, which is recorded and regulates commercial property within the Town Center.

**Section 58. "Turnover Date"** shall mean the date upon which Founder transfers majority control of the Board as provided in the Articles.

**Section 59. "Unit"** shall mean those portions of the Property which are subject to exclusive ownership, whether improved or unimproved, depicted as a separately identified lot or parcel on a plat, survey, or condominium instrument, which may be independently owned and conveyed, intended for use as a residence for a single-family including but not limited to Homes, Single Family Homes, Townhome Units or Condominium Units.

**Section 60. "Water Management District"** shall mean and refer to the St. Johns River Water Management District, a regional water management district established in accordance with Florida law, and any successor, governmental agency, body or special district charged with the rights and responsibilities of the Water Management District.

**Section 61. "Water Management District Permit"** shall mean that certain permit issued by the Water Management District as same may be amended or modified from time to time.

## **Article II. DESCRIPTION OF THE COMMUNITY**

**Section 1. General Plan of Development.** The Community comprises the Property encompassing, or which will encompass, Lots, Association Property, publically dedicated property, and a commercial Town Center, and, lands which Founder may add, but shall in no way be obligated to add, by one or more Supplemental Declaration(s). The Property initially declared hereunder is described in Exhibit "A" attached hereto. It is presently anticipated that the Community will contain single-family homes (which may include zero-lot line Homes), Townhome Units, and/or Condominium Units, which may be mixed and share locations with a mixture of commercial uses of the Property. Notwithstanding the foregoing, Founder has reserved the right to modify its plan of development of the Community (including, without limitation, the right to modify the site plan of the Community and the right to supplement, change or reduce the recreational facilities, amenities and the number of homes and Home product types to be constructed within the Community and/or the right to add land to the Community or to withdraw land from the Community, all in Founder's sole discretion. Therefore, in the event Founder modifies its plan of development of the Community, adds land to the Community and/or withdraws land from the Community, the number of Lots, the layout of Lots and/or the size of Lots within the Community may change and the Assessments required to be paid pursuant to this Declaration may increase or decrease, as applicable. Founder's general plan of development further contemplates that such Homes and commercial uses shall be whatever types of structures Founder may choose. Founder's general plan of development of the Community may also include whatever facilities, commercial uses and amenities Founder considers in its sole judgment to be appropriate to the Community, as well as any changes thereto.

This Declaration applies only to residential property. The Town Center Declaration applies only to commercial property. No assessment will be made based on property intended to be used exclusively for commercial purposes, nor shall the Association regulate property intended to be used exclusively for commercial purposes. Owners of property intended to be used exclusively for commercial purposes are not members of the Association (assuming no residential property is also

owned). Notwithstanding any other provision of this Declaration, unless the Boards of the Commercial Association and the Association agree otherwise: (a) All common areas within the Town Center shall be regulated and maintained solely by the Commercial Association; and (b) The Commercial Association shall assume and be solely responsible for all architectural review functions assumed by the Association Control Committee under this Declaration as they relate to all property, residential or commercial, within the Town Center.

Additional Property will become a part of the Community if, and only if, Founder in its sole discretion adds Additional Property to the Community by recording a Supplemental Declaration to such effect. Founder hereby reserves for itself and Founder's Affiliates an easement for ingress and egress and for utilities and drainage over, under and across the Property for the benefit of any Additional Property; provided, however, no such easement may be granted upon any portion of the Property that lies directly beneath a Home.

The Association and the Commercial Association shall cooperate on sharing costs that affect all of the Property. The Founder designates the following cost to be shared: (a) Parking lots within the Town Center are maintained by the Commercial Association but are used both by customers of the businesses and by residents who live within Town Center, either in residential apartment or condominium buildings or in the Units above the stores and offices. (This is intended to make efficient use of the parking lots and reduce the total area needed for parking, as the residents and commercial users are expected to require the parking at different times of the day.) In those cases where there is no designated parking on the residential property and the parking lot serves as the primary parking area for residents an assessment from those particular residential or mixed-use Units based on the pro rata share of maintaining the parking lot may be charged to a Maintenance District or the Association at the Board's discretion. The Association will then forward that amount to the Commercial Association, which will perform parking lot maintenance within the Town Center. The Founder may reasonably designate additional types of expenses to be shared by the associations, based on reasonable allocation of costs.

The stormwater management system services all of Bryan. The Commercial Association will maintain that portion of the system that supports the Town Center, with the Association maintaining the remainder.

Founder expressly reserves the right for itself and Founder's Affiliates as to the Property to (i) commence construction and development of the Property if and when Founder desires; (ii) develop the Property (including, without limitation, the recreational facilities and amenities) upon such timetable as Founder, in its sole discretion, chooses; and (iii) modify the plan of development of the Property (including, without limitation, the right to modify the site plan and/or master plan of the Community and the right to change the recreational facilities, amenities, the Home product types and the number of Homes to be constructed within the Community) in such manner as Founder, in its sole discretion, chooses. Nothing contained herein shall be construed as obligating Founder to construct the Community according to the present plan of development nor as obligating Founder to declare any Additional Property to be Property.

Notwithstanding anything herein or in the Community Documents to the contrary, Founder reserves the right for itself and Founder's Affiliates to change the zoning of any portion of the Property now existing or hereafter changed to be single-family residential, multi-family residential, commercial, and/or to make such uses of all or any part of the Property as shall be permitted by applicable zoning regulations as they may exist from time to time. Founder, however, is not obligated by this Declaration to cause any portion of the Property to be rezoned or developed for any such uses. In the event Founder and/or Founder's Affiliates changes the zoning of the Property, Founder hereby reserves the right to amend this Declaration or to create one or more sub-declarations subjecting such property(ies) to additional or different specified or prohibited uses.

**Section 2. Association Property.** The Association Property shall consist of (a) the property indicated on the Plat and Additional Plat(s), if any, as Association Property or as property reserved for or dedicated to the Association, and (b) any other property designated as Association Property in this Declaration or any Supplemental Declaration. The Association Property shall be used for recreational and social purposes as well as other proper purposes by the Association, owners of residential units within Grand Preserve at Kanapaha, and the Owners and their family members, guests, invitees and tenants in accordance with the Community Documents. Association Property may not be altered, modified, removed or replaced by Owners or their family members, guests, invitees or tenants. During the Development and Sale Period, in the event, Founder determines that a particular portion of the Community is not Association Property, such determination shall be binding and conclusive. The portions of the Community described in this Section shall constitute Association Property and shall be used solely in accordance with the covenants, conditions, restrictions, reservations, regulations and burdens imposed upon the Association Property including, without limitation, the following:

2.1. *Recreational Areas in the Community.* The recreational areas shall be part of the Association Property and shall be used for recreational purposes by the Association, owners of residential units within Grand Preserve at Kanapaha, and the Owners and their family members, guests, invitees and tenants. Such portions, if any, of the recreational areas upon which



Founder and/or Founder's Affiliates have constructed or hereafter constructs Improvements shall be kept and maintained for use in a manner consistent with the nature of such Improvements located or to be located thereon. The recreational areas shall always be kept and maintained by the Association for recreational uses or beautification and attendant uses, and shall be used for such purposes and not for residential, commercial or industrial construction of any kind. The recreational areas shall be maintained, administered, operated and, ultimately, owned by the Association.

Founder reserves the right for itself and Founder's Affiliates, but shall not be obligated, to construct additional recreational facilities upon the recreational areas, and to modify or reduce the facilities and amenities planned for the recreational areas. Founder, at its sole discretion, hereby expressly reserves the right to reduce and/or modify the planned facilities, and to determine the timing of construction of the recreational facilities and installation of amenities. The decision as to whether to construct recreational facilities or amenities, to modify the planned facilities or amenities, and/or to reduce the planned facilities or amenities and/or the timing of the construction thereof shall be in the sole discretion of Founder. Notwithstanding anything contained herein, neither Founder nor the Association makes any representations whatsoever to commence, complete or construct any of the recreational facilities within any specific time period.

Any pool, playground, or other recreational Improvements and/or facilities and/or amenities furnished by the Founder, or Founder's Affiliates and/or Association within the Community, SHALL BE USED AT THE RISK OF THE USER, AND NEITHER FOUNDER, NOR FOUNDER'S AFFILIATES, NOR ASSOCIATION, SHALL BE HELD LIABLE TO ANY PERSON FOR ANY CLAIM, DAMAGE OR INJURY OCCURRING THEREON OR RELATED TO USE THEREOF. EACH OWNER, OWNER'S FAMILY MEMBERS, TENANTS, GUESTS, OCCUPANTS, INVITEES AND AGENTS AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE FOUNDER, FOUNDER'S AFFILIATES AND THE ASSOCIATION AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FOR ANY CLAIMS, DEMANDS, LOSSES, COSTS, FEES AND EXPENSES RELATED TO, OR IN ANY WAY PERTAINING TO OR ARISING FROM, USE OF ANY RECREATIONAL IMPROVEMENTS, FACILITIES AND AMENITIES FURNISHED BY FOUNDER OR FOUNDER'S AFFILIATES OR THE ASSOCIATION BY THE OWNER, OWNER'S FAMILY MEMBERS, TENANTS, GUESTS, OCCUPANTS, INVITEES AND AGENTS. Founder and Founder's Affiliates further have the right to promote the Community in advertisements, promotional materials and other promotional media by making reference to and the use of the recreational facilities, including use of photographs of the recreational facilities and activities taking place there. During such promotional events, Owner, Owner's family members, tenants, guests, occupants, invitees and agents may not be permitted full use of the facilities.

**2.2. Private Streets and Roads.** The streets and roads are those portions of the Property designated on the Plat or Additional Plat(s), if any, as a street or road and indicated as private and which are reserved for or dedicated to the Association (the "Private Roads"), but specifically excluding any street or roadway dedicated to the public on the Plat or Additional Plat(s), if any. The Private Roads shall be used as private roads by Founder, the Association and the Owners, their family members, guests, invitees and tenants in accordance with the provisions of this Declaration, but subject to non-exclusive easements for public and private utilities, as provided on the Plat or Additional Plat(s), if any. The Private Roads shall be maintained, administered, operated and ultimately owned by the Association. Notwithstanding anything to the contrary, each Owner shall be responsible for the maintenance, repair and replacement of the driveway serving such Owner's Lot, including that portion of the driveway in a Private Road, if any, unless the driveway was damaged by the Association in the fulfillment of its obligations and duties under this Declaration.

**2.3. Landscaped Areas or Grassed Areas.** The "Landscaped Areas" and "Grassed Areas" are those portions of the Property designated on the Plat or Additional Plat(s), if any, as common area, common open spaces, or as open spaces, and are to be used, kept and maintained as such by Founder, the Association, and the Owners within the Community, their family members, guests, invitees and tenants, in accordance with the provisions of this Declaration. No Improvement, landscaping or other additions or deletions are permitted to be made or installed by any Owner in a Landscaped Area or Grassed Area. The Landscaped Areas and Grassed Areas shall be ultimately owned by the Association and shall be maintained, administered and operated by the Association in accordance with the requirements of this Declaration and the appropriate governmental agencies.

**2.4. Street Lights.** The "Street Lights" and any associated facilities placed within the Property and any street lights and associated facilities placed within public rights of way by agreement between the Founder or Association and the public utility responsible therefor, are or shall be installed by the Founder, Association, or public utility and, if installed, will be repaired, replaced, relocated, maintained and owned by either the Association or public utility responsible therefor and not the Founder. Nothing in this Declaration shall be construed to require Founder to install Street Lights within the Community.

**2.5. Decorative Street Lights.** Founder and the Association reserve the right, but shall not be obligated, to install "Decorative Street Lights" in the Community. The Decorative Street Lights, if installed, shall be repaired, replaced, relocated,

maintained and owned by either the Association or public utility responsible therefor and not the Founder. If installed, such Decorative Street Lights will not be typical of what may be installed around the Lots. Nothing in this Declaration shall be construed to require Founder or the Association to install Decorative Street Lights within the Community.

2.6. *Buffer Areas.* Buffer Areas shall be maintained by the Association in accordance with the provisions of this Declaration and the requirements of the appropriate governmental authorities. In order to preserve the aesthetic image of the Community and to help maximize the Owners' use and enjoyment thereof, no Improvements, landscaping or other additions and/or deletions are permitted within the Buffer Areas without the prior written consent of the Association and appropriate governmental agencies, excepting, any Improvements, landscaping or other additions made or installed by Founder, Founder's Affiliates and/or the Association, such as, but not limited to, berm, landscaping, sod, signs, walkways, walls and light poles.

2.7. *Drainage System.* Except as dedicated to the public or provided in the Plat or Association Documents, the Drainage System within the Community is a private drainage system. The Drainage System may also be designed to and used to provide legal positive outfall for rainwater runoff from certain portions of nearby roads. Except as dedicated to the public or provided in the Plat or Association Documents, the Association shall be responsible for all cleaning, maintenance, repair and replacement of any portion of the Drainage System necessary to maintain the system in its original condition and use.

As part of the Drainage System, Founder has caused or will cause to be constructed drainage retention/detention basins. The Drainage System is part of the overall drainage plan for the Community. The Association shall have unobstructed ingress to and egress from all drainage retention/detention basins at all reasonable times to operate and maintain said basins in a manner consistent with its responsibilities. No Owner shall cause or permit any interference with such access and maintenance. No Owner shall interfere with or modify the Drainage System in any way.

The Association shall operate and maintain the Drainage System for the Property as part of the Association Property, and comply with conditions of the Water Management District Permit for the Drainage System, including, without limitation, perpetual maintenance of all signage required by the Water Management District Permit. The Association shall, when requested by Founder, accept transfer of the Water Management District Permit(s) applicable to the Property. The conditions of the Water Management District Permit may include, among other things, monitoring and record keeping schedules and maintenance, which the Association shall be responsible for.

The Association shall hold and save Water Management District and the Founder and Founder's Affiliates harmless from any and all damages, claims, or liabilities which may arise by reason of the operation, maintenance or use of any facility authorized by the permit.

The Association shall at all times properly operate and maintain the systems of treatment and control (and related appurtenances) that are installed or used to achieve compliance with conditions of the Water Management District Permit, as required by Water Management District. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the Water Management District Permit and when required by Water Management District Rules. The Association shall submit inspection reports in form and at the times required by Water Management District, in accordance with the permit issued by Water Management District.

In the event of the termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Drainage system must be transferred to and accepted by an entity which would comply with the Water Management District Rules, and be approved by Water Management District upon such termination, dissolution or liquidation.

The District has the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel it to correct any outstanding problems with the Drainage System facilities under the responsibility or control of the Association.

It is possible that certain portions of the Drainage System may serve the drainage needs of adjacent lands not owned by Founder and not within the Property subject to this Declaration. Founder and the Association each reserve the right to grant such drainage and/or use easements and rights as Founder may deem necessary or appropriate for accomplishing the drainage needs of the Property and/or lands owned by others provided that such agreements shall not unreasonably interfere with the use of the system by the Owners.

2.8. *Irrigation System(s).* The central irrigation system(s), if any, serving the Association Property, or irrigations system(s) owned or installed by the Association on any of the Lots within the Community.

2.9. *Right to Add Additional Improvements.* Such portions of the Association Property upon which Founder and/or Founder's Affiliates has constructed, or Founder and/or Founder's Affiliates or the Association hereafter constructs shall be kept and maintained for use in a manner consistent with the nature of such Improvements located, or to be located, thereon. Founder and the Association reserve the right, but shall not be obligated, to construct additional facilities upon the Association Property. Founder's decision as to whether to construct additional facilities and the construction thereof shall be in the sole

discretion of Founder, and Association's decision as to whether to construct additional facilities and the construction thereof shall be in the sole discretion of the Association.

**Section 3. Costs.** All costs associated with operating, maintaining, repairing and replacing the Association Property shall be the obligation of the Association. The Association Property shall be conveyed to the Association in accordance with the provisions of Article III, Section 6 hereof.

**Section 4. Private Use.** For the term of this Declaration, the Association Property (except as otherwise specifically provided in this Declaration) is not for the use and enjoyment of the public, but is expressly reserved for the private use and enjoyment of Founder, the Association, owners of residential units within Grand Preserve at Kanapaha, and the Owners, and their family members, guests, invitees and tenants, but only in accordance with this Declaration.

4.1. Notwithstanding anything in this Declaration to the contrary, however, Founder hereby expressly reserves for itself and Founder's Affiliates the right to use the Association Property (including, without limitation, all parking spaces within or adjacent to the recreational areas, if any) for such period of times as Founder determines to be necessary in connection with the sale and marketing by Founder and/or Founder's Affiliates of Homes in the Community and in any other communities developed to or to be developed by Founder or Founder's Affiliates, including but not limited to, the holding of sales and market meetings, the use of "model row(s)" if one or more, and engaging in sales promotions and related sales and marketing activities for the general public.

4.2. Except to the extent provided herein and elsewhere in the Community Documents, the Association Property shall be for the sole and exclusive use of the owners of residential units within Grand Preserve at Kanapaha and Owners and residents of the Community and their family members, guests, invitees and tenants.

4.3. The administration, management, operation and maintenance of the Association Property shall be the responsibility of the Association, as provided herein and in the Community Documents.

4.4. The right to use the Association Property shall be subject to the rules and regulations established by the Association, as the same may be amended from time to time.

**Section 5. Privacy Fences and Hedges.** Certain of the Lots within the Community on which "zero lot line" homes are constructed, as further described in Article IV, Section 6 herein, may have privacy fences installed by Founder and/or Founder's Affiliates ("Privacy Fences") on or along their rear and/or side lot lines (or portions thereof), with hedges planted by Founder and/or Founder's Affiliates on either or both sides of such Privacy Fences ("Hedges"). The Privacy Fences and Hedges, if installed by Founder and/or Founder's Affiliates (which Founder and/or Founder's Affiliates shall have no obligation whatsoever to do) shall be the repair and replacement obligation of the Owner of the Lot on which the same is or are installed, and may not be altered in any way or removed by the Owner of the Lot.

**Section 6. Model Row.** Founder hereby reserves the right for itself and Founder's Affiliates to construct and/or operate a "model row(s)" in the Community. The "model row(s)" may contain models for the Community or other communities being developed by Founder or Founder's Affiliates, as Founder and/or any of Founder's Affiliates may so determine, in their sole discretion. The "model row(s)" may also contain parking, landscaping and fencing across streets or roads as Founder may determine in its sole discretion. In the event that Founder and/or any of Founder's Affiliates constructs a "model row(s)" in the Community, such "model row(s)" may be used for such period of time that Founder and/or any of Founder's Affiliates determine to be necessary in its or their sole discretion including, without limitation, after the Turnover Date. Each Owner, by acceptance of a deed or title to a Lot in the Community, agrees and acknowledges that: (i) Founder and/or any of Founder's Affiliates have a right to construct and/or operate a "model row(s)" even after the Turnover Date; (ii) Founder and/or any of Founder's Affiliates have an easement over the Community for ingress and egress to and from the "model row(s)" and to use and show the models to prospective purchasers in the Community or other communities being developed by Founder and/or any of Founder's Affiliates, for so long as such "model row(s)" exists; and (iii) Owner shall not interfere in any manner whatsoever in the sales process by Founder and/or any of Founder's Affiliates, including, without limitation, the carrying of signs, the posting of signs on Lots or Homes, or other types of demonstrations in or around the Community or any public right-of-way adjacent to the Property. Each Owner acknowledges and agrees that any such activities interfere with the enjoyment of the Community by the other Owners, are detrimental to the value of the Homes within the Community and interfere with the Founder's and/or Founder's Affiliates ability to conduct their business.

**Section 7. Community Systems.** Founder shall have the right, but not the obligation, to convey, transfer, sell or assign all or any portion of the Community Systems located within the Property, or all or any portion of the rights, duties or obligations with respect thereto to the Association or any other person or entity (including an Owner, as to any portion of a Community System located on/in such Owner's Lot). Without limiting the generality of this Section, if and when any of the aforesaid persons and/or entities receive such a conveyance, sale, transfer or assignment, such person and/or entity shall automatically be

deemed vested with such rights of Founder with regard thereto as are assigned by Founder in connection therewith; provided, however, that if the Association is the applicable entity, then any Community Systems or portions thereof shall be deemed Association Property hereunder and the Association's rights, duties and obligations with respect thereto shall be the same as those applicable to other Association Property unless otherwise provided by Founder. Any conveyance, transfer, sale or assignment made by Founder pursuant to this Section, (i) may be made with or without consideration, (ii) shall not require the consent or approval of the Association or any Owner, and (iii) if made to the Association, shall be deemed to have been automatically accepted (with all rights, duties, obligations and liabilities with respect thereto being deemed to have been automatically assumed). In recognition of the intended increased effectiveness and potentially reduced installation and maintenance costs and user fees arising from the connection of all Lots and Association Property to the applicable Community Systems, each Owner and occupant of a Home shall, by virtue of the acceptance of a deed or title to a Lot or other right of occupancy thereof, be deemed to have consented to and ratified any and all agreements to which the Association is a party which is based upon (in terms of pricing structure or otherwise) a requirement that all Lots be so connected. The foregoing shall not, however, prohibit the Association or Community Systems provider from making exceptions to any such one-hundred percent (100%) use requirement in its reasonable discretion. WITH RESPECT TO COMMUNITY SYSTEMS, ALL PERSONS ARE REFERRED TO ARTICLE VI, SECTION 6 HEREOF, WHICH SHALL AT ALL TIMES APPLY TO THIS SECTION.

**Section 8. Common Structural Elements.** Each Building containing attached Units may contain Common Elements which may include, but are not limited to, the following:

8.1. *Utility Lines.* All utility lines, ducts, conduits, pipes, fire sprinklers, wires and other utility fixtures and appurtenances which are located on or within each Building and which directly or indirectly in any way service more than one (1) Unit in such Building.

8.2. *Party Walls.* All division walls ("Party Walls") between two (2) Units located upon a Lot line between two (2) Units, provided that the mere fact that such a division wall between two (2) Units is found to be not on a Lot line shall not preclude that division wall from being a Party Wall. The Owners of the Units adjacent to a Party Wall shall own such Party Wall as tenants in common.

8.3. *Bearing Walls.* Any and all walls or columns necessary to support the roof structure.

8.4. *Exterior Finish.* Any and all siding, finish, trim, exterior sheathings and other exterior materials and appurtenances on the exterior of each Building.

8.5. *Roofs.* The entire roof of a Building.

Should the Common Structural Elements or a part thereof extend beyond the Lot, same shall not be deemed to violate the provisions of this Declaration and such easements as may be necessary to accommodate and permit the Common Structural Elements as same shall be constructed are hereby imposed.

### **Article III. ADDITIONS TO AND WITHDRAWALS FROM THE PROPERTY; CONVEYANCE OF ASSOCIATION PROPERTY**

**Section 1. Additions.** Founder may from time to time, in its sole discretion, by recording appropriate Supplemental Declaration(s) in the Public Records of the County, add any Additional Property or any other real property to the Property governed by this Declaration, and may declare all or part of such Additional Property or other property (including any Improvements thereon) to be Lots or Association Property. Upon the recording of a Supplemental Declaration, the property described therein shall be deemed part of the Property as if it were originally included therein and subject to this Declaration. Any such Supplemental Declaration may submit any Additional Property or any other real property to such modifications of the covenants, conditions, restrictions, reservations, regulations, burdens, liens and/or easements contained in this Declaration as may be necessary or convenient to reflect or adapt to any changes in circumstances or differences in the character of any such Additional Property or other property. Nothing contained in this Section shall be construed to require the joinder by or consent of the Owners or the Association to any such Supplemental Declaration; provided, however, the Association shall join in the execution of any such Supplemental Declaration at the request of Founder. In addition, nothing herein shall require Founder to add any Additional Property.

**Section 2. Designation of Additional Association Property.** The Founder may, from time to time, by recording Supplemental Declarations in the County, designate additional portions of the then existing Property owned by it to be Association Property.

**Section 3. Disclaimer of Implication.** Only the real property described in Exhibit "A" hereto is submitted and declared as the Property subject to this Declaration. Unless and until a Supplemental Declaration is recorded in the fashion required pursuant to this Declaration, no other property (including any Additional Property) shall in any way be deemed to constitute a

portion of the Property or be affected by the covenants, conditions, restrictions, rules, regulations, burdens, liens and easements expressly binding the Property as provided by the terms of this Declaration.

**Section 4. Absence of Obligation.** Nothing in this Declaration shall be construed to require the Founder to add any Additional Property to the Property encumbered by this Declaration or to require Founder to declare any portion of any properties added to the Property to be Association Property, nor shall anything in this Declaration be construed to require the Founder to declare any portion or portions of the existing Property as Association Property, except to the extent herein specifically provided.

**Section 5. Withdrawal.** Notwithstanding anything herein to the contrary, Founder reserves the absolute right at any time to withdraw portions of the Property from the provisions of this Declaration by recording an appropriate Supplemental Declaration in the County. Any such Supplemental Declaration must be executed by the Founder, the Owner of each Lot located on the Property sought to be withdrawn (if any) and each holder of an Institutional Mortgage on a Lot located on the Property sought to be withdrawn (if any), in order to be effective. Nothing contained in this Section shall be construed to require the joinder by or consent of the Owners of Lots on the portion of the Property which is not withdrawn by such Supplemental Declaration, such Owners' Institutional Mortgagees holding mortgages on Lots on the portion of the Property which is not withdrawn by such Supplemental Declaration, or the Association.

**Section 6. Title to the Association Property.** To the extent herein provided, the Association Property is hereby dedicated to the joint and several use in common of the Owners of all Lots that may, from time to time, constitute part of the Property. Except as otherwise required by applicable law, when deeds and/or title to all Lots subject to the provisions of this Declaration have been conveyed to non-Founder purchasers or earlier at Founder's option exercisable from time to time, as to any portions of the Association Property, the Founder or its successors and assigns shall convey and transfer to the Association, by quitclaim deed, the fee simple title to the Association Property free and clear of any mortgages and the Association shall accept such conveyance, holding title for the Owners as aforesaid. Such conveyance shall be subject to (i) any real estate taxes and assessments due with respect to Association Property from and after the date of recording of this Declaration; (ii) all laws, ordinances, regulations, restrictions, prohibitions and other requirements imposed by governmental authorities, including, without limitation, all building, zoning, land use and environmental laws, ordinances, codes and regulations; (iii) matters which would be disclosed by an accurate survey of the Association Property; (iv) easements, covenants, conditions, restrictions, reservations, limitations and other matters of record; and (v) the terms and provisions of this Declaration, as the same may have been modified, amended and/or supplemented from time to time.

At the time of conveyance of the Association Property or any portion thereof, the Association shall be required to accept the Association Property, together with the personal property and Improvements appurtenant thereto, if any. The Association hereby agrees to accept the Association Property and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Association Property or any portion thereof, and the personal property and Improvements appurtenant thereto being conveyed. IN THAT REGARD, THE ASSOCIATION AND EACH OWNER KNOWINGLY AND VOLUNTARILY RELINQUISHES AND WAIVES, AND FOUNDER EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES (EXPRESS OR IMPLIED) AS TO THE ASSOCIATION PROPERTY AND PERSONAL PROPERTY AND IMPROVEMENTS WHETHER ARISING FROM CUSTOM, USAGE OR TRADE, COURSE OF CONDUCT, COURSE OF DEALING, CASE LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR ANY INTENDED OR PARTICULAR PURPOSE.

TO THE EXTENT THAT BY LAW OR OTHERWISE ANY OF THE WARRANTIES RELINQUISHED, WAIVED OR DISCLAIMED CANNOT BE RELINQUISHED, WAIVED OR DISCLAIMED, IN WHOLE OR IN PART, ALL SECONDARY, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE SPECIFICALLY EXCLUDED AND DISCLAIMED (INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM CLAIMS OF PROPERTY DAMAGE, LOSS OF USE, PERSONAL INJURY OR EMOTIONAL DISTRESS). Without limitation, the Association shall accept all Private Roads, and sidewalks, including, without limitation, all gutters, curbs and paver bricks located within and adjacent to the Private Roads, and sidewalks, all as installed by Founder, provided such Private Roads, sidewalks, gutters, curbs and paver bricks perform their intended purposes. The Association and all Owners hereby further acknowledge and agree that small cracks in the Private Roads, sidewalks, gutters, curbs and paver bricks as well as the ponding or collection of water following periods of rain thereon are normal and shall not be considered to be defects or deficiencies of any kind whatsoever.

The Association and each Owner acknowledges and agrees that Founder and/or Founder's Affiliates may install trees, shrubs, plants and other landscaping in the Community and that from the time of such initial installation, such trees,

shrubs, plants and other landscaping may mature, expand, decay and/or die from time to time. The Association shall have no claim whatsoever against Founder, and Association hereby releases any and all claims whatsoever against Founder, for any trees, shrubs, plants and other landscaping that have decayed or died and not been replaced regardless of the reasons therefor.

The Association shall accept this conveyance of the Association Property (together with the personal property and Improvements appurtenant thereto) and shall pay all costs of such conveyance including, but not limited to, documentary stamps and other taxes of conveyance, recording charges, title insurance expenses and insurance fees. The conveyance shall not, however, impair in any way Founder's rights and easements as set forth in this Declaration.

Commencing upon the date this Declaration is recorded, and notwithstanding that title thereto has not yet been conveyed to the Association, the Association shall be responsible for the maintenance of the Association Property in a continuous and satisfactory manner without cost to the general taxpayers of the County. The Association shall be responsible for the payment of real estate taxes, if any, against the Association Property including taxes on any Improvements and any personal property thereon accruing from and after the date this Declaration is recorded.

The Owners (including Founder and/or Founder's Affiliates as to Lots owned by it) shall have no personal liability for any damages: (i) for which the Association is legally liable, or (ii) arising out of, relating to, or in connection with the existence or use of any Association Property or any other property required to be maintained by the Association.

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

**Section 7. Parking Rights.** The Association may maintain upon the Association Property parking spaces for owners of residential units within Grand Preserve at Kanapaha, Owners, occupants, visitors and guests. The use of such parking spaces by owners of residential units within Grand Preserve at Kanapaha, Owners, occupants, visitors and guests shall be subject to duly adopted rules and regulations of the Association, as the same may be amended from time to time.

#### **Article IV. OWNER'S PROPERTY RIGHTS**

**Section 1. Owners' Easements of Enjoyment.** Every Owner and family member, guest, tenant, agent or invitee of an Owner, and owner of residential units within Grand Preserve at Kanapaha, shall, except as may otherwise be provided in this Declaration, have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of Association Property within the Property (except as may be otherwise specifically provided elsewhere in this Declaration) in common with all other Owners, their family members, guests, tenants, agents and invitees, and owners of residential units within Grand Preserve at Kanapaha, which easement shall be appurtenant to, and shall pass with a deed and/or title to, each Owner's Lot. This right shall be subject to the following conditions and limitations:

1.1. The right of the Association to reasonably limit the number of guests, visitors, invitees or tenants of an Owner using the Association Property.

1.2. The right of the Association to levy Assessments against each Lot for the purpose of operating, maintaining, repairing and replacing the Association Property and Improvements, thereon in compliance with the provisions of this Declaration and the restrictions on portions of the Property from time to time recorded by the Founder.

1.3. The right of the Association to establish, amend and/or abolish from time to time, uniform rules and regulations pertaining to the use of the Association Property.

1.4. The right of the Association to establish fees pertaining to the use of the Association Property.

1.5. The right of the Association to establish, amend and/or abolish from time to time, uniform rules and regulations pertaining to the Lots for the purposes of enhancing the aesthetic uniformity of the Property.

1.6. The right of the Association in accordance with its Articles, Bylaws, and this Declaration, with the vote or written assent of two-thirds (2/3) of the total voting interests, except as provided to the contrary in this Declaration, to borrow money for the purpose of improving the Association Property and Improvements thereon, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use rights of the Owners in the Association Property. Notwithstanding the foregoing, such two-thirds (2/3) vote or written assent of total voting interests shall not be required for such Improvements made for the sole purpose of preservation of, or prevention of damage to Association Property.

1.7. The right of the Association to dedicate, release, alienate, or transfer all or any part of the Association Property owned by the Association to any public agency, authority, or utility; and to grant any covenant, restriction or reservation against the

Association Property in favor of any such public agency, authority, or utility; provided, however, no such dedication, release, alienation, or transfer shall be effective unless Members entitled to cast two-thirds (2/3) of the total voting interests agree to such dedication, release, alienation or transfer.

1.8. The right of the Association, without any vote of the Owners, to grant easements and rights-of-way where necessary or desirable, for utilities, water and sewer facilities, cable television, and other services over the Association Property to serve the Association Property and other portions of the Property without vote of the Owners.

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

1.10. The right of the Association, by action of the Board to reconstruct, replace, or refinish any Improvement or portion thereof upon the Association Property, in accordance with the original design, finish, or standard of construction of such Improvement.

1.11. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs, and groundcover upon any portion of the Association Property.

1.12. The right, however not the duty, of the Association by action of the Board to seek the vacation of publicly dedicated streets, if any, upon the Property.

1.13. The right, however not the duty, of the Association, following a tropical storm, hurricane or other Act of God, to upright and/or remove any fallen or dislodged trees on: (1) any Lot, and/or (ii) any grassed areas located between the front and/or side of such Owner's Lot and the street; all as more particularly set forth in Article IX below.

1.14. The easements provided elsewhere in this Declaration, designated on the Plat, or on the Additional Plat(s), if any, including, but not limited to, those set forth in this Article.

1.15. The right of the Association to provide for the maintenance, preservation and architectural control of Lots, Improvements and other properties as set forth in this Declaration.

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

1.17. The right of the Association to suspend the rights of Owners and their tenants, guests and invitees to use the Association Property (except for legal access) and common facilities when such Owners are more than ninety (90) days delinquent in the payment of any monetary obligation due to the Association. The Association shall also have the right to levy fines and impose suspensions Owners or any tenants, guests or invitees, and owners of residential units within Grand Preserve at Kanapaha for violations of the Community Documents, including, but not limited to, the Association's Rules and Regulations.

1.18. The right of the Association to suspend voting rights of Owners that are more than ninety (90) days delinquent in the payment of any monetary obligation due to the Association.

**Section 2. Delegation of Use.** Any Owner may delegate, in accordance with the Bylaws, such Owner's right of enjoyment to the Association Property to the members of such Owner's family, or to the tenants who reside in such Owner's Home, subject to this Declaration, all of the rules and regulations presently in effect and any which may become effective in the future, and subject further to reasonable regulation by the Board.

**Section 3. Recognition of Easements.** Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes and consents to the easements reserved and/or granted with respect to the Property under this Declaration.

**Section 4. Easements for Vehicular Traffic.** In addition to the general easements for use of the Association Property reserved herein, there shall be, and Founder hereby reserves, grants, and covenants for itself, Founder's Affiliates and all future Owners, their family members, guests, invitees and tenants, owners of residential units within Grand Preserve at Kanapaha, Institutional Mortgagees of the Property (or portions thereof), and to the Association, that all of the foregoing shall have a perpetual nonexclusive easement for vehicular traffic over (i) all streets within or upon the Property dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any Private Roads within or upon the Property.

**Section 5. Access Easement.** Founder hereby reserves perpetual, nonexclusive easements of ingress and egress over and across: (i) any and all streets within or upon the Property dedicated to the public use, if any (as well as alcoves, cul de

sacs, and other private, paved areas abutting or serving the same), (ii) any Private Roads and driveways within or upon the Property, and (iii) all other portions of the Property, any of the foregoing of which are necessary or convenient for enabling Founder and/or Founder's Affiliates to carry on and complete the work and/or exercise its rights referred to in this Declaration. All of the foregoing easements shall be for the use of Founder, Founder's Affiliates, Founder's employees, contractors and agents, Founder's successors and assigns, Owners, and the respective tenants, employees, agents, invitees, and licensees of Founder and Owners.

**Section 6. Grant and Reservation of Easements.** Founder hereby reserves and grants the following perpetual, nonexclusive easements over and across the Property as covenants running with the Property for the benefit of the Owners, the Association, Founder and/or Founder's Affiliates as hereinafter specified for the following purposes:

6.1. *Utility and Services Easements.* All of the Property shall be subject to an easement or easements to provide for: (i) installation, service, repair, relocation and maintenance of the equipment required to provide utility services other than Community Systems to the Association Property and the Lots, including, but not limited to, power, lights, telephone, gas, water, sewer, irrigation and drainage, and (ii) governmental services, including, but not limited to, police, fire, mail, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

6.2. *Easement for Encroachment.* All of the Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of such Owner's Home or appurtenant Improvements installed by Founder and/or Founder's Affiliates such as stucco, a fence or underground footer now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Founder and/or Founder's Affiliates shall remain undisturbed for so long as the encroachment exists. Encroachments of less than three feet (3') shall be considered minor and larger distances may be minor depending on the circumstances. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or such Owner's designees.

6.3. *Easements for Signage.* Easements in favor of Founder and the Association for directional, advertising, promotional or other signage including the right of ingress and egress over and across all of the Property for construction purposes and to erect, move, add to, expand, alter, maintain, repair and replace, from time to time, one or more signs on the Property for the purpose of selling, marketing or advertising the sale or lease of any portion of the Property.

6.4. *Easements for Structural Party Walls.* Each Owner grants to the Owner of each adjacent Unit the right and easement to maintain and utilize any exterior or interior wall of a Building that forms a party wall between them. A wall will be considered a party wall only if it provides structural support for the Buildings, or parts of a Building, on more than one Lot. Maintenance of the surface of the party wall shall be the sole responsibility of the Owner whose Building faces such wall. Each Owner shall be liable and responsible if, in connection with that Owner's use and maintenance of the party wall, the Owner damages the adjacent Owner's Lot or the wall itself. Adjacent Owners shall share the cost of any other repairs to the party wall equally.

6.5. *Easements for Exterior Walls along a Lot Line.* An exterior wall which supports the Building on only one Lot, or which encloses a courtyard on one Lot, shall not be considered a party wall. The Association may make rules and regulations concerning use and maintenance of such walls, including assigning responsibility between the adjoining owners for painting and repair and granting access over the adjoining Lot as reasonably necessary to maintain the wall.

