

# Aviary at Rutland Ranch

## HOA Summary

**This summary is provided for general informational purposes** and is not part of the recorded HOA documents nor a full list of restrictions and covenants. Refer to the full HOA governing docs for a complete understanding of the Homeowners' Association covenants, bylaws, and restrictions. Written approval from the Architectural Review Board may be required prior to making allowed changes to the property.

### Fences

**Materials:** Allowed - White polyvinyl chloride (PVC). Not allowed - chain link, barbed wire, or electric strands.

**Height:** No limitations noted

### Landscaping and Yard Use

**Trees, plants, and landscaping:** No limitations noted

**Garden beds:** No limitations noted

**Swing sets and sports equipment:** No limitations noted

**Sheds:** No limitations noted

**Swimming pools:** Allowed - In ground. Not allowed - above ground.

### Parking and Motor Vehicles

**Commercial / Work Vehicles:** Allowed in garage

**Boats, RV's, ATV's, jet skis, etc.:** Allowed in garage or area designated by declarant

**Trailers:** Allowed in garage or area designated by declarant

### Animals

**Number:** No limitations noted

**Restrictions:** No limitations noted

**Livestock:** Not allowed

### Rentals

**Long term:** No limitations noted

**Short term:** No less than nine months

**See recorded HOA documents in pages that follow**



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**[www.HighlandHomes.ORG](http://www.HighlandHomes.ORG)**

For informational purposes only; subject to change without notice. Refer to the full covenants and association governing docs for a complete understanding of the Homeowners' Association.

Prepared by and Return to:

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Bradenton, FL 34205

## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE AVIARY AT RUTLAND RANCH**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE AVIARY AT RUTLAND RANCH is made by AVIARY DEVELOPMENT GROUP, INC., a Florida corporation ("Developer") as of this 22nd day of February, 2019.

### ARTICLE I

#### INTRODUCTION AND DEFINITIONS

1. Introduction.

a) Developer is the owner of the real property located in Manatee County, Florida more particularly described on Exhibit "A" attached here to (the "Property").

(b) Developer hereby restricts the use of the Property and declares that the Property and all portions thereof (except to the extent specifically exempted herein) and all additions made in accordance with this Declaration, shall be held, occupied, sold and transferred subject to the easements, restrictions and covenants of this Declaration, which Developer is imposing for the benefit of all owners of the Property or portions thereof for the purpose and with the intent of preserving the value and maintaining the desirability of the Property.

(c) Every Person (as defined herein) acquiring title to any portion of the Property shall be deemed to have agreed to all of the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its obligations.

(d) All recorded covenants, conditions, easements, restrictions and other matters of title affecting the Property are hereby incorporated into this Declaration.

2. Definitions. Unless the context expressly requires otherwise, the words defined below whenever used in this Declaration and in the Governing Documents shall have the following meanings:

(a) "ACOE" means the U.S. Army Corps of Engineers.

(b) "Additional Property" means those lands, including those lands described on Exhibit "D" of this Declaration, together with any improvements thereon, which may be made subject to this Declaration by annexation pursuant to Article II hereof.

(c) "Assessment" means any charge levied by the Association in accordance herewith against a Lot and the Owner of such Lot. The term Assessment shall refer collectively to all types of Assessments issued by the Board.

ACCEPTED IN OPEN SESSION 4/4/19  
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

(d) "Association" means the Aviary at Rutland Ranch Homeowners Association, Inc., a Florida corporation not for profit organized and operated pursuant to Chapters 617 and 720, Florida Statutes, its successors and assigns.

(e) "Board" or "Board of Directors" means the Association's Board of Directors.

(f) "Builder" shall mean any person designated in writing as such by Developer who purchases Lots from Developer within the Property for the purpose of constructing Residential Units thereon for sale to Lot Owners.

(g) "CDD" means the Aviary at Rutland Ranch Community Development District, as authorized by Chapter 190, Florida Statutes.