6.6. *Zero Lot Line Maintenance Easements:*

6.6.1. *Preamble:* A portion of the Homes in the Community may be designed and site planned as "zero lot line" homes, such that each zero lot line Home is constructed so that all or portions of one side of such Home (and such fences or walls extending from such side or sides) are situated on the side boundary lines of the Lot. Because of this design, it is necessary to provide a means by which the Owner of a Lot ("Dominant Lot") containing such a Home may have access to the "zero lot line" side of the Home (and other portions of such Owner's Lot and Home) in order to maintain portions of the Lot, the side(s) of the Home, the roof and other applicable portions of the Homes and Lot, and so that rainwater may run off the roof of a particular Home onto the easement area described below. Because such access must be, of necessity, over those portions of the neighboring Lot or Lots ("Servient Lot[s]") adjacent to the "zero lot line" side[s] of such a Home, Founder hereby makes provision for the "Maintenance Easements" declared and regulated pursuant to this Section 6 (as well as similar easements for the aforesaid purposes which may, but need not, appear on the Plat).

6.6.2. *Creation and Extent of Maintenance Easement.* Founder hereby reserves a permanent and perpetual non-exclusive maintenance easement in favor of each Dominant Lot over the unimproved portion of the Servient Lot(s) adjacent to the building lines of the "zero lot line" Home located on the Dominant Lot, which building lines are co-extensive with the Lot lines dividing the aforesaid Lots ("Maintenance Easement"). Said Maintenance Easement shall be appurtenant to and pass with



the deed or title of the Dominant Lot and the Servient Lot(s). The Maintenance Easement shall be only as extensive as reasonably necessary to permit the Owner of a Dominant Lot to make the uses described in the Preamble above, 6.6.3 below and for rainwater run-off, but in no event less than the greater of seven (7) feet in width or as may be otherwise shown as a maintenance, access or similar easement on the Plat.

6.6.3. *Use and Conditions of Maintenance Easement:* The Owner of a Dominant Lot, such Owner's guests, invitees, contractors, subcontractors, suppliers, laborers and other service personnel, shall be entitled to enter onto the appurtenant Maintenance Easement for purposes of maintaining, repairing and replacing portions of such Owner's Lot and Home including, without limitation, the Home's walls, roof, fence, landscaping and other installations which cannot be conveniently or properly maintained, repaired or replaced solely from the Dominant Lot. The right of each Owner of the Dominant Lot to use the Maintenance Easement shall be limited to the aforesaid uses, and such Owner shall not do anything within the Servient Lot(s) which shall cause damage to the Servient Lot(s) or any Improvement or landscaping thereon which is not promptly and fully remedied by said Owner by returning such damaged Improvement or landscaping to the condition immediately preceding said damage, shall create an undue hazard to persons or pets located on or coming into the Servient Lot(s) or is in furtherance of any activity as to the Dominant Lot or the Home thereon which is, or would result in, a violation of the restrictions set forth in the Community Documents. The Owner of the Dominant Lot shall, by virtue of making use of any Maintenance Easement, be deemed to indemnify the Owner of a Servient Lot for any and all losses, costs, expenses or damage to any person or property incurred by reason of the former's violations of the restrictions contained herein.

6.6.4. *Servient Lot Owner Duties:* Owners of Servient Lots shall not make any Improvement to the Servient Lot, including, without limitation, the placement of fences or landscaping, which would unreasonably interfere with the permissible uses of any maintenance or access easement appurtenant to the adjoining Dominant Lot reserved hereby or with the flowage easement described in this Section. Notwithstanding the foregoing, except as prohibited under Article X, Section 22 hereof, the Owner of a Servient Lot may install a fence or landscaping thereon provided such installation is approved by the Founder and/or Committee pursuant to Article VIII hereof.

6.6.5. *Reciprocity:* Each Owner, by acceptance of a deed or title for a Lot containing a "zero lot line" Home, hereby acknowledges and agrees that such Owner's Lot may not only be a Dominant Lot having rights across adjacent Servient Lots as hereinbefore described, but also a Servient Lot encumbered by the easement rights hereinbefore described in favor of the Dominant Lots adjacent to such Owner's Lot.

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

6.8. *Easement Over Association Property.* An easement of enjoyment in favor of all Owners, their family members, guests, invitees and tenants in and to the Association Property which shall be appurtenant to and shall pass with a deed or title to every Lot in the Property, subject to the following:

6.8.1. the right of the Association to suspend the right to use the Association Property of any Owner and such Owner's family members, guests, invitees and tenants in accordance with the Association Documents and law;

6.8.2. the right of the Association to grant permits, licenses and easements over the Association Property for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property; and

6.8.3. all provisions set forth in the Community Documents.

6.9. *Adjacent Structures.* In the event that any structure(s) is constructed so as to be connected in any manner to any other structure, then there shall be (and there is hereby declared) an easement of support for such structure(s) as well as for the installation, maintenance, repair and replacement of all utility lines, pipes, and equipment serving the adjacent structure which are necessarily or conveniently located within the Property (provided that the use of this easement shall not unreasonably interfere with the structure, operation or use of the Property, or the Buildings). If a wall or parapet is not a party wall but is constructed along or very near the property line, the Owner of the Unit to be constructed on the adjacent property shall have the right to flash into the existing Building, in accordance with industry standards and in order to make the new Building watertight. This right shall include the right to make minor cuts on the existing Building and to secure flashing or other materials to the existing Building, so long as the structural integrity and water tightness of the existing Building is not impaired. The cost for flashing shall be incurred by the owner of the new Building, but the maintenance of this connection shall be a shared expense between adjacent property owners.

6.10. *Association Easements.* The Association and its agents, employees, contractors and assigns shall have easements to enter onto the Property, including the Units, and Association Property for the purpose of performing such functions as are permitted or required to be performed by any such associations, including, but not limited to, maintenance, controlled-access activities, if any, fire hose access and enforcement of architectural control and other restrictions. The easements reserved in favor of the Association and its respective agents, employees, contractors and assigns, shall include access easements through all Units and Property to perform exterior maintenance to the structures, including such window washing and painting as the applicable Association may be required to perform, and easements to stage window washing and other maintenance equipment on the structures.

6.11. *Zero Lot Line Easement for Roof Overhangs and Encroachments.* An easement or easements to provide for the roof overhang of a zero lot line Home in favor of the Owner thereof, including rights of access for persons or equipment necessary to maintain, repair and replace such roof overhang. In addition to roof overhangs, the foregoing easement shall be deemed to include an easement to allow for the encroachment of all architectural and other decorative features which are appurtenant to and have been included as part of the initial construction of the Owner's Home, which now or hereafter encroach upon any of the Lots, as well as an easement of access for persons or equipment necessary to maintain, repair and replace such improvements and an easement for gutters, downspouts and french drains.

6.12. *Drainage Easement.* An easement over, under and upon all areas of the Property and/or Drainage System for access to install, operate, maintain, alter, inspect, remove, relocated, repair and/or replace the Drainage System. By this assessment, the Association shall have the right to enter upon any portion of any Lot which is part of the Drainage System, at a reasonable time and manner, to operate, maintain or repair the Drainage System as required by the Water Management District and the Water Management District Permit. In addition, Founder reserves and grants to the Water Management District a perpetual, non-exclusive ingress, egress and access easement over and across all Private Roads, an all dedicated access easement created on the Plat or any Additional Plat(s), as may be necessary or convenient for the Water Management District to obtain access to and from the Drainage System, and for enabling the Water Management District to carry out any work permitted to be performed by the Water Management District under the Water Management District Permit and/or this Declaration. No Owner shall install any plantings, landscaping and/or other Improvements whatsoever in, on, over or across any Drainage Easement.

6.13. *Irrigation Easement.* An easement for irrigation over, under and upon the Property, including, without limitation, each of the Lots, in favor of the Association, including, without limitation, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate, repair and/or replace the Irrigation System (or any portions thereof) installed on the Property. Notwithstanding the foregoing, in the event of any damage caused by an Owner to the Irrigation System or any portions thereof (including, without limitation, any portions of the Irrigation System located upon such Owner's Lot), the cost of the repairs and/or replacements resulting from such damage shall be paid by such Owner.

6.14. *Drainage System Encroachment Easement.* An easement for encroachment over, under and upon the drainage easements located within the Lots, as designated on the Plat and Additional Plat(s), if any, in favor of (i) the Owner of the Lot upon which the drainage easement is located for the existence of any driveway and/or sidewalk or irrigation system or part thereof, encroaching over, under and upon such drainage easement, and (ii) the Association for reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair any driveway and/or sidewalk, or irrigation system or part thereof installed or located over, under and upon such drainage easement. In the event the Association requires access to any Drainage System improvements within a drainage easement located within a Lot upon which any such driveway and/or sidewalk or irrigation system encroaches, the Association has the obligation, at its own cost and expense, to remove and replace any such encroachment, and to return it to its condition immediately preceding such removal and replacement once access to the drainage easement is no longer required. The flowage easements providing for drainage run between each of the Lots parallel to and over the side lot line thereof, draining either from the rear to the front, or from the front to the rear, of the Lots. In addition, Founder may, but is not obligated to, convey easements to the owner(s) of adjacent properties (or portions thereof) to provide legal positive outfall for runoff from such adjacent properties.

6.15. *Buffer Easements.* An easement or easements in favor of the Association for landscape, buffers, drainage and utility purposes.

6.16. *Lift Station Easements.* Easements in favor of the County for ingress, egress and access to and from the Lift Station Tracts for the installation, repair, maintenance and service of equipment, lines and other structures necessary to supply sanitary sewer services to and from the Community.

6.17. *Landscaping Easements.* A perpetual, non-exclusive landscaping easement (the "Landscaping Easement") in favor of the Association, in, on, over, under and across any Lots designated by the Board (as it may determine) to have the Association maintain landscaping (the "Landscaping Easement Lots"). The Landscaping Easement created herein shall be for installation,

construction, maintenance, repair and replacement of trees, landscaping hedges and/or other landscaping materials (collectively, the "Landscaping Improvements"). The Landscaping Improvements may not be removed or altered by any Owner (except only that dead or dying trees and landscaping shall be replaced by Owner with plant material of a similar size and species). In addition, no Owner shall engage in any activity which affects the grading of any portion of the Landscaping Easement. Except for the Landscaping Improvements made or installed by Founder, Founder's Affiliates and/or the Association, no plantings and/or Improvements, including, without limitation, pool decks, patios, screen enclosures, hedges, trees, etc. shall be permitted within the Landscaping Easement. To the extent a Landscaping Easement Lot is also burdened by a Drainage Swale Easement, as defined in Article IV, Section 7 hereof, the restrictions contained within this sub-section shall control, and the Owner of a Landscaping Easement Lot shall only be permitted to install Improvements within the Drainage Swale Easement and Landscaping Easement in accordance with the provisions of this sub-section. The Association has the right to maintain the Landscaping Improvements located within the Landscaping Easement. Notwithstanding the right of the Association to elect to maintain the Landscaping Improvements, with the exception of replacement required due to damage caused by the Association's performance of such maintenance, any replacement of trees, hedges, shrubs and/or other plant materials within the Landscaping Easement, for any reason whatsoever, shall be the obligation of the Owner of the Lot upon which the replacement is required. All costs and expenses incurred by the Association in connection with this Section shall be deemed an Operating Expense.

**Section 7. Rear Yard Drainage Swale Easement.** Founder hereby reserves and grants a perpetual, nonexclusive drainage easement ("Drainage Swale Easement") over and across the rear five feet (5') of all Lots. The Drainage Swale Easement shall be for drainage and flowage of stormwater runoff and pipes and other ancillary equipment installed to provide for such drainage and flowage. Except as expressly provided in the following sentence, no planting, landscaping and/or Improvements whatsoever, including, without limitation, pool decks, patios, screen enclosures, hedges, trees, etc. shall be permitted within the Drainage Swale Easement. Notwithstanding the foregoing, subject to approval from the Founder and/or Association, an Owner of a Lot that is subject to the Drainage Swale Easement may install a pool/spa deck, patio and/or screen enclosure within the Drainage Swale Easement on such Owner's Lot provided that such improvement is constructed in a manner that will not discharge stormwater runoff from such improvement onto any adjacent property (including, without limitation, any adjacent Owner's Lot or Association Property). In that regard, all such improvements approved to be constructed within the Drainage Swale Easement shall be designed and constructed in a manner that will retain all such stormwater runoff on such Owner's Lot including, without limitation, installation of a commercial grade deck drain that will collect such runoff and discharge it to the side yard of the Lot. In addition, each Owner of a Lot shall have the right to seek approval from the Founder and/or Association for the installation of a fence across the Drainage Swale Easement to the rear property line of the Lot, subject to the terms and conditions of the Community Documents and the prior approval of the Founder, Association, the Committee, and otherwise in accordance with the Community Documents.

**Section 8. Easement for Community Systems.** Notwithstanding anything to the contrary in this Declaration, Founder and Founder's Affiliates and their respective designees shall have a perpetual exclusive easement over, across, upon and under the Association Property and the Lots for the installation, operation, maintenance, repair, replacement, alteration, relocation and expansion of Community Systems.

**Section 9. Assignments; Additional Easements.** The easements reserved hereunder may be assigned by Founder or the Association in whole or in part to any city, county or state government or agency thereof, or any duly licensed or franchised public utility, or any other designee of Founder. Founder, and after the Founder is no longer offering any Homes or Units for sale in the ordinary course of business, the Association shall have and hereby reserves the right to grant and/or reserve additional easements over, under and upon the Property or portions thereof (including the portion of Lots where no physical structure of the Home is located) which may be necessary or desirable at its sole discretion. The Owners hereby authorize Founder and/or the Association to execute, on their behalf and without any further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration. Notwithstanding anything in this Declaration to the contrary, the easement rights granted to or reserved by Founder hereunder are not to be construed as creating an affirmative obligation to act on the part of Founder.

**Section 10. No Easement Grantee.** Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant or purported grant of easement shall nevertheless be considered as having been granted directly to the Association, as agent for such intended grantees, for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate the Association as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or

deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

**Section 11. Amendment and Termination of Rights.** This entire Article IV may not be amended without the prior written consent of Founder so long as Founder and/or Founder's Affiliates own any Property in the Community.

**Article V. FUNCTION OF ASSOCIATION; MEMBERSHIP RIGHTS IN THE ASSOCIATION; BOARD; CONTRACTS; DURATION OF THE ASSOCIATION**

**Section 1. Function of Association; Membership Rights.** The Association is the entity responsible for management, maintenance, operation, and control of the Association Property. The Association through the Board may adopt reasonable Rules and Regulations. The Homes or Units may or may not be within a Sub-Association and may be subject to additional covenants. Membership in the Association shall be established and terminated as set forth in the Articles. Each Member shall be entitled to the benefit of, and be subject to, the provisions of the Community Documents. The voting rights of the Members shall be as set forth in the Articles.

**Section 2. Board.** The Association shall be governed by the Board which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

**Section 3. Contracts.** The Association may contract with any party, including the Founder and Founder's Affiliates, for the performance of all or any portion of the management of the Association and its maintenance, landscaping, irrigation, repair, legal, or any other obligations. The cost of the contract shall be included within the Operating Expenses and collected as Individual Residential Unit Assessments, Benefited Assessments, or Maintenance District Assessments as applicable. Any contract entered into by the Founder with a utility company, insurer or other provider on the Association's behalf, either before or after creation of the Association, may be assigned to the Association. Founder hereby discloses familial and business relationships between Founder and Founder's Affiliates. Any conflicts of interest arising out of the Founder and Founder's Affiliates roles as Officers, Directors, Members, managers and parties to any contract with the Association are hereby waived.

**Section 4. Duration of Association.** The duration of the Association shall be perpetual, as set forth in the Articles. In the event of termination, dissolution or final liquidation of the Association, the responsibilities for the operation and maintenance of the Drainage System must be transferred to and accepted by an entity which would comply with Section 40C-42.027, Florida Administrative Code, and must be approved by the Water Management District prior to such termination, dissolution or liquidation.

**Article VI. COVENANTS TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS; COLLECTION OF ASSESSMENTS; COLLECTION BY FOUNDER; CERTAIN RIGHTS OF FOUNDER AND INSTITUTIONAL MORTGAGEES**

**Section 1. Affirmative Covenant and Personal Obligation to Pay Assessments.** In order to: (a) fulfill the terms, provisions, covenants, conditions, restrictions, reservations, regulations, burdens, liens and easements contained in the Community Documents; and (b) maintain, operate and preserve the Association Property for the use, safety, welfare and benefit of the Members and their family members, guests, invitees and tenants, there is hereby imposed upon each and every Completed Residential Unit, and Incomplete Lot, and each Completed Residential Unit Owner and Incomplete Lot Owner, the affirmative covenant and obligation to pay to the Association which commenced from and after the first conveyance of a Completed Residential Unit from Founder to an Owner other than the Founder and/or Founder's Affiliates as evidenced by the recordation of a deed in the Public Records of the County, all Assessments as set forth herein, which Assessments may include, but are not limited to, the Individual Residential Unit Assessments, Maintenance District Assessments, Benefited Assessments, and Special Assessments, as applicable. Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot within the Property, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments in accordance with the provisions of the Community Documents. In the event of co-ownership of any Lot subject to this Declaration, all of the co-Owners shall be jointly and severally liable for the entire amounts of all Assessments coming due during their period of ownership.

The following expenses of the Association are hereby declared to be Operating Expenses which the Association is obligated to assess and collect, and which the Owners are obligated to pay as provided herein or as may be otherwise provided in the Community Documents: (1) any and all taxes and tax liens which may be assessed or levied at any and all times against the Association Property, the Community Systems or against any and all personal property or Improvements thereon; (2) all charges levied for Community Systems or other utilities providing services for the Association

Property or to Owners on a bulk basis, such as water, gas, electricity, telephone, cable television, data, sanitation, sewer and any type of utility or any other type of service charge which is not separately billed to an Owner; (3) the premiums on policies of insurance including, but not limited to, liability and casualty insurance for the Association Property and directors and officers liability insurance for the officers and directors of the Association; (4) any sums necessary for the maintenance and repair of the Association Property and all Improvements located thereon; (5) administrative and operational expenses; (6) fees and other costs of operating, maintaining, repairing and replacing the Irrigation System including, without limitation, all water usage related thereto; (7) all sums necessary for the maintenance and repair of the Drainage System, including, but not limited to, work within retention areas, drainage structures and drainage easements; and (8) any and all expenses deemed to be Operating Expenses by the Association and/or under this Declaration. Reserves for replacements, capital expenditures and deferred maintenance are specifically excluded from Operating Expenses.

The Board may, if it so determines, include reserves in the Association's annual budget; however, reserves are not part of Operating Expenses and are therefore payable only by Completed Residential Unit Owners. In addition, any expense which is required by the Declaration to be the matter of Special Assessment shall not be deemed to be an Operating Expense. Expenses which are required to be the matter of Special Assessment include, by way of example but not by way of limitation, the following: the cost of reconstructing, replacing or improving the Association Property or any portion thereof or Improvements thereon; any casualty loss affecting the Association or the Association Property to the extent such loss exceeds the insurance proceeds, if any, receivable by the Association as a result of such loss; any judgment against the Association (or against a Director or Directors if and to the extent such Director is, or such Directors are, entitled to be indemnified by the Association therefor pursuant to the Articles) to the extent such judgment exceeds the insurance proceeds, if any, received by the Association as a result of such judgment, or an agreement by the Association (or such Director or Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or such Director or Directors) to the extent such settlement exceeds the insurance proceeds, if any, received by the Association as a result of such settlement agreement; and Legal Fees incurred by the Association in connection with litigation (whether incurred for the preparation, filing, prosecution or settlement thereof or otherwise), except Legal Fees incurred by the Association in connection with the collection of Assessments or other charges which are obligated to pay pursuant to the Community Documents or the enforcement of the use and occupancy restrictions contained in the Community Documents and except Legal Fees incurred for lawsuits not approved pursuant to Section 13 of Article XV below.

The Operating Expenses with respect to the Association Property are payable by each Owner to the Association notwithstanding the fact Founder may not have as yet conveyed title to the Association Property to the Association. No assessment will be made based on property intended to be used exclusively for commercial purposes.

**Section 2. Establishment of Liens.** Each Assessment against a Lot, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, shall be the personal obligation of the Owner of such Lot. Any and all Assessments made by the Association in accordance with the provisions of the Community Documents with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Lot against which each such Assessment is made. Said lien shall be effective from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed, provided however that said lien shall relate back to the recording date of the original Declaration. Said lien shall run with and bind the title of the Lot until all unpaid Assessments are paid in full. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. The lien shall have priority over and be superior to homestead status and to all other liens and interests created except: (i) liens for taxes, bonds, or governmental assessments; and (ii) liens of an Institutional Mortgagee, expressly subject to the Association's right to collect Assessments from the Institutional Mortgagee pursuant to applicable Florida Statutes as amended from time to time. A subsequent Owner is jointly and severally liable with the former Owner for all unpaid Assessments that came due up to the time of transfer of title of the subject Lot, provided however, in the event an Institutional Mortgagee of record obtains a deed or title to a Lot as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such acquirer of a deed or title, its successors or assigns, shall be liable for Assessments pertaining to such Lot and/or chargeable to the former Owner the extent permitted by applicable Florida Statutes as amended from time to time. Notwithstanding anything to the contrary herein contained, the sale or transfer of any Lot shall not affect the Association's lien or relieve such Lot from the lien for any subsequent Assessments. Any unpaid Assessments which cannot be collected as a lien against any Lot shall be an Operating Expense of the Association collectible as an Assessment from Owners of all Lots subject to Assessments as set forth in Section 1 herein and may be enforced by the Association and Founder in the same manner as all other Assessments hereunder as provided in the Community Documents. For purposes of this Section the term "former

Owner" shall not include the Association if the Association acquired title to the Lot through foreclosure or deed in lieu of foreclosure of its lien on the Lot.

**Section 3. Collection of Assessments.** In the event any Owner shall fail to pay any Assessment, or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

3.1. To accelerate the entire amount of any Assessment for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

3.2. To advance on behalf of the Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Owner(s) is(are) liable to the Association and the amount or amounts of monies so advanced, together with interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association from the Owner(s), and such advance by the Association shall not waive the default.

3.3. To file an action in equity to foreclose its lien at any time after the effective date thereof as provided in Section 2 hereinabove. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.

3.4. To file an action at law to collect said Assessment plus interest and all costs of collection thereof, including, but not limited to, Legal Fees, without waiving any lien rights or rights of foreclosure of the Association.

3.5. To charge interest on such Assessments from the date it becomes due, as well as a late charge in the highest amount permitted by law, and if no such late charge is designated by law, then the greater of Twenty-Five (\$25.00) Dollars or five percent (5%) of the amount of each installment to defray additional collection costs.

3.6. To suspend the use rights of the Owner(s) in default to the Association Property, if such Owner is delinquent in payment of Assessments for more than ninety (90) days, subject to the Notice and Hearing provisions in Article X, Section 1 herein.

3.7. To suspend the right of the Owner(s) in default to vote on any matter on which Owners have the right to vote if such Owner is delinquent in payment of Assessments for more than ninety (90) days.

3.8. To charge a service charge of \$25.00 (for checks up to \$50.00); \$30.00 (for checks exceeding \$50.00 but less than \$300.00); \$40.00 (for checks exceeding \$300.00) or five percent (5%) of the value of the check (whichever is greater), in the event that a check given to the Association shall be dishonored for any reason whatsoever. If said fee remains unpaid, it shall constitute a lien upon the applicable Lot with the same force and effect as a lien for Assessments.

3.9. To collect any monetary obligation, including delinquent Assessments due for the Home from the rents paid by any tenant occupying the Home if the Owner has leased the Home. In such case, the tenant shall remit such delinquent Assessments and other amounts due the Association directly to the Association upon written notice from the Association that the Owner is delinquent in the payment of its monetary obligations and the tenant may deduct such amounts paid to the Association from the rent due to the Owner. The Association has the right to require Owners to use a lease addendum the form of which may be prepared by the Association, which provides, among other things, that the tenant will pay the rent due under the lease directly to the Association upon receipt of notice from the Association that the Owner is delinquent in amounts due to the Association.

**Section 4. Estoppel Certificates.** The Association shall, upon demand at any time, furnish to any Owner, a certificate in writing signed by an Officer or authorized agent of the Association setting forth whether said assessments have been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any assessment, due to the Association, which is stated therein to have been paid. The Association may require the advance payment of a reasonable fee to provide such certificates. If said fee remains unpaid, it shall constitute a lien upon the applicable Lot with the same force and effect as a lien for Assessments.

**Section 5. Initial and Resale Contribution.** At the closing and transfer of title of each Home to the first Owner other than the Founder, and upon each subsequent resale, the new Owner shall contribute to the Association three months' assessments or \$450, whichever is greater. This contribution may be used by the Association for any purpose as operating funds, and shall not be considered as a prepayment of Assessments. If said contribution remains unpaid, it shall constitute a lien upon the applicable Lot with the same force and effect as a lien for Assessments.

**Section 6. Collection by Founder.** In the event for any reason the Association shall fail to collect the Assessments, Founder shall at all times have the right (but not the obligation): (i) to advance such sums as the Association could have advanced as set forth above; and (ii) to collect such Assessments and, if applicable, any such sums advanced by Founder, together with interest and costs of collection, including, but not limited to, Legal Fees.

**Section 7. Rights of Founder to Pay Assessments and Receive Reimbursement.** Founder shall have the right, but not the obligation, at its sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Lot(s). Further, Founder shall have the right, but not the obligation, at its sole option, to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Association in the event the same are overdue and when lapses in policies or services may occur. Founder paying overdue Operating Expenses on behalf of the Association will be entitled to immediate reimbursement from the Association plus interest and any costs of collection including, but not limited to, Legal Fees, and the Association shall execute an instrument in recordable form acknowledging such reimbursement obligations and deliver the original of such instrument to Founder if Founder is entitled to reimbursement.

**Section 8. Community Systems Services.** The Association shall have the right to enter into one or more agreement(s) ("Bundled Service Agreements") for receipt of television (via cable, satellite or otherwise), entertainment, telecommunication, internet, monitored alarm and/or other services (collectively, "Bundled Services") for Homes in the Community. Any and all costs and expenses incurred by the Association under or pursuant to any Bundled Service Agreements entered into by the Association for Bundled Services will be assessed against all Completed Residential Unit Owners. It is contemplated that there may be features and services that are or will be available in addition to and not part of the Bundled Services (each, an "Optional Service"). Notwithstanding anything to the contrary contained in this Declaration, the costs and expenses charged to the Association under the Bundled Services Agreements shall be apportioned equally, but only amongst those Homes with respect to which the Association is being charged under or pursuant to the Bundled Services Agreement except to the extent, if any, that any Owner elects to receive an Optional Service (being a service not automatically received by all Owners entitled to receive Bundled Services pursuant to the Bundled Services Agreements). Each Owner who receives an Optional Service, if any, shall be responsible for paying for the costs of such Optional Services and for any hook-up costs, any converter boxes, remote control units, and the charge therefor shall be billed directly to Owner. The foregoing shall in no way obligate Founder or the Association to enter into any Bundled Services Agreement.

**Section 9. Central Irrigation System(s).** The Founder shall have the right, but not the obligation, to install one or more central irrigation systems referred to in this Declaration as the "Irrigation System(s)" for the Association Property and/or any or all of the Lots within the Community. If the Association provides irrigation water, the Lots shall be required to use the Association's irrigation water. If the Founder installs such a central irrigation system, the Founder may charge a connection fee to each Owner. The Association may centrally control and operate the Irrigation System(s). In the event Founder installs one or more central Irrigation System(s) for the Association Property and/or any or all of the Lots within the Community, the responsibility for operating, maintaining, repairing and replacing such Irrigation System(s) shall be governed by the provisions of Article IX below. The Irrigation System(s) may utilize reclaimed water. Each Owner further acknowledges and agrees that reclaimed water is not potable and should not be consumed in any manner.

#### **Article VII. METHOD OF DETERMINING ASSESSMENTS AND ALLOCATION OF ASSESSMENTS**

**Section 1. Determining Amount of Assessments.** The total anticipated Operating Expenses for each calendar year shall be set forth in the budget ("Budget") prepared and approved by the Board as required under the Community Documents. The Budget may run a surplus, which may create buffer funds in the operating account, or a deficit, which may spend excess funds in the operating account from the previous year. The Budget surplus or deficit shall be at the discretion of the Board of Directors with the total anticipated Operating Expense amount used for the following calculations adjusted accordingly. However, the Association dues shall not increase by more than fifteen percent (15%) in each calendar year unless approved by a vote of sixty percent (60%) of all Members of the entire membership in the Association. Each Completed Residential Unit and Incomplete Lot shall be assessed its pro rata portion of the total anticipated Operating Expenses, which shall be the "Individual Residential Unit Assessment" as to each Lot. The Individual Residential Unit Assessment shall be based upon the level of service to each Lot and upon the state of the Lot's development, with the Owners of Completed Residential Units paying the Operating Expenses on a twenty to one ratio (20:1) compared to the Owners of Incomplete Lots as set forth below. Therefore, the Completed Residential Unit Owners and Incomplete Lot Owners shall share the payment of the Operating Expenses on a ratio of twenty to one (20:1). Therefore, the total anticipated Operating Expenses (other than those expenses which are properly the subject of Special Assessment) shall be divided by the total number of Completed Residential Units multiplied by twenty (20) plus the number of Incomplete Lots, with the quotient thus arrived at being the "Individual Residential Unit Assessment" for an Incomplete Lot. Said quotient multiplied by twenty (20) shall be the Individual Residential Unit Assessment for a Completed Residential Unit. The number of Completed Residential Units and Incomplete Lots shall be adjusted quarterly, as needed, as hereinafter set forth. At such time as Founder has conveyed all of the Homes on all of the Lots, each Lot shall be a Completed Residential Unit and the Individual Residential Unit Assessment shall be equal for each Lot. Notwithstanding anything in the

Community Documents to the contrary, any Assessment for Legal Fees incurred by the Association for lawsuits shall be deemed an Operating Expense which is properly the subject of Special Assessment and not the subject of an Individual Residential Unit Assessment so long as approved pursuant to Section 13 of Article XV, except the Legal Fees incurred by the Association in connection with the collection of assessments or other charges which Owners are obligated to pay pursuant to the Community Documents or the enforcement of the use and occupancy restrictions contained in the Community Documents.

**Section 2. Assessment Payments.** Individual Residential Unit Assessments shall be payable, in advance, on the first day of the assessment period and the assessment period shall be determined by the Board of Directors. Individual Residential Unit Assessments may be adjusted from time to time by the Board to reflect changes in the number and status of Completed Residential Units and Incomplete Lots (thus apportioning all such Assessments and installments thereof among all Lots at the time such installment is due) or changes in Budget or in the event the Board determines that an Assessment or any installment thereof is either less than or more than the amount actually required. When an Incomplete Lot becomes a Completed Residential Unit during a period with respect to which an Assessment or installment thereof has already been assessed, such Completed Residential Unit shall be deemed assessed the amount of such Assessment or installment thereof which was assessed against Completed Residential Units in existence at the time of such Assessment, prorated from the date the Lot became a Completed Residential Unit through the end of the period in question. If the payment of such Assessment or installment thereof was due at the time the Lot became a Completed Residential Unit or prior thereto, said prorated amount thereof shall be immediately due and payable. Likewise, the amount paid with respect to such Completed Residential Unit based upon the Lot's status as an Incomplete Lot, prorated from the date the Incomplete Lot became a Completed Residential Unit to the end of the period in question, shall be credited against the amount owed as a Completed Residential Unit.

**Section 3. Special Assessments.** "Special Assessments" include, in addition to other Assessments designated as Special Assessments in the Community Documents and whether or not for a cost or expense which is included within the definition of "Operating Expenses," those Assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring Improvements for, or on, the Association Property or the cost (whether in whole or in part) of reconstructing or replacing such Improvements. In addition, Special Assessments may be levied against particular Lots and/or Owners to the exclusion of others. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Individual Residential Unit Assessment. Any Special Assessments assessed against Lots and the Owners thereof shall be paid by such Owners in addition to any other Assessments and shall be assessed in the same manner and using the same 20:1 ratio as the Individual Residential Unit Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine. Notwithstanding the foregoing, the levying of any Special Assessment after the Turnover Date shall require the affirmative assent of at least two-thirds (2/3) of all Members represented in person or by proxy at a meeting called and held in accordance with the Bylaws for all Special Assessments except only any Special Assessment for: (a) repair, reconstruction, or replacement of damaged or destroyed Improvements previously existing on Association Property (including, without limitation, landscaping), (b) capital improvements necessary or desirable for the sole purpose of preservation of, or prevention of damage to, Association Property, or (c) uprighting or removing any fallen or dislodged trees as set forth below; which shall not require such affirmative assent of at least two-thirds (2/3) of all Members. Prior to the Turnover Date, but subject to any affirming vote of the Members as may be required by the HOA Act, a Founder-controlled Board may make a Special Assessment. Special Assessments are not included in the guarantee set forth in Article VII, Section 6 below.

**Section 4. Maintenance District Assessments:**

4.1. *Calculation of Maintenance District Assessments.* If Maintenance Districts are established by the Association or by the Founder, then before the beginning of each fiscal year, the Board may consolidate the budget for each Maintenance District with the Budget for the Association by creating a separate line item for Assessments charged to each Maintenance District which shall be reasonably related to the estimated Limited Operating Expenses which it expects to incur on behalf of such Maintenance District for the coming year, including any contributions to be made to a reserve fund pursuant to subsection 4.3 below for periodic major maintenance, repair and replacement of items that the Association maintains on behalf of the Maintenance District as a Limited Operating Expense. The budget may separately reflect the anticipated sources and estimated amounts of funds to cover the Limited Operating Expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities maintained on behalf of the Maintenance District, and any other non-assessment income.

The Association is authorized to levy Maintenance District Assessments to fund the Limited Operating Expenses for each Maintenance District against all Lots in the Maintenance District that are subject to assessment under Article VI, Section 1, in the proportions described in this Article VII, except that, unless otherwise specified in the applicable Supplemental



Declaration, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures, may be levied on each of the benefited Lots in proportion to the benefit received, as the Board may reasonably determine. In determining the Maintenance District rate for any Maintenance District, the Board may consider any assessment income expected to be generated from any property in the Maintenance District reasonably anticipated to become subject to assessment during the fiscal year. All amounts that the Association collects as Maintenance District Assessments may be commingled with the Association's general funds.

4.2. *Benefited Assessments.* The Association may levy Benefited Assessments against one or more particular Lots as follows:

4.2.1. To cover the costs, including, without limitation, overhead and administrative costs, of providing services to a Lot upon request of the Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 3.1 of Article IX) or pursuant to a Supplemental Declaration. Benefited Assessments for special services may be levied in advance of the provision of the requested service; and

4.2.2. To cover costs incurred in bringing a Lot into compliance with the Community Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests, including, without limitation, legal costs.

4.3. *Budgeting for Reserves.* The Board may prepare and periodically review separate reserve budgets for the Association Property and for each Maintenance District for which the Association maintains capital items as a Limited Operating Expense which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of capital items under each budget. The Board may include in the Operating Expense budget, as appropriate, a capital contribution to fund reserves in an amount which the Board, in the exercise of its business judgment, deems sufficient to meet the projected needs under each budget with respect to both amount and timing by annual contributions over the budget period.

Reserve funds, if collected, shall be held in a separate account or accounts from the operating funds of the Association. Reserve funds collected for each Maintenance District may be commingled with the reserves collected for Association Property or other Maintenance Districts.

The reserve funds held in each account may be expended only for major maintenance, repair, or replacement of those assets covered by the reserve budget, however, reserves set aside for one purpose may be used for another purpose and the Association uses a pooled method of reserves unless otherwise specified by a vote of the Board. Subject to such limitation, the Board may adopt resolutions regarding the expenditure of any reserve funds including, without limitation, policies designating the nature of assets for which reserve funds may be expended. Neither the Association membership nor the Board shall adopt, modify, limit, or expand such policies without Founder's prior written consent during the Development and Sale Period.

**Section 5. Assessments Payable by Founder and/or Founder's Affiliates; Founder Subsidies.** Each Owner acknowledges and agrees that because Individual Residential Unit Assessments and Special Assessments are allocated based on the formula set forth in this Article VII, it is possible that the Association may collect more or less than the amount budgeted for Operating Expenses in the Budget of the Association. Except as may be limited by applicable law, Founder has the right (at its sole election) to: (i) pay Individual Residential Unit Assessments for the Lots owned by Founder in the same manner as other Owners and at the 20:1 ratio described above, (ii) pay the Deficit (as hereinafter defined), (iii) subsidize the Budget of the Association as provided below by making voluntary contributions in amounts determined by Founder, in Founder's sole discretion, and/or (iv) Founder and Founder's Affiliates to be excused from payment of its share of Assessments related to its Lots if Founder elects to guarantee the amount of Individual Residential Unit Assessments and pay the Deficit during the Guarantee Period (as hereinafter defined) as provided in Section 6 of this Article VII below. During the period of time that Founder and/or Founder's Affiliates is offering Homes for sale in the Community and/or based on the number of Homes owned by Owners other than Founder and/or Founder's Affiliates, Founder may seek to keep Assessments lower than they otherwise may be by subsidizing the Budget of the Association by making voluntary contributions in amounts determined by Founder. The amount of any such voluntary contributions may vary from time to time or may be discontinued and recommenced by Founder from time to time. The determination to subsidize the Budget of the Association, the amount of any such voluntary contribution, the discontinuance and/or recommencement of any such voluntary contributions shall all be made by Founder in Founder's sole discretion and in no event shall Founder have any obligation whatsoever to make any such voluntary contributions. Each Owner shall be solely responsible to review the Budget of the Association then in effect to determine if and to what extent Founder is making any voluntary contributions to subsidize the Budget and thus lower the Assessments payable by the Owners that would otherwise be higher based on the Operating Expenses of the Association.

**Section 6. Guaranteed Assessment During Guarantee Period.** Without limiting the options that Founder is entitled to pursuant to Section 5 of this Article VII above, Founder and/or Founder's Affiliates shall have the right to elect to be excused from payment of its share of the Operating Expenses and Assessments related to its Lots (other than Special Assessments) during the Guarantee Period, which election shall be made at the time of recordation of this Declaration by delivery of written notice thereof to Association. If so elected by Founder, Founder covenants and agrees with the Association and the Owners that during the "Guarantee Period" (as hereinafter defined), the Individual Residential Unit Assessment imposed on each Owner other than Founder shall not increase over the amount set forth (the "Guaranteed Assessment"), as follows: (a) For a Single Family Lot, the Individual Residential Unit Assessment shall not increase by more than fifteen percent (15%) per year nor exceed the lesser of: (i) double its current value set forth in the current year's Operating Budget of the Association or (ii) if no current value has been established, seven-hundred dollars per quarter. (b) For attached single-family residential Units including Townhome Units or Condominium Units, the Individual Residential Unit Assessment shall not increase by more than fifteen percent (15%) per year nor exceed the lesser of: (i) triple its current value set forth in the current year's Operating Budget of the Association or (ii) if no current value has been established, nine hundred fifty dollars per month. "Guarantee Period" as used herein shall mean the period commencing with the date of recordation of this Declaration and ending upon the sooner to occur of: (i) the Turnover Date; (ii) twenty years after the date of recordation of this Declaration; or (iii) delivery of written notice from Founder to Association of Founder's termination of its election. During the Guarantee Period, Founder shall be obligated to pay the difference ("Deficit"), if any, between: (a) the Operating Expenses (other than those Operating Expenses which are properly the subject of a Special Assessment) incurred by the Association, and (b) the sum of (i) the amounts assessed as Guaranteed Assessments against Owners, and (ii) any other income of the Association. The Deficit, if any, to be paid by Founder pursuant to this Section shall be determined by looking at the Guarantee Period as a whole, without regard to quarterly, annual or any other accounting or fiscal periods and without regard to intraperiod allocations. In that regard, in the event it is determined at the end of the Guarantee Period that there is a Deficit and Founder has previously advanced funds to the Association in excess of the Deficit during the Guarantee Period, Founder shall be entitled to the immediate repayment from the Association of the amount of funds advanced by Founder in excess of the Deficit. This guarantee expressly does not include Special Assessments and/or any unpaid Assessments by Owners. Special Assessments may include assessments for items such as capital expenditures or amounts needed to supplement repair expenses not covered by insurance.

After the Guarantee Period terminates, each Owner shall be obligated to pay Assessments as set forth in Article VII, Section 1 hereof, and, commencing at such time, Founder and Founder's Affiliates shall be required to pay Assessments on any Lots it owns.

**Section 7. Waiver of Use.** No Owner, other than Founder, may exempt himself from personal liability for Assessments duly levied by the Association. No Owner may release the Lot owned by such Owner from the liens and charges hereof either by waiver of the use and enjoyment of the Association Property and the facilities thereon or by abandonment of such Owner's Home. No reduction or abatement of Assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason, or from any other action it takes.

#### **Article VIII. ARCHITECTURAL CONTROL COMMITTEE**

The Association shall not regulate property intended to be used exclusively for commercial purposes. Notwithstanding any other provision of this Declaration, unless the Boards of the Commercial Association and the Association agree otherwise: (a) All common areas within the Town Center shall be regulated and maintained solely by the Commercial Association; and (b) The Commercial Association shall assume and be solely responsible for all architectural review functions assumed by the Association Control Committee under this Declaration as they relate to all property, residential or commercial, within the Town Center.

##### **Section 1. Architectural Control Authority.**

1.1. *By Founder.* The Founder shall have exclusive jurisdiction and authority to review and act upon all applications for review of proposed Improvements until Founder or Founder's Affiliates no longer owns any Property or until Founder terminates its rights in a recorded instrument. The Founder may designate one or more persons to act on its behalf in reviewing any application. The Founder may from time to time, but shall not be obligated to, delegate or assign all or a portion of its reserved rights under this Article to any person, entity or committee, including the Architectural Control Committee, sometimes referred to in this Declaration as the "Committee". Any delegation shall be in writing specifying the scope of responsibilities delegated and shall be subject to (i) Founder's right to revoke such delegation at any time and reassume jurisdiction and authority over the

matters previously delegated and (ii) Founder's right to veto any decision which Founder determines, in its sole discretion, to be inappropriate or inadvisable for any reason.

1.2. *Architectural Control Committee.* Upon Founder's delegation or upon expiration or termination of Founder's rights under this Article, the Association, acting through the Committee, shall assume jurisdiction and authority to review and act upon all applications for review of proposed Improvements. The Committee shall be comprised of three (3) members. Members of the Committee need not be Members of the Association or representatives of Members. During the period in which Founder has the exclusive jurisdiction and authority to review and act upon all applications for review of proposed Improvements, the members of the Committee shall consist of persons designated by Founder. Each of said persons shall hold office until Founder or Founder's Affiliates no longer owns any Property or such earlier time as the Founder may, at its sole option, elect. Thereafter, each new member of the Committee shall be appointed by the Board and shall hold office until such time as such new member has resigned or has been removed or such new member's successor has been appointed, as provided herein. Members of the Committee, other than those designated by the Founder, may be removed at any time without cause. The Board shall have the sole right to appoint and remove all members of the Committee other than those designated by the Founder.

## **Section 2. Review of Proposed Construction.**

2.1. No Improvements, including, by way of example and not of limitation, accessory structures, exterior lighting fixtures, brick pavers, stamped concrete, concrete flatwork, basketball goals, gym sets and play structures, buildings, fences, walls, pools, roofs, gutters or rain spouts, antennae, aerials, microwaves, reception devices, mailboxes, external enclosures or attachments (including entry screen and patio screen enclosures), or landscaping (including hedges, massed plantings and trees) shall be commenced, erected, installed, altered, modified, painted, planted, or maintained on the Property, including the Lots, nor shall any canopies, shutters, or window coverings be attached to or placed upon outside walls or roofs of any Home, Building or structure by any Owner other than Founder and Founder's Affiliates, unless such Improvements have been reviewed by and received the written approval of the Founder and/or Committee. Any Owner desiring to make Improvements shall submit two (2) complete sets of plans and specifications prepared by an Owner, architect, landscape architect, engineer or other person determined by the Founder and/or Committee to be qualified, showing the nature, dimensions, materials and location of the same together with the security deposit if required by the Founder and/or Committee, to be held and disbursed by the Association in accordance with Section 3 herein below.

2.2. The Founder and/or Committee shall approve proposed plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated will not be detrimental to the appearance of the surrounding area of the Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The Committee shall adhere to all rules and regulations promulgated by the Board with respect to any and all additions and alterations within the Property and all such rules and regulations are incorporated herein by reference. The Founder and/or Committee may also issue and amend from time to time rules or guidelines setting forth procedures for the submission of plans and specifications. If the proposed construction, alterations or additions are to a portion of the Improvements which the Association is obligated to maintain, said approval shall also be subject to approval by the Board. The Founder and/or Committee may condition its approval of proposed plans and specifications in such a manner as it deems appropriate and may require the submission of additional information prior to approving or disapproving such plans. The Founder and/or Committee shall have no obligation to approve any plans and specifications submitted if approval of same would result in failure to comply with the foregoing requirements.

2.3. The Founder and/or Committee shall have thirty (30) days after delivery of all required materials to give written approval or rejection of any such plans and, if written approval is not given within such thirty (30) day period, such plans shall be deemed rejected. No addition, construction or alteration shall be made by any Owner which is detrimental to or inconsistent with the harmony, appearance or general scheme of the Property as a whole.

2.4. No plantings, landscaping and/or Improvements whatsoever including, without limitation, pool decks, patios, screens enclosure, hedges, trees, etc. shall be installed in any Drainage Swale Easement except only as expressly provided in Article IV, Section 7 above.

2.5. An Owner of a Townhome Unit or Condominium Unit shall not plant any shrubs, trees and/or landscaping on his or her Lot and/or in any manner alter the landscaping in the Community as initially installed by Founder and/or Founder's Affiliates. An Owner of a detached Single Family Lot shall not plant any shrubs, trees and/or landscaping on any visible or community maintained portion of their Lot, including all portions of their Lot which are not fenced and all plants or trees which could be seen over their fence and such Owner shall not in any manner alter the landscaping in the Community as initially installed by Founder and/or Founder's Affiliates. However, notwithstanding the foregoing, the Owner of a Lot may be granted a variance with the prior written consent of the Founder and/or Committee. If an Owner receives such approval and plants any shrubs, trees and/or

landscaping on his or her Lot, then: (1) such Owner shall be individually responsible for the payment of the increase in maintenance fees incurred by the Association for the maintaining of such shrubs, trees and/or landscaping; (2) Owner may be required to maintain such altered landscaping himself; and (3) even if the Association collects additional maintenance fees from the Owner, the Association, Founder and/or Founder's Affiliates SHALL NOT BE RESPONSIBLE OR LIABLE TO OWNER FOR ANY DAMAGE OR DEATH OF SUCH ALTERED LANDSCAPING BY ANY PERSON FOR ANY REASON INCLUDING BUT NOT LIMITED TO ANY NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, ANY OTHER LEGAL THEORY ALLEGED WHETHER TORT, CONTRACT, VIOLATION OF STATUTE, CODE, RULE OR REGULATION.

2.6. Notwithstanding any Section in this Article to the contrary, the approval of the Founder and/or Committee shall not be required for any additions, changes or alterations within any Home if such additions, changes or alterations are not visible from the outside of such Home. All changes and alterations shall be subject, independently, to all applicable governmental laws, statutes, ordinances, codes, rules and regulations.

2.7. Notwithstanding anything to the contrary herein contained, no construction, reconstruction, addition or alteration by Founder and/or Founder's Affiliates shall require the prior approval or any certificate of consent of the Committee or any security deposit.

2.8. The Founder and/or Committee may set, establish and charge ("Review and Inspection Fees") for, among other things, review of the plans and specifications for proposed Improvements and inspection of the Improvements constructed by Owner, which review and/or inspection may be performed by third parties. The Founder and/or Committee may require such Review and Inspection Fees to be paid in advance (i.e., at the time of submission of the Owner's application). In the event any Review and Inspection Fees remain unpaid by an Owner, the Founder and/or Committee shall have the right, at its option, to: (i) not release the security deposit described in Section 3 below until all Review and Inspection Fees have been paid, or (ii) deduct all unpaid Review and Inspection Fees from any such security deposit paid by Owner. In addition (and in addition to any other remedies under and pursuant to the Community Documents for a failure of an Owner to perform Owner's obligations), if any Review and Inspection Fees are not paid by Owner, the Board may levy an Assessment against such Owner for such unpaid Review and Inspection Fees, and said Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

**Section 3. Security Deposit for Improvements; Indemnification.** Any Owner desiring to make Improvements may be required by the Founder and/or Committee, depending upon the Improvements being requested and the manner of installation of such Improvements, to provide to the Founder and/or Committee, at the time of the Owner's submission of plans and specifications for review and approval by the Founder and/or Committee, a Five Thousand Dollar (\$5,000.00) security deposit to cover costs of incidental damage caused to Association Property, an adjacent Home or Lot, or any other property (whether real or personal) by virtue of such Owner's construction of Improvements. The Founder and/or Committee shall have the sole discretion to determine whether a security deposit is required for the Improvements being requested. The Founder and/or Association shall not be obligated to place the security deposit in an interest bearing account. The Owner shall be entitled to the return of the security deposit upon: (i) such Owner's written notice to the Founder and/or Committee that the Improvements covered by the security deposit have been completed in accordance with the plans and specifications approved by the Founder and/or Committee; and (ii) the Founder and/or Committee's (or its duly authorized representative's) inspection of such Improvements confirming completion; provided, however, should any incidental damage be caused to Association Property by virtue of such Owner's construction of Improvements, the security deposit shall not be returned to Owner until such damages have been repaired. In the event that Owner has not repaired such damages to the Association Property to the satisfaction of the Founder and/or Committee, Association shall have the right (but not the obligation), after five (5) days notice to the offending Owner, to repair such incidental damage and to use so much of the security deposit held by the Association to reimburse itself for the costs of such work. Further, the offending Owner hereby agrees to indemnify and reimburse the Founder and the Association for all reasonable costs expended by the Association that exceed the security deposit, including Legal Fees, if any, incurred in connection therewith. Should any incidental damage be caused to an adjacent Lot or Home by virtue of such Owner's construction of Improvements, the Owner of the adjacent Lot (the "Adjacent Lot Owner") may, at such Adjacent Lot Owner's sole option: (a) remedy such damage and submit to the Association a receipt, invoice or statement therefor for reimbursement from the offending Owner's security deposit; or (b) allow the offending Owner to repair such incidental damage to the Adjacent Lot Owner's Lot or Home, at the offending Owner's sole cost and expenses, and upon receipt by the Association of written notice from the Adjacent Lot Owner that such incidental damage has been repaired, the offending Owner shall be entitled to a return of the balance of the security deposit being held by the Association, if any.

Notwithstanding anything contained in this Section to the contrary, the Association's return of the security deposit being held by it for any such Improvements shall be based solely on considerations set forth above. The Association's

return of the security deposit does not and shall not be construed to constitute a determination by members and representatives of the Committee, the Founder, and/or the Association of the structural safety, approval or integrity of any Improvement, conformance with building or other codes or standards, or the proper issuance of governmental permits and approval for any Improvement. By submitting a request for review and approval of proposed plans and specifications, along with the security deposit required hereunder, an Owner shall be deemed to have automatically agreed to hold harmless and indemnify the members and representatives of Committee, the Founder, and the Association generally, from any loss, claim, damage or liability connected with or arising out of the Improvements or alterations, and/or the security deposit (including, without limitation, the disbursement thereof).

Association shall not be liable or responsible to anyone for any damages, losses or expenses resulting from Association's holding of the security deposit or disbursement thereof unless same shall be caused by the gross negligence or willful malfeasance of the Association. In the event of any disagreement relating to the security deposit held by the Association or the disbursement thereof, Association shall be entitled (but not obligated) to refuse to disburse the security deposit (or any portion thereof) as long as such disagreement may continue, and Association shall not become liable in any way for such refusal. Association shall have the right at any time, after a dispute has arisen, to pay the security deposit (or any portion thereof) held by it into any court of competent jurisdiction for payment to the appropriate party, whereupon Association's obligations hereunder shall terminate and Association shall be automatically released of any and all obligations.

**Section 4. Meetings of the Committee.** The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time, by resolution unanimously adopted in writing, designate a Committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee. In the absence of such designation, the vote of any two (2) members of the Committee shall constitute an act of the Committee.

**Section 5. No Waiver of Future Approvals.** The approval of the Founder and/or Committee of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant. Similarly, the denial of approval by the Founder and/or Committee of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to approve or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

**Section 6. Compensation of Members.** The members of the Committee shall receive no compensation for service rendered, other than reimbursement for expenses incurred by them in the performance of their duties hereunder.

**Section 7. Inspection of Work.** Inspection of work and correction of defects therein shall proceed as follows:

7.1. Upon the completion of any work for which approved plans are required under this Article, the submitting party shall give written notice of completion to the Founder and/or Committee.

7.2. Within thirty (30) days after written notice of completion, the Founder and/or Committee or its duly authorized representatives may inspect such Improvement. If the Founder and/or Committee finds such work was not done in substantial compliance with the approved plans, it shall notify the submitting party in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the submitting party to remedy such noncompliance.

7.3. If upon the expiration of fifteen (15) days from the date of such notification the submitting party shall have failed to remedy such noncompliance, notification shall be given to the Board in writing of such failure. Upon such notice, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the submitting party shall remedy or remove the same within a period of not more than thirty (30) days from the date of announcement of the Board's ruling. If the submitting party does not comply with the Board's ruling within such period, the Board, at its option, may remove the Improvement, remedy the noncompliance, or proceed in court to enjoin compliance and the submitting party shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, including Interest and Legal Fees. If such expenses are not promptly repaid by the submitting party to the Association, the Board shall levy an Assessment against such submitting party for reimbursement, and said Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

7.4. If, for any reason, notification is not given to the submitting party of acceptance within thirty (30) days after receipt of said written notice of completion from the submitting party, the Improvement and/or alteration shall be deemed to be in compliance with said approved plans.

**Section 8. Non-Liability of Committee Members.** Neither the Committee nor any member thereof, nor its duly authorized Committee representative, nor Founder or Founder's duly authorized representative, shall be liable to the

Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Founder and/or Committee's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The Founder and/or Committee's review and approval or disapproval of plans submitted to it for any proposed Improvement shall be based solely on considerations of the overall benefit or detriment to the Community as a whole. The Founder and/or Committee shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes or standards, and no member or representative of the Committee or the Association, nor the Founder or representative of Founder, shall be liable for the safety, soundness, workmanship, materials or usefulness for any purpose of any such Improvement or alteration proposed by the plans. By submitting a request for review and approval by the Founder and/or Committee, an Owner shall be deemed to have and does automatically agree to indemnify, defend and hold harmless the Committee, the Association and the Founder, Founder's Affiliates (and each of their respective officers, directors, partners, affiliates, representatives and members) from and against any and all claims, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, Legal Fees) arising from, relating to or in any way connected with the Improvement or alterations for which such request was submitted and/or the Security Deposit (including, without limitation, the disbursement thereof). Furthermore, approval by the Founder and/or Committee of any request does not excuse an Owner from also obtaining approvals from all applicable governmental authorities.

**Section 9. Variance.** The Founder and/or Committee, for so long as Founder and/or Founder's Affiliates owns any Property, shall have the right and power to grant variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, and grant variances from any rules and regulations promulgated from time to time by the Board. Variances may be granted for any reason, as determined in the sole and absolute discretion of the Founder. No variance shall alter, waive or impair the operation or effect of the provisions of this Article or any rules and regulations promulgated from time to time by the Board in any instance, or in favor of any Lot or Owner, except as to which or to whom the variance is expressly granted. If such variances are granted, no violation of any provision contained in the Community Documents shall be deemed to have occurred with respect to the Improvements for which the variance was granted. After the Founder and/or Founder's Affiliates no longer own any Property, the Committee shall still have the right and power to grant variances pursuant to this Section.

**Section 10. Founder Exemption.** Founder and Founder's Affiliates are hereby exempt from having to comply with the requirements of this Article VIII in their entirety. This entire Article VIII may not be amended without the prior written consent of Founder so long as Founder and/or Founder's Affiliates own any Property in the Community.

## **Article IX. MAINTENANCE AND REPAIR OBLIGATIONS**

### **Section 1. By the Association.**

1.1. The Association, at its expense, shall be responsible for the operation, maintenance, repair and replacement of all of the Improvements and facilities located over, through and upon the Association Property, including without limitation, the recreational areas, except public utilities and Community Systems, to the extent same have not been made Association Property. Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Association Property as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Association Property, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time, personal injury or any other consequential or punitive damages.

1.2. The Association shall operate, maintain, repair and replace the Irrigation System(s), if any, serving the Association Property and/or the Lots (or any portions thereof) as it shall deem appropriate. The Association shall be responsible for the costs of operation, maintenance, repair and replacement of such Irrigation System(s), including any monthly fees and other costs of water and/or electric usage, if any. There is hereby reserved in favor of the Association, the right to enter upon the Association Property and any and all Lots for the purpose of operating, maintaining, repairing and replacing the Irrigation System(s) over, through and upon the Association Property and all of the Lots within the Property. Each Owner shall be responsible for: (i) any irrigation system(s) owned by Owner; (ii) any damage caused to the Irrigation System(s) by Owner and/or Owner's family members, tenants, invitees and guests, and Owner shall indemnify, defend and hold Association harmless from and against any and all losses, claims, damages and/or liabilities resulting from any such damage.

1.3. Except as dedicated to the public or provided in the Plat or Association Documents, the Association shall operate, maintain and repair the Drainage System constructed over, through and upon the Property. There is hereby reserved in favor of the Association the right to enter upon the Association Property and the Lots for the purposes of operating, maintaining,

repairing, and replacing the Drainage System over, through and upon the Property. The Association shall be responsible for all costs associated with its obligations relating to the cleaning, maintenance, repairs and replacement of any portion of the Drainage System as may be necessary to maintain the system in its original condition and use. In the event the Association fails to maintain the Drainage System in accordance with this Declaration and/or the Water Management District Permit, as the same may be amended from time to time, then the Water Management District shall have the right to (i) enter upon the Property and perform any required maintenance at the expense of the Association, or (ii) commence an enforcement action against the Association, including, without limitation, monetary penalties and injunctive relief, to compel the Association to maintain the Drainage System in accordance with this Declaration and/or the Water Management District Permit. The Association shall be required to reimburse the Water Management District for any expenses incurred by the Water Management District in connection with any maintenance required to be performed by the Water Management District as a result of the Association's failure to timely maintain the Drainage System. The Water Management District shall have a perpetual, nonexclusive ingress, egress and access easement over and across all Private Roads and all dedicated access easements created on the Plat or any Additional Plat(s), as may be necessary or convenient for the Water Management District to obtain access to and from the Drainage System, and for enabling the Water Management District to carry out any work permitted to be performed by the Water Management District under the Water Management District Permit and/or this Declaration. The registered agent for the Association shall retain a copy of the Water Management District Permit for the Association's benefit.

1.4. The Association shall be responsible for the maintenance, repair and replacement of all Private Roads located upon the Association Property and there is hereby reserved in favor of the Association the right to enter upon any and all parts of the Association Property and Lots for such purpose. The Association shall also be responsible for the sod, landscaping and irrigation system located within any Private Road cul-de-sac, as applicable.

1.5. The Association, except as otherwise provided in Article X, Section 22 hereof, shall be responsible for the following landscaping services on each Lot (collectively, the "Home Landscaping Services"): mowing, landscape trimming, weeding, edging, fertilizing, spraying of lawns, and mulching as necessary. Each year, the Board shall review the Home Landscaping Services in connection with the preparation of each annual Budget of the Association and the Board shall have the right to add to, remove and/or discontinue the Home Landscaping Services or any portions thereof, all in the Board's sole and absolute discretion, in which event such Landscaping Services would become the responsibility of the Owners. The Home Landscaping Services provided in the contract(s) between the landscaper(s) and the Association shall be the Home Landscaping Services provided and the Landscaping Services not covered under such contract(s) shall be the responsibility of the Owners. Notwithstanding the obligation of the Association to perform the Home Landscaping Services, any replacement of sod, grass, trees, shrubs and other plant materials within the Lots, for any reason whatsoever, shall be the obligation of the Owners of the Lots upon which such replacement is required.

Notwithstanding the foregoing, the Association shall have the right, but not the obligation, following a tropical storm, hurricane or other Act of God, to upright and/or remove any fallen or dislodged trees, at the respective Owner's cost and expense on (i) any Lot, and/or (ii) any grassed areas located between the front and/or side(s) of such Owner's Lot and the street; on behalf of the Owner of such Lot. The Owner of said Lot shall be required to reimburse the Association for the costs and expenses incurred by the Association in connection with the uprighting and/or removal of any fallen or dislodged trees. In that regard, the Association may levy a Special Assessment against such Lot in connection with such costs and expenses, to the exclusion of all other Owners, without the need for obtaining the affirmative assent of at least two-thirds (2/3) of all Members as set forth in Article VII, Section 3.

1.6. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of any municipal properties which are located within or in a reasonable proximity of the Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Property, including the right to enhance the landscaping in any public right of way.

1.7. The public utility shall be responsible for the maintenance, repair and replacement of any public Street Lights and public Decorative Street Lights located in the Community and Owners shall contact the public utility directly to request maintenance. Notwithstanding the foregoing, the Association shall be responsible for the maintenance, repair and replacement of any private Street Lights and any private Decorative Street Lights located in the Community.

1.8. The Association, by action of its Board, may make alterations and Improvements to the Association Property.

1.9. All expenses incurred by the Association in connection with the services, operation, maintenance, repair and replacement described in this Section are Operating Expenses, payable by each Owner under the provisions of this Declaration concerning Assessments. Should the maintenance, repair or replacement provided for in this Section 1 be caused by the negligence of or misuse by an Owner, such Owner's family, guests, servants, invitees, or tenants, such Owner shall be

responsible therefor, and the Association shall have the right to levy an Assessment against such Owner's Lot and said Assessment shall constitute a lien upon the appropriate Lot and Home with the same force and effect as liens for Operating Expenses.

1.10. The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Community.

1.11. The Association, being the entity responsible for the ownership, operation, maintenance, repair and replacement of the Association Property as provided in the Association Documents, hereby agrees to indemnify, defend and hold Founder, Founder's Affiliates and its partners and each of their respective affiliates, shareholders, directors, officers, employees, successor and assigns, harmless from and against any and all claims, damages (including, but not limited to, property damage, personal injury and/or death), liabilities, fines, liens, encumbrances, penalties, losses, and expenses (including, but not limited to, attorneys' fees and costs at all trial and appellate level proceedings and whether or not a lawsuit is commenced), arising out of or in any way resulting from or in any way connected with, resulting from and/or arising out of: (i) the Association Property, (ii) any acts or omissions of the Association, its members, directors, officers, managers, employees and/or agents and their respective heirs, successors and assigns. Association's obligation to defend the parties described in this paragraph shall be triggered upon any allegation or claim being asserted that, in whole or in part, is to be indemnified or defended pursuant to this paragraph. If any indemnified party is compelled to enforce Association's obligations in this paragraph, such indemnified party shall recover any and all attorneys' fees and costs incurred in prosecuting such enforcement action in addition to attorneys' fees and costs incurred in defending the underlying allegations or claims. Notwithstanding the foregoing, the indemnification and defense obligations in this paragraph shall not apply to: (1) any damage claim directly asserted by the Association against the Founder for defects in construction of improvements constructed by the Founder on the Association Property provided such claim does not arise out of or result from any third party claim, and/or (2) any gross negligence or willful misconduct by the indemnified parties.

## **Section 2. By the Owners.**

2.1. The Owner of each Lot must keep and maintain the Lot and the Improvements thereon, including equipment and appurtenances, in good order, condition and repair, and must perform promptly all maintenance and repair work within, upon and outside of such Owner's Home which, if omitted, could adversely affect the Community, the other Owners or the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot, Improvements and Home. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structures constructed in, upon, above or below the Lot, and physical items attached or connected to such structures that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Home. Without limiting the generality of the foregoing, the Owner of each Lot shall keep all drainage structures (such as catch basins), if any, located on the Owner's Lot clear of grass, leaves and other debris. Additionally, the painting, caulking and maintenance of the exterior surface of all walls (including, without limitation, any walls extended from the rear of the Home), doors, windows and roof of the physical structure of the Home shall be performed by the Owner, and the exterior surface of such walls, doors, windows and roof shall at all times be maintained in a good and serviceable condition with no damage or other defect therein by the Owner. The Owner of a Lot further agrees to pay for all utilities (including, without limitation, those provided by the Community Systems), such as telephone, cable or satellite television, water, sewer, sanitation, electric, etc., that may be separately billed or charged to each Home. The Owner of each Lot shall be responsible for insect and pest control within the Home and the Lot. Whenever the maintenance, repair and replacement of any items which an Owner is obligated to maintain, repair, or replace at such Owner's own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

2.2. In addition to the foregoing, the Owner of each Unit shall be required to maintain appropriate climate control, keep his or her Unit clean, promptly repair any leaks and take necessary measures to retard and prevent mold, fungi, mildew and mycotoxins from accumulating in the Unit. Each Owner shall be required to clean and dust such Owner's Unit on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts, and to properly maintain and have serviced on a regular basis, the Unit's HVAC system. Each Owner of a Home shall be responsible for damage to such Owner's Home and personal property as well as any injury to the Owner of a Home and/or occupants of the Home resulting from the Owner's failure to comply with these terms. Each Owner of a Home shall be responsible for the repair and



remediation of all damages to the Home caused by mold, fungi, mildew and mycotoxins. While the foregoing are intended to minimize the potential developments of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of same. Founder does not make any representations or warranties regarding the existence or development of molds, fungi, mildew or mycotoxins, and each Owner on behalf of themselves and their family members, guests, invitees, tenants, successors and assigns shall be deemed to and by acceptance of a deed or title to the Home or by use of the Home, waives and expressly releases any such warranty and claims for loss or damages (including, without limitation, property damage and/or personal injury) resulting from the existence and/or development of same.

2.3. The Owner of each Lot shall replace any dead or obviously dying trees, plants, shrubs or sod on their Lot; maintain, repair and replace as needed any fencing on their Lot; clean, maintain and repair the driveway on their Lot; and keep the sidewalk located on and/or adjacent to their Lot clean and free from any stains, trash, debris and/or impediments to pedestrian traffic.

2.4. If a Home is damaged by fire or other casualty, its Owner shall properly and promptly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Home unless otherwise authorized by the Board and shall be otherwise subject to all provisions of Article VIII hereof.

2.5. The Owner of each Lot should but is not required to obtain and maintain property and liability insurance, for their own benefit and at their own expense, on all insurable Improvements on their Lot. The Association shall have no obligation to assure that any Owner obtains or maintains insurance with respect to their Lot. The Founder, Founder's Affiliates, Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on their Lot.

2.6. If an Owner fails to comply with the foregoing provisions of this Section 2, the Association may, but is not obligated to, proceed in court to compel compliance. Moreover, the Founder, Founder's Affiliates, Association, its directors and officers, shall not be liable to any person if they do not enforce the rights given to the Association in this Section 2.

2.7. If a failure to comply with the provisions of this Section 2 relates to a Sub-Association or an Owner's obligation to maintain and care for the Home, landscaping or any other area required to be maintained and cared for by the Sub-Association or Owner, then, in addition to the exercise of all other remedies, the Association or Founder shall have the right but not the obligation, upon fifteen (15) days written notice, to enter upon the Properties for the purpose of performing the maintenance and care referred to, set forth and described in the notice, and to levy on the offending Sub-Association or Owner an Assessment equal to the cost of performing such maintenance and care plus a surcharge of not more than twenty-five percent (25%) of the cost of performing such maintenance and care. Any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses. The determination of whether a Sub-Association or Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility under this Declaration or any of the other Community Documents shall be determined in the sole discretion of the Association or Founder. No bids need be obtained for any of the work performed pursuant to this Section and the person(s) or company performing such work may be selected by the Association in its sole discretion. There is hereby created an easement in favor of the Association and its applicable designees over each applicable portion of the Properties for the purpose of entering onto thereon in the performance of the work herein described, provided that the notice requirements of this Section are complied with.

### **Section 3. Provision of Services to Maintenance Districts.**

3.1. Founder may assign the Property and/or any property submitted to this Declaration by Supplemental Declaration, and/or any portions thereof, to one or more Maintenance Districts (by name or other identifying designation) as Founder deems appropriate, in Founder's discretion, which Maintenance Districts may be then existing or newly created, and may require that the Association provide benefits or services to the Lots within such Maintenance District in addition to those which the Association generally provides to all Lots. Founder has no obligation to create any Maintenance Districts and such Maintenance Districts may be created without a Supplemental Declaration by Founder. Until the Turnover Date (as provided in the Articles), Founder may unilaterally amend this Declaration, the Maintenance Districts, or any Supplemental Declaration to designate, modify, remove and/or re-designate Maintenance District boundaries from time to time. All costs associated with the provision of services or benefits to a Maintenance District shall be assessed against the Lots within the Maintenance District as a Maintenance District Assessment.

3.2. The Board may, by resolution, designate a group of Lots as a Maintenance District and levy Maintenance District Assessments against such Lots to fund the costs of operating, maintaining, repairing, replacing and/or insuring certain portions of the Association Property within or adjacent to such Maintenance District. This may include, without limitation, the costs of

maintaining any signage, entry features, right-of-way, and green space between the Maintenance District and adjacent public roads, Private Roads within the Maintenance District, and basins within the Maintenance District, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; however, all similarly situated Lots shall be treated the same. Any such designation shall require the consent of Founder during the Development and Sale Period.

3.3. The provisions of this Section may not be amended without the prior written consent of Founder so long as Founder and/or Founder's Affiliates own any Property in the Community.

**Section 4. Sub-Association Responsibilities.** In the event the Property has one or more Sub-Associations, each Sub-Association shall maintain or shall cause to be maintained all of its property, as applicable pursuant to its declaration, located within a Sub-Association Parcel in a neat, orderly and attractive manner. Each Sub-Association shall be responsible for payment of any and all ad-valorem real and personal property taxes, if any, governmental assessments, trash removal expenses, and water, sewer, electrical and other utility charges tied to central utility meters which cover only such Sub-Association Parcel. To the fullest extent permitted under Applicable Law, and notwithstanding anything to the contrary in this Declaration, any or all of the responsibilities of the Sub-Associations may be delegated to the Management Company engaged by the Association, or to the Association.

**Section 5. Damage to Buildings.** The Owner of any Home which has suffered damage (whether by fire or other casualty) may apply to the Founder and/or Committee (as set forth in Article VIII herein) for approval for reconstruction, rebuilding, or repair of the Improvements therein. The Founder or Committee shall grant such approval if, upon completion of the work, the exterior appearance of the Improvement(s) will be substantially similar to that which existed prior to the date of the casualty. If the obligation for repair falls upon the Association, the Founder or Committee approval will not be required prior to the commencement of such work, so long as the exterior appearance of the Improvement(s) will be substantially similar to that which existed prior to the date of the casualty.

The owner or owners of any damaged Home, Unit, Building or structure (including, without limitation, the Owner of a Lot and/or Home), the Association, and the Architectural Control Committee shall be obligated to proceed with all due diligence hereunder and the responsible parties shall commence rebuilding within two (2) months after the damage occurs and complete reconstruction within six (6) months after the damage occurs, unless prevented by causes beyond his or its reasonable control. All debris must be removed immediately and the Home or Unit shall be restored to an orderly condition within sixty (60) days from the date of such damage or destruction. If an Owner fails to begin rebuilding within the time allowed or abandons reconstruction, then the Association has the right but not the obligation to purchase the Home or Unit at eighty percent (80%) of fair market value in its current condition. The reduction in value is intended to allow the Association to market and resell the Home or Unit to an Owner who will restore the property.

The Founder and Founder's Affiliates shall be exempt from the provisions of this Section, provided that any such reconstruction, rebuilding or repairs made by the Founder and/or Founder's Affiliates shall be consistent, as to the exterior appearance, with the Improvements as they existed prior to the damage or other casualty. The provisions in this Section may not be amended without the prior written consent of Founder so long as Founder and/or Founder's Affiliates own any Property in the Community.

#### **Article X. USE RESTRICTIONS**

All of the Property shall be held, used, and enjoyed subject to the following limitations and restrictions, and any and all additional rules and regulations which may, from time to time, be adopted by the Association, except as otherwise provided by variances and the Founder's exemption described below. Notwithstanding the foregoing, this Article shall apply only to residential property and residential portions of other property. Commercial uses shall be regulated under the Town Center Declaration, and the Association established by this Declaration shall not have any authority to regulate commercial uses.

**Section 1. Enforcement.** Failure of an Owner to comply with any limitations or restrictions in this Declaration or any of the Community Documents or with any rules and regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. Without limiting the generality of the foregoing, an Owner shall also be responsible for the payment of any and all Legal Fees incurred by the Association in connection with the enforcement of this Declaration or any of the Community Documents or with any rules or regulations promulgated by the Association, whether or not an action has actually begun. Any such Legal Fees shall be paid no later than thirty (30) days after written notice thereof and if not paid within such thirty (30) day period, shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

Notwithstanding the rights of the Association hereunder to enforce to the terms and provisions of the Community Documents, the Water Management District shall also have the right to take enforcement action, including a civil

action for an injunction and penalties, against the Association to compel the Association to correct any failure by the Association to operate, maintain and repair the Drainage System in accordance with the Water Management District Permit.

In addition to all other remedies, the Association may suspend, for a reasonable period of time, any or all of the rights of an Owner or an Owner's tenants, guests or invitees, and owners of residential units within Grand Preserve at Kanapaha to use Association Property and facilities (including, without limitation, cable television and other services provided by Community Systems) for violations of the Community Documents; may suspend the rights of an Owner or an Owner's tenants, guests or invitees to use Association Property and facilities (including, without limitation, cable television and other services provided by Community Systems) and the voting rights of an Owner if such Owner is delinquent in payment of assessments for more than ninety (90) days; and may levy reasonable fines against any Owner or any Owner's tenant, guest or invitee for failure of such Owner, and/or such Owner's family, guests, invitees, tenants or employees to comply with any of the Community Documents provided the following procedures are adhered to:

1.1. *Notice.* The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without notice of at least fourteen (14) days to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee of the Association. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. If the Association desires to impose a fine or suspend the use rights of an Owner, the Association shall comply with the requirements of F.S. §720.305(2)(a). At the Association's option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine. Fines as provided in this paragraph and elsewhere in the Association Documents may exceed One Thousand and No/100 (\$1,000.00) Dollars.

1.2. *Hearing.* Should the Owner still be in noncompliance, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty-one (21) days after said meeting.

1.3. *Payment.* A fine shall be paid no later than thirty (30) days after notice of the imposition of the fine.

1.4. *Fines.* A fine shall be treated as an Assessment subject to the provisions of the collection of Assessments as otherwise set forth herein. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration.

1.5. *Failure to Pay Assessments.* Notwithstanding anything to the contrary contained herein, unless contrary to Florida law, Notice and Hearing as provided in this Section above or elsewhere in the Association Documents, shall not be required with respect to the imposition of suspension of use or voting rights or fines upon any Owner because of such Owner's failure to pay Assessments or other charges, or any other monetary obligation due to the Association when due, if such non-payment exceeds more than 90 days.

1.6. *Access.* Suspension of use rights to Association Property shall not impair the right of an Owner or tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park.

**Section 2. Residential Use.** Homes shall be used primarily for residential and related purposes (including, without limitation, use as a home office). No business shall be conducted in, on, or from any Home, except that an occupant using the Home on a Lot primarily for residential purposes may also conduct business activities on such Lot, if the business activity, as determined in the Board's discretion (a) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure; (b) complies with applicable zoning and other legal requirements and other requirements of this Declaration; (c) does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees; and (d) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the use and enjoyment of other Lots and the Owner thereof or the security or safety of others within the Community.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part time; (b) such activity is intended to or does generate a profit; or (c) a license is required. The leasing of Homes for non-transient residential purpose shall not constitute a business within the meaning of this Section. No Lot shall be rezoned to any classification allowing commercial, institutional, or other non-residential use without the express written consent of both the Association and Founder, which may be withheld in their sole discretion. Garage sales, yard sales, and similar kinds of sales activity from Homes are permitted up to twice a year. However, the holding of more frequent

sales from a particular Lot will be considered a Business and shall be regulated or prohibited by the Association. Founder or any of Founder's Affiliates, or any of their successors or assigns, shall be exempt from this Section.