(h) "Common Area" means all real property or any interest in real property, including easements, licenses, servitudes or use rights, from time to time owned by or granted or leased to the Association or designated for ownership by the Association for the common use and enjoyment of all Lot Owners, together with all improvements, fixtures, landscaping and tangible personal property of the Association now or hereafter situated thereon and all appurtenant easements. Common Area also includes any personal property acquired by the Association if designated Common Area, and any property within the Property which is not owned by the Association but is nevertheless to be maintained or administered by it pursuant to an easement, license, this Declaration or agreement with any person or entity, which maintenance/administration affords benefits to the Members. Common Area may or may not include roads, roadways and rights-of-way in the Property, community parks, and ponds, lakes, marshes and wetlands within the Property. The Common Area include, but are not limited to, the holdings listed on Exhibit " E" attached to this Declaration.

(i) "Common Expense" means the actual and estimated cost of the following:

(i) The maintenance, management, operation, repair and replacement of any Common Maintenance Area, and all other areas of the Property maintained by or under the control of the Association, including those parts of the Lots, if any, that the Association is to maintain under this Declaration.

(ii) Valid contractual obligations of the Association in excess of revenues, whether attributable to unpaid Assessments or otherwise.

(iii) Maintenance by the Association of areas within public rights-of-way or drainage easements or ditches adjoining or running through the Property as may be provided in this Declaration or as determined by the Board.

(iv) Expenses of administration and management of the Association.

(v) The cost of any insurance obtained by the Association.

(vi) Reasonable reserves, if not waived, as determined in accordance herewith.

(vii) Taxes and other governmental assessments and charges paid or payable by the Association, regardless of the current status to title of the Common Maintenance Areas.

(viii) Utility charges and deposits therefor incurred in the carrying out of Association obligations hereunder, which may include electrical service charges to maintain and operate streetlights within the Property if such lighting is installed by Developer, the CDD or the Association.

(viii) The cost of any other item or items designated herein as a Common Expense or reasonably or necessarily incurred by the Association or in furtherance of the purpose of the Association or a discharge of any obligations expressly or impliedly imposed on the Association by this Declaration or by law.

(j) "Common Maintenance Area" means all real property and tangible personal property from time to time designated by this Declaration, the Association (with Developer's consent if prior to Turnover) or Developer, as a maintenance responsibility of the Association for the benefit of all Owners. Common Maintenance Area may or may not be owned by the Association and may or may not be located within the Property. Common Maintenance Area includes all Common Area unless designated otherwise.

(k) "Conservation Areas" means those portions of the Property designated as conservation or preservation areas on any Plat or by instrument recorded in the Public Records, which areas may include, without limitation, certain jurisdictional wetlands, river buffer transitional habitats, live oak hammocks, and developable uplands which have been restricted to be used to promote habitat conservation and preservation and to protect environmental resources within the Development in accordance with, and subject to the terms of all permits, approvals, and entitlements for the Development, which set forth the permitted uses of those areas. To the extent that any Conservation Areas are owned or maintained by the Association, such Conservation Areas shall be deemed to be Common Area or Common Maintenance Area, respectively, as applicable.

(l) "County" means Manatee County, Florida.

(m) "Declaration" means this Declaration of Covenants, Conditions and Restrictions, together with any amendments and supplements hereto.

(n) "Design Review Committee" means the committee established under Article VIII hereof to review and approve or deny modifications, alterations, renovations or reconstruction of the exterior of Residential Units or Lots.

(o) "Design Review Guidelines" means the architectural, design and aesthetic guidelines, standards, rules, procedures and criteria for the Aviary at Rutland Ranch, which are promulgated and adopted by the Developer or the Design Review Committee, from time to time, together with all modifications, amendments, alterations and supplements thereto.

(p) "Developer" means Aviary Development Group, Inc., a Florida corporation, whose address is 35100 State Road 64 East, Myakka City, FL 34251, its successors and assigns to whom the rights of the Developer hereunder are specifically assigned, in whole or in part, by instrument recorded in the Public Records. Developer may assign all or a portion of such rights in one or more assignments. In the event of a partial assignment, the assignee shall not be deemed the Developer unless expressly stated in the assignment, but may exercise such rights of Developer as are specifically assigned to it. Any assignment may be made on a non-exclusive basis.

(q) "Development" means the residential development as described in the Zoning Ordinance. The Development shall include any Additional Property made subject to this Declaration in accordance with the provisions hereof.