**Section 3. Nuisances.** No obnoxious or offensive activity shall be carried on or about the Lots or in or about any Improvements, Homes, or on any portion of the Community nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Homes which is a source of unreasonable annoyance to Owners or occupants of Homes or which unreasonably interferes with the peaceful possession or proper use of the Homes or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements, Homes or Lots. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off-road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any Lot, or exposed to the view of other Owners without the prior written approval of the Board. In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Founder or upon expiration or termination of Founder's rights, the Board of Directors, which shall render a decision in writing, which decision shall be dispositive of such dispute or question.

**Section 4. Parking and Vehicular Restrictions.** Subject to conditions contained herein, street parking is prohibited for all Owners and occupants within the Association, and street parking will only be permitted for guests and contractor(s) on one side of each street in designated areas subject to the following restrictions: (i) Under no circumstance shall vehicles which belong to or are driven by an Owner or occupant of a house be permitted to park on the street at any time unless designated parking spot is clearly marked on such street with painted parking lines; (ii) Street parking for social gatherings at a residence shall be deemed excessive if it occurs more frequently than once a week; (iii) Any vehicles that are allowed to be parked on the street must not be parked in such a way as to hinder the ability to pass on the street, hinder access to any driveway or to create a safety hazard. Parking upon the Property shall be restricted to the driveways, garages, and other designated parking areas within the Property; provided, however, that no vehicle shall be parked so as to obstruct or otherwise impede ingress or egress to any roadways or alleyways and no vehicles shall be parked in any driveway where such vehicle extends beyond the perimeter of such driveway (i.e., onto grassy patches, alleyways, sidewalks, or other rights-of-way). Parking in the Property shall be restricted to private automobiles and passenger-type vans, jeeps and pick-up trucks and sport utility vehicles, motorcycles, motor scooters, small trailers and jet ski trailers (all of which are collectively referred to herein as "vehicles"). Small trailers, jet ski trailers, motorcycles, motor scooters, and bicycles shall be parked in garages and shall not be parked, stored or kept on driveways or other exterior portions of the Property. No person shall park, store or keep on any portion of the Property any large commercial type vehicle (for example, dump truck, tractor-trailer, buses, cement mixer truck, oil or gas truck, delivery truck, or any other truck larger than a full-size pickup truck), nor may any person keep any other vehicle on the Property which is deemed to be a nuisance by the Board. No trailer, boat, boat trailer, camper, motorhome or recreational vehicle shall be parked on the Property (except within the garage of the Home). The Board shall have the authority to prohibit any vehicle, including any motorcycle or motor scooter, which it determines constitutes a nuisance due to its noise level, particularly where such vehicle is operated in the early morning or late evening hours. No Owner, occupant or other person shall race the engine of any vehicle, upon any portion of the Property. No vehicle is permitted on the Property which leaks oil, brake fluid, transmission fluid or other fluids or that is otherwise deemed to be a nuisance by the Board. No Owner, occupant or other person shall conduct repairs or restorations on any motor vehicle, boat, trailer, or other vehicle, upon any portion of the Property (except within the garage of the Home with the garage door closed). No unregistered or inoperable vehicles shall be parked, stored or kept on driveways or other exterior portions of the Property, except in the case of an emergency breakdown. No Owner or resident shall park a vehicle with visible damage to the vehicle except in the garage of a Home. No Owner or resident shall use a "car cover" or cover a parked vehicle with any tarp, cloth, or other cover. Limited visitor parking areas may be available to Owners, occupants, and their guests and invitees, on designated portions of the Common Areas. For so long as the Founder conducts any sales, marketing or leasing activities on the Property, its use of roadways, driveways and other parking areas shall not be impeded or restricted. The prohibitions on parking contained in this Section shall not apply to temporary parking of: (a) commercial vehicles, such as for construction use or providing pick-up and delivery, moving vans, and other commercial services; (b) any vehicles of the Founder and/or Founder's Affiliates or designees, used for construction, maintenance, repair, decorating, sales or marketing purposes; or (c) service vehicles operated in connection with any Sub-Association, or their management companies.

Any vehicle parked in violation of these or other restrictions contained in this Declaration or any rules and regulations promulgated from time to time by the Board, may be towed by the Association at the sole expense of the owner of such vehicle. 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. The Association shall not 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 if 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. For purposes of this paragraph "vehicle" shall also mean campers, mobile homes, trailers, personal watercraft, all terrain vehicles, boats, commercial vehicles, etc. An affidavit of by a person with knowledge that towing notice is or was posted stating that it was properly posted shall be conclusive evidence of proper posting.

**Section 5. Garages.** Garage doors shall be maintained in operating condition. No Owner shall enclose any portion of his or her garage or convert his or her garage into living space. No garage shall be altered in such a manner that reduces the number of automobiles that could have reasonably been parked in the garage as originally constructed. When not in use, Owners or residents shall keep their garage doors closed. Owners or residents must use the available parking within their garage before parking additional vehicles in their driveway or in other designated parking spots within the Community.

**Section 6. No Improper Use.** No improper, offensive, hazardous or unlawful use shall be made of any Home nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Property. All valid laws, zoning ordinances, orders, rules, regulations, codes and other requirements of all governmental bodies having jurisdiction thereover shall be observed. Violations of laws, ordinances, orders, rules, regulations, codes or other requirements of any governmental agency having jurisdiction thereover relating to any Home or Lot shall be corrected by, and at the sole expense of the Owner of said Home and/or Lot.

**Section 7. Leases.** All leases shall provide, and if they do not so provide then the leases shall be deemed to provide, that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles, the Bylaws, applicable rules and regulations, or of any other agreement, document or instrument governing the Lots or Homes. The Owner of a leased Home shall be jointly and severally liable with such Owner's tenant for compliance with Community Documents and to the Association to pay any claim for injury or damage to property caused by the negligence of the tenant. Every lease shall be subordinate to any lien filed by the Association whether before or after such lease was entered into. Each Owner shall be required to use a lease addendum which provides, among other things, that the tenant will pay the rent due under the lease directly to the Association upon receipt of notice from the Association that the Owner is delinquent in amounts due to the Association. The Association has the right to require Owners to use a lease addendum the form of which may be prepared by the Association providing for, among other things, the foregoing. Even if such lease addendum is not included, each lease entered into by Owner for a Home shall be deemed to include the foregoing by this reference.

Within five (5) days following execution of a lease for a Home, but in no event later than occupancy of the Home by a tenant, Owner shall: (a) notify the Association in writing with the name of the tenant and all of tenant's family members or others that will be occupying the Home and alternate mailing address for the Owner, (b) provide the Association with a true, correct and complete copy of the lease agreement, and (c) such additional information as the Board or its designated administrator may reasonably require. In the event Owner fails to timely comply with the foregoing, such lease shall be null and void and of no further force or effect, and Owner shall be in violation of this Declaration. The provisions of this Section shall also apply to renewals of leases. The Owner shall provide the tenant copies of the Declaration, the Articles, the Bylaws, applicable rules and regulations, or any other agreement, document or instrument governing the Lots or Homes. In no event shall subleases or assignment of leases be permitted, unless prior written approval is obtained from the Board or its designated administrator.

In the event an Owner is in default in the payment of Assessments or other sums due and owing to the Association and the Owner's Home is leased, the Association shall have the right and authority to collect the rent to be paid by the tenant to the Owner directly from the tenant. In the event such tenant fails to remit said rent directly to the Association within ten (10) days (but no later than the day the next rental payment is due) from the day the Association notified such tenant in writing that the rents must be remitted directly to the Association, the Association shall have the right to terminate the lease and evict the tenant. All sums received from the tenant shall be applied to the Owner's account for the leased Home according to the priority established in F.S. 720.3085, until the Owner's account is current. All leases entered into by an Owner shall be deemed to automatically incorporate this Section and all the Owners hereby appoint the Association its agent for such purpose. The Association may, without further approval of the Owner of the leased Home, terminate the lease for violations of the Community Documents by the tenants, or the tenant's family or guests and thereafter evict the tenants from the Home. Each Owner by acceptance of a deed irrevocably appoints the Association as its agent and attorney-in-fact in such an eviction action. All costs related to such action shall be charged to the Owner as a Benefited Assessment.

In addition to any notice to a tenant of a Home permitted to be given by law, an Owner by acceptance of a deed to a Home, does hereby irrevocably grant to the Association (and its officers, directors, designees, agents, and employees) and to any professional management or accounting firm providing management or accounting services to the Association, the right to notify, in writing, the tenant of any delinquency by the Owner in payment of any monetary obligations due to the Association, including but not limited to the amount thereof. Further each Owner hereby agrees and acknowledges that the disclosure of any of Owner's delinquent monetary obligations due to the Association, as provided in the preceding sentence, shall not be construed or be deemed to be a violation of the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. Section 1692 et. seq.

**Section 8. Animals and Pets.** Only common domesticated household pets may be kept on any Lot or in a Home, but in no event for the purpose of breeding or for any commercial purposes whatsoever. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Property unless approved by the Founder or Committee. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Board. Any pet must be carried or kept on a leash when outside of a Home or fenced-in area. No pet shall be kept tied up outside of a Home or in any screened porch or patio, unless someone is present in the Home. An Owner shall immediately pick up and remove any solid animal waste deposited by such Owner's pet on the Property. An Owner is responsible for the cost of repair or replacement of any Association Property damaged by such Owner's pet. If an Owner has an unreasonable number of domesticated household pet(s) or the pets create a nuisance to other Owners by excessive barking or otherwise, the Owner thereof must cause the problem to be corrected; or, if it is not corrected, the Owner, upon written notice by the Association, will be required to permanently remove the animal(s) from the Community.

Notwithstanding the foregoing, a "Dangerous Animal" (as hereinafter defined) is not permitted on the Property. As used in this Declaration, a "Dangerous Animal" is defined as an animal which meets any one (1) of the following criteria: (a) has aggressively bitten, attacked, endangered or has inflicted severe injury on a human being at any time whether on or off the Property, (b) has severely injured or killed a domestic animal at any time whether on or off the Property, (c) is poisonous or (d) has, when unprovoked, chased or approached any person upon the streets or roads and/or Sidewalks, or any other portion of the Property in a menacing fashion or apparent attitude of attack; provided, however, an animal shall not be a "Dangerous Animal" if the threat, injury, death or damage was sustained by a person who, at the time, was unlawfully on the Property (or any portion thereof), or, while lawfully on the Property (or any portion thereof), was tormenting, abusing or assaulting the animal or its owner or a family member; provided further, that no animal may be a "Dangerous Animal" if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

Each Owner and/or that Owner's family member, tenant, guest, occupant, invitee, agent and/or employee who determines to keep a pet in the Community hereby agrees to indemnify the Association, Founder, and Founder's Affiliates and hold the Association, Founder and Founder's Affiliates harmless against any loss or liability of any kind or character whatsoever arising from or growing out of such Owner having any animal on the Property.

**Section 9. Additions and Alterations.** No temporary or permanent basketball hoop or backboard, skateboard or bicycle ramp, swing set, jungle gym, and/or other game or play structure of any type may be placed, built, located, constructed, erected and/or installed on any Lot without the prior written approval of the Founder and/or Committee as set forth in Article VIII. All such equipment must not be placed, built, located, constructed, erected and/or installed on the front yard of any Lot, and all such equipment shall be completely screened from view so as not to be visible from any street or from any other Lot within the Property. Notwithstanding the foregoing, temporary recreational games, equipment, or structures that are only outside while actively in use do not require approval. No Home shall be enlarged by any addition thereto or to any part thereof, and no Owner shall make any improvement, addition, or alteration to the exterior of such Owner's Home, including, without limitation, the painting, staining, or varnishing of the exterior of the Home, including doors, garage doors, driveways and walkways, without the prior written approval of: (i) the Founder and/or Committee as set forth in Article VIII, which approval may be withheld for purely aesthetic reasons, and (ii) all applicable governmental entities. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein, no planting, landscaping and/or improvements whatsoever shall be installed or constructed in: (a) any Rear Yard Drainage Swale Easements on Lots except as expressly set forth in and subject to the terms and conditions of Section 7 of Article IV above, and/or (b) in any Drainage Easements.

**Section 10. Increase in Insurance Rates.** No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Property not owned by such Owner.

**Section 11. Slopes and Trees.** No Owner may engage in any activity which will change the slope or drainage of a Lot. No additional trees are permitted to be planted on the Property by any Owner and no trees are permitted to be removed from the Property (other than dead or dying trees which are being replaced with trees of the same species) without the prior written

consent of Founder for as long as Founder and/or Founder's Affiliates owns any Property within the Community, and thereafter, without the prior written consent of the Board. Any Owner who removes or installs any tree upon their Lot which is not approved shall be responsible for any costs, fines and fees imposed as a result of such action. Founder and the Association shall each (acting alone) have the right, but not the obligation, after ten (10) days prior notice and demand to do so, to remove (at such Owner's cost and expense) any trees or other landscaping installed by or on behalf of an Owner which is not in accordance with this Declaration.

**Section 12. Swimming Pools and Spas.** No above-ground pools or spas shall be permitted on any portion of the Property. All in-ground pools, hot tubs, spas and appurtenances installed shall require the prior written approval as set forth in Article VIII. Unless installed by Founder and/or Founder's Affiliates, no diving boards, slides, or platforms shall be permitted without the prior written approval as set forth in Article VIII.

**Section 13. Wall and Window Air Conditioning Units.** Wall and window air conditioning units shall not be permitted on any Home. No Home shall have any sheets, towels, or aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass.

**Section 14. Holiday Displays.** A reasonable number of holiday lights and decorations may be displayed on a Lot or Home during a period commencing a week before Thanksgiving and continuing through January 20th of the following year, after which such lights and decorations shall be removed. Lighting and decorations for any other holiday during a different period referenced above shall be permitted commencing one month prior to said holiday and continuing for fifteen (15) days following said holiday, after which time such lights and decorations shall be removed. Such Holiday lights and decorations may be displayed without the prior approval, subject to the right of the Association or Founder to require removal of any such decorations which it deems to (a) be excessive in number, size, or brightness, relative to other Lots in the area; (b) unreasonably interfere with the use and enjoyment of neighboring properties; or (c) cause a dangerous condition to exist. The Association may also adopt (and amend from time to time) and enforce reasonable rules limiting the installation of holiday lights and decorations.

**Section 15. Signs.** No sign, display, poster, advertisement, notice, lettering or other advertising device of any kind whatsoever (including, without limitation, "For Sale", "For Rent" or "By Owner" or any other signs for the sale or renting of homes) may be exhibited, displayed, inscribed, painted or affixed on any portion of any Lot, Home, Building, structure, or other Improvement to the Property, or in or on any vehicle located anywhere within the Community without the prior written consent of the Founder and/or Board, which consent may be given, withheld or conditioned in the sole and absolute discretion of the Board. Signs, regardless of size, used by Founder or any of Founder's Affiliates, or any of their successors or assigns, for advertising or marketing during the construction and sale period of the Community or other communities developed and/or marketed by Founder or Founder's Affiliates and other signs authorized by Founder shall be exempt from this Section. Security signs as permitted by FS 720.304(6) as may be amended from time to time and such sign or signs as Founder and/or Founder's Affiliates may be required to erect under the terms of an Institutional Mortgage shall also be exempt from this Section. The Association may also adopt (and amend from time to time) and enforce reasonable rules and regulations regarding such signs. This Section may not be amended without the prior written consent of Founder.

**Section 16. Flags and Flagpoles.** Without prior written approval as set forth in Article VIII, no flag or flagpole will be permitted on any Lot; provided, however an Owner may display on any given day only one (1) portable, removable United States flag, or one (1) portable removable official flag of the State of Florida in a respectful manner on that Owner's Lot. An Owner may also temporarily display on that Owner's Lot portable, removable official flags, no larger than four and one-half feet (4½') by six feet (6'), which represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard or POW-MIA in a respectful manner.

An Owner, upon prior written approval as set forth in Article VIII, may erect one (1) freestanding flagpole that is no more than twenty feet (20') high on any portion of such Owner's Lot if the flagpole does not obstruct sightlines at intersections and is not erected within or upon any easement. The flagpole may not be installed any closer than ten feet (10') from the back of curb, or within ten feet (10') of any Lot boundary line. Any Owner may further display from the flagpole, one official United States flag, no larger than four and one-half feet (4½') by six feet (6'), and may additionally display one (1) official flag of the State of Florida, or the United States Army, Navy, Air Force, Marine Corps, or Coast Guard or POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. Any flagpole installed in accordance with this Section shall be metal, shall be straight and vertical and subject to all building codes, setbacks, and other applicable governmental regulations.

**Section 17. Trash and Other Materials.** No rubbish, trash, garbage, refuse, fuel or gas storage tanks, or other waste material shall be kept or permitted on the Lots and/or Association Property, or other portions of the Property, except in sanitary,

self-locking containers located in appropriate areas (i.e., areas not visible from the street or any other Lot other than at times of scheduled trash pick-up which shall be no earlier than 5pm on the day before collection day and no later than 9pm of the collection day, however, notwithstanding the foregoing, changes in these times of scheduled trash pick-up may be made by the Board), and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, offensive, detrimental or a nuisance to Owners or to any other property in the vicinity thereof or to its occupants. No clothing or other household items shall be hung, dried, or aired in such a way as to be visible from the front of the Home, Association Property, or another Lot and may only be in the rear yard hidden from view. No stripped vehicles, lumber or other building materials, grass, tree clippings, metals, scrap, automobile pieces or parts, refuse, or trash shall be stored or allowed to accumulate on any portion of the Property (except when accumulated during construction by Founder and/or Founder's Affiliates, during construction approved by the Founder and/or Committee, or when accumulated by the Association for imminent pick-up and discard).

**Section 18. Temporary Structures.** No tent, shack, shed or other temporary building, structure, or Improvement, other than separate construction, service and sales structures to be used by Founder, Founder's Affiliates, and/or their respective agents and contractors, for the construction, service and sale of the Community or other communities, shall be placed upon any portion of the Property, either temporarily or permanently. No boat, camper, motorhome or recreational vehicle shall be: (a) used as a residence, either temporarily or permanently, or (b) parked upon the Property.

**Section 19. Excavating Operations.** There shall be no drilling or mining operations of any kind upon or on any Lot Excepted from the foregoing shall be activities of Founder and/or Founder's Affiliates, or any assignee of Founder, or the Association in creating, excavating or maintaining drainage or other facilities or easements, and the activities of Founder and/or Founder's Affiliates, Association or any Owner in connection with the installation of sprinkler systems, as approved by the Founder and/or Committee as set forth in Article VIII, which shall be in compliance with applicable governmental requirements.

**Section 20. Sewage Disposal; Water Supply.** No individual sewage disposal system shall be permitted on any portion of the Property, provided that a central sewage disposal system is being operated in accordance with the requirements of the governmental regulatory body having jurisdiction over said central system. No individual water supply system shall be permitted on any portion of the Property, provided that one or more central water supply systems are being operated in accordance with requirements of the governmental body having jurisdiction over said central system.

**Section 21. Paint and Exterior Appearance; Lighting.** The paint and exterior appearance of the Homes shall be kept in good condition and shall be repainted, repaired, or otherwise maintained within forty-five (45) days of notice by the Association if such maintenance request is reasonable. Lighting on the front porch, alley side of the garage or outbuilding, if applicable, is required. Lighting shall be white with a color temperature between 2700k and 6500k with a minimum output of 800 lumens. All exterior coach lights and landscape lighting, if installed, shall be illuminated from dusk until dawn (sunset until sunrise).

**Section 22. Fences.** Any fence placed upon any Lot must be approved by the Founder and/or Committee, as provided in Article VIII hereof, prior to installation. A fence shall not be placed in any of the following areas: (a) the area between the front of a Home and the street or road at the front of the Lot on which the Home is situated, (b) any Drainage Easement within the Property as set forth on the Plat, any Additional Plat or in a separate instrument recorded in the public records of the County; or (c) in the area between a Home and the Home located next to it so as to preclude the Association's access to the recess area of a Home located on the zero lot line side of the Home. Any privacy fence proposed for the adjacent Lot must be located behind (to the rear of) the recess opening so that the recess area remains accessible to the Association for maintenance purposes, but remains subject to approval by the Founder and/or Committee as set forth in Article VIII, prior to installation. The Owner assumes complete responsibility to maintain the fence, including, but not limited to, trimming any grass, ivy or other plants from the fence. In the event the Founder and/or Committee approves the installation of a fence, it shall also have the right to require installation of landscaping, fence painting, and/or fence staining, also subject to the Founder and/or Committee's approval, at the time the fence is installed or at a later specified date. No Owner shall be permitted to attach their fence to any perimeter fence or wall located within any of the Buffer Areas, Landscaped Areas or Grassed Areas, or to otherwise fence-in or enclose any portion of the Buffer Areas or other Association Property unless written approval is given by the Founder and/or Committee.

Notwithstanding that an Owner has obtained the approval of the Founder and/or Committee to install a fence or landscape materials, as provided hereinabove, such installation shall be at the Owner's sole risk so long as Founder and/or Founder's Affiliates has not yet begun or is engaged in the construction of a Home on an adjacent Lot. Founder and/or Founder's Affiliates shall have the right (but not the obligation), in its sole discretion, to temporarily remove the fence if necessary in order to complete construction of the Home on the adjacent Lot. In the event such construction activity on an adjacent Lot or Founder's and/or Founder's Affiliates temporary removal of the fence causes damage to or destruction of such



Owner's fence or landscape materials or any part thereof, the repair will only be required to be done to the Founder and/or Committee's approval of the initial installation of the fence and/or landscape materials. Such repair or replacement shall commence as soon as construction on the adjacent Lot has been completed and shall be pursued to completion with due diligence. For purposes of this paragraph, the term "landscape materials" shall include landscape materials located on or adjacent to any property line of a Lot, including, by way of example and not of limitation, hedges, shrubs and trees, whether associated with a fence or not.

Notwithstanding anything contained to the contrary in this Declaration, an Owner of a Lot who elects to install a fence on such Owner's Lot shall be responsible for the maintenance and care of the lawn and landscaping on the Lot, if any, in the portion of the Lot which becomes enclosed by the fence construction. In such event, the Association shall no longer provide any of the Home Landscaping Services to such enclosed portion(s) of the Lot and Owner shall not be entitled to a reduction in Assessments in turn for being responsible for such maintenance and care. In the event the Owner fails to properly maintain his Lot and/or Home pursuant to this paragraph, then the Association or Founder shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the property of the Owner for the purpose of performing the maintenance referred to, set forth and described in the notice. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility shall be determined in the sole discretion of the Association or Founder. Further, if failure to comply relates to the Owner's obligations to maintain and care for such Owner's Lot, Home or other improvement, the Association shall be entitled, but not obligated, to perform such maintenance and care itself and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance plus a surcharge of not more than twenty-five percent (25%) of the cost of performing such maintenance and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

In addition, the installation of any fence placed upon any Lot is subject to easements which run with the land. In the event that any fence is approved by the Founder and/or Committee and is permitted to cross any such easements, such Founder and/or Committee's approval is still subject to Owner first receiving written approval from the grantee of such easements and all other applicable governmental authorities. In the event the grantee of any such easement which runs with the land, its successors and/or assigns, requires the removal of any fence upon the Lot, then the Owner of said Lot shall, at the Owner's sole cost and expense, immediately remove the fence. The Owner of a Lot, when installing any fence upon the Lot, shall comply with all valid laws, zoning ordinances, codes, rules and regulations of all applicable governmental bodies, as applicable, in addition to the Founder and/or Committee approval required by Article VIII hereof.

**Section 23. Antennae.** No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any portion of the Property or upon any improvements thereon, unless expressly approved in writing by the Association, except that this prohibition shall not apply to those satellite dishes that are one (1) meter (39.37 inches) in diameter or less, and specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association is empowered to adopt, and amend from time to time, rules governing the types of antennae which may be permitted and restrictions relating to safety, location and maintenance of antennae. The Association may also adopt (and amend from time to time) and enforce reasonable rules limiting installation of permissible satellite dishes or antennae to certain specified locations, not visible from the street or neighboring properties, and integrated with the Property and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules and provided the cost of complying with such rules would not unreasonably increase the cost of installation of permissible satellite dishes or antennae. Any permissible satellite dishes or antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. This Section shall not apply to Founder and Founder's Affiliates.

**Section 24. Subdivision of Lots.** For so long as Founder and/or Founder's Affiliates owns any Property, none of the Lots and/or any portion of the Property may be subdivided, re-subdivided or its boundary lines changed without the prior written consent of Founder, which may be granted or denied in its sole discretion. Thereafter, any such subdivision, re-subdivision or boundary line change shall require the prior written consent of the Board; provided, however, that Founder and/or Founder's Affiliates may at any time subdivide, re-subdivide or change the boundary lines of any Property owned by Founder or Founder's Affiliates without the consent of the Board or anyone else. This Section may not be amended without the prior written consent of Founder.

**Section 25. Variances.** The Founder, for so long as Founder and/or Founder's Affiliates owns any Property, shall have the right and power to grant variances from any use restriction or other Section or provisions of this Article, even if specifically prohibited, and grant variances from any rules and regulations promulgated from time to time by the Board. Variances may be

granted for any reason, as determined in the sole and absolute discretion of the Founder. No variance shall alter, waive or impair the operation or effect of the provisions of this Article or any rules and regulations promulgated from time to time by the Board in any instance, or in favor of any Lot or Owner, except as to which or to whom the variance is expressly granted. The provisions of this Section may not be amended without the prior written consent of Founder so long as Founder and/or Founder's Affiliates own any Property in the Community. After the Founder and/or Founder's Affiliates no longer own any Property, the Committee shall have the right and power to grant variances pursuant to this Section.

**Section 26. Founder Exemption.** Founder plans to undertake the work of constructing Homes, Buildings or structures and Improvements upon the Property and may undertake the work of constructing other buildings upon adjacent land or other property being developed or marketed by Founder or Founder's Affiliates. The completion of the aforementioned work and the sale, rental and other transfer of Homes by Founder and Founder's Affiliates are essential to the establishment and welfare of the Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners, the Association, any Sub-Association governing a portion of the Community, nor the Architectural Control Committee shall do anything whatsoever to interfere with any of Founder's or Founder's Affiliates' activities relating to the selling or constructing of Homes, Buildings or structures and Improvements upon the Property, the selling or constructing of other buildings upon adjacent land or any other property being developed or marketed by the Founder or any of Founder's Affiliates, or the sale, rental and/or other transfer of Homes by Founder or any of Founder's Affiliates. In this respect, Founder hereby reserves the right for itself and its employees, agents, licensees, and invitees to come upon any and all portions of the Property (including, without limitation, the Association Property as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient to enable Founder to carry on its work and other activities including, without limitation, Founder's development and construction of the Community and the Homes therein.

In general, the restrictions and limitations set forth in this Article shall not apply to the Founder and Founder's Affiliates or to Lots owned by the Founder and Founder's Affiliates. Founder and Founder's Affiliates shall specifically be exempt from any restrictions which interfere in any manner whatsoever with Founder's plans for development, construction, sale, lease, or use of the Property and to the Improvements thereon. Founder shall be entitled to injunctive relief for any actual or threatened interference with its rights under this Article in addition to whatever remedies at law to which it might be entitled. This Section may not be amended without the prior written consent of Founder.

#### **Article XI. DAMAGE OR DESTRUCTION TO ASSOCIATION PROPERTY**

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

1. If insurance proceeds are sufficient to effect total restoration of damaged or destroyed Association Property, then the Association shall cause such Association Property to be repaired and reconstructed substantially as it previously existed or may improve or modify the design or use.
2. If insurance proceeds are insufficient to effect total restoration, and the cost of restoration exceeds such proceeds by Twenty-Five Thousand Dollars (\$25,000.00) or less, then the Association shall cause the Association Property to be repaired and reconstructed substantially as it previously existed or may improve or modify the design or use and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Articles VI and VII herein.
3. If the insurance proceeds are insufficient to effect total restoration and the cost of restoration of the Association Property exceeds said proceeds by over Twenty-Five Thousand Dollars (\$25,000.00), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (i) to rebuild and restore either: (a) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (b) in a manner less expensive, and in the event of (a) or (b) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (ii) to not rebuild and to retain available insurance proceeds. In the event it is decided that the damaged or destroyed Association Property shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away, so as not to be a safety hazard or visual nuisance, and the land shall be fully sodded and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements shall not be effective without the prior written approval of Founder (which approval may be given, conditioned or withheld in Founder's sole discretion) as long as Founder and/or Founder's Affiliates owns any portion of the Property.

4. Each Owner shall be liable to the Association for any damage to the Association Property which may be sustained by reason of the negligence or willful misconduct of said Owner or of such Owner's family, tenants, invitees and guests, both minors and adults.

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

#### **Article XII. INSURANCE AND CONDEMNATION**

The Association should purchase and maintain the following insurance coverages; however, because insurance costs may increase significantly or new types of coverage may be available, the Board has flexibility to select coverage which is reasonable for the conditions which exist at that time, and the cost of the premiums therefor shall be a part of the Operating Expenses:

**Section 1. Property/Casualty Insurance.** The Board may but is not required to obtain property and casualty insurance for Buildings, structures or Improvements located on the Property or within the Community, as shall customarily be covered with respect to similar buildings, structures or Improvements in developments similar to the Community in construction, location and use.

**Section 2. General Liability/Public Liability Insurance.** A comprehensive policy of general liability or public liability insurance naming the Association and, until Founder and/or Founder's Affiliates no longer owns any Property, Founder as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Association Property and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed for any occurrence; and for not less than Fifty Thousand Dollars (\$50,000.00) property damage per occurrence with no separate limits stated for the number of claims.

**Section 3. Directors' Coverage.** Directors' and officers' liability coverage, which coverage shall be effective from and after the date the Association is created.

**Section 4. Other Insurance.** The Board may obtain such other forms of insurance as the Board may determine and in such coverage amounts as the Board shall determine to be required by law or the Florida Statutes, as amended from time to time, or that is beneficial for the protection or preservation of the Association Property and any Improvements now or hereafter located thereon or in the best interests of the Association and/or its officers and directors.

**Section 5. Condemnation.** In the event the Association receives any award or payment arising from the taking of any Association Property or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent deemed advisable by the Board and approved by at least two-thirds (2/3) of the total voting interests, and the remaining balance thereof, if any, shall then be distributed pro rata to Owners and mortgagees of Lots as their respective interests may appear.

**Section 6. Waiver of Subrogation.** As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, Sub-Associations, Founder, Founder's Affiliates and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement of said persons, but only to the extent that such insurance proceeds are received in compensation for such loss.

#### **Article XIII. LIMITED ASSOCIATION PROPERTY**

**Section 1. Purpose.** Certain portions of the Association Property may be designated as Limited Association Property and reserved for the exclusive use or primary benefit of Owners and occupants of one or more, but less than all, Lots. By way of illustration and not limitation, Limited Association Property may include entry features, recreational facilities, landscaped medians, common elements and cul-de-sacs, private roads and other portions of the Association Property primarily serving a limited area. All costs associated with ownership, maintenance, repair, replacement, management, operation and insurance of a Limited Association Property shall be a Limited Operating Expense allocated in accordance with Article VII among the Owners in the Maintenance District to which the Limited Association Property is assigned.

**Section 2. Designation.** Initially, any Limited Association Property may be designated as such in the deed conveying such area to the Association or on the subdivision plat relating to such Association Property; however, any such assignment shall not preclude Founder from later assigning use of the same Limited Association Property to additional Lots during the Development and Sale Period. Thereafter, a portion of the Association Property may be assigned as Limited Association Property upon approval of (a) the Board and (b) Members representing a majority of the total votes in the Association. During the Development and Sale Period, any such assignment or reassignment shall also require Founder's written consent.

**Section 3. Use by Others.** Upon approval of a majority of Owners of Lots to which any Limited Association Property is assigned, and subject to such restrictions as such Owners may impose, the Association may permit Owners of other Lots to use all or a portion of such Limited Association Property upon payment of reasonable user fees, which fees shall be used to offset the Limited Operating Expenses attributable to such Limited Association Property.

**Section 4. Shared Water Meters.** Some or all Townhome Units and Condominium Units may have a shared water meter serving more than one Unit. The Association may either: (1) budget for the annual water and wastewater usage as a Maintenance District Expense and charge additional Maintenance District Assessments to the Owners; (2) split the monthly water and wastewater bill equally among the Owners and bill the Owners individually as Benefited Assessments (a third party may be used for this service); or (3) bill proportionately by submetering and bill the Owners individually as Benefited Assessments (a third party may be used for this service). No Owner shall use an excessive amount of water in any month. The Association may decide to charge such Owner additional Benefited Assessments for excessive water use at the sole discretion of the Association.

#### Article XIV. TOWNHOMES

##### Section 1. Townhome Maintenance.

1.1. *Applicability.* This Article shall apply only to residential Townhomes. Each Townhome Unit shall be assigned to a Townhome Maintenance District (of which there may be one or more in the Community as determined by the Board) upon first conveyance by Founder to a Townhome Unit Owner. During the Development and Sale Period, this Article shall not be applicable to the Founder, except that Founder shall have all the rights set forth in this Article but not the obligations.

1.2. *Townhome Unit Owner's Maintenance Responsibility.* All maintenance, repairs and replacements of, in or to any Townhome Unit, whether structural or nonstructural, ordinary or extraordinary, including, without limitation, maintenance, repair and replacement of screens, windows, the exterior entrance door and all other doors within or affording access to a Townhome Unit, interior and exterior door and window hardware and locks, garage doors, structural beams and any other structural element of the Townhome, and the electrical (including wiring), plumbing (including fixtures and connections), the main water supply shut-off valve for the Townhome Unit, heating and air-conditioning equipment, fixtures and outlets, appliances, carpets and other floor coverings, all interior surfaces and the entire interior of the Townhome Unit lying within the boundaries of the Townhome Unit or other property belonging to the Townhome Unit Owner, shall be performed by the Owner of such Townhome Unit at the Townhome Unit Owner's sole cost and expense, except as otherwise expressly provided to the contrary herein.

1.3. *Specific Townhome Unit Owner Responsibility.* The obligation to maintain and repair the following specific items including but not limited to "Limited Common Elements" shall be the responsibility of the Townhome Unit Owners, individually, and not the Association, without regard to whether such items are included within the boundaries of the Townhome Units or are Common Elements:

1.3.1. *Balconies, Terraces and Attics.* Any balcony, terrace or attic (and all improvements thereto and walls facing same) as to which direct and exclusive access shall be afforded to any particular Townhome Unit or Townhome Units to the exclusion of others shall be a Limited Common Element of such Townhome Unit(s). The Owner of the Townhome Unit to which all such Limited Common Elements are appurtenant shall be responsible for the maintenance of the structural and mechanical elements and responsible for the maintenance, care and preservation of the finished surfaces of floors within said areas, if any, and the fixed and/or sliding glass door(s) in the entranceway(s) or other portions of said area, if any, and the wiring, electrical outlet(s) and fixture(s) thereon, if any, and the replacement of light bulbs, if any, as well as for the general maintenance and appearance of such areas, and the insurance of all contents thereon.

1.3.2. *Porches.* The Owner shall be responsible for maintaining the horizontal porch surface and porch railings and keeping the porch clean.

1.3.3. *Miscellaneous Areas, Equipment.* Any fixtures or equipment (e.g., an air conditioning compressor or hot water heater) serving a Townhome Unit or Townhome Units exclusively, and any area (e.g., a closet or ground slab) upon/within which such fixtures or equipment are located, which are outside the Townhome Unit(s), shall be Limited Common Elements of such Townhome Unit(s). The Townhome Unit Owner(s) shall be responsible for the maintenance of said Limited Common

Elements.

1.3.4. *Other.* Any other portion of the Common Elements which, by its nature, cannot serve all Townhome Units but serves one or more Townhome Units (i.e., any hallway serving a single Townhome Unit or more than one Townhome Unit owned by the same Owner) shall be deemed a Limited Common Element of the Townhome Unit(s) served. The Townhome Unit Owner(s) shall be responsible for the maintenance of said Limited Common Elements.

1.3.5. *Additions, Alterations or Improvements to Townhome Units or Limited Common Elements.* The Townhome Unit Owner(s) shall be responsible for the maintenance of any additions, alterations or Improvements to Townhome Units or Limited Common Elements made by such Owner.

1.3.6. *Life Safety Systems.* Any damage or maintenance to fire sprinklers, fire alarms, smoke detectors, security systems, emergency lighting or audio signals or other life safety systems within the Townhome Unit including, without limitation, painting the fire sprinkler, disabling smoke detectors, dead batteries, or any other damage or maintenance issues are the sole responsibility of the Townhome Unit Owner. The Association shall have the right to enter and maintain, repair, or replace the defect and charge the cost, plus a management fee of twenty-five percent (25%), to the Owner as a Benefited Assessment. The Association shall give at least 10 calendar days notice or, in an emergency, whatever notice is reasonable under the circumstances.

1.4. *Association Responsibility.* The Association shall maintain exterior wall surfaces and exterior trim of Townhomes. Such maintenance shall include repair and replacement as necessary, and painting, pressure washing or other cleaning as determined by the Board.

1.5. *Roof.* The Association shall be responsible for maintenance of the roof deck, surface, flashing and gutters, if any, on all Townhome Units in the Townhome Maintenance District. The Association shall not be responsible for maintenance of the framing. Owners shall promptly report to the Association any water leakage in any Townhome or any other damage to the roof. The Association shall replace a roof when either of the following shall occur: (a) A roof which is approaching its normal life expectancy (or which the Association deems to be defective) requires repair and the Association determines that it would be more efficient to replace the roof, or (b) A portion of the roof has been damaged by casualty, and the Association chooses to replace the roof. If the roof does not need to be replaced but is causing water leakage into any townhome or the Association otherwise determines that a roof requires repair, then the Association shall make all necessary repairs. If the Association determines that a roof does not need to be repaired, the Owner of the Townhome Unit directly underneath the damaged portion shall have the right to repair the roof with matching materials.

1.6. *Interpretation.* The Board may make and consistently apply reasonable rules interpreting these provisions to determine which portions of the Townhome Unit shall be maintained by the Association and which portions shall be maintained by the Owner. In the event of any doubt or dispute as to whether any portion of the Common Elements constitutes a Limited Common Element or in the event of any question as to which Townhome Units are served thereby, a decision shall be made by a majority vote of the Board and shall be binding and conclusive when so made.

1.7. *Landscape Maintenance.*

1.7.1. *Association Responsibility.* The Association shall maintain the yards of each Townhome Unit, plus any side yard along a street that is not enclosed by a fence. Maintenance shall mean the mowing, edging, fertilizing and spraying of lawns, and replacement of sod, if necessary. Street trees, grass and landscaping adjacent to the sidewalk, whether part of the Townhome Unit, Association Property or right-of-way, shall also be included within the commonly maintained landscape service.

1.7.2. *Owner Rights and Responsibility.* Subject to variances, rules and regulations by the Association, an Owner shall not plant additional plantings on Owner's Townhome Unit. If a variance is granted to allow an Owner to plant any flowers or other plantings, the Owner shall properly maintain them. The Association may remove any plantings visible from outside the Townhome Unit that are not well maintained and may remove any plantings that are invasive species or not in keeping with other landscaping. The Association may decide to maintain such additional plantings at the sole discretion of the Association. The Association may decide to charge such Owner additional Benefited Assessments for maintaining Owner's additional plantings at the sole discretion of the Association. Even if the Association collects additional maintenance fees from the Owner, the Association, Founder and/or Founder's Affiliates SHALL NOT BE RESPONSIBLE OR LIABLE TO OWNER FOR ANY DAMAGE OR DEATH OF SUCH ALTERED LANDSCAPING BY ANY PERSON FOR ANY REASON INCLUDING BUT NOT LIMITED TO ANY NEGLIGENCE, GROSS NEGLIGENCE, INTENTIONAL CONDUCT, ANY OTHER LEGAL THEORY ALLEGED WHETHER TORT, CONTRACT, VIOLATION OF STATUTE, CODE, RULE OR REGULATION.

1.8. *Irrigation.* Townhome Units are intended to have a shared irrigation system. Irrigation service and some maintenance may be provided by an outside service provider and may be billed directly to the Owner. Otherwise, the Association shall maintain the irrigation system, the cost of which shall be included in the common expenses of the Association. Owners shall not

damage or interfere with the operation of the irrigation system and shall promptly report any damaged or inoperable equipment.

1.9. *Pest Control.* The Association shall maintain a termite bond on all Townhome Buildings. The Owner shall cooperate in granting access for termite service. The Association may, but shall be under no obligation to, provide basic pest control service. The Founder and/or Committee shall determine the type of service and whether basic pest control service is provided. The Owner shall cooperate in granting access for pest control service if provided. The Owner is responsible for, and shall promptly repair, any termite damage or any other infestation that is not covered by the Association coverage, if any.

1.10. *Owner's Failure to Maintain.* If Owner's failure to properly maintain and repair those portions of the Townhome Unit not maintained by the Association is endangering the structural integrity of other Townhome Units or causing water leakage into other Townhomes, the Association shall have the right to enter and repair the defect and charge the cost, plus a management fee of twenty-five percent (25%), to the Owner as a Benefited Assessment. The Association shall give at least 10 calendar days notice or, in an emergency, whatever notice is reasonable under the circumstances.

1.11. *Damage or Destruction by Owner.* If any Owner or any of his guests, tenants, licensees, agents, employees or members of his family intentionally or as a result of negligence or misuse damages the roof or any other portion of the Townhome Unit to be maintained by the Association, the Owner hereby authorizes the Association to repair the damage. The cost of repair shall be the responsibility of that Owner and shall become a Benefited Assessment payable by the responsible Owner. The Association may, but is not required to, seek compensation for damage from the guest, tenant or other party who caused the damage, in which case the Owner shall be jointly and severally liable.

1.12. *Association Access to Townhome Units.* In order to facilitate access to the Townhome Units by the Association, it shall be the responsibility of all Townhome Unit Owners to deliver a set of keys to their Townhome Unit to the Association to use in the performance of its functions. No Owner shall change the locks to its Townhome Unit without so notifying the Association and delivering to the Association a new set of keys to such Townhome Unit.

1.13. *Authorization to Enter.* The Association shall have the irrevocable right to have access to each Townhome Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any Common Elements, Structural Common Elements or any portions of a Townhome Unit to be maintained by the Association, or at any time and by force, if necessary, to prevent damage or to make emergency repairs to the Common Elements, the Association Property or to a Townhome Unit. The Owner of the Townhome Unit shall permit the Association or persons authorized by it to enter the Townhome Unit for such aforesaid purposes, provided that such entry may be made only at reasonable times and with reasonable advance notice, except that in the case of an emergency no advance notice will be required. Any damage resulting from any such entry shall be a Common Expense, except where such entry is required in order to repair a Townhome Unit, in which event the Townhome Unit Owner will be responsible for such damage.

1.14. *Access of Founder to Building and Townhome Units and to Reports.* For as long as Founder remains liable to the Association or Townhome Unit Owners, under any warranty, whether statutory, express or implied, for any act or omission of Founder in the development, construction, sale and marketing of the Townhome, then Founder and its agents shall have the right, in Founder's sole discretion, and from time to time upon the granting of access thereto by the Association or a Townhome Unit Owner, as the case may be, to enter the Townhome property for the purpose of inspecting, testing and surveying same, to determine the need for repairs, improvements or replacements, so as to permit Founder to fulfill its obligations under such warranties. Failure of the Association or of a Townhome Unit Owner to grant such access may result in the appropriate warranty being nullified and of no further force or effect. For as long as the Founder remains liable to the Association under any warranty, whether statutory, express or implied, or for any act or omission of the Founder relative to the development, construction, sale and marketing of the Townhome, the Association shall furnish to the Founder all documentation prepared on behalf of the Association concerning the inspection, testing and surveying of the Common Elements or Townhome Units relative to analyzing such areas for compliance with all such warranties. Failure of the Association or of a Townhome Unit Owner to provide such access to reports and/or documentation shall result in the appropriate warranty being nullified and being of no further force or effect.

1.15. *Assessment of Costs.*

1.15.1. *Generally.* The cost of all maintenance and services to be provided to the Townhome Maintenance District, along with the cost of the Association's additional professional management attributed to the Townhome Maintenance District and the reserves described below, shall be divided equally among all Townhome Units in a Townhome Maintenance District as a Maintenance District Assessment.

1.15.2. *Reserves.* The Association may establish and maintain a reserve account for each Townhome Maintenance District for repair and replacement of roofs based on the expected life and replacement cost. The Association may also establish a similar reserve for repainting of Townhomes if appropriate to the type of construction.

1.15.3. *Roof Repair.* The cost of roof replacement or repair shall be paid first from any insurance proceeds and then from the reserve fund. If the reserve fund is not sufficient to pay for the repair or replacement, or if the Association faces any other unanticipated expense for the Townhome Units, then the Association shall levy a Special Assessment on each Townhome Unit in that Townhome Maintenance District to cover the cost.

## **Section 2. Insurance.**

2.1. *Purchase by Association.* Unless such coverage is not available or is available only at a cost significantly greater than that available if purchased by the individual Townhome Unit owners, the Association shall contract for property insurance for the Buildings on the Townhome Units.

2.2. *Type of Coverage.* Any policy shall, at a minimum, insure the structural components of the Building and the exterior surfaces. The Association shall determine whether to purchase coverage for the interior of the Townhome and other parts of the Townhome Unit.

2.3. *Notification of Change or Termination.* If the Association decides to eliminate or reduce existing coverage, the Association shall notify all Owners at least 60 days prior to the effective date of the change so that each Owner can obtain coverage.

2.4. *Liability.* The insurance purchased by the Association may or may not include liability coverage for the individual Townhome Units. Owners are strongly encouraged to obtain liability coverage if the Association policy does not include liability coverage or if the Owner needs additional coverage.

2.5. *Townhome Unit Owner's Coverage.* The Association policy may exclude coverage for cabinetry, flooring, appliances and other portions of the interior of the Townhome Unit. Townhome Unit Owner is strongly encouraged to purchase coverage that insures those items that are not covered by the Association policy.

2.6. *Deductible.* The Association in its discretion shall determine the amount of the deductible for the Association policy. If the Association purchases the policy, the deductible amount may be significantly higher than would be appropriate for an individual policy. In such a case, the Association shall from time to time determine the amount of a reasonable deductible for an individual claim, (the "individual deductible") and the Townhome Unit Owner shall be responsible only up to that amount in the event of a claim. Any damage that is of the type that would be covered under the Association policy and that falls between the individual deductible and the policy deductible shall be a Maintenance District expense. If the Association determines that the policy deductible is reasonable, then the policy deductible shall be the individual deductible.

2.7. *Assessments.* If the Association purchases coverage for the Townhomes, the expense shall be assessed to all Townhome Units within the Maintenance District as Maintenance District Assessments. The cost shall be allocated equally among the Townhomes in the Maintenance District.

2.8. *Individual Coverage.* If coverage is not available or is available only at a cost significantly greater than that available if purchased by the individual Townhome Unit owners, then the Association does not insure the Units and the individual Owners are required to obtain homeowners' property insurance with an amount of coverage equal to replacement value of the structure and provide evidence of such coverage to the Association, according to rules and procedures established by the Board for providing such evidence. If any Owner fails to provide evidence of coverage to the Association on a timely basis, then, upon ten days notice to the Owner, the Association shall obtain the coverage for the Owner, the cost of which, plus a twenty-five percent (25%) service charge for the Association, shall be assessed to the Townhome Unit as a Benefited Assessment. The Association may establish rules concerning such policies, including without limitation (a) requiring the Association to be named as a loss payee on any such policy, (b) requiring the Association to be notified prior to any cancellation of the policy and (c) requiring coverage to be with a company rated "A" or better. The Association may negotiate group-rate insurance from a provider or providers for voluntary participation.

2.9. *Notice concerning Purchase of Insurance on Townhome Units.* The Association will purchase a policy of property insurance for all Townhome Buildings so long as such coverage is reasonably available to the Association. The Association policy may not cover the interior of the Townhome. Townhome Unit Owners may need to purchase a unit owner's insurance policy as well as liability coverage. If the Association does not obtain property insurance for the Townhome Buildings, each Owner will be required to obtain insurance for that Owner's Townhome Unit with an amount of coverage equal to replacement value of the structure.

## **Section 3. Loss and Reconstruction**

3.1. *Generally.* After a casualty loss, the Association shall be responsible for performing any repair unless (a) the damage is confined to one Townhome Unit or exclusively or primarily involves the interior of a Townhome Unit or Townhome Units and the Association decides that the individual Owner shall make the repair or (b) the Owners rather than the Association were responsible for purchasing the insurance and the Association decides that the individual Owner or Owners shall be responsible

for repair. Any repair or reconstruction shall be according to the plans and specifications as they existed before the damage unless modifications are approved by the Founder and/or Committee as applicable.

3.2. *Association Repair.* If the Association is responsible for performing the repair, the following shall apply as to financial responsibility:

3.2.1. *Association Insurance Policy.* If the Association has purchased the insurance or is a loss payee on Owners' policies, the Association shall be responsible for all repairs to those portions of the Townhome Unit covered by the Association insurance policy. The following shall be a Benefited Assessment: (i) the individual deductible and (ii) repair or replacement of any portion of the Townhome Unit not insured under the Association policy. The following shall be a Maintenance District expense: (i) the amount between the individual deductible and the policy deductible and (ii) repair or replacement of any portion of the Townhome Unit insured under the Association policy but for which there are insufficient funds.

3.2.2. *Individual Insurance Policies.* If the individual Owner was responsible for purchasing property insurance and the Association has waived the requirement to be named a loss payee, then the Owner shall assign the insurance proceeds to the Association. Any deductible and any additional amount not covered by insurance shall be a Benefited Assessment.

3.3. *Individual Repair.* If the Association has determined that the affected Owner or Owners shall make the repair, the following shall apply:

3.3.1. *Association Insurance Policy.* The Association shall release any insurance funds it has received for the repair and shall pay the amount between the individual deductible and the policy deductible but the Owner shall be responsible for the individual deductible and any remaining cost.

3.3.2. *Individual Insurance Policies.* In the event of damage to more than one Townhome Unit, the Association may coordinate the work and each Townhome Unit Owner shall be required to cooperate with the coordinated effort. Each Owner shall pay the deductible and shall be responsible for any remaining cost. The Association shall institute reasonable procedures to assure proper use of insurance proceeds. The Association may supervise all work.

3.4. *Cooperation.* Owners shall cooperate with repair effort, whether the repair is to that Owner's Townhome Unit or to another within the Building, including granting access as necessary.

#### **Article XV. GENERAL PROVISIONS**

**Section 1. Conflict With Other Community Documents.** In the event of any conflict between the provisions of this Declaration and the provisions of the Articles and/or Bylaws and/or rules and regulations promulgated by the Association, the provisions of this Declaration, the Articles, the Bylaws and the rules and regulations shall control, in that order. In the event of any conflict between the provisions of this Declaration and the provisions of a Sub-Association declaration, this Declaration shall control and take precedence over all such other declarations.

**Section 2. Notices.** Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) each Owner, at the address of the person whose name appears as the Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Home owned by such Owner; (ii) the Association, certified mail, return receipt requested, at the address of the Association's Registered Agent with the Florida Department of State, or such other address as the Association shall hereinafter notify Founder and the Owners of in writing; and (iii) Founder, certified mail, return receipt requested, at the address of the Founder's Registered Agent with the Florida Department of State, or such other address or addresses as Founder shall hereinafter notify the Association of in writing, any such notice to the Association of a change in Founder's address being deemed notice to the Owners. Notwithstanding anything in the foregoing to the contrary, any notice required to be given in this Declaration to any Member may be given to such Member pursuant to any means authorized by the Florida Statute or by the Bylaws. Notice to any one or more of any co-owners of any Lot shall constitute notice to all Owners of such Lot.

**Section 3. Notice of Transfer of Lot.** In the event that any Owner, other than Founder and/or Founder's Affiliates desires to sell or otherwise transfer title of their Lot (by sale, gift or judicial decree), such Owner shall give the Board at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other information as the Board may reasonably require.

**Section 4. Enforcement.** The covenants and restrictions herein contained may be enforced by Founder (so long as Founder holds an equitable or legal interest in any Property), the Association, any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision



herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to reimbursement of all costs thereof including, but not limited to, Legal Fees, from the non-prevailing party. The Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which related to the maintenance, operation and repair of the Drainage System. In addition, the Association shall be entitled to recover pre-litigation attorneys' fees and costs incurred in enforcing the Association Documents and may be collectible in the same manner as Assessments as set forth in the Declaration. No right of action shall accrue, nor shall any action be brought or maintained by anyone, against Founder or the Association for or on account of any failure by either to bring any action on any violation or threatened violation of the Community Documents by any Member, however long continued.

**Section 5. Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of recreational facilities and Association Property. Article, Section and Paragraph captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration. Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa. Notwithstanding that some or all of the Community Documents may have been prepared, initially, at the direction of Founder, the Community Documents shall not be more strictly construed or interpreted against Founder or any of Founder's Affiliates than against any other person or entity. Whenever this Declaration refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date this Declaration is recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

**Section 6. Severability.** In the event any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law. In the event that any court should hereafter determine that any provision of this Declaration is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

**Section 7. Certain Rights of Founder.** Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Founder and Founder's Affiliates shall be subject to the approval of the Association or the Owners or the provisions and requirements of this Declaration, although it is the intent of the Founder to create a community with a common scheme of development. Notwithstanding the other provisions of this Declaration, the Founder reserves for itself and Founder's Affiliates, and the Founder, Founder's Affiliates and its nominees shall have, the right to enter into and transact on the Property any business necessary to consummate the sale, lease or encumbrance of Homes or real property within or outside the Community, including, but not limited to, the right to maintain models and a sales and/or leasing office, a construction office and/or a service office, place signs, employ sales, leasing, construction and service personnel, use the Association Property and show Homes, and the Founder further reserves for itself and Founder's Affiliates the right to make repairs to the Association Property and to carry on construction activity for the benefit of the Property, all of which activities may continue even after the Turnover Date. The Founder, Founder's Affiliates and their respective nominees, may exercise the foregoing rights without notifying the Association and/or the Owners. Any such models, sales and/or leasing office, construction office, service office, signs and any other items pertaining to such sales, leasing, construction or service efforts shall not be considered a part of the Association Property and shall remain the property of the Founder.

In addition, the Founder hereby has, shall have and hereby reserves the right for itself and Founder's Affiliates to enter upon the Association Property (including, without limitation, all drainage and utility easements whether located on a Lot or Association Property) in order for Founder to final-out and/or close-out any and all approvals, permits, orders, conditions and/or requirements that have been issued or imposed by any governmental entity in connection with the development and construction of the Community and all Improvements therein (collectively, the "Community Approvals"), and for Founder to comply and adhere to the same, and such rights shall survive the Turnover Date and continue for such period of time as is necessary for Founder to fully comply with all such Community Approvals. Without limiting the generality of the foregoing, in exercising any such rights, Founder and Founder's Affiliates shall have the right to remove and/or relocate any and all items

(including, without limitation, landscape materials, fences and/or other Improvements) that may be required to be removed and/or relocated to final-out and/or close-out any and all Community Approvals without compensation to the Association or the Owners. In the event Founder is unable to: (i) final-out and/or close-out any and all such Community Approvals as a result of Association's failure to timely and/or properly maintain any and all portions of the Community which is Association's responsibility to maintain pursuant to this Declaration and/or the Community Approvals, as applicable; or (ii) obtain a return of any bond or surety posted by Founder in connection with the development and construction of the Community, then Founder shall have the immediate right, but not the obligation, in its sole discretion, to (a) commence an enforcement action against the Association, including, without limitation, monetary penalties and injunctive relief, to compel the Association to maintain such portions of the Community as required by this Declaration and/or the Community Approvals, as applicable; or (b) take any and all actions necessary, at the Association's sole cost and expense, to comply with and adhere to any such Community Approvals. The Association hereby agrees to indemnify and reimburse the Founder (within ten (10) days of receipt of a written invoice from Founder) for all costs and expenses incurred by Founder in the event Founder takes actions in accordance with this Section. The rights granted to Founder hereunder shall survive the Turnover Date and continue for such period of time as is necessary for Founder to fully comply with all Community Approvals.

The Founder shall also have the right, but not the obligation, to conduct inspections and tests from time to time of all or any portion of the Association Property in order to ascertain the physical condition of the Improvements and to determine if maintenance, repair or replacement of any such Improvement is necessary. If the Founder conducts any such tests or inspections, it shall pay all costs thereof and restore the affected portion of the Property to its condition immediately prior to the inspections and tests. The Founder shall have such rights of entry on, over, under, across and through the Property as may be reasonably necessary to exercise the rights described in this Section. The Founder's right of inspection shall exist whether or not the Turnover Date has occurred. In the event the Founder exercises its inspection right(s), it is acknowledged by the Association and all Owners that the Founder is performing any such inspection(s) for its own benefit and not for the benefit of the Association and/or the Owners and further, the Founder shall have no obligation to inform the Association and/or the Owners of the result of any such inspection.

The Founder shall have and hereby reserves the right to transfer, in whole or in part, any and all rights and obligations of Founder set forth in the Community Documents to other Persons. Such assignment need not be recorded in the Public Records in order to be effective. The foregoing shall not preclude Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to Founder in this Declaration where Founder does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Founder's consent to such exercise.

The Founder shall have and hereby reserves the following rights: (a) the exclusive right to grant permission for the Association Property to be photographed, sketched, painted or otherwise reproduced for promotional, publishing, academic or commercial use (including without limitation its use as a background for the display of fashions or other goods), and (b) the right to grant permission for similar reproduction of the exteriors of any other part of the Property that can be viewed from streets or other Association Property. Such exteriors may be reproduced without the consent of, or payment to, the Owner, but the above right is not intended to prevent any Owner from granting independent permission for any part of the Property owned exclusively by that Owner, in which case the consent of the Founder shall not be required.

ALL OWNERS, OCCUPANTS AND USERS OF THE COMMUNITY ARE HEREBY PLACED ON NOTICE THAT FOUNDER AND/OR FOUNDER'S AFFILIATES, AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE COMMUNITY. BY THE ACCEPTANCE OF THEIR DEED, TITLE OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE COMMUNITY, EACH SUCH OWNER, OCCUPANT AND USER FOR THEMSELVES AND EACH OF THEIR RESPECTIVE HEIRS, LEGAL REPRESENTATIVES, AND ASSIGNS AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES AS FOLLOWS (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE COMMUNITY WHERE THE AFORESAID ACTIVITIES ARE BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) THAT THE OWNER, OCCUPANT OR USER IS AT RISK OF SUFFERING INJURY TO BOTH THEIR PERSON AND/OR PROPERTY AS A RESULT OF ENTRY UPON ANY PROPERTY WITHIN OR IN

PROXIMITY TO THE COMMUNITY WHERE THE AFORESAID ACTIVITIES ARE BEING CONDUCTED. EACH OWNER, OCCUPANT AND USER EXPRESSLY ASSUMES FULL RESPONSIBILITY FOR THE RISK OF BODILY INJURY, DEATH OR PROPERTY DAMAGE SUFFERED AS A RESULT OF THE AFORESAID CONSTRUCTION AND OTHER ACTIVITIES; (iv) THAT EACH OWNER, OCCUPANT AND USER HEREBY RELEASES, WAIVES, DISCHARGES AND HOLDS HARMLESS FOUNDER, FOUNDER'S AFFILIATES, AND EACH OF THEIR RESPECTIVE PARTNERS, AFFILIATES, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS, AND ANY SUBSEQUENT FOUNDER ("RELEASED PARTIES") FROM ALL LOSSES, CLAIMS, COSTS, LIABILITIES, DAMAGES, INCLUDING COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE, AND INCLUDING, BUT NOT LIMITED TO, PROPERTY DAMAGE OR BODILY INJURY OR DEATH, WHETHER CAUSED BY NEGLIGENCE ON THE PART OF ANY OR ALL OF THE RELEASED PARTIES OR ANYONE ELSE, AS A RESULT OF, ARISING OUT OF, OR IN CONNECTION WITH THE AFORESAID CONSTRUCTION AND OTHER ACTIVITIES, (v) ANY PURCHASE OR USE OF ANY PORTION OF THE COMMUNITY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING, AND (vi) THAT THIS ACKNOWLEDGEMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO FOUNDER TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE COMMUNITY.

This Section may not be suspended, superseded or modified in any manner by any amendment to this Declaration unless such amendment is consented to in writing by the Founder. This right of use and transaction of business as set forth herein and the other rights reserved by the Founder in Community Documents may be assigned in writing by the Founder in whole or in part. For the purposes of this Section, the term "Founder" shall include any "Lender" which has loaned money to the Founder to acquire or construct improvements upon the Property, or its successors and assigns if such Lender, its successors or assigns, acquires title to any portion of the Property as a result of the foreclosure of any mortgage encumbering any portion of the Property securing any such loan to the Founder, or acquires title thereto by deed in lieu of foreclosure. The rights and privileges of the Founder as set forth in this Section are in addition to, and are no way a limit on, any other rights or privileges of the Founder under any of the Community Documents.

**Section 8. Disputes as to Use.** In the event there is any dispute as to whether the use of the Property or any portion or portions thereof complies with the covenants, conditions, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything to the contrary herein contained, any use by Founder and/or Founder's Affiliates of the Property shall be deemed a use which complies with this Declaration and shall not be subject to a contrary determination by the Board.

**Section 9. Amendment and Modification.** The process of amending or modifying this Declaration shall be as follows:

9.1. Until the Turnover Date, all amendments or modifications shall only be made by Founder without the requirement of the Association's consent or the consent of the Owners so long as such amendments or modifications do not materially impair the common plan of development of the Community; provided, however, that the Association shall, forthwith upon request of Founder, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Founder shall, from time to time, request.

9.2. After six (6) months after the Turnover Date, this Declaration may be amended by: (i) the consent of the Owners owning three-fourths (3/4) of all Units or Homes; together with (ii) the approval or ratification of a majority of the Board. The aforementioned consent of the Owners owning three-fourths (3/4) of the Units or Homes may be evidenced by a writing signed by the required number of Owners or by the affirmative vote of the required number of Owners at any regular or special meeting of the Association called and held in accordance with the Bylaws.

9.3. Amendments for correction of scrivener's errors or other nonmaterial changes may be made by Founder alone until the Turnover Date and by the Board thereafter and without the need of consent of Association and any Owners.

9.4. Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Founder, the Association or of any Institutional Mortgagee without the specific written approval of such party affected thereby. In addition, and notwithstanding anything to the contrary contained herein, no amendment to this Declaration shall be effective which shall eliminate or modify the provisions of Section 7 of this Article and any such amendment shall be deemed to impair and prejudice the rights of Founder.

9.5. A copy of any Amendment to this Declaration shall be sent certified mail by the Association to Founder and to all Institutional Mortgagees holding a mortgage on any portion of the Property requesting notice. The amendment shall become effective upon the recording amongst the Public Records of the County of said amendment or any Supplemental Declaration to this Declaration which sets forth any amendment or modification to this Declaration.

9.6. Notwithstanding anything contained herein to the contrary, Founder may, without the consent of any Owners, file any amendments to this Declaration which may be required by an Institutional Mortgagee for the purpose of satisfying such Institutional Mortgagee's development criteria or such other criteria as may be established by such mortgagee's secondary mortgage market purchasers, including, without limitation, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; provided, however, any such Founder's filed amendments must be in accordance with any applicable rules, regulations and other requirements promulgated by the United States Department of Housing and Urban Development

9.7. Any proposed amendment to the Declaration which would affect the surface water management system, shall be submitted to the Water Management District and any other governmental or quasi-governmental agency having jurisdiction over the surface water management system for a determination of whether the proposed amendment necessitates a modification of the Water Management District Permit for the Property.

9.8. Each Owner by acceptance of a deed to a Unit or Home irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any other Community Document. It is expressly intended that the Founder and Association have the unfettered right to amend this Declaration and the other Community Documents except as expressly set forth herein.

**Section 10. Delegation.** The Association, pursuant to a resolution duly adopted by the Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board from time to time and whether or not related to Founder.

**Section 11. Term.** This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Property, and inure to the benefit of Founder, the Association and the Owners and their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date of recording this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods often (10) years each unless at least one (1) year prior to the termination of such fifty (50)-year term or any such ten (10)-year extension there is recorded amongst the Public Records of the County an instrument agreeing to terminate this Declaration signed by Owners owning two-thirds (2/3) of the Lots and Institutional Mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages held by Institutional Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the fifty (50)-year term or the ten (10)-year extension during which such instrument was recorded.

In the event this Declaration is terminated or the Association ceases to exist for any reason, the Owners shall be jointly and severally responsible for the costs to maintain and shall maintain the Association Property in the manner described herein. This provision may not be amended or deleted without the prior written consent of the County and this provision shall survive the termination of this Declaration and shall run with the Property in perpetuity. Any Owner may, however, petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association in the event of dissolution of the Association.

**Section 12. Rights of Mortgagees.**

12.1. *Right to Notice.* The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Community Documents and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Property. In addition, evidence of insurance shall be issued to each Owner and mortgagee holding a mortgage encumbering a Home upon written request to the Association.

12.2. *Rights of Listed Mortgagee.* Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor (such holder, insurer or guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- 12.2.1. Any condemnation, loss or casualty loss which affects any material portion of the Association Property;
  - 12.2.2. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
  - 12.2.3. Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot;
- and
- 12.2.4. Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform such Owner's obligations under the Community Documents, including, but not limited to, any delinquency

in the payment of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

12.3. *Right of Listed Mortgagee to Receive Financial Statement.* Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements of the Association for the prior fiscal year free of charge and the same shall be furnished electronically or by email within a reasonable time following such request. The Association shall not be obligated to mail or print hard copies of financial reports.

**Section 13. Approval of Association Lawsuits by Owners.** Notwithstanding anything contained herein to the contrary, in order to prevent the Board from incurring expenses not contemplated by the Community Documents, the Association shall be required to obtain the approval of three-fourths (3/4) of the total voting interests (at a duly called meeting of the Owners at which a quorum is present) prior to engaging persons or entities for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing lawsuit other than for the following purposes:

- 13.1. the collection of Assessments;
- 13.2. the collection of other charges which Owners are obligated to pay pursuant to the Community Documents;
- 13.3. the enforcement of the use and occupancy restrictions contained in the Community Documents;
- 13.4. actions or proceedings involving challenges to ad valorem taxation;
- 13.5. dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Association Property or to Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths [3/4] of the Owners); or
- 13.6. counterclaims brought by the Association in proceedings instituted against it.

**Section 14. Indemnification.** Each and every Director, officer and committee member of the Association shall be indemnified by the Association against all costs, expenses and liabilities, including attorney and paralegal fees at all trial and appellate levels and post judgment proceedings, reasonably incurred by or imposed upon him in connection with any negotiation, proceeding, arbitration, litigation or settlement in which he becomes involved by reason of his being or having been a Director, officer or committee member of the Association, and the foregoing provision for indemnification shall apply whether or not such person is a Director, officer or committee member at the time such cost, expense or liability is incurred. The Director, officer and committee member shall not be liable for any mistake of judgment, negligent or otherwise and the Association shall indemnify and forever hold each such Director, officer and committee member, free and harmless against any and all liability on account of any such contract or commitment made by them, in good faith, on behalf of the Association. Notwithstanding the above, in the event of any such settlement, the indemnification provisions provided in this Section shall not be automatic and shall apply only when the Board approves such settlement and reimbursement for the costs and expenses of such settlement as being in the best interest of the Association, and in the event a Director, officer or committee member admits that he is or she is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, the indemnification provisions of this Section shall not apply. The foregoing right of indemnification provided in this Section shall be in addition to and not exclusive of any and all rights of indemnification to which a Director, officer or committee member of the Association may be entitled under statute or common law.

**Section 15. Compliance With Provisions.** Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot except as elsewhere herein provided does consent and agree to, and shall be conclusively deemed to have consented and agreed to, every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property. Founder shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person.

**Section 16. Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Notwithstanding the foregoing, NEITHER FOUNDER, FOUNDER'S AFFILIATES, NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE. ALL OWNERS, BY ACCEPTANCE OF A DEED OR TITLE TO A LOT, AGREE TO HOLD FOUNDER AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, FOUNDER, FOUNDER'S AFFILIATES, NOR ANY SUCCESSOR FOUNDER SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY OR SAFETY WITHIN THE PROPERTY, AND NEITHER THE ASSOCIATION, FOUNDER, FOUNDER'S AFFILIATES, NOR ANY SUCCESSOR FOUNDER GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH

MONITORING SYSTEM OR SERVICE, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES, DAMAGE, INJURY, DEATH OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME, NEITHER THE ASSOCIATION, FOUNDER, FOUNDER'S AFFILIATES, NOR ANY SUCCESSOR FOUNDER SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY, EVEN IF CAUSED BY THE NEGLIGENCE OF ASSOCIATION, FOUNDER, FOUNDER'S AFFILIATES, AND/OR ANY SUCCESSOR FOUNDER. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY LOT OR HOME, AND TENANTS, GUESTS, AND INVITEES OF ANY OWNER ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, FOUNDER, FOUNDER'S AFFILIATES, AND ANY SUCCESSOR FOUNDER DO NOT REPRESENT OR WARRANT THAT: (a) ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE), IF ANY, RECOMMENDED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY FOUNDER OR THE ARCHITECTURAL CONTROL COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR (b) THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEM (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE) WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND THE ARCHITECTURAL CONTROL COMMITTEE, FOUNDER, FOUNDER'S AFFILIATES, AND ANY SUCCESSOR FOUNDER ARE NOT INSURERS OR GUARANTORS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS OR HOMES, AND TO THE CONTENTS OF LOTS OR HOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD AND THE ARCHITECTURAL CONTROL COMMITTEE, FOUNDER, FOUNDER'S AFFILIATES, AND ANY SUCCESSOR FOUNDER HAVE MADE NO REPRESENTATIONS, WARRANTIES AND/OR GUARANTIES, NOR HAS ANY OWNER, MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS (WHETHER SAME ARE PROVIDED THROUGH THE COMMUNITY SYSTEMS OR OTHERWISE) RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

**Section 17. Covenant Running With the Land.** All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lots and Homes and the Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of the Founder and subsequent Owner(s) of the Homes, Lots and Property or any part thereof, or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, tenants, and occupants of the Lots and Homes, as applicable, shall be subject to and shall comply with the provisions of this Declaration and the Articles, Bylaws and applicable rules and regulations as they exist and may from time to time be amended. The acceptance of a deed of conveyance of a Lot, or the entering into a lease of or occupancy of a Home, shall constitute an adoption and ratification by such Owner, tenant, or occupant of the provisions of this Declaration, and the Articles, Bylaws, and applicable rules and regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purposes, the same shall constitute and be covenants running with the land.

**Section 18. No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Association Property to the public, or for any public use.

**Section 19. Sub-associations.** Upon any portion of the Property being submitted to a declaration creating a Sub-Association, then the following special provisions shall apply:

19.1. A single Sub-Association Parcel shall not lose its character as such for the purposes of this Declaration by virtue of being subdivided into a Sub-Association Parcel by a Declaration of Condominium, or subject to any other recorded declaration creating a Sub-Association. An Owner shall be deemed, for purposes of this Declaration, to include the Sub-Association for the Sub-Association Parcel, even though same may not actually be the owner of the Sub-Association Parcel.

19.2. For the purposes of complying with and enforcing the standards of maintenance contained herein, the building or buildings within the Sub-Association Parcel and any appurtenant facilities shall be treated as a structure or structures and any other portions thereof shall be treated as an unimproved portion of the Sub-Association Parcel, with each Sub-Association to have the maintenance duties of an Owner as set forth herein. Each Sub-Association shall also be jointly and severally liable with its members for any violation of the use restrictions set forth in this Declaration or of the Rules and Regulations; provided, however, that nothing herein shall limit, modify, or impair the rights provided to Unit Owners in Chapter 718, Florida Statutes with respect to any Condominium Parcel located within the Properties.

19.3. Each Sub-Association shall be liable and responsible to the Association hereunder for its constituents' compliance with the covenants, restrictions and requirements of this Declaration and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association; provided, however, that nothing herein shall limit, modify, or impair the rights provided to Unit Owners in Chapter 718, Florida Statutes with respect to any Condominium Parcel located within the Properties. Accordingly, while the Association shall have the right (exercisable at its sole option) to proceed against such a constituent for a violation of this Declaration, it shall have a direct right to do so against each Sub-Association (even if the violation is not caused by such Sub-Association or by all of its constituents).

19.4. Each Sub-Association shall be a non-Voting Member of the Association, and its constituents who are Owners shall not be deemed to be Voting Members, unless expressly provided herein.

**Section 20. No Representations or Warranties.** NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY FOUNDER OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE ASSOCIATION PROPERTY, ITS PHYSICAL CONDITION, ZONING COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND AS TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED.

20.1. SPECIFIC ADDITIONAL DISCLAIMERS OF REPRESENTATIONS, WARRANTIES AND LIABILITY. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY FOUNDER OR ITS AGENTS OR EMPLOYEES, UNLESS EXPRESSLY SET FORTH IN THIS DECLARATION, AND THE FOUNDER HEREBY SPECIFICALLY DISCLAIMS ANY LIABILITY OR RESPONSIBILITY FOR THE FOLLOWING:

20.1.1. ANY MATTERS RELATING TO THE AMENITIES, VIEWS, DESIGNS, SECURITY, SIZE (INCLUDING DIMENSIONS THEREOF), AND PRIVACY OF THE HOMES AND OTHER PORTIONS OF THE PROPERTY, AND THE DESIGN, HEIGHT AND DENSITY OF THE SURROUNDING PROPERTIES.

20.1.2. THE PREVENTION OF TORTIOUS ACTIVITIES, THE SECURITY, HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY INCLUDING, WITHOUT LIMITATION, HOMEOWNERS AND THEIR TENANTS, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS. ANY PROVISIONS OF THIS DECLARATION, OR OF THE ARTICLES OR BY-LAWS, 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 RECIPIENT OF SUCH ASSESSMENT FUNDS TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENTS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

20.1.3. THE PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAW, MERCHANTABILITY, USABILITY, FITNESS FOR A PARTICULAR PURPOSE OF ANY PORTION OF THE COMMON ELEMENTS OR OTHER PORTIONS OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE SALE, OPERATION, LEVEL OR COST OF MAINTENANCE, TAXES OR REGULATION THEREOF.

20.1.4. BOWING AND/OR DEFLECTION OF MATERIALS, AND CRACKING AND SETTLEMENT OF IMPROVEMENTS, WHICH EACH OWNER RECOGNIZES AND AGREES IS TYPICAL IN THE TYPE OF IMPROVEMENTS IN THE PROPERTY.

20.1.5. MOLDS, MILDEW, TOXINS AND FUNGI WHICH, GIVEN THE CLIMATE AND HUMID CONDITIONS IN FLORIDA, MAY EXIST AND/OR DEVELOP WITHIN THE IMPROVEMENTS, AND/OR OTHER PORTIONS OF THE PROPERTY. EACH HOMEOWNER AGREES TO REGULARLY INSPECT THEIR HOME FOR PLUMBING LEAKS, WATER ACCUMULATION, AND WATER INTRUSION THROUGH WINDOWS, DOORS AND ROOFS FOR ANY SIGNS OF MOLD

AND REGULARLY MAINTAIN ADEQUATE AIR CIRCULATION AND VENTILATION BY CONTINUOUSLY OPERATING ITS HVAC SYSTEM.

20.1.6. NOISE, MUSIC, VIBRATIONS, ODORS, COMMOTION AND OTHER UNPLEASANT EFFECTS OF NEARBY CONSTRUCTION ACTIVITY, AND EMANATING FROM SURROUNDING DEVELOPMENTS, AND THE NEARBY ACTIVE ROADWAY TRAFFIC, BECAUSE OF ITS PROXIMITY TO THE PROPERTY, MAY CREATE DISTURBANCES AND IMPEDE THE USE OF PORTIONS OF THE PROPERTY.

20.1.7. THE EXTERIOR LIGHTING SCHEME FOR THE IMPROVEMENTS WITHIN THE PROPERTIES, WHICH MAY CAUSE EXCESSIVE ILLUMINATION AND MAY REQUIRE INSTALLATION OF WINDOW TREATMENTS.

20.1.8. ACTS OF GOD AND UNCONTROLLABLE EVENTS AND, GIVEN THE LOCATION OF THE PROPERTY, THE EXPOSURE TO THE POTENTIAL DAMAGES FROM FLOODING AND FROM HURRICANES AND TROPICAL STORMS, INCLUDING, WITHOUT LIMITATION, DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN AND IN ANY PORTIONS OF THE IMPROVEMENTS LOCATED BELOW THE FEDERAL FLOOD PLAIN.

20.1.9. THE LEVEL OF SOUND TRANSMISSION BETWEEN AND AMONG HOMES AND THE OTHER PORTIONS OF THE PROPERTY AND THE SURROUNDING PROPERTIES, WHICH, BECAUSE SOUND TRANSMISSION IN A BUILDING IS VERY DIFFICULT TO CONTROL, MAY CREATE DISTURBANCES IMPEDE THE USE OF THE HOMES AND OTHER PORTIONS OF THE PROPERTY.

20.1.10. THE LARGE TEMPERATURE FLUCTUATIONS IN THE HOMES, WHICH ARE LIKELY TO OCCUR DESPITE THE NORMAL OPERATIONS OF THE AIR CONDITIONING SYSTEMS, DUE TO THE LARGE AMOUNTS OF OUTDOOR GLASS WINDOWS AND DOORS AND THE LOCATION OF THE VARIOUS ROOMS WITHIN THE HOMES, AS WELL AS THE DIFFERING WEATHER CONDITIONS THROUGHOUT THE YEAR, AND WHICH WILL REQUIRE THE INSTALLATION OF INDOOR WINDOW TREATMENTS SUCH AS CURTAINS AND BLINDS.

20.2. EACH OWNER, BY ACCEPTING AND ACQUIRING TITLE TO A HOME, AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES), SHALL BE BOUND BY THIS ARTICLE, SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH EACH OF THE ABOVE MATTERS AND OCCURRENCES AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE FOUNDER AND THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE AFOREMENTIONED PARTIES HAS BEEN DISCLAIMED IN THIS ARTICLE.

20.3. DISCLAIMERS OF REPRESENTATIONS, WARRANTIES AND LIABILITY. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY FOUNDER OR ITS AGENTS OR EMPLOYEES AND FOUNDER HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, TO THE EXTENT PERMISSIBLE BY APPLICABLE LAW.

20.4. LIMITATION OF DAMAGES. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE HOMES (WHETHER FROM THE FOUNDER OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL, SPECIAL, PUNITIVE AND CONSEQUENTIAL DAMAGES.

20.5. REFERENCES TO FOUNDER AND ASSOCIATION. AS USED IN THIS SECTION, REFERENCES TO FOUNDER SHALL INCLUDE WITHIN THEIR MEANING ITS MEMBERS, PARTNERS, AND ITS SHAREHOLDERS, DIRECTORS, OFFICERS, BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AND ITS SUCCESSORS AND ASSIGNS AND REFERENCES TO THE ASSOCIATION SHALL INCLUDE ALL OF ITS DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.

**Section 21. Certain Reserved Rights of Founder With Respect to Community Systems.** Without limiting the generality of any other applicable provisions of this Declaration, and without such provisions limiting the generality hereof, Founder hereby reserves and retains to itself and Founder's Affiliates:

21.1. the title to any Community Systems and a perpetual exclusive easement over, under and across the Property for the placement and location thereof;

21.2. the right to connect, from time to time, the Community Systems to such receiving or intermediary transmission source(s) as Founder may in its sole discretion deem appropriate, in location(s) on the Property as Founder may determine in



its sole discretion, including, without limitation, companies licensed to provide CATV or satellite service(s) in the County, for which service(s) Founder shall have the right to charge any users a fee (which shall not exceed any maximum allowable charge provided for in the applicable ordinances of the County);

21.3. the continuing right to air conditioned space within and/or on the Association Property as Founder may determine in its sole discretion to install, operate, maintain, repair and replace the equipment serving, providing or running the Community Systems, which location may include, without limitation, room(s) within any clubhouse or other Improvements constructed on the Association Property; and

21.4. the exclusive right to offer and provide from time to time to the Association, the Lots and the Lot Owners, any and all Bundled Services through the Community Systems.

Neither the Founder, Founder's Affiliates, Association nor any officer, director, employee, committee member or agent thereof (including any Management Company) shall be liable for any damage to property, personal injury or death arising from or connected with any act or omission of any of the foregoing during the course of performing any duty or exercising any right or privilege (including, without limitation, performing maintenance work which is the duty of the Association or exercising any remedial maintenance or alteration rights under this Declaration) required or authorized to be done by the Association, or any of the other aforesaid parties, under this Declaration or otherwise as required or permitted by law. The provisions of this Section may not be amended without the prior written consent of Founder.

**Section 22. Association and Founder as Attorney-in-Fact.** Each Owner, by reason of having acquired ownership of a Lot, whether by purchase, gift, operation of law or otherwise, and each occupant of a Home, by reason of his or her occupancy, is hereby declared to have acknowledged and agreed to his or her automatic consent to any rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion made in, on or to the Community by Founder and/or Founder's Affiliates (hereinafter, collectively, the "Modifications") and, in respect thereto, each Owner of a Lot and occupant of a Home hereby designates the Association to act as agent and attorney in fact on behalf of such Owner or occupant to consent to any such Modification. If requested by Founder, each Owner shall evidence his or her consent to a Modification in writing (provided, however, that any refusal to give such written consent shall not obviate the automatic effect of this provision). Further, each Owner, by reason of having acquired ownership of a Lot, hereby agrees to execute, at the request of Founder, any document and/or consent which may be required by any government agency to allow Founder and/or Founder's Affiliates to complete the plan of development of the Community, as such plan may be hereafter amended, and each such Owner hereby further appoints Founder as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of each such Owner, any and all of such documents and/or consents. This power of attorney is irrevocable and is coupled with an interest. The provisions of this Section may not be amended without Founder's prior written consent.

**Section 23. Litigation/Waiver of Jury Trial.** As to any claim arising from or connected with the Founder's construction, development, repair, replacement or maintenance of the Properties, or the Founder's operation of the Association (the "Development Matters"), it shall be a material condition precedent to the institution of any proceeding regarding Development Matters that (i) the party or parties bringing same shall have first given notice to the Founder or other party against whom/which relief or recovery is sought (the "Defendant") of the specific Development Matters complained of and what actions are necessary to cure or correct same and (ii) the Defendant shall have been given at least forty-five (45) days (subject to extension by reason of matters beyond the control of the Defendant or because of the nature of the applicable Development Matter(s) and the time necessary to cure or correct same) in which to cure or correct the applicable Development Matter(s) and shall have materially failed to do so. THE FOUNDER, THE ASSOCIATION, AND ALL OWNERS AND OTHER PERSONS ACQUIRING ANY RIGHT, TITLE OR INTEREST IN ANY UNIT, HOME, OR SUB-ASSOCIATION PARCEL, EACH HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM PERTAINING TO THIS DECLARATION AND TO ANY AND ALL MATTERS PERTAINING TO THE DEVELOPMENT MATTERS OF THE PROPERTY. Without limiting the general binding effect of this Declaration, each Owner and other person acquiring any right, title or interest in any Unit, Home, or Sub-Association Parcel shall be deemed, by virtue of the acceptance of the conveyance, grant, transfer or assignment thereof, to be fully bound by the provisions of this Section, as shall the Founder, the Association and the Sub-Associations.

IN WITNESS WHEREOF, this instrument has been signed by Founder and joined in by the Association, Bryan Commercial Association, Inc. and Skobel Development, Inc. on the respective dates set forth below.

Witnessed by:

**FOUNDER:**  
AMA Gainesville Investments Four LLC

[Signature]  
Name: Daniela Nunez

a Florida limited liability company

By: [Signature]  
Alex Skobel, Managing Member

[Signature]  
Name: Alba Medina

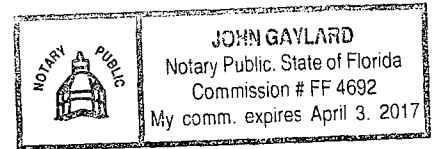
State of Florida  
County of Alachua

The foregoing declaration was acknowledged before me, this April <sup>25</sup> ~~24~~, 2016, by Alex Skobel, as Managing Member of AMA Gainesville Investments Four LLC, a Florida limited liability company. Such person is personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard

[Notary Seal]



**ASSOCIATION:**

Witnessed by: Brytan Association, Inc.  
a Florida not-for-profit corporation

[Signature]  
Name: Daniela Nunez

By: [Signature]  
Michael Skobel, President

By: [Signature]  
Alex Skobel, Secretary and Treasurer

[Signature]  
Name: Alba Medina

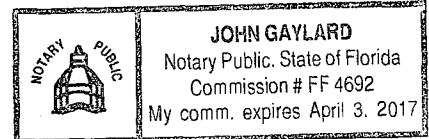
State of Florida  
County of Alachua

The foregoing declaration was acknowledged before me, this April <sup>25</sup> ~~24~~, 2016, by Michael Skobel, as President and Alex Skobel, as Secretary and Treasurer of Brytan Association, Inc., a Florida not-for-profit corporation. Such persons are personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard

[Notary Seal]



**BRYTAN COMMERCIAL ASSOCIATION, INC.:**

Witnessed by: Brytan Commercial Association, Inc.  
a Florida not-for-profit corporation

[Signature]  
Name: Daniela Nunez

By: [Signature]  
Michael Skobel, President

By: [Signature]  
Alex Skobel, Secretary and Treasurer

Alba Medina

Name: Alba Medina

State of Florida  
County of Alachua

The foregoing declaration was acknowledged before me, this <sup>25</sup> ~~April 24~~, 2016, by Michael Skobel, as President and Alex Skobel, as Secretary and Treasurer of Brytan Commercial Association, Inc., a Florida not-for-profit corporation. Such persons are personally known to me.

John Gaylard  
Notary Public

Printed Name: John Gaylard

[Notary Seal]



**SKOBEL DEVELOPMENT, INC.:**

Witnessed by:

Skobel Development, Inc.  
a Florida for-profit corporation

Daniela Nunez  
Name: Daniela Nunez

By:

Alex Skobel  
Alex Skobel, President

Alba Medina  
Name: Alba Medina

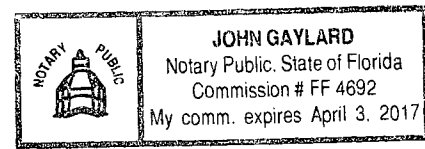
State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> ~~April 24~~, 2016, by Alex Skobel, as President of Skobel Development, Inc., a Florida for-profit corporation. Such person is personally known to me.

John Gaylard  
Notary Public

Printed Name: John Gaylard

[Notary Seal]



## EXHIBIT A

### Legal Description of Property

#### BRYTAN MASTER BOUNDARY:

A part of Lots 6, 7, 8, 9, 10, 11, 17, 18, 19, 20, 21 and 22, Smithers' Survey, as recorded in plat book "A", page 113, of the public records of Alachua County, Florida, lying in Section 28, Township 10 South, Range 19 East, Alachua County, Florida; including all of lands described in O.R.B. 2166, page 2795 AND O.R.B. 2105, page 2728, both of said public records of Alachua County, Florida AND part of lands described in O.R.B. 1364, page 803, said public records; LESS lands described in O.R.B. 1548, page 304 AND LESS lands described in O.R.B. 1219, page 677, both of said public records; being more particularly described as follows:

Commence at the Northwest corner of said Section 28, and run thence South 00°17'45" East, along the West line of said Section, a distance of 1311.95 feet to the Southerly line of the Gainesville Regional Utilities right-of-way; thence North 58°26'25" East, along said Southerly right-of-way line, a distance of 524.21 feet to the Point-of-Beginning of the herein described parcel; thence continue North 58°26'25" East, along said Southerly right-of-way line, a distance of 482.45 feet; thence North 58°25'46" East, along said Southerly right-of-way line, a distance of 89.71 feet; thence South 31°28'23" East, a distance of 574.09 feet; thence South 58°34'36" West, a distance of 75.88 feet; thence South 31°31'15" East, a distance of 637.84 feet; thence South 58°11'55" West, a distance of 138.30 feet; thence South 31°30'21" East, a distance of 542.72 feet; thence North 58°29'38" East, a distance of 1273.71 feet; thence South 31°24'32" East, a distance of 37.73 feet; thence North 51°58'48" East, a distance of 172.41 feet; thence North 30°58'51" East, a distance of 300.04 feet to the Westerly line of said Lot 17, Smithers' Survey; thence North 31°33'02" West, along said Westerly line, a distance of 183.73 feet; thence North 58°34'55" East, a distance of 659.43 feet to the Southeast corner of lands described in O.R.B. 2218, page 182, said public records; thence South 31°31'19" East, along a Southerly extension of the Easterly line of said O.R.B. 2218, page 182, a distance of 663.34 feet to a line marking the diagonal split of the Northeast corner and Southwest corner of said Section 28; thence South 44°44'26" West, along said diagonal split line, a distance of 3651.72 feet to the Southeasterly corner of said O.R.B. 2166, page 2795; thence South 44°45'11" West, along the Southerly line of said O.R.B. 2166, page 2795, a distance of 1767.40 feet to the East right-of-way line of S.W. 75th Street (a.k.a. County Road No. SW 29); thence North 00°21'32" West, along said East right-of-way line, a distance of 790.02 feet to the Southwest corner of said O.R.B. 1219, page 677; thence North 89°34'25" East, a distance of 154.80 feet to the Southeast corner of said O.R.B. 1219, page 677; thence North 00°25'42" West, a distance of 244.99 feet to the Northeast corner of said O.R.B. 1219, page 677; thence South 89°33'45" West, a distance of 154.51 feet to the Northwest corner of said O.R.B. 1219, page 677 and the said East right-of-way line; thence North 00°21'32" West, along said East right-of-way line, a distance of 1565.93 feet; thence North 00°17'45" West, along said East right-of-way line, a distance of 222.01 feet to the beginning of a tangent curve, concave Southwesterly, having a radius of 1950.08 feet, a central angle of 11°37'29", and a chord bearing and distance of North 06°06'30" West - 394.98 feet; thence Northwesterly, along said curve and along said East right-of-way line, an arc distance of 395.65 feet to the said West line of Section 28; thence North 00°17'45" West, along said West line, a distance of 83.44 feet to the South line of a Bell South Communications easement per O.R.B. 2794, page 1200, said public records; thence North 58°51'49" East, a distance of 20.90 feet to the Southeast corner of said easement; thence North 14°22'28" West, a distance of 20.26 feet to the Northeast corner of said easement; thence North 58°37'37" East, a distance of 259.75 feet; thence North 31°36'53" West, a distance of 180.18 feet; thence North 58°23'43" East, a distance of 358.94 feet; thence North 00°21'08" West, a distance of 420.04 feet to the said Point-of-Beginning;

Together with:

DESCRIPTION: (BY SURVEYOR) - PARCEL 3B (BROWER DIVISION)

A PART OF LANDS DESCRIBED IN AN UNRECORDED DESCRIPTION PREPARED BY ROBERT W.

WIGGLESWORTH, SURVEYOR, DATED JUNE 29, 1995, LYING IN THE NORTHEAST ¼ OF SECTION 29, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 29, AND RUN THENCE SOUTH 00°17'45"EAST, ALONG THE EAST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 1942.31 FEET TO THE POINT-OF-BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00°17'45"EAST, ALONG SAID EAST LINE, A DISTANCE OF 105.96 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF S.W. 75TH STREET (A.K.A. COUNTY ROAD NO. SW29); SAID POINT BEING ON A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 1950.08 FEET, A CENTRAL ANGLE OF 02°48'17", AND A CHORD BEARING AND DISTANCE OF NORTH 13°19'23"WEST - 95.45 FEET; THENCE NORTHWESTERLY, ALONG SAID CURVE AND ALONG SAID EASTERLY RIGHT-OF-WAY LINE, AN ARC DISTANCE OF 95.46 FEET; THENCE NORTH 58°37'37"EAST, A DISTANCE OF 25.12 FEET TO THE SAID POINT-OF-BEGINNING.

CONTAINING 0.025 ACRES, MORE OR LESS.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL PER O.R.B. 1548, PAGE 304 (WELCH PARCEL):

COMMENCE AT A 4"x4" CONCRETE MONUMENT MARKING THE NORTHWEST CORNER OF SECTION 28, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, THENCE ALONG THE WEST LINE OF SAID SECTION 28 SOUTH 00°07'12" EAST A DISTANCE OF 1964.92 FEET TO A SET 5/8" REBAR AND CAP (#3524), THENCE SOUTH 00°07'12" EAST A DISTANCE OF 84.19 FEET TO A FOUND 4"x4" CONCRETE MONUMENT (#2115) MARKING THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SW HAVING A RADIUS OF 1950.08 FEET, A DELTA OF 11°36'31" AND A CHORD BEARING SOUTH 05°53'35" EAST 394.43 FEET, THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 395.10 FEET TO A FOUND 4"x4" CONCRETE MONUMENT (#2115), THENCE SOUTH 68°15'53" EAST A DISTANCE OF 425.27 FEET TO A FOUND 4"x4" CONCRETE MONUMENT (#2115) MARKING NORTHWESTERLY CORNER OF WELCH PROPERTY (AS PER OFFICIAL RECORDS BOOK 1548, PAGE 304) AND THE POINT OF BEGINNING, THENCE NORTH 58°42'11" EAST A DISTANCE OF 916.77 FEET TO A FOUND 4"x4" CONCRETE MONUMENT (#2115) MARKING THE NORTHEASTERLY CORNER OF SAID WELCH PROPERTY, THENCE SOUTH 31°20'33" EAST A DISTANCE OF 641.72 FEET TO A FOUND 4"x4" CONCRETE MONUMENT (#2115) MARKING THE SOUTHEASTERLY CORNER OF SAID WELCH PROPERTY, THENCE SOUTH 58°40'26" WEST A DISTANCE OF 917.19 FEET TO A FOUND 4"x4" CONCRETE MONUMENT MARKING THE SOUTHWESTERLY CORNER OF SAID WELCH PROPERTY, THENCE NORTH 31°18'19" WEST A DISTANCE OF 642.19 FEET TO THE POINT OF BEGINNING, CONTAINING 13.51 ACRES MORE OR LESS;

LESS AND EXCEPT SW57th ROAD RIGHT-OF-WAY:

A 40 foot wide strip of land being part of lands described in O.R.B. 2166, page 2795, public records of Alachua County, Florida and lying in Section 28, Township 10 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the Northwest corner of said Section 28, and run thence South 00°17'45" East, along the West line of said Section, a distance of 1311.95 feet to the Southerly line of the GRU Utilities right-of-way lying south of and adjacent to S.W. Archer Road; thence continue South 00°17'45" East, along said West line, a distance of 736.32 feet to the East right-of-way line of S.W. 75th Street (a.k.a. County Road No. SW29); said point being on a non-tangent curve, concave Southwesterly, having a radius of 1950.08 feet, a central angle of 11°37'29" and a chord bearing and distance of South 06°06'30" East - 394.98 feet; thence Southeasterly, along said curve and along said East right-of-way line, an arc distance of 395.65 feet to the end of said curve; thence South 00°17'45" East, along said East right-of-way line, a distance of 222.01 feet; thence South 00°21'32" East, along said East right-of-way line, a distance of 2484.26 feet to the

Point-of-Beginning of the herein described parcel; thence continue South 00°21'32" East, along said East right-of-way line, a distance of 116.65 feet to the Southwest corner of said O.R.B. 2166, page 2795 on a line marking the diagonal split of the Northeast corner and Southwest corner of said Section 28; thence North 44°45'11" East, along said diagonal line, a distance of 1710.94 feet to the Southeasterly corner of said O.R.B. 2166, page 2795; thence North 44°44'26" East, along said diagonal line, a distance of 3651.72 feet to the Southerly extension of the Easterly line of lands described in O.R.B. 2218, page 182; thence North 31°31'19" West, along said extension, a distance of 41.18 feet; thence South 44°44'26" West, a distance of 3661.48 feet; thence South 44°45'11" West, a distance of 1610.92 feet to the beginning of a tangent curve, concave Northerly, having a radius of 25.00 feet, a central angle of 134°53'17", and a chord bearing and distance of North 67°48'11" West - 46.18 feet; thence Southwesterly, Westerly and Northwesterly, along said curve, an arc distance of 58.86 feet to the said Point-of-Beginning. Containing 4.927 acres more or less;

LESS AND EXCEPT LIFT STATION MORE PARTICULARLY DESCRIBED AS:

A 50 foot x 50 foot square, lying in Section 28, Township 10 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the Northwest corner of said Section 28, and run thence South 00°17'45" East, along the West line of said Section, a distance of 2048.27 feet to the East right-of-way line of S.W. 75th Street (a.k.a. County Road No. SW29); thence continue South 00°17'45" East, along said West line, a distance of 614.98 feet to the centerline of said S.W. 75th Street; thence South 00°21'32" East, along said centerline, a distance of 810.83 feet; thence North 89°38'28" East, a distance of 40.00 feet to the said East right-of-way line of S.W. 75th Street; thence continue North 89°38'28" East, a distance of 70.00 feet; thence South 00°21'32" East, a distance of 16.64 feet; thence North 89°38'28" East, a distance of 52.96 feet; thence North 00°21'32" West, a distance of 6.64 feet; thence North 89°38'28" East, a distance of 50.71 feet to a point on a non-tangent curve, concave Southerly, having a radius of 2622.42 feet, a central angle of 02°12'54", and a chord bearing and distance of South 86°15'37" East - 101.38 feet; thence Southeasterly, along said curve, an arc distance of 101.38 feet; thence North 61°38'56" East, a distance of 113.46 feet; thence North 83°56'15" East, a distance of 265.91 feet to a point on a non-tangent curve, concave Westerly, having a radius of 475.00 feet, a central angle of 05°05'35", and a chord bearing and distance of South 03°30'58" East - 42.21 feet; thence Southerly, along said curve, an arc distance of 42.22 feet; thence continue Southerly, along said curve, thru a central angle of 13°12'24", and a chord bearing and distance of South 05°38'01" West - 109.24 feet, an arc distance of 109.49 feet to the end of said curve; thence South 12°14'13" West, a distance of 66.36 feet; thence South 77°45'47" East, a distance of 173.21 feet; thence North 44°44'26" East, a distance of 584.64 feet; thence North 23°15'55" West, a distance of 275.14 feet; thence North 58°28'19" East, a distance of 474.49 feet; thence North 58°37'53" East, a distance of 174.69 feet; thence South 45°15'34" East, a distance of 56.55 feet; thence South 44°44'26" West, a distance of 108.00 feet; thence South 45°15'34" East, a distance of 7.00 feet to the Point-of-Beginning of the herein described parcel; thence continue South 45°15'34" East, a distance of 50.00 feet; thence North 44°44'26" East, a distance of 50.00 feet; thence North 45°15'34" West, a distance of 50.00 feet; thence South 44°44'26" West, a distance of 50.00 feet to the said Point-of-Beginning;

AND LESS AND EXCEPT:

Commence at the Northwest corner of said Section 28, and run thence South 00°17'45" East, along the West line of said Section, a distance of 1311.95 feet to the Southerly line of the GRU Utilities right-of-way lying south of and adjacent to S.W. Archer Road; thence continue South 00°17'45" East, along said West line, a distance of 736.32 feet to the East right-of-way line of S.W. 75th Street (a.k.a. County Road No. SW29); said point being on a non-tangent curve, concave Southwesterly, having a radius of 1950.08 feet, a central angle of 11°37'29" and a chord bearing and distance of South 06°06'30" East - 394.98 feet; thence Southeasterly, along said curve and along said East right-of-way line, an arc distance of 395.65 feet to the end of said curve; thence South 00°17'45" East, along said East right-of-way line, a distance of 222.01 feet; thence South 00°21'32" East, along said East right-of-way line, a distance of 1885.86 feet to the Point-of-Beginning of the herein described parcel; thence continue South 00°21'32" East, along said East right-of-way line, a distance of 598.41 feet to the beginning of a tangent curve, concave Northeasterly, having a radius of 25.00 feet, a

central angle of  $134^{\circ}53'17''$ , and a chord bearing and distance of South  $67^{\circ}48'11''$  East - 46.18 feet; thence Southeasterly, Easterly and Northeasterly, along said curve, an arc distance of 58.86 feet to the end of said curve; thence North  $44^{\circ}45'11''$  East, a distance of 564.63 feet; thence South  $89^{\circ}38'28''$  West, a distance of 227.68 feet; thence North  $00^{\circ}21'32''$  West, a distance of 239.09 feet; thence North  $12^{\circ}22'41''$  West, a distance of 9.10 feet to a point on a non-tangent curve, concave Northerly, having a radius of 325.00 feet, a central angle of  $10^{\circ}11'18''$ , and a chord bearing and distance of South  $84^{\circ}28'46''$  West - 57.71 feet; thence Westerly, along said curve, an arc distance of 57.79 feet to the end of said curve; thence South  $89^{\circ}34'25''$  West, a distance of 130.65 feet to the beginning of a tangent curve, concave Southeasterly, having a radius of 25.00 feet, a central angle of  $89^{\circ}55'57''$ , and a chord bearing and distance of South  $44^{\circ}36'26''$  West - 35.33 feet; thence Southwesterly, along said curve, an arc distance of 39.24 feet to the end of said curve, the said East right-of-way line of S.W. 75th Street and to the said Point-of-Beginning. Containing 3.420 Acres, more or less.

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DIVISION OF CORPORATIONS  
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**Amended and Restated Articles of Incorporation for Brytan Association, Inc.**

This Amended and Restated Articles of Incorporation for Brytan Association, Inc. ("Articles") is made as of the April 24, 2016 (the "Effective Date"), by AMA Gainesville Investments Four LLC, a Florida limited liability company, its successors and assigns (the "Founder"), and is joined in by Brytan Association, Inc., a Florida not for profit corporation (the "Association").

**RECITALS:**

1. The Founder referred to in the original recorded Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property recorded on October 11, 2007 in O.R. Book 3690, Page 596 of the public records of Alachua County, Florida (the "Original Covenants, Articles, and Bylaws") has assigned all the rights of the Founder under the Original Covenants, Articles, and Bylaws to the Founder in an Assignment of Founder's Rights Agreement dated November 27, 2012 and recorded November 28, 2012 in O.R. Book 4153, Page 67 of the Public Records of Alachua County, Florida. The Founder is the successor-in-interest to the Founder referred to in the Original Covenants, Articles, and Bylaws.
2. As of the Effective Date, AMA Gainesville Investments Four LLC is the "Founder," "Developer," and "Declarant" for the Community. Hereafter, the term "Founder" shall have the same meaning as "Developer," or "Declarant" for any and all purposes.
3. The Articles of Incorporation for Brytan Association, Inc. originally filed in the Office of the Secretary of the State of Florida on June 8, 2005 under Document Number N05000005922 also as recorded on October 11, 2007 in Book 3690, Page 596 of the Public Records of Alachua County, Florida shall be referred to as the "Original Articles."
4. The Founder desires to amend and restate the Original Articles and the Brytan Association, Inc. desires to provide its respective written consent and approval to such amended and restated Articles.
5. Notwithstanding any provision to the contrary, St. Johns Water Management District retains all rights in the Original Covenants, Articles, and Bylaws and therefore these Articles do not alter any rights relating to the surface water management system and therefore no prior written approval of the St. Johns Water Management District is required; and
6. At a meeting to discuss and vote upon these proposed Articles over three-fourths (¾) of the Allocated Interests of the voting membership passed these proposed Articles and do direct that a true and accurate copy thereon be recorded in the Public Records of Alachua County, Florida.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged, the Founder and the Association hereby agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by reference.
2. The Association is joining these Articles hereto in order to acknowledge its duties, responsibilities and obligations hereunder.
3. Founder hereby amends and restates the Original Articles with the following:

**Amended and Restated Articles of Incorporation for Brytan Association, Inc.**

In order to form a corporation not for profit under and in accordance with the provisions of Chapters 617 and 720 of the Florida Statutes, the undersigned hereby incorporates this corporation not for profit for the purposes and with the powers hereinafter set forth and, to that end, the undersigned, by these Articles of Incorporation, certifies as follows:

**ARTICLE I. DEFINITIONS**

The words and phrases when used in these Articles of Incorporation (unless herein provided to the contrary or unless the context clearly reflects another meaning) shall have the same definitions and meanings as those set forth in the **Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property** (the "Declaration") to be recorded in the Public Records of Alachua County as amended from time to time and are incorporated herein by reference.

**ARTICLE II. NAME**

The name of this corporation is Brytan Association, Inc., a Florida corporation not-for-profit (the "Association"), whose principal address and mailing address is 7475 SW 70th Ln, Gainesville, Florida 32608, or at such other place as may be designated, from time to time, by the Board of Directors.

**ARTICLE III. PURPOSES**



The purpose for which the Association is organized is to take title to, operate, administer, manage, lease and maintain the Association Property in accordance with the terms of, and purposes set forth in, the Community Documents and to carry out the covenants and enforce the provisions of the Community Documents.

#### ARTICLE IV. POWERS

The Association shall have the following powers and shall be governed by the following provisions:

1. The Association shall have all of the common law and statutory powers of a corporation not for profit.
2. The Association shall have all of the powers granted to the Association in the Community Documents. All of the provisions of the Declaration and Bylaws which grant powers to the Association are incorporated into these Articles.
3. The Association shall have all of the powers reasonably necessary to implement the purposes of the Association, including, but not limited to, the following:
  - 3.1. To perform any act required or contemplated by it under the Community Documents.
  - 3.2. To make, establish, amend, abolish (in whole or in part) and enforce reasonable rules and regulations governing the use of the Association Property.
  - 3.3. To make, levy and collect Assessments for the purpose of obtaining funds from its Members to pay Operating Expenses and other costs defined in the Declaration and costs of collection, and to use and expend the proceeds of Assessments in the exercise of the powers and duties of the Association.
  - 3.4. To own, maintain, repair, replace, operate and convey the Association Property all in accordance with the Community Documents.
  - 3.5. To enforce by legal means the obligations of the Members and the provisions of the Community Documents.
  - 3.6. To employ personnel, retain independent contractors and professional personnel, and enter into service contracts to provide for the maintenance, operation, administration and management of the Association Property and to enter into any other agreements consistent with the purposes of the Association, including, but not limited to, agreements with respect to professional management of the Association Property and to delegate to such professional manager certain powers and duties of the Association.
  - 3.7. To operate, maintain, and manage the Surface Water and Stormwater Management System in a manner consistent with the requirements of St. Johns River Water Management District Permit and applicable rules; to assist in the enforcement of the Amended and Restated Declaration's provisions relating to the Surface Water and Stormwater Management System; and to levy and collect adequate assessments against Owners for the cost of maintenance and operation of the Surface Water and Stormwater Management System.
  - 3.8. To enter into the Declaration and any amendments thereto and instruments referred to therein.
  - 3.9. To 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 Community in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls and enforcement which will enhance the quality of life at the Community.
  - 3.10. To borrow money and to obtain such financing as is necessary to maintain, repair and replace the Association Property in accordance with the Declaration and, as security for any such loan, to collaterally assign the Association's right to collect and enforce Assessments levied for the purpose of repaying any such loan.
  - 3.11. Notwithstanding anything contained herein to the contrary, the Association shall be required to obtain the approval of three-fourths (3/4) of all Members (at a duly called meeting of the Members at which a quorum is present) prior to the engagement of legal counsel by the Association for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:
    - 3.11.1. the collection of Assessments;
    - 3.11.2. the collection of other charges which Owners are obligated to pay pursuant to the Community Documents;
    - 3.11.3. the enforcement of any applicable use and occupancy restrictions contained in the Community Documents;
    - 3.11.4. actions or proceedings involving challenges to ad valorem taxation;
    - 3.11.5. dealing with an emergency when waiting to obtain the approval of the Members creates a substantial risk of irreparable injury to the Association Property or to Member(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths (3/4) of the Members); or
    - 3.11.6. counterclaims brought by the Association in proceedings instituted against it.

## ARTICLE V. MEMBERS AND VOTING

The qualification of Members of the Association, the manner of their admission to membership, the manner of the termination of such membership and the manner of voting by Members shall be as follows:

1. Until such time as the first deed of conveyance of a Lot from Founder to an Owner is recorded amongst the Public Records of the County ("First Conveyance"), the membership of the Association shall be comprised solely of the Founder. Until the First Conveyance, Founder shall be entitled to cast the one (1) and only vote on all matters requiring a vote of the membership. The "Combined Total of all Lots in the Community" shall be the maximum total density allowed under the Community development plan or the actual number of Lots if the Community is fully developed and the exact number of residential parcels to be built is reasonably determinable.

2. Upon the First Conveyance, Founder shall be a Member as to each of the remaining Lots until each such Lot is conveyed to another Owner, and thereupon and thereafter each and every Owner, including Founder as to Lots owned by Founder, shall be a Member and exercise all of the rights and privileges of a Member.

3. Membership in the Association for Owners other than Founder shall be established by the acquisition of ownership of fee simple title to a Home as evidenced by the recording of an instrument of conveyance amongst the Public Records of the County. Where title to a Home is acquired by conveyance from a party other than Founder by means of sale, gift, inheritance, devise, bequest, judicial decree or otherwise, the person, persons or entity thereby acquiring such Home shall not be a Member unless or until such Owner shall deliver a true copy of a deed or other instrument of acquisition of title to the Association.

4. The Association shall have three (3) classes of voting membership:

4.1. "Class A Members" shall be the Owners of Lots, Homes, and/or Units in the Community, with the exception of Founder while Founder is a Class "B" Member, each of whom shall be entitled to one (1) vote for each Lot, Home, and/or Unit owned.

4.2. "Class B Members" shall be Founder, who shall be entitled to vote ten times the Combined Total of all Lots in the Community plus one. Class B membership shall cease and be converted to Class A upon the earlier to occur of the following events ("Turnover Date")

4.2.1. Three (3) months after the conveyance of ninety percent (90%) of the Combined Total of all Lots in the Community by Founder to Owners other than the Founder's Affiliates, as evidenced by the recording of instruments of conveyance of such Lots amongst the Public Records of the County; or

4.2.2. At such time as Founder shall designate in a recorded notice in the Public Records of the County expressly terminating their Class B membership.

On the Turnover Date, Class A Members, including Founder, shall assume control of the Association and elect not less than a majority of the Board. Before the Turnover Date, Founder shall appoint not less than a majority of the Board and may appoint the entire Board or the maximum number of Directors permitted by applicable law.

4.3. "Class C Members" shall be the Sub-Associations in the Community, each of whom shall be entitled to zero (0) votes.

5. The designation of different classes of membership are for purposes of establishing the number of votes applicable to certain Lots, and nothing herein shall be deemed to require voting solely by an individual class on any matter which requires the vote of Members, unless otherwise specifically set forth in the Community Documents.

6. No Member may assign, hypothecate or transfer in any manner his membership in the Association except as an appurtenance to his Lot.

7. Any Member who conveys or loses title to a Lot by sale, gift, inheritance, devise, bequest, judicial decree or otherwise shall, immediately upon such conveyance or loss of title, no longer be a Member with respect to such Lot and shall lose all rights and privileges of a Member resulting from ownership of such Lot.

8. There shall be only one (1) vote for each Lot, Home, and/or Unit, except for the Class B Member as set forth herein. If there is more than one Member with respect to a Lot, Home, and/or Unit as a result of the fee interest in such Lot, Home, and/or Unit being held by more than one person, such Members collectively shall be entitled to only one (1) vote. The vote of the Owners of a Lot, Home, and/or Unit(s) owned by more than one natural person or by a corporation or other legal entity shall be cast by the person named in a certificate signed by all of the Owners of the Lot, Home, and/or Unit(s), or, if appropriate, by properly designated officers, partners or principals of the respective legal entity ("Voting Member"), and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not filed with the Secretary of the Association, the Owners of such Lot, Home, and/or Unit(s) shall lose their right to vote until such a certificate is so filed with the Secretary of the Association, but the Lot, Home, and/or Unit(s) shall count for purposes of establishing a quorum.

Notwithstanding the foregoing provisions, whenever any Lot, Home, and/or Unit is owned by a husband and wife they may, but shall not be required to, designate a Voting Member. In the event a certificate designating a Voting Member is not filed by the husband and wife, the following provisions shall govern their right to vote:

8.1. When both are present at a meeting, each shall be regarded as the agent and proxy of the other for purposes of casting the vote for each Lot, Home, and/or Unit owned by them. In the event they are unable to concur in their decision upon any topic requiring a vote, they shall lose their right to vote on that topic at that meeting, but shall count for purposes of establishing a quorum.

8.2. When only one (1) spouse is present at a meeting, the person present may cast the Lot, Home, and/or Unit vote without establishing the concurrence of the other spouse, absent any prior written notice to the contrary by the other spouse. In the event of prior written notice to the contrary to the Association by the other spouse, the vote of said Lot, Home, and/or Unit shall not be considered, but shall count for purposes of establishing a quorum.

8.3. When neither spouse is present, the person designated in a "Proxy" (as defined in the Bylaws) signed by either spouse may cast the Lot, Home, and/or Unit vote, when voting by Proxy is allowed, absent any prior written notice to the contrary to the Association by the other spouse or the designation of a different Proxy by the other spouse. In the event of prior written notice to the contrary to the Association or the designation of a different Proxy by the other spouse, the vote of said Lot, Home, and/or Unit shall not be considered, but shall count for purposes of establishing a quorum.

9. Unless some greater number is provided for in the Community Documents, a quorum shall consist of persons entitled to cast at least thirty percent (30%) of the total number of votes of the Members.

#### ARTICLE VI. TERM

The term for which this Association is to exist shall be perpetual. In the event of dissolution of the Association (unless same is reinstated), other than incident to a merger or consolidation, all of the assets of the Association shall be conveyed to a similar homeowners association or a public agency having a similar purpose, or any Member may petition the appropriate circuit court of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and its properties in the place and stead of the dissolved Association and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association and its properties.

In the event of the Association's termination, dissolution, or final liquidation, the responsibility for the operation and maintenance of the Surface Water and Stormwater Management System must be transferred to and accepted by an entity which complies with Section 40C-42.027, F.A.C. and is approved by the Water Management District prior to such termination, dissolution, or liquidation.

#### ARTICLE VII. INCORPORATOR *ms as* Brice Development, Inc., a Florida corporation

The name and address of the ~~amended~~ Incorporator of these Articles is ~~Alex Skobel~~, whose address is 7475 SW 70th Ln, Gainesville, Florida 32608. *ms as*

#### ARTICLE VIII. OFFICERS

The affairs of the Association shall be managed by the President of the Association, assisted by the Vice President, Secretary, and Treasurer, subject to the directions of the Board. Officers are not required to be Members or Directors rather may be any person including but not limited to: Founder-appointed non-members; individuals chosen for their experience or talents; or the appointees, representatives, attorneys, parents, children or spouses of Members. The Board shall elect the President, Secretary, Treasurer, and Vice President. The same person may hold two or more offices.

#### ARTICLE IX. OFFICERS

The names of the current officers are as follows:

President	-	Michael Skobel
Vice President	-	Loree Schulson
Secretary/Treasurer	-	Alex Skobel

#### ARTICLE X. BOARD OF DIRECTORS

1. The number of Directors on the current Board of Directors of the Association ("Founder's Board") and the "Turnover Elected Board" (as hereinafter defined) shall be five (5). The number of Directors elected by the Members subsequent to the "Founder's Resignation Event" (as hereinafter defined) shall be five (5). Directors are not required to be Members rather may be any person including but not limited to: Founder-appointed non-members; individuals chosen for their experience or talents; or the

appointees, representatives, attorneys, parents, children or spouses of Members. There shall be only one (1) vote for each Director.

2. The names and addresses of the persons who are to serve as Directors on the Founder's Board are as follows:

<u>NAMES</u>	<u>ADDRESSES</u>
Michael Skobel	7475 SW 70th Ln, Gainesville, FL 32608
Loree Schulson	7475 SW 70th Ln, Gainesville, FL 32608
Alex Skobel	7475 SW 70th Ln, Gainesville, FL 32608
Michael Brown	202 East South Street Apt 1042, Orlando, FL 32801
Daniel Bergman	4455 Willow Bend Dr, Melbourne, FL 32935

Founder reserves the right to remove and/or replace and appoint any successor Directors to serve on the Founder's Board for so long as the Founder's Board is to serve, as hereinafter provided. All Directors appointed by the Founder shall serve at the pleasure of such party, which shall have the absolute right, at any time, and in its sole discretion, to remove any Director appointed by it, and to replace such director with another person to serve on the Board. Replacement of any director appointed by the Founder shall be made by the person designated as successor Director. The removal of any Director and the designation of his successor by the Founder shall become effective immediately upon delivery of such written instrument. Notwithstanding the foregoing, when Founder no longer holds at least fifty percent (50%) of the Combined Total of all Lots in the Community, once every three years one Director on the Founder's Board will be elected by the Purchaser Members for a term of three years.

3. Founder has reserved the right in the Declaration to modify its plan of development for the Community and to add land to and withdraw land from the Community and the change the number and types of structures, Buildings, Homes or Units to be constructed therein.

4. Upon the Turnover Date, the Members other than Founder ("Purchaser Members") shall be entitled to elect not less than a majority of the Board. The election of not less than a majority of the Board by the Purchaser Members shall occur at a special meeting of the membership to be called by the Board for such purpose ("Turnover Election Meeting"). The Founder's Board shall serve until the Turnover Election Meeting.

5. At the Turnover Election Meeting, Purchaser Members, who shall include all Members other than Founder, the number of which may change from time to time, shall have elected three (3) of the Directors, and Founder, until the Founder's Resignation Event, shall be entitled to designate two (2) Directors (same constituting the "Turnover Elected Board"). Founder reserves and shall have the right, until the Founder's Resignation Event, to name the successor, if any, to any Director it has so designated.

6. The Board shall continue to be so designated and elected, as described herein, at each subsequent "Annual Members' Meeting" (as defined in the Bylaws), until the Annual Members' Meeting following the Founder's Resignation Event or until a Purchaser Member-elected Director is removed in the manner hereinafter provided. A Director (other than a Founder-appointed Director) may be removed from office upon the affirmative vote or agreement in writing of a majority of the voting interests of Purchaser Members for any reason deemed to be in the best interests of the Purchaser Members. A meeting of the Purchaser Members to so remove a Director (other than a Founder-appointed Director) shall be held upon the written request of ten percent (10%) of the Purchaser Members. Any such recall shall be effected and a recall election shall be held, if applicable, as provided in the HOA Act.

7. The Turnover Election Meeting shall be called by the Association, through the Board, within ninety (90) days after the Purchaser Members are entitled to elect a majority of Directors. A notice of meeting shall be forwarded to all Members in accordance with the Bylaws; provided, however, that the Members shall be given at least fourteen (14) days' notice of such meeting. The notice shall also specify the number of Directors which shall be elected by the Purchaser Members and the remaining number of Directors designated by Founder.

8. Upon the earlier to occur of the following events ("Founder's Resignation Event"), Founder shall cause all of its designated Directors to resign:

8.1. When Founder and Founder's Affiliates, together, no longer holds at least five percent (5%) of the Combined Total of all Lots in the Community for sale in the ordinary course of business and all Lots sold by Founder have been conveyed as evidenced by the recording of instruments of conveyance of such Lots amongst the Public Records of the County; or

8.2. When Founder causes the voluntary resignation of all of the Directors designated by Founder and does not designate replacement Directors.

Upon Founder's Resignation Event, the Directors elected by Purchaser Members shall elect the successor Directors to fill the vacancies caused by the resignation or removal of Founder's designated Directors. The successor Directors shall serve until the next Annual Members' Meeting and until his successor is elected and qualified. In the event Founder's Resignation Event

occurs prior to the Turnover Election Meeting, the Turnover Election Meeting shall be called in the manner set forth in this Article, and all of the Directors shall be elected by the Purchaser Members at such meeting.

9. At the Annual Members' Meeting held subsequent to Founder's Resignation Event, all of the Directors shall be elected by the Members. At the first Annual Members' Meeting held after the Founder's Resignation Event, a "staggered" term of office of the Board shall be created as follows:

9.1. two Directors whose term of office shall be established at three (3) years and the Directors serving for three (3) year terms will be the candidates receiving the first and second most votes at the meeting;

9.2. two Directors whose term of office shall be established at two (2) years and the Directors serving for two (2) year terms will be the candidates receiving the third and fourth most votes at the meeting; and

9.3. the remaining Director whose term of office shall be established at one (1) year.

At each Annual Members' Meeting thereafter, as many Directors of the Association shall be elected as there are Directors whose regular term of office expires at such time, and the term of office of the Directors so elected shall be for three (3) years, expiring when their successors are duly elected and qualified.

10. The resignation of a Director who has been designated by Founder or the resignation of an officer of the Association who has been elected by the Founder's Board shall be deemed to remise, release, acquit, satisfy and forever discharge such Director or officer of and from any and all manner of action(s), cause(s) of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which the Association or Purchaser Members had, now have or will have or which any personal representative, successor, heir or assign of the Association or Purchaser Members hereafter can, shall or may have against said Director or officer for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of such resignation, except for such Director's or officer's willful misconduct or gross negligence.

#### **ARTICLE XI. INTERESTED DIRECTORS**

1. No contract or transaction between the Association and one or more of its Directors or Officers, or between the Association and any other corporation, partnership, or Association, or other organization in which one or more of its Directors or Officers are Directors or Officers or have a financial interest or any other interest, shall be invalid, void, or voidable solely for such reason, or solely because the Director or Officer is present at or participates in the meeting of the Board at which such contract or transaction was authorized, or solely because his, her, 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 or she is or may be interested in any such contract or transaction.

2. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board at which a contract or transaction with an interested Director is to be considered.

3. The Association may enter into contracts and transactions with Founder and Founder's Affiliates.

#### **ARTICLE XII. BYLAWS**

The Bylaws shall be adopted by the Founder's Board, and thereafter may be altered, amended or rescinded in the manner provided for in the Bylaws. In the event of any conflict between the provisions of these Articles and the provisions of the Bylaws, the provisions of these Articles shall control.

#### **ARTICLE XIII. AMENDMENTS; RESTATEMENT**

1. Prior to the First Conveyance, these Articles may be amended only by an instrument in writing signed by the Founder and filed in the Office of the Secretary of State of the State of Florida.

2. After the First Conveyance, and prior to the Turnover Date, these Articles may be amended solely by a majority vote of the Board, without the prior written consent of the Members, at a duly called meeting of the Board.

3. After the Turnover Date, these Articles may be amended by following either procedure below.

3.1. The Board shall follow the following procedure:

3.1.1. The Board shall 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 at either the Annual Members' Meeting or a special meeting. Any number of proposed amendments may be submitted to the Members and voted upon by them at one meeting.

3.1.2. Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member within the time and in the manner provided in the Bylaws for the giving of notice of meetings.

3.1.3. At such meeting, a vote of the Members shall be taken on the proposed amendment(s). The proposed amendment(s) shall be adopted upon receiving three-fourths (3/4) affirmative vote of a quorum of the Members.

3.2. An amendment may be adopted by a written statement (in lieu of a meeting) signed by all Members and all members of the Board setting forth their intention that an amendment to the Articles be adopted.

4. After the First Conveyance, these Articles may not be amended without the written consent of a majority of the members of the Board.

5. Notwithstanding any provisions of this Article XIII to the contrary, these Articles shall not be amended in any manner which shall prejudice the rights of: (i) Founder, without the prior written consent thereto by Founder, for so long as Founder holds either a leasehold interest in or title to at least one (1) Lot; and (ii) any "Institutional Mortgagee" (as such term is defined in the Declaration) without the prior written consent of such Institutional Mortgagee.

6. Notwithstanding the foregoing provisions of this Article, no amendment to these Articles shall be adopted which shall abridge, amend or alter the rights of Founder hereunder, including, but not limited to, Founder's right to designate and select members of the Founder's Board or otherwise designate and select Directors as provided in Article X hereof, nor shall any amendment be adopted or become effective without the prior written consent of Founder.

7. Any instrument amending these Articles shall identify the particular article or articles being amended and shall provide a reasonable method to identify the amendment being made. A copy of each amendment certified by the Secretary of State shall be recorded amongst the Public Records of the County.

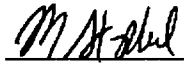
8. These Articles hereby amend, restate, replace and supersede, in their entirety, those certain Articles of Incorporation for Bryan Association, Inc. originally filed in the Office of the Secretary of the State of Florida on June 8, 2005 under Document Number N05000005922 also as recorded on October 11, 2007 in Book 3690, Page 596 of the Public Records of Alachua County, Florida.

**ARTICLE XIV. REGISTERED OFFICE AND REGISTERED AGENT**

The street address of the registered office of the Association at the time these Articles are adopted shall be 7475 SW 70th Ln, Gainesville, Florida 32608, and the registered agent of the Association at that address shall be Michael Skobel. The registered office and registered agent will be updated with the Florida Department of State.

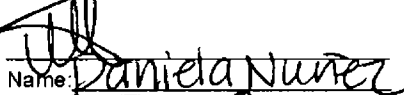
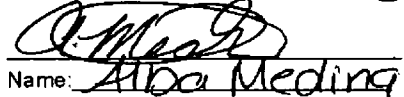
The undersigned hereby accepts the designation of Registered Agent as set forth in Article XIV of these Articles of Incorporation, and acknowledges that he is familiar with and accepts the obligations imposed upon registered agents under the Florida Not For Profit Corporation Act.

**REGISTERED AGENT:**

  
\_\_\_\_\_  
Michael Skobel

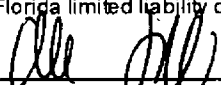
IN WITNESS WHEREOF, this instrument has been signed by Founder and joined in by the Association and Skobel Development, Inc. on the respective dates set forth below.

Witnessed by:

  
Name: Daniela Nunez  
  
Name: Alba Medina

**FOUNDER:**

AMA Gainesville Investments Four LLC  
a Florida limited liability company

By:   
\_\_\_\_\_  
Alex Skobel, Managing Member

State of Florida  
County of Alachua

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
16 APR 28 PM 4:14

The foregoing instrument was acknowledged before me, this April 25, 2016, by Alex Skobel, as Managing Member of AMA Gainesville Investments Four LLC, a Florida limited liability company. Such person is personally known to me.

[Signature]  
Notary Public  
Printed Name: John Gaylard



[Notary Seal]

Witnessed by:  
[Signature]  
Name: Daniela Nunez By  
[Signature]  
Name: Alba Medina

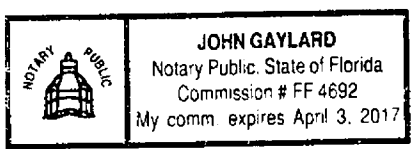
**ASSOCIATION:**  
Brytan Association, Inc.  
a Florida not-for-profit corporation  
[Signature]  
Michael Skobel, President

FILED  
SECRETARY OF STATE  
DIVISION OF CORPORATIONS  
16 APR 28 PM 4: 15

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25<sup>th</sup></sup> April ~~24~~, 2016, by Michael Skobel, as President of Brytan Association, Inc., a Florida not-for-profit corporation. Such person is personally known to me.

[Signature]  
Notary Public  
Printed Name: John Gaylard



[Notary Seal]

**SKOBEL DEVELOPMENT, INC.:**

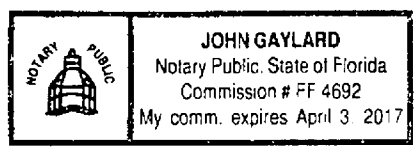
Witnessed by:  
[Signature]  
Name: Daniela Nunez By  
[Signature]  
Name: Alba Medina

Skobel Development, Inc.  
a Florida for-profit corporation  
[Signature]  
Alex Skobel, President

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25<sup>th</sup></sup> April ~~24~~, 2016, by Alex Skobel, as President of Skobel Development, Inc., a Florida for-profit corporation. Such person is personally known to me.

[Signature]  
Notary Public  
Printed Name: John Gaylard



[Notary Seal]

## **Amended and Restated Bylaws for Brytan Association, Inc.**

**Section 1. Identification of Association.** These are the bylaws of Brytan Association, Inc. ("Association"), as duly adopted by its Board of Directors ("Board"). The Association is a corporation not for profit, organized pursuant to Chapters 617 and 720, Florida Statutes.

1.1. The office of the Association shall be for the present at 7475 SW 70th Ln, Gainesville, Florida 32608 and thereafter may be located at any place designated by the Board.

1.2. The fiscal year of the Association shall be the calendar year.

**Section 2. Explanation of Terminology.** The terms defined in the Amended and Restated Articles of Incorporation for Brytan Association, Inc. ("Articles") as well as in the Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property ("Declaration") are incorporated herein by reference and shall appear capitalized each time such terms appear in these Bylaws.

### **Section 3. Membership; Members' Meetings; Voting and Proxies**

3.1. The qualification of Members, the manner of their admission to membership in the Association, the manner of termination of such membership and the voting by Members shall be as set forth in the Articles.

3.2. The Members shall meet annually ("Annual Members' Meeting"). The Annual Members' Meeting shall be held at the office of the Association or at such other place in the County as the Board may determine and on such day and at such time as designated by the Board in the notice of such meeting commencing with the year following the year in which the Articles are filed with the Secretary of State. The purpose of the Annual Members' Meeting shall be to hear reports of the officers, elect members of the Board (when that shall be appropriate as determined by the provisions of the Articles) and transact any other business authorized to be transacted at such Annual Members' Meeting.

3.3. Special meetings (meetings other than the Annual Members' Meeting) of the Members shall be held at any place within the County whenever called by the President or by a majority of the Board. A special meeting must be called by such President upon receipt of a written request from Members having the right to vote at least one-third (1/3) of the total number of vote entitled to be cast by Members at any such special meeting.

3.4. Except as otherwise provided in the Articles, a written notice of each Members' meeting, whether an Annual Members' Meeting or a special meeting (collectively "Meeting"), shall be given to each Member entitled to vote at such Member's last known address as it appears on the books of the Association, and shall be mailed or hand delivered to the said address or electronically transmitted to the location furnished by the Member for that purpose not less than fourteen (14) days nor more than sixty (60) days prior to the date of the Meeting. Proof of such mailing, hand delivery or electronic transmission shall be given by affidavit of the person giving the notice. Any notice given hereunder shall state the time and place of the Meeting and the purposes for which the Meeting is called. The notices of all Annual Members' Meetings shall, in addition, specify the number of Directors of the Association to be designated by Founder and the number of Directors to be elected by the Members, if applicable. Notwithstanding any provisions hereof to the contrary, notice of any Meeting may be waived before, during or after such Meeting by a Member or by the person entitled to vote for such Member by signing a document setting forth the waiver of such notice and the attendance of any Member (or person authorized to vote for such Member), either in person or by proxy, shall constitute such Member's waiver of notice of such Meeting, and waiver of any and all objections to the place of the Meeting, the time of the Meeting or the manner in which it has been called or convened, 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.

3.5. *Action Without Meeting.* Any action which under the provisions of Florida law may be taken at a meeting of the Members, may be taken without a meeting if authorized in writing by the requisite percentage of all Voting Members and Home and/or Unit Owners, if necessary, who would be entitled to vote at a meeting for such purpose, and if thereafter filed with the Secretary. The Members may, at the discretion of the Board, act by written response in lieu of a Meeting provided written notice of the matter or matters to be agreed upon is given to the Members or duly waived in accordance with the provisions of these Bylaws. Unless some greater number is required under the Community Documents and except as to the election of Directors, which shall be accomplished by plurality vote, the decision of a majority of the votes cast by Members as to the matter or matters to be agreed or voted upon shall be binding on the Members provided a quorum is either present at such Meeting or submits a response if action is taken by written response in lieu of a Meeting, as the case may be. The notice with respect to actions to be taken by written response in lieu of a Meeting shall set forth the time period during which the written responses must be received by the Association.

3.6. A quorum of the Members shall consist of Members entitled to cast thirty percent (30%) of the total number of votes of the Members. A quorum of any class of Members shall consist of Class Members of such class entitled to cast thirty percent (30%) of the total number of votes of the class. Limited "Proxies" and general "Proxies" (as hereinafter defined) may be used to establish a



quorum. When a quorum is present at any Meeting and a question which raises the jurisdiction of such Meeting is presented, the holders of a majority of the voting rights present in person or represented by written Proxy shall be required to decide the question. However, if the question is one upon which a vote other than the majority vote of a quorum is required by express provision of the Community Documents or by law, then such express provision shall govern and control the required vote on the decision of such question.

3.7. Any Member or other eligible person desiring to be a candidate for the Board must give written notice to the Association not less than seven (7) days before the Election Meeting. Any eligible person may nominate himself or herself not less than seven (7) days in advance of the meeting and the Association does not allow nominations at the Election Meeting. Elections shall be decided by a plurality of the votes cast. However, at least thirty percent (30%) of the eligible voters must cast a ballot in order to have a valid election of the Board. Members may not vote for Directors by Proxy. There shall be no voting by members who are not in attendance at a meeting of the Members for the election of Directors.

3.8. If a quorum is not in attendance at a Meeting, the majority of the Members who are present, either in person or by Proxy, may adjourn the Meeting from time to time until a quorum is present and no further notice of the adjourned and continued Meeting need be given. Except as required above, Proxies given for the adjourned Meeting shall be valid for the adjourned and continued Meeting unless revoked for reasons other than the adjourned and continued date of the Meeting with no further notice of such adjourned Meeting being required unless otherwise determined by the Board.

3.9. Minutes of all Meetings shall be kept in a businesslike manner and be available for inspection by the Members and Directors pursuant to the HOA Act. The Association shall retain minutes for such time as required by applicable Florida Law.

3.10. Voting rights of Members shall be as stated in the Articles with respect to the election of all Boards other than the Founder's Board. Such votes may be cast in person by secret ballot. Proxies may be used to vote on non-election related agenda items at Member meetings at which Directors are to be elected, and may also be used to establish a quorum. "Proxy" is defined to mean an instrument containing the appointment of a person who is substituted in the place of the person or authorized representative of an entity entitled to vote. Proxies shall be in writing signed by the person or authorized representative of an entity giving the same and shall be valid only for the particular Meeting designated therein and, if so stated in the Proxy, any adjournments thereof, provided, however, any proxy automatically expires ninety (90) days after the date of the meeting for which it was originally given. A Proxy must be filed with the Secretary of the Association before the appointed time of the Meeting in order to be valid. Any Proxy may be revoked prior to the time a vote is cast in accordance with such Proxy. Any proxy holder may appoint, in writing, a substitute to act in his or her place.

3.11. *Participation by Members.* Subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board, Members shall have the right to speak at the annual and special meetings of the Members, committee meetings and Board meetings with reference to all designated agenda items. A Member does not have the right to speak with respect to items not specifically designated on the agenda, provided, however, that the Board may permit a Member to speak on such items in its discretion. Every Member who desires to speak at a meeting may do so, provided that the Member has filed a written request with the Secretary of the Association not less than 24 hours prior to the scheduled time for commencement of the meeting. Unless waived by the chairman of the meeting (which may be done in the chairman's sole and absolute discretion and without being deemed to constitute a waiver as to any other subsequent speakers), all Members speaking at a meeting shall be limited to a maximum of three (3) minutes per speaker. The Association may also adopt other reasonable rules governing the frequency, duration and manner of Member statements. In the event a Member conducts himself or herself in a manner detrimental to the carrying on of the meeting, then any Director may expel said Member from the meeting by any reasonable means which may be necessary to accomplish said Member's expulsion. Also, any Director shall have the right to exclude from any meeting of the Board any person who is not able to provide sufficient proof that he or she is a Member or a duly authorized representative, agent or proxy holder of a Member, unless said person has been specifically invited by any of the Directors to participate in such meeting. Any Member may tape record or videotape a meeting, subject to the following and such further reasonable restrictions as may be adopted from time to time by the Board: (a) The only audio and video equipment and devices which Members are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions; (b) Audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting; (c) Anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording; and (d) At least twenty-four (24) hours prior written notice shall be given to the Secretary of the Association by any Member desiring to make an audio or videotaping of the meeting.

#### **Section 4. Board; Directors' Meetings**

4.1. The business and administration of the Association shall be by its Board.

4.2. The election and, if applicable, designation of Directors shall be conducted in accordance with election procedure in Section 3 above. Directors are not required to be Members rather may be any person including but not limited to: Founder-appointed non-members; individuals chosen for their experience or talents; or the appointees, representatives, attorneys, parents, children or spouses of Members.

4.3. Any person elected or designated as a Director shall have all the rights, privileges, duties and obligations of a Director of the Association. The term of a Director's service shall be as stated in the Articles and, if not so stated, shall extend until the next Annual Members' Meeting and thereafter until his or her successor is duly elected and qualified or until he or she resigns or is removed in the manner elsewhere provided. Notwithstanding the foregoing, any Director designated by the Founder shall serve at the pleasure of the Founder and may be removed and replaced by the Founder at any time.

4.4. The organizational meeting of a newly elected Board shall be held within ten (10) days of its election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. Provided the organizational meeting is held directly following the Annual Members' Meeting, no further notice of the organizational meeting shall be necessary; if not, however, notice of the organizational meeting shall be given in accordance with the HOA Act and these Bylaws.

4.5. Regular meetings of the Board may be held at such times and places in the County as shall be determined from time to time by a majority of the Directors. Special meetings of the Board may be called at the discretion of the President. Special meetings must be called by the Secretary at the written request of at least a majority of the Directors. Any such special meeting may be held in the County at such time and place as determined by the Directors requesting such meeting or in such other place as all of the Directors shall agree upon.

4.6. Notice of the time and place of regular and special meetings of the Board, or adjournments thereof, shall be given to each Director personally or by mail, telephone, facsimile or electronically transmitted if correctly directed to an electronic mail address at which the Director has consented to receive notice, at least forty-eight (48) hours prior to the date and time named for such meeting unless such notice is waived before, during or after such meeting. Any Director may waive notice of the meeting in writing before, during or after a meeting and such waiver shall be deemed equivalent to the receipt of notice by such Director. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, and a waiver of any and all objections to the place of the meeting, to the time of the meeting or the manner in which it has been called or convened, except when a Director states at the beginning of the meeting, or promptly upon arrival at the meeting, any objection to the transaction of affairs because the meeting is not lawfully called or convened.

4.7. Notice of all Board meetings shall be posted in a conspicuous place in the Community at least forty-eight (48) hours prior to the date and time named for such meeting, except in an emergency or pursuant to any other alternative notice procedures allowed under the HOA Act as amended from time to time.

4.8. A quorum of the Board shall consist of the Directors entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the Directors present at a meeting at which a quorum is present shall constitute the official acts of the Board, except as may be otherwise specifically provided by law, by the Articles or elsewhere herein. If at any meeting of the Board there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any meeting that takes place on account of a previously adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by the Board.

4.9. The presiding officer at all Board meetings shall be the President. In the absence of the President, the Vice-President shall preside and in the absence of the Vice President, the Directors shall designate any one of their number to preside.

4.10. No Director shall receive any compensation from the Association for acting in such capacity or capacities, unless approved by a majority vote of the Members at a Meeting.

4.11. Minutes of all meetings of the Board shall be kept in a businesslike manner and be available for inspection by Members and Directors pursuant to the HOA Act.

4.12. Meetings of the Board shall be open to all Members pursuant to, and as limited by, the HOA Act. The Board may also hold closed meetings to the extent permitted by applicable law, including, by way of example but not by way of limitation, when the discussion at a meeting is governed by attorney-client privilege, meetings between the Board or a committee and the Association's attorney to discuss proposed or pending litigation or meetings of the Board held for the purpose of discussing personnel matters. The participation by Members shall be governed as provided in Section 3 above.

4.13. The Board may by resolution also create committees and appoint persons to such committees and vest in such committees such powers and responsibilities as the Board shall deem advisable.

4.14. Prior to the Turnover Date, any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, specifically setting forth the action to be taken, shall be signed by all the Directors entitled to vote

with respect to the subject matter thereof and such consent shall have the same force and effect as a unanimous vote of the Directors, provided, however, whenever assessments are to be considered, they may be considered only at a meeting of the Directors properly noticed in accordance with the HOA Act.

#### **Section 5. Powers and Duties of the Board**

5.1. All of the powers and duties of the Association shall be exercised by the Board. Such powers and duties of the Board shall include, but not be limited to, all powers and duties set forth in the Community Documents, as well as all of the powers and duties of a director of a corporation not for profit not inconsistent therewith.

5.2. The Association may employ a manager to perform any of the duties, powers or functions of the Association. The members of the Board shall not be personally liable for any omission or improper exercise by the manager of any duty, power or function delegated to the manager by the Association.

**Section 6. Late Fees.** An Owner who fails to timely pay any Assessment shall be charged a late charge of the greater of Twenty-Five (\$25.00) Dollars or five percent (5%) of the amount of each installment by the Association for such late Assessment or such other amount determined by the Board to be charged for the late payments of Assessments provided such amount does not exceed the highest amount permitted by law. Owners shall also be responsible to pay all legal fees (including, but not limited to, attorney and paralegal fees and court costs) incurred in connection with the collection of late Assessments whether or not an action at law to collect said Assessments and foreclose the Association's lien has been commenced. Without limitation, the Board has authorized the following initial schedule of fees for such circumstances:

- 6.1. Reasonable attorney's fees, costs and expenses incurred in the filing of a Claim of Lien.
- 6.2. Reasonable attorney's fees, costs and expenses incurred in the filing of a Satisfaction of Lien;
- 6.3. Reasonable attorney's fees, costs and expenses incurred in the preparation and sending of any Notice of Intent to Lien and Notice of Intent to Foreclose; and
- 6.4. Any further action would require an hourly computation of attorney and/or paralegal time spent pursuing collection of such unpaid Assessments or violation by a Member or their guests and invitees of any part of the Community Documents.

#### **Section 7. Officers of the Association**

7.1. Executive officers of the Association shall be the President, the Vice President, Treasurer and Secretary, all of whom shall be elected annually by the Board. Any officer may be removed without cause from office by vote of a majority of the Directors at any meeting of the Board. The Board may, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association. Notwithstanding the duties of any officer, the Board may delegate to a manager the powers and duties of any officer and thereby relieve the officer of such duties. One person may hold any two or more offices simultaneously.

7.2. The President shall be the chief executive officer of the Association. He or she shall have all of the powers and duties which are usually vested in the office of the President of an association or a corporation not for profit, including, but not limited to, the power to appoint such committees from among the Members at such times as he or she may, in his or her discretion, determine appropriate to assist in the conduct of the affairs of the Association. If in attendance, the President shall preside at all meetings of the Board and the Members; provided, however, that the President may appoint a substitute.

7.3. In the absence or disability of the President, the Vice President shall exercise the powers and perform the duties of the President. The Vice President shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

7.4. The Secretary shall keep the minutes of all meetings of the Board and the Members, which minutes shall be kept in a businesslike manner and be available for inspection by Members and Directors pursuant to the HOA Act. The Secretary shall be custodian for the corporate records of the Association, except those of the Treasurer, and shall perform all of the duties incident to the office of Secretary of the Association as may be required by the Board or the President.

7.5. The Treasurer shall have custody of all of the monies of the Association, including funds, securities and evidences of indebtedness. The Treasurer shall keep the assessment rolls and accounts of the Members and shall keep the books of the Association in accordance with good accounting practices and he or she shall perform all of the duties incident to the office of the Treasurer.

7.6. The compensation, if any, of the Directors, officers, committee members and other employees of the Association shall be fixed by the Board. Directors and officers shall not receive any compensation from the Association for acting in such capacity or capacities, unless approved by a majority vote of the Members at a Meeting. This provision shall not preclude the Board from hiring a Director or Officer as an employee of the Association or preclude contracting with a Director or Officer, or a party affiliated with a Director or Officer for the management or performance of contract services for all or any part of the Community.

#### **Section 8. Resignations; Vacancy; Removal**

8.1. Any Director or officer may resign his or her 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 date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Lots and Units owned by any Director or officer (other than appointees of Founder) shall constitute a written resignation of such Director or officer.

8.2. Except as to vacancies resulting from removal of Directors by Members, when a vacancy occurs on the Board, the vacancy shall be filled by a vote of the remaining members of the Board.

8.3. Any Director elected by the Members (other than the Founder) may be removed by concurrence of a majority of voting interest of the Members (other than the Founder) at a Special Meeting of Members called for that purpose, by written agreement signed by a majority of all such Members' voting interest or by written ballot without a Meeting in accordance with F.S. 720.303(10). The vacancy of the Board so created shall be filled in accordance with the procedures specified in the HOA Act.

8.4. When a vacancy occurs in an office for any cause, the office shall be filled by the Board at any meeting.

#### **Section 9. Accounting Records; Fiscal Management**

9.1. The Association shall prepare financial reports and maintain accounting records in accordance with the HOA Act. The accounting records of the Association shall be open to inspection by Members and Institutional Mortgagees or their respective authorized representatives in accordance with, but subject to the limitations of, the HOA Act. Such authorization as a representative of a Member must be in writing and signed by the person giving the authorization and dated within sixty (60) days of the date of the inspection. Such records shall include all records required to be provided as official records in accordance with the HOA Act.

9.2. The Board shall adopt a Budget (as defined and provided for in the Declaration) of the anticipated Operating Expenses for each forthcoming calendar year (the fiscal year of the Association being the calendar year) at a special meeting of the Board ("Budget Meeting") called for that purpose to be held during October, November, or December of the year preceding the year to which the Budget applies. The Budget Meeting may be held on the same day as the Annual Members' Meeting. Prior to the Budget Meeting, a proposed Budget for the Operating Expenses shall be prepared by or on behalf of the Board and shall be provided to the Members in accordance with the HOA Act. After approved, the Budget shall be posted electronically or emailed for free upon request. The Association shall not be obligated to mail or print hard copies of the Budget.

9.3. In administering the finances of the Association, the following procedures shall govern: (i) the fiscal year shall be the calendar year; (ii) any monies received by the Association in any calendar year may be used by the Association to pay expenses incurred in any calendar year; (iii) Assessments shall be made in amounts no less than are required to provide funds in advance for payment of all of the anticipated current Operating Expenses and for all unpaid Operating Expenses previously incurred; and (iv) any surplus balance monies received over expenses actually incurred shall be applied to reduce the assessments for the current expenses for the succeeding year. Notwithstanding the foregoing, the Assessments for Operating Expenses and any periodic installments thereof shall be of sufficient magnitude to insure an adequacy and availability of cash to meet all budgeted expenses in any calendar year as such expenses are incurred in accordance with the cash basis method of accounting.

9.4. Individual Residential Unit Assessments shall be payable as provided in the Declaration.

9.5. No Board shall be required to anticipate revenue from Assessments or expend funds to pay for Operating Expenses not budgeted or which shall exceed budgeted items, and no Board is required to engage in deficit spending. Should there exist any deficiency which results from there being greater Operating Expenses than monies in the Operating Account, then such deficits shall be carried into the next succeeding year's Budget as a deficiency or shall be the subject of a Special Assessment or an upward adjustment to the Budget and Individual Residential Unit Assessment, as amended by the Board.

9.6. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Board in which the monies of the Association shall be deposited. Withdrawal of monies from such account shall be only by managers, Directors, or such persons as are authorized by the Board.

9.7. Financial reports of the Association shall be completed within 90 days of January 1 of each year and shall be posted electronically or emailed for free upon request. The Association shall not be obligated to mail or print hard copies of financial reports.

**Section 10. Rules and Regulations.** The Board may at any meeting of the Board adopt rules and regulations or amend, modify or rescind, in whole or in part, then existing rules and regulations for the operation of the Community; provided, however, that such rules and regulations are not inconsistent with the terms or provisions of the Community Documents. Copies of any rules and regulations promulgated, amended or rescinded shall be mailed or delivered to all Members at the last known address for such Members as shown on the records of the Association at the time of such delivery or mailing and shall not take effect until forty-eight (48) hours after such delivery or mailing, or, in the event both forms of notification are used, whichever is later. Notwithstanding the

foregoing, when rules and regulations are to regulate the use of a specific portion of the Association Property, same shall be conspicuously posted at such facility and such rules and regulations shall be effective immediately upon such posting. Care shall be taken to insure that posted rules and regulations are conspicuously displayed and easily readable and that posted signs or announcements are designed with a view toward protection from weather and the elements. Posted rules and regulations which are torn down or lost shall be promptly replaced.

**Section 11. Parliamentary Rules.** Except when specifically or impliedly waived by the chairman of a meeting (either of the Members or the Board), the latest edition of Robert's Rules of Order shall govern the conduct of the Association meetings when not in conflict with any of the Community Documents or Chapters 617 and 720 Florida Statutes, in which case the parliamentary rules and procedures shall yield to the provisions of such instrument(s); provided, however, that a strict or technical reading of said Robert's Rules shall not be made so as to frustrate the will of the persons properly participating in said meeting.

**Section 12. Roster of Owners.** Each Owner shall file with the Association a copy of the deed or other document showing his or her ownership interest in the Community. The Association shall maintain such information. The Association shall also maintain the electronic mailing addresses and numbers of those Owners consenting to receive notice by electronic transmission. The Association may rely on the accuracy of such information for all purposes until notified in writing of changes therein.

**Section 13. Amendment of the Bylaws**

13.1. These Bylaws may be amended as hereinafter set forth in this Section 13.

13.2. After the Turnover Date, any Bylaw of the Association may be amended or repealed, and any new Bylaw of the Association may be adopted by:

13.2.1. a three-fourths (3/4) vote of a quorum of the Members at any Annual Members' Meeting or any special meeting of the Members called for that purpose; together with

13.2.2. an affirmative vote of a majority of the Directors then in office at any regular meeting of the Board or at any special meeting of the Board called for that purpose or by written instrument signed by all of the Directors as is permitted by these Bylaws.

13.3. Notwithstanding any of the foregoing provisions of this Section 13 to the contrary, until the Turnover Date, all amendments or modifications to these Bylaws and adoption or repeal of Bylaws shall only be made by action of the Founder's Board as described in the Articles, which Founder's Board shall have the power to amend, modify, adopt and repeal any Bylaws without the requirement of any consent, approval or vote of the Members.

13.4. Notwithstanding the foregoing provisions of this Section 13, there shall be no amendment to these Bylaws which shall abridge, prejudice, amend or alter the rights of: (i) Founder, without the prior written consent thereto by Founder; or (ii) any Institutional Mortgagee without the prior written consent of such Institutional Mortgagee; nor shall any other amendment to these Bylaws be adopted or become effective without the prior written consent of Founder for so long as Founder holds either a leasehold interest in or title to at least one (1) Lot, Home and/or Unit.

13.5. Any instrument amending, modifying, repealing or adding Bylaws shall identify the particular section or sections affected and give the exact language of such modification, amendment or addition or of the provisions repealed. A copy of each such amendment, modification, repeal or addition attested to by the President of the Association shall be recorded amongst the Public Records of the County.

**Section 14. Mediation.** Pursuant to the HOA Act, mandatory mediation shall be required prior to institution of court litigation for disputes involving certain actions or inactions, as described in the HOA Act.

**Section 15. Recall of Board Members and Election Disputes.** Pursuant to the HOA Act, mandatory binding mediation before the Department shall be required for election disputes and disputes involving the recall of any member of the Board. Any Director of the member elected Board may be recalled and removed from office as provided for and described in the HOA Act.

**Section 16. Interpretation.** In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control; and in the event of any conflict between the Articles and the Declaration, the Declaration shall control. These Amended and Restated Bylaws replace and supersede, in their entirety, any past Bylaws of the Association including but not limited to those certain Bylaws of the Association recorded on 10/11/2007 in Book 3690, Page 596 of the Public Records of Alachua County, Florida.

IN WITNESS WHEREOF, this instrument has been signed by Founder, the Association, and Skobel Development, Inc. on the respective dates set forth below.

**ASSOCIATION:**

Brytan Association, Inc.

a Florida not-for-profit corporation

By: [Signature]  
Michael Skobel, President

By: [Signature]  
Alex Skobel, Secretary and Treasurer

Witnessed by:

[Signature]  
Name: Daniela Nunez

[Signature]  
Name: Alba Medina

**FOUNDER:**

AMA Gainesville Investments Four LLC  
a Florida limited liability company

By: [Signature]  
Alex Skobel, Managing Member

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> April 24, 2016, by Alex Skobel, as Managing Member of AMA Gainesville Investments Four LLC, a Florida limited liability company. Such person is personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard [Notary Seal]



**SKOBEL DEVELOPMENT, INC.:**

Witnessed by:

[Signature]  
Name: Daniela Nunez

[Signature]  
Name: Alba Medina

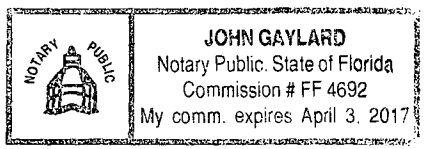
Skobel Development, Inc.  
a Florida for-profit corporation  
By: [Signature]  
Alex Skobel, President

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> April 24, 2016, by Alex Skobel, as President of Skobel Development, Inc., a Florida for-profit corporation. Such person is personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard [Notary Seal]



**Grand Preserve at Kanapaha Maintenance Association, Inc. and Brytan Association, Inc. Agreement and License to Mutually Share Recreational Areas, Amenities, and associated Association Property**

*MA NY*  
This Grand Preserve at Kanapaha Maintenance Association, Inc. and Brytan Association, Inc. Agreement and License to Mutually Share Recreational Areas, Amenities, and associated Association Property ("Agreement") is entered into this **April 2<sup>nd</sup>, 2016** by and between Grand Preserve at Kanapaha Maintenance Association, Inc., a Florida not-for-profit corporation ("Grand Preserve at Kanapaha Maintenance Association") whose address is 7475 SW 70th Ln, Gainesville, FL 32608, Brytan Association, Inc., a Florida not-for-profit corporation ("Brytan Association"), whose address is 7475 SW 70th Ln, Gainesville, FL 32608, AMA Gainesville Investments Three LLC, a Florida limited liability company ("AMA Gainesville Investments Three"), whose address is 7475 SW 70th Ln, Gainesville, FL 32608, and AMA Gainesville Investments Four LLC, a Florida limited liability company ("AMA Gainesville Investments Four") whose address is 7475 SW 70th Ln, Gainesville, FL 32608.

**RECITALS:**

1. AMA Gainesville Investments Three is the Developer of Grand Preserve at Kanapaha ("Grand Preserve at Kanapaha") under the Declaration of Covenants, Restrictions and Reciprocal Easements of Grand Preserve at Kanapaha, as amended from time to time ("Grand Preserve at Kanapaha Declaration").
2. AMA Gainesville Investments Four is the Founder of Brytan ("Brytan") under the Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property, as amended from time to time ("Brytan Declaration").
3. The rights, benefits, duties, and obligations under this Agreement shall run with the title to the Brytan residential units and the Grand Preserve at Kanapaha residential units.
4. AMA Gainesville Investments Three and Grand Preserve at Kanapaha Maintenance Association have requested and AMA Gainesville Investments Four and Brytan Association have agreed to allow the Grand Preserve at Kanapaha residential members to utilize certain Brytan recreational areas, amenities, and associated association property owned by or to be owned by Brytan Association, in accordance with the terms hereof.
5. AMA Gainesville Investments Four and Brytan Association have requested and AMA Gainesville Investments Three and Grand Preserve at Kanapaha Maintenance Association have agreed to allow the Brytan residential members to utilize certain Grand Preserve at Kanapaha recreational areas, amenities, and associated association property owned by or to be owned by Grand Preserve at Kanapaha Maintenance Association, in accordance with the terms hereof.
6. The Amended and Restated Declaration of Covenants, Restrictions and Reciprocal Easements of Grand Preserve at Kanapaha has granted or will grant easements to the owners of residential units within Brytan for the common use and enjoyment of the Grand Preserve at Kanapaha Association Property including, without limitation, all of the following to the extent intended for the use by the Grand Preserve at Kanapaha residential members: any recreational access and areas (including, without limitation, use of private streets, recreational facility parking spaces, open space(s), asphalt bike paths, running trails, sidewalks, or courtyards), any recreational property, improvements, and facilities (including, without limitation, pools, fitness centers, gym equipment, playgrounds, playground equipment, community barbeque or other equipment for common use), and any recreational amenities (including, without limitation, clubhouses, community basketball courts, or community tennis courts)(the "Grand Preserve at Kanapaha Recreational Areas and Amenities.")
7. The Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property has granted or will grant easements to the owners of residential units within Grand Preserve at Kanapaha for the common use and enjoyment of the Brytan Association Property including, without limitation, all of the following to the extent intended for the use by the Brytan residential members: any recreational access and areas (including, without limitation, use of private streets, recreational facility parking spaces, open space(s), asphalt bike paths, running trails, sidewalks, or courtyards), any recreational property, improvements, and facilities (including, without limitation, pools, fitness centers, gym equipment, playgrounds, playground equipment, community barbeque or other equipment for common use), and any recreational amenities (including, without limitation, clubhouses, community basketball courts, or community tennis courts)(the "Brytan Recreational Areas and Amenities.") To avoid ambiguity without limiting the extent of the property excluded, the Brytan Recreational Areas and Amenities specifically excludes any commercial property in the Brytan Town Center not owned by the Brytan Association.

**NOW, THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

**1. Recitals.** The foregoing recitals are true and correct and are incorporated into this Agreement by this reference.

**2. Explanation of Terminology.** The terms defined in the Grand Preserve at Kanapaha Declaration as well as in the Brytan Declaration are incorporated herein by reference and shall appear capitalized each time such terms appear in this Agreement.

**3. Grant of License.**

3.1. *Grand Preserve at Kanapaha to Brytan.* Subject to the requirements hereof, AMA Gainesville Investments Three and Grand Preserve at Kanapaha Maintenance Association hereby agree that each Brytan residential member shall have the right to utilize the Grand Preserve at Kanapaha Recreational Areas and Amenities. All such use shall comply with all laws, rules, regulations, covenants, restrictions and requirements of the Grand Preserve at Kanapaha Maintenance Association, as amended from time to time, and all governmental authorities. The rights granted to the Brytan residential members to utilize the Grand Preserve at Kanapaha Recreational Areas and Amenities are the same as those granted to the Grand Preserve at Kanapaha Maintenance Association members and the rules and regulations are equally binding on both Brytan residential members and Grand Preserve at Kanapaha residential members. The suspension of use rights of a residential dwelling unit within Brytan to the Grand Preserve at Kanapaha Recreational Areas and Amenities shall follow the same procedures imposed upon the Grand Preserve at Kanapaha Maintenance Association members.

3.2. *Brytan to Grand Preserve at Kanapaha.* Subject to the requirements hereof, AMA Gainesville Investments Four and Brytan Association hereby agree that each Grand Preserve at Kanapaha residential member shall have the right to utilize the Brytan Recreational Areas and Amenities. All such use shall comply with all laws, rules, regulations, covenants, restrictions and requirements of the Brytan Association, as amended from time to time, and all governmental authorities. The rights granted to the Grand Preserve at Kanapaha residential members to utilize the Brytan Recreational Areas and Amenities are the same as those granted to the Brytan Association residential members and the rules and regulations are equally binding on both Brytan residential members and Grand Preserve at Kanapaha residential members. The suspension of use rights of a residential dwelling unit within Grand Preserve at Kanapaha to the Brytan Recreational Areas and Amenities shall follow the same procedures imposed upon the Brytan Association residential members.

3.3. *Suspension of Use.* If the Grand Preserve at Kanapaha Maintenance Association suspends the use rights of a residential dwelling unit within Grand Preserve at Kanapaha, then the Brytan Association has the right to suspend of use rights of that residential dwelling unit without further proceedings. If the Brytan Association suspends the use rights of a residential dwelling unit within Brytan, then the Grand Preserve at Kanapaha Maintenance Association has the right to suspend of use rights of that residential dwelling unit without further proceedings.

3.4. *No Public Rights Created.* Nothing herein shall create or be construed to create any rights in and/or for the benefit of the general public in or to the Grand Preserve at Kanapaha Recreational Areas and Amenities or Brytan Recreational Areas and Amenities.

**4. Liability and Consideration.**

4.1. AMA Gainesville Investments Three and Grand Preserve at Kanapaha Maintenance Association hereby agree that there shall be no maintenance, repair or replacement liability to the Brytan Association for the Grand Preserve at Kanapaha Recreational Areas and Amenities; and there shall be no maintenance, repair or replacement liability for each owner of a residential dwelling unit within Brytan, however, notwithstanding the foregoing, each owner shall be liable to the Grand Preserve at Kanapaha Maintenance Association for any damage to the Grand Preserve at Kanapaha Recreational Areas and Amenities which may be sustained by reason of the negligence or willful misconduct of said owner or of such owner's family, tenants, invitees and guests, both minors and adults. The Grand Preserve at Kanapaha Recreational Areas and Amenities are and shall continue to be managed, maintained, repaired and replaced by the Grand Preserve at Kanapaha Maintenance Association. Notwithstanding the foregoing, the Brytan Association shall pay the annual maintenance charge due to the Grand Preserve at Kanapaha Maintenance Association pursuant to Section 5 hereof.



4.2. AMA Gainesville Investments Four and Brytan Association hereby agree that there shall be no maintenance, repair or replacement liability to the Grand Preserve at Kanapaha Maintenance Association for the Brytan Recreational Areas and Amenities; and there shall be no maintenance, repair or replacement liability for each owner of a residential dwelling unit within Grand Preserve at Kanapaha, however, notwithstanding the foregoing, each owner shall be liable to the Brytan Association for any damage to the Brytan Recreational Areas and Amenities which may be sustained by reason of the negligence or willful misconduct of said owner or of such owner's family, tenants, invitees and guests, both minors and adults. The Brytan Recreational Areas and Amenities are and shall continue to be managed, maintained, repaired and replaced by the Brytan Association.

4.3. Notwithstanding the foregoing, the Grand Preserve at Kanapaha Maintenance Association and the Brytan Association may establish a reasonable fee per key, card, clicker or other controller necessary to access the recreational areas and amenities as long as such fees are charged equally to the Brytan residential members and the Grand Preserve at Kanapaha residential members.

4.4. Notwithstanding the foregoing, the Grand Preserve at Kanapaha Maintenance Association and the Brytan Association may establish reasonable fees associated with use of the recreational areas and amenities as long as such fees are charged equally to the Brytan residential members and the Grand Preserve at Kanapaha residential members. Examples of such fees may include, without limitation, the following: fees for access to clubhouses, pools, gyms, or other portions of the recreational areas and amenities; fees for events, parties, or large gatherings; fees for guests; or fees for use of other association personal property.

#### **5. Annual Charges.**

5.1. The Brytan Association shall pay \$200.00 (the "Initial Payment") to the Grand Preserve at Kanapaha Maintenance Association for the prorated remainder of 2016.

5.2. After the Initial Payment, the Brytan Association agree to pay an annual maintenance fee (the "Annual Maintenance Fee") to the Grand Preserve at Kanapaha Maintenance Association due on the 1st day of each year, and the Annual Maintenance Fee will be late after the 60th day of same year. The Grand Preserve at Kanapaha Maintenance Association may add to Brytan Association's Annual Maintenance Fee payment for the cost of damages by the Brytan residential members to the Grand Preserve at Kanapaha Recreational Areas and Amenities. The Brytan Association may deduct from the Brytan Association's Annual Maintenance Fee payment for the cost of damages by the Grand Preserve at Kanapaha residential members to the Brytan Recreational Areas and Amenities.

5.3. Each Annual Maintenance Fee must be actually received on or before the 60th day of same year to avoid additional penalties. If the Annual Maintenance Fee is not paid in full by the 60th day of same year, it is delinquent and the Brytan Association will be deemed in default under this Agreement. The Brytan Association shall pay 18% per annum interest on all unpaid monies, until all Annual Maintenance Fees are paid in full.

5.4. A "Completed Residential Unit" shall mean a Condominium Unit, Townhome Unit, or Single Family Lot, as applicable, upon which the construction of a Home has been completed, for which Home a certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency and the title to such Unit has been conveyed by the builder.

5.5. *Amount of Payments.* The amount of the Annual Maintenance Fee shall be calculated as follows: (i) If Brytan has between 0-20 Completed Residential Units within Brytan, then the Annual Maintenance Fee shall be \$500.00; (ii) If Brytan has between 21-50 Completed Residential Units within Brytan, then the Annual Maintenance Fee shall be \$1,000.00; (iii) If Brytan has between 51-100 Completed Residential Units within Brytan, then the Annual Maintenance Fee shall be \$2,000.00; (iv) If Brytan has between 101-300 Completed Residential Units within Brytan, then the Annual Maintenance Fee shall be \$6,000.00; (v) If Brytan has between 301-700 Completed Residential Units within Brytan, then the Annual Maintenance Fee shall be \$8,000.00. The number of Completed Residential Units on January 1 shall be used to determine the Annual Maintenance Fee for that same year.

#### **6. Amendment.**

6.1. Prior to the Turnover of either the Grand Preserve at Kanapaha Maintenance Association or the Brytan Association, this Agreement may be altered and amended in whole or in part at any time by written instrument setting forth such changes and signed by both AMA Gainesville Investments Three and AMA Gainesville Investments Four. This Agreement may be amended for any reason whatsoever by AMA Gainesville Investments Three and AMA Gainesville Investments Four including, without limitation: additions, alterations, improvements, damages, or other

changes to the shared recreational areas and amenities; changes to the cost of operation, management, repair, maintenance, or replacement of the shared recreational areas and amenities; change in percent completion of either Grand Preserve at Kanapaha or Brytan; or any other concern, behavior, or reason of the Developer or Founder of either Grand Preserve at Kanapaha or Brytan.

6.2. After the Turnover of either the Grand Preserve at Kanapaha Maintenance Association or the Brytan Association (the earlier Turnover), this Agreement may be altered and amended in whole or in part at any time by the following procedure:

6.2.1. The Board of the Brytan Association shall adopt a resolution setting forth the proposed amendment and then directing that it be submitted to the Board of Grand Preserve at Kanapaha Maintenance Association which shall have a Board vote to ratify such resolution setting forth the proposed amendment and directing that it be submitted to a vote at a joint meeting of the owners of residential units within Grand Preserve at Kanapaha and the owners of residential units within Brytan.

6.2.2. Written notice setting forth the proposed amendment shall be given to all owners of residential units within Grand Preserve at Kanapaha and all owners of residential units within Brytan at least fourteen (14) days before such meeting with the time, date and location of the joint meeting.

6.2.3. At such joint meeting, a vote of the owners of residential units within Grand Preserve at Kanapaha and all owners of residential units within Brytan shall be taken on the proposed amendment. Each unit shall be entitled to one vote. A quorum at such joint meeting shall consist of units entitled to cast one-hundred-fifty (150) votes. The proposed amendment shall be adopted upon receiving three-fourths (3/4) affirmative vote of a quorum at such joint meeting.

6.3. *Alternative Procedure for Termination Only.* After the Turnover of the Grand Preserve at Kanapaha Maintenance Association, the Grand Preserve at Kanapaha Maintenance Association may terminate this entire Agreement and all parties to this Agreement release all rights, obligations, and liability to each other if the following procedure is followed:

6.3.1. the affirmative vote of three-fourths (3/4) of all owners of residential units within Grand Preserve at Kanapaha; together with

6.3.2. the approval or ratification of a majority of the Grand Preserve at Kanapaha Maintenance Association Board.

6.4. *Alternative Procedure for Termination Only.* After the Turnover of the Brytan Association, the Brytan Association may terminate this entire Agreement and all parties to this Agreement release all rights, obligations, and liability to each other if the following procedure is followed:

6.4.1. the affirmative vote of three-fourths (3/4) of all owners of residential units within Brytan; together with

6.4.2. the approval or ratification of a majority of the Brytan Association Board.

## **7. Miscellaneous.**

7.1. *Priority of Agreement.* The rights and obligations contained in this Agreement shall prevail over any provision in either the Declaration of Covenants, Restrictions and Reciprocal Easements of Grand Preserve at Kanapaha, as amended from time to time, or the Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property, as amended from time to time, as applicable, including all exhibits thereto and amendments of record that are inconsistent with the terms of this Agreement. This Agreement is for the benefit and burden of the Brytan Association and Grand Preserve at Kanapaha Maintenance Association and their respective owners (as shall run with the title to the Brytan residential units and the Grand Preserve at Kanapaha residential units [the rights of a previous owner who no longer owns any property within Grand Preserve at Kanapaha or Brytan are extinguished]), tenants, mortgagees, guests, invitees, heirs, successors and assigns. Nothing herein shall be deemed to modify, limit or in any way affect the rights and obligations of any owner under each respective declaration except as otherwise expressly set forth in this Agreement.

7.2. If any provision of this Agreement is held to be invalid, the legality and enforceability of all remaining provisions shall not in any way be affected or impaired and this Agreement shall be interpreted as if such invalid provision was not contained herein.

7.3. The waiver of any one breach of any provision of this Agreement shall not be considered a waiver of that or any other provision herein.

7.4. This Agreement shall be binding upon all parties hereto, and also upon their heirs, personal representatives, executors, administrators, successors or assigns, and all parties hereby agree for themselves and their heirs, personal representatives, executors, administrators, successors and assigns, to execute any instruments and to carry out the purpose of this Agreement.

7.5. This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue for any legal proceeding filed in connection with this Agreement shall be in Alachua County, Florida.

7.6. Captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision thereof.

7.7. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same original instrument.

7.8. Time is made expressly of the essence of all matters set forth in this Agreement. All parties expressly acknowledge that there have been NO WARRANTIES, REPRESENTATIONS, PROMISES AND/OR INDUCEMENTS OF ANY NATURE WHATSOEVER which have not been set forth in this Agreement.

7.9. *Disclosure and Authorization.* Each party represents to the other that the execution of this Agreement has been duly authorized in accordance with its governing documents. The nature of the business relationship between and among the parties and the Board of Directors was properly disclosed including the familial relationships.

7.10. *Arbitration.* Any controversy, claim or dispute arising out or relating to this Agreement shall be settled by binding arbitration in accordance with the Arbitration Rules of the American Arbitration Association (AAA) and the Federal Arbitration Act (Title 9 of the United States Code) and judgment rendered by the arbitrator(s) may be confirmed, entered and enforced in any court having jurisdiction.

7.11. *Waiver of Jury Trial.* THE PARTIES HEREBY MUTUALLY, KNOWINGLY AND VOLUNTARILY WAIVE THE RIGHT TO A TRIAL BY JURY. THIS MEANS THAT ANY AND ALL CLAIMS BETWEEN THE PARTIES WHICH ARE BROUGHT IN A COURT OF LAW SHALL BE HEARD AND DECIDED BY A JUDGE AND NOT A JURY REGARDLESS OF THE LEGAL THEORY ALLEGED (INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, TORT, VIOLATION OF STATUTE, CODE, RULE OR REGULATION, OR BREACH OF ANY IMPLIED COVENANT OR DUTY), THE TYPE OF INJURY ALLEGED (INCLUDING, WITHOUT LIMITATION, MONETARY, PROPERTY DAMAGE, PERSONAL INJURY, EMOTIONAL INJURY OR DEATH), THE TYPE OF RELIEF SOUGHT (LEGAL OR EQUITABLE) AND/OR THE TYPE OR AMOUNT OF DAMAGE SOUGHT (COMPENSATORY, PUNITIVE, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR OTHERWISE). IT IS THE CLEAR AND EXPRESS INTENT OF THE PARTIES HERETO THAT NEITHER PARTY SHALL SEEK A TRIAL BY JURY OF ANY CLAIM (INCLUDING, WITHOUT LIMITATION, ANY COUNTERCLAIM, CROSSCLAIM, THIRD PARTY CLAIM, OR OTHERWISE). THIS WAIVER APPLIES TO ALL CLAIMS, EVEN THOSE BASED UPON A THEORY NOT RECOGNIZED AT THE TIME THIS AGREEMENT IS EXECUTED, THAT ARISE FROM OR IN CONNECTION WITH, OR RELATE TO: (1) THIS AGREEMENT OR ANY DOCUMENT EXECUTED, OR CONTEMPLATED TO BE EXECUTED, IN CONJUNCTION WITH THIS AGREEMENT; (2) THE PROPERTY OR ITS CONDITION; (3) ANY COURSE OF CONDUCT, COURSE OF DEALING, OR STATEMENTS (VERBAL OR WRITTEN) OF THE PARTIES TO THE CLAIM; OR (4) ANY ACTIONS OR INACTIONS OF THE PARTIES TO THE CLAIM. THIS WAIVER IS IRREVOCABLE AND SHALL BE SUBJECT TO NO EXCEPTIONS.

7.12. This Agreement shall take effect upon being recorded in the Public Records of Alachua County, Florida.

7.13. The parties addresses are set forth on the first page of this Agreement. Any party may notify the other of a change of address if and when such addresses change. All notices and communications shall be in writing and sent by certified mail, properly addressed, postage prepaid, return receipt requested, or by an established overnight delivery service such as FedEx or UPS, to the addresses set forth above, to the addressee stated therein, and shall be deemed given when placed in the mail or delivered to such overnight delivery service.

7.14. *Drafting; Opportunity for Legal Review.* All parties acknowledge and agree that each party has had an opportunity to be represented by or consult with an independent counsel and that any rule of construction which

provides that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be made and executed as of the day and date first above written. Signed, sealed and delivered in our presence:

**BRYTAN ASSOCIATION, INC.:**

Witnessed by:

[Signature]  
Name: Daniela Nunez

Brytan Association, Inc.  
a Florida not-for-profit corporation

By: [Signature]  
Michael Skobel, President

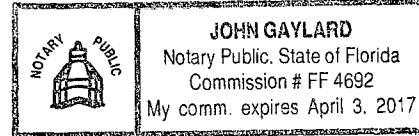
By: [Signature]  
Alex Skobel, Secretary and Treasurer

[Signature]  
Name: Alba Medina

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> ~~April 24~~, 2016, by Michael Skobel, as President and Alex Skobel, as Secretary and Treasurer of Brytan Association, Inc., a Florida not-for-profit corporation. Such persons are personally known to me.

[Signature]  
Notary Public  
Printed Name: John Gaylard



[Notary Seal]

**GRAND PRESERVE AT KANAPAHA MAINTENANCE ASSOCIATION, INC.:**

Witnessed by:

[Signature]  
Name: Daniela Nunez

Grand Preserve at Kanapaha Maintenance Association, Inc.  
a Florida not-for-profit corporation

By: [Signature]  
Michael Skobel, President

By: [Signature]  
Alex Skobel, Secretary and Treasurer

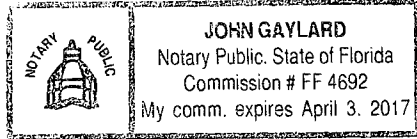
[Signature]  
Name: Alba Medina

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> ~~April 24~~, 2016, by Michael Skobel, as President and Alex Skobel, as Secretary and Treasurer of Grand Preserve at Kanapaha Maintenance Association, Inc., a Florida not-for-profit corporation. Such persons are personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard



[Notary Seal]

**AMA GAINESVILLE INVESTMENTS THREE LLC:**

Witnessed by:  
[Signature]  
Name: Daniela Nunez

AMA Gainesville Investments Three LLC  
a Florida limited liability company

[Signature]  
Name: Alba Medina

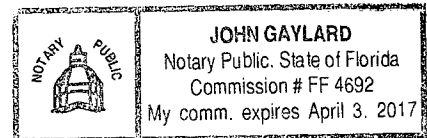
By: [Signature]  
Alex Skobel, Managing Member

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> ~~April 24~~, 2016, by Alex Skobel, as Managing Member of AMA Gainesville Investments Three LLC, a Florida limited liability company. Such person is personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard



[Notary Seal]

**AMA GAINESVILLE INVESTMENTS FOUR LLC:**

Witnessed by:  
[Signature]  
Name: Daniela Nunez

AMA Gainesville Investments Four LLC  
a Florida limited liability company

[Signature]  
Name: Alba Medina

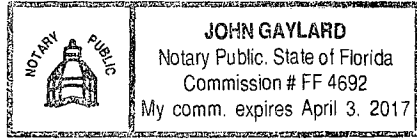
By: [Signature]  
Alex Skobel, Managing Member

State of Florida  
County of Alachua

The foregoing instrument was acknowledged before me, this <sup>25</sup> ~~April 24~~, 2016, by Alex Skobel, as Managing Member of AMA Gainesville Investments Four LLC, a Florida limited liability company. Such person is personally known to me.

[Signature]  
Notary Public

Printed Name: John Gaylard



[Notary Seal]

11/28/2016 8:16 AM  
BOOK 4477 PAGE 1068

J. K. IRBY

Clerk of the Court, Alachua County, Florida

ERECORDED Receipt# 744571

Doc Stamp-Mort: \$0.00

Doc Stamp-Deed: \$0.00

Intang. Tax: \$0.00

Prepared by and return to:  
Michael Skobel, Esq.  
Skobel Law PA  
7475 SW 70th Ln,  
Gainesville, FL 32608  
(352) 224-3692

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**FIRST AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF CHARTER, EASEMENTS, COVENANTS  
AND RESTRICTIONS FOR BRYTAN RESIDENTIAL PROPERTY**

This amendment to the Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Bryan Residential Property ("First Amendment") is made as of the **November 25, 2016** (the "Effective Date"), by AMA Gainesville Investments Four LLC, a Florida limited liability company, its successors and assigns (the "Founder"), and is joined in by Bryan Association, Inc., a Florida not for profit corporation (the "Association").

**RECITALS:**

1. As of the effective date of this First Amendment, AMA Gainesville Investments Four LLC is the "Founder" for the Community.
2. Article XV Section 9.1 of the Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Bryan Residential Property (the "Declaration") recorded on May 6, 2016 in O.R. Book 4428, Page 1564 in the Alachua County Public Records provides the Declaration may be amended by the Founder alone.
3. The Founder hereby amends the Declaration and the Bryan Association, Inc. provides its respective written consent and approval to such amendment and does direct that a true and accurate copy thereon be recorded in the Public Records of Alachua County, Florida.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged, the Founder and the Association hereby agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by reference.
2. Article IV Section 6.6 of the Declaration is hereby deleted and replaced with the following:

**6.6. Zero Lot Line Maintenance and Use Easements:**

6.6.1. *Preamble:* A portion of the Homes in the Community may be designed and site planned as "zero lot line home[s]", such that each zero lot line Home is constructed so that all or portions of the "zero lot line side" of such Home (and such fences or walls extending from such side or sides) are situated either on the side boundary lines of the Lot, over the side boundary lines of the Lot, or within four (4) feet of the side boundary lines of the Lot. Because of this design, it is necessary to provide a means by which the Owner of a Lot ("Dominant Lot") containing such a Home may have access to the "zero lot line side" of the Home (and other portions of such Owner's Lot and Home) in order to maintain portions of the Lot, the side(s) of the Home, the roof and other applicable portions of the Homes and Lot, and so that rainwater may run off the roof of a particular Home onto the easement area described below. Because such access must be, of necessity, over those portions of the neighboring Lot or Lots ("Servient Lot[s]") adjacent to the "zero lot line side[s]" of such a Home, Founder hereby makes provision for the "Maintenance Easements" declared and regulated pursuant to this Section 6 (as well as similar easements for the aforesaid purposes which may, but need not, appear on the Plat). When applicable, the Dominant Lot provides a "Use Easement" permitting the Servient Lot to construct fences on the "zero lot line side" of the Dominant Lot, which fences shall exclude the Dominant Lot owner from accessing the part of the Dominant Lot on the "zero lot line side" which lies between the Dominant Lot's Home and the Dominant Lot's boundary. Notwithstanding the foregoing, the Dominant Lot may access the fenced in areas for any purpose contemplated by the Maintenance Easement.

6.6.2. *Creation and Extent of Maintenance Easement:* Founder hereby reserves a permanent and perpetual non-exclusive maintenance easement in favor of each Dominant Lot over the unimproved portion of the Servient Lot(s) adjacent to the building lines of the "zero lot line home" located on the Dominant Lot, which building lines are within four (4) feet of the side boundary lines of the Lot lines dividing the aforesaid Lots ("Maintenance Easement"). Said Maintenance Easement shall be appurtenant to and pass with the deed or title of the Dominant Lot and the Servient Lot(s). The Maintenance Easement shall be only as extensive as reasonably necessary to permit the Owner of a Dominant Lot to make the uses described in the Preamble above, 6.6.3 below and for rainwater run-off, but in no event less than the greater of seven (7) feet in width or as may be otherwise shown as a maintenance, access or similar easement on the Plat.

6.6.3. *Use and Conditions of Maintenance Easement:* The Owner of a Dominant Lot, such Owner's guests, invitees, contractors, subcontractors, suppliers, laborers and other service personnel, shall be entitled to enter onto the appurtenant Maintenance Easement for purposes of maintaining, repairing and replacing portions of such Owner's Lot and Home including, without limitation, the Home's walls, roof, fence, landscaping and other installations which cannot be conveniently or properly maintained, repaired or replaced solely from the Dominant Lot. The right of each Owner of the Dominant Lot to use the Maintenance Easement shall be limited to the aforesaid uses, and such Owner shall not do anything within the Servient Lot(s) which shall cause damage to the Servient Lot(s) or any Improvement or landscaping thereon which is not promptly and fully remedied by said Owner by returning such damaged Improvement or landscaping to the condition immediately preceding said damage, shall create an undue hazard to persons or pets located on or coming into the Servient Lot(s) or is in furtherance of any activity as to the Dominant Lot or the Home thereon which is, or would result in, a violation of the restrictions set forth in the Community Documents. The Owner of the Dominant Lot shall, by virtue of making use of any Maintenance Easement, be deemed to indemnify the Owner of a Servient Lot for any and all losses, costs, expenses or damage to any person or property incurred by reason of the former's violations of the restrictions contained herein.

6.6.4. *Servient Lot Owner Duties:* Owners of Servient Lots shall not make any Improvement to the Servient Lot, including, without limitation, the placement of fences or landscaping, which would possibly cause a maintenance issue or unreasonably interfere with the permissible uses of any maintenance or access easement appurtenant to the adjoining Dominant Lot reserved hereby or with the flowage easement described in this Section. Notwithstanding the foregoing, except as prohibited under Article X, Section 22 hereof, the Owner of a Servient Lot may install a fence or landscaping thereon provided such installation is approved by the Founder and/or Committee pursuant to Article VIII hereof.

6.6.5. *Creation and Conditions of Use Easement:* Founder hereby reserves a permanent and perpetual exclusive use easement in favor of each Servient Lot over the unimproved portion of the Dominant Lot adjacent to the building lines of the "zero lot line home" located on the Dominant Lot ("Use Easement"). Said Use Easement shall be appurtenant to and pass with the deed or title of the Dominant Lot and the Servient Lot. The Servient Lot may construct fences on the "zero lot line side" of the Dominant Lot, which fences shall exclude the Dominant Lot owner from accessing the part of the Dominant Lot on the "zero lot line side" which lies between the Dominant Lot's Home and the Dominant Lot boundary. Notwithstanding the foregoing, the Dominant Lot may access the fenced in areas for any purpose contemplated by the Maintenance Easement including without limitation for purposes of accessing utilities related to the Dominant Lot's Home. If the Use Easement conflicts with the Maintenance Easement, the terms of the Maintenance Easement shall govern and control.

6.6.6. *Reciprocity:* Each Owner, by acceptance of a deed or title for a Lot containing a "zero lot line home," hereby acknowledges and agrees that such Owner's Lot may not only be a Dominant Lot having rights across adjacent Servient Lots as hereinbefore described, but also a Servient Lot encumbered by the easement rights hereinbefore described in favor of the Dominant Lots adjacent to such Owner's Lot.

IN WITNESS WHEREOF, this instrument has been signed by Founder and joined in by the Association on the respective dates set forth below.

Witnessed by:

  
Name: Smith Hale

**FOUNDER:**

AMA Gainesville Investments Four LLC  
a Florida limited liability company

By

  
Alex Skobel, Managing Member

*[Handwritten Signature]*

Name: Daniela Nuñez

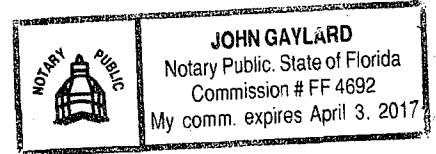
State of Florida  
County of Alachua

The foregoing declaration was acknowledged before me, this **November 25, 2016**, by Alex Skobel, as Managing Member of AMA Gainesville Investments Four LLC, a Florida limited liability company. Such person who  is personally known to me or  has produced a driver's license as identification.

*[Handwritten Signature]*  
Notary Public

Printed Name: John Gaylard

[Notary Seal]



**ASSOCIATION:**

Witnessed by:

Brytan Association, Inc.  
a Florida not-for-profit corporation

*[Handwritten Signature]*  
Name: Faith Hale

By: *[Handwritten Signature]*  
Michael Skobel, President

By: *[Handwritten Signature]*  
Alex Skobel, Secretary and Treasurer

*[Handwritten Signature]*

Name: Daniela Nuñez

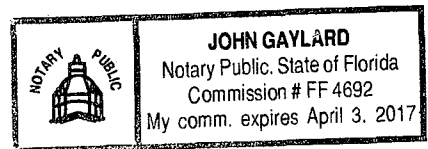
State of Florida  
County of Alachua

The foregoing declaration was acknowledged before me, this **November 25, 2016**, by Michael Skobel, as President and Alex Skobel, as Secretary and Treasurer of Brytan Association, Inc., a Florida not-for-profit corporation. Such person who  is personally known to me or  has produced a driver's license as identification.

*[Handwritten Signature]*  
Notary Public

Printed Name: John Gaylard

[Notary Seal]





12/26/2017 10:02 AM

BOOK 4565 PAGE 2331

J.K.'JESS' IRBY

Clerk of the Court, Alachua County, Florida

ERECORDED Receipt# 806289

Doc Stamp-Mort: \$0.00

Doc Stamp-Deed: \$0.00

Intang. Tax: \$0.00

Prepared by and return to:  
Michael Skobel, Esq.  
Skobel Law PA  
7475 SW 70th Ln,  
Gainesville, FL 32608  
(352) 224-3692

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**SECOND AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF CHARTER, EASEMENTS,  
COVENANTS AND RESTRICTIONS FOR BRYTAN RESIDENTIAL PROPERTY**

This amendment to the Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property ("Second Amendment") is made as of the **December 22, 2017** (the "Effective Date"), by AMA Gainesville Investments Four LLC, a Florida limited liability company, its successors and assigns (the "Founder"), and is joined in by Brytan Association, Inc., a Florida not for profit corporation (the "Association").

**RECITALS:**

1. As of the effective date of this Second Amendment, AMA Gainesville Investments Four LLC is the "Founder" for the Community.
2. Article XV Section 9 of the Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for Brytan Residential Property (the "Declaration") recorded on May 6, 2016 in O.R. Book 4428, Page 1564 in the Alachua County Public Records provides the Declaration may be amended.
3. Article VI, Section 8 of the Declaration provides that the Association shall have the right to enter into one or more Bundled Service Agreements.
4. Article XI, Section 3 of the Declaration provides that the Founder shall have the right to create Maintenance Districts.
5. The Founder hereby amends the Declaration and the Brytan Association, Inc. provides its respective written consent and approval to such amendment and does direct that a true and accurate copy thereon be recorded in the Public Records of Alachua County, Florida.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are acknowledged, the Founder and the Association hereby agree as follows:

1. The foregoing Recitals are true and correct and are incorporated herein by reference.
2. The Association has entered into a Bundled Service Agreement for the receipt of television and internet (the "Bulk Services") with BellSouth Telecommunications, LLC (hereafter "AT&T"). This agreement (hereafter the "AT&T Bulk Services Agreement") will charge the Association an initial amount of \$167.85 per Completed Residential Unit per quarter with an escalation increase allowance of not more than four percent (4%) per year plus taxes and fees.
3. The Founder and Association hereby create a Maintenance District (hereafter the "Bulk Services Maintenance District") and assign all Completed Residential Units receiving the Bulk Services to this Bulk Services Maintenance District. The initial Maintenance District Assessment shall match the cost per unit in the AT&T Bulk Services Agreement. Thereafter, the Board shall determine the Maintenance District Assessments in the Bulk Services Maintenance District in accordance with the updated costs of all Bundled Service Agreements applicable to this Maintenance District plus taxes and fees.
4. Maintenance District Assessments are not part of the Guaranteed Assessments under Article VII Section 6. To the extent that any calculation includes the Maintenance District Assessment in calculating the Guaranteed Assessment, this Second Amendment raises the Guaranteed Assessment by adding the Maintenance District Assessment (initially \$167.85 per Completed Residential Unit per quarter) to the Guaranteed Assessment and any percent increase limitations are waived for this initial establishment of a Maintenance District Assessment.

IN WITNESS WHEREOF, this instrument has been signed by Founder and joined in by the Association on the respective dates set forth below.

Witnessed by:

**FOUNDER:**

AMA Gainesville Investments Four LLC  
a Florida limited liability company

~~Name: John Bayard~~ By Alex Skobel

Alex Skobel  
Alex Skobel, Managing Member

Name: Julia M. Williams

State of Florida  
County of Alachua

The foregoing declaration was acknowledged before me, this **December 22, 2017**, by Alex Skobel, as Managing Member of AMA Gainesville Investments Four LLC, a Florida limited liability company. Such person who  is personally known to me or  has produced a driver's license as identification.

Julia M. Williams  
Notary Public

Printed Name: Julia M. Williams

[Notary Seal]



**ASSOCIATION:**

Witnessed by:

Brytan Association, Inc.  
a Florida not-for-profit corporation

~~Name: John Bayard~~ By: Michael Skobel

Michael Skobel  
Michael Skobel, President

Name: Julia M. Williams

State of Florida  
County of Alachua

By: Alex Skobel  
Alex Skobel, Secretary and Treasurer

The foregoing declaration was acknowledged before me, this **December 22, 2017**, by Michael Skobel, as President and Alex Skobel, as Secretary and Treasurer of Brytan Association, Inc., a Florida not-for-profit corporation. Such person who  is personally known to me or  has produced a driver's license as identification.

Julia M. Williams  
Notary Public

Printed Name: Julia M. Williams

[Notary Seal]