(r) "Governing Documents" collectively means this Declaration, the Association's Articles of Incorporation (the "Articles") and the Association's Bylaws (the "Bylaws"), as the same may be amended from time to time. A copy of the initial Articles is attached as Exhibit "B" to this Declaration, and a copy of the initial Bylaws is attached as Exhibit "C" to this Declaration. The Articles and Bylaws may be amended as

provided in such documents and it shall not be necessary to amend this Declaration in order to amend the Articles or Bylaws.

(s) Left Intentionally Blank.

(t) "LDC" or "Land Development Code" means the Land Development Code of Manatee County, Florida.

(u) "Law" means any statute, ordinance, rule, regulation, or order adopted or enforced by the United States of America, or any agency, officer, or instrumentality thereof, or by the State of Florida, or any agency, officer, municipality, or political subdivision thereof, from time to time applicable to the Property or to any activities on or about the Property.

(v) "Lot" means any plot of Land shown on any recorded Plat of the Property or portions thereof, which is intended as a building site for a Residential Unit, and excluding any areas designated as Common Area or dedicated for utility sites or public use.

(w) "Master Plan" means the conceptual plan for the development of the Development as determined by the Developer from time to time. All references to the Master Plan shall be references to the latest version thereof.

(x) "Members" means the members of the Association as defined and described in Article IV of this Declaration.

(y) "Mortgage" means any mortgage, deed of trust, or other instrument validly transferring any interest in any Lot, or creating a lien on any Lot, in either case as security for performance of an obligation. The term "Mortgage" does not include judgments, involuntary liens, or Liens arising by operation of Law. "First Mortgage" means any Mortgage constituting a lien prior in dignity to all other Mortgages encumbering the same property.

(z) "Mortgagee" means the Person(s) named as the obligee under any First Mortgage, or the successor in interest to any such Person, including the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Authority and similar guarantors or insurers of First Mortgages.

(aa) "MSTU/MSBU" has the meaning set forth in Article V, Section I(g), of this Declaration.

(bb) "Owner" or "Lot Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot, including Developer, Builders and contract sellers, but excluding contract buyers, any Person holding such fee simple title merely as security for the performance of an obligation, the Association, the CDD, and governmental authorities and utility companies that have received dedications or conveyances of rights-of-way, easements or utility sites except if such entities have acquired title to any Lot through foreclosure or the like. Developer is an Owner as to all portions of the Property owned by Developer.

(cc) "Person" means any natural person or entity having legal capacity.

(dd) "Plat" means any subdivision plat of all or any portion of the Property recorded in the Public Records of the County, and the recorded plat of any Additional Property made subject to the provisions of this Declaration pursuant to the provisions hereof, and any revisions or replats thereof and amendments thereto.

(ee) "Property" means initially the real property located in Manatee County, Florida, described in Exhibit "A" attached to this Declaration, together with any Additional Property hereafter made subject to this Declaration pursuant to Article II hereof.

- (ff) "Public Records" means the Public Records of the County.
- (gg) "Regular Assessment" means the recurring periodic Assessment for each Owner's share of the Common Expense.
- (hh) "Residential Unit" means any improvements on a Lot intended for use as a single-family residential dwelling unit, including, without limitation, any single-family attached or detached dwelling. Improvements shall constitute a Residential Unit at such time as construction of the dwelling unit is completed and a certificate of occupancy is issued therefor by the applicable governmental authorities.
- (ii) "Rules" means any rules and regulations regarding the use of the Property, duly adopted by the Association in accordance with the Governing Documents, as the same may be amended from time to time.
- (jj) "Service Area" means and refers to each portion of the Property, if any, in which Owners may have common interests other than those common to all Association Members, such as a common theme, entry feature, private roads, gates and gatehouses, development or neighborhood name, mailbox kiosks and/or common areas and facilities, which are not available for use by all Members, but only available for use by Members who own property within the Service Area. Service Areas may be designated by Plat or Service Area Supplement. It shall not be necessary for any portion of the Property to be designated as a Service Area except as required by law.
- (kk) "Service Area Assessment" has the meaning set forth in Article VI, Section 8 of this Declaration.
- (ll) "Service Area Committee" means and refers to a committee of three (3) individuals who are owners or occupants of a Lot within a Service Area who shall advise the Board of Directors on matters concerning Service Area Assessments. Service Area Committees shall be appointed or elected as provided in the Bylaws. Notwithstanding anything to the contrary in this Declaration, no Service Area Committee shall be appointed or elected until Turnover.
- (mm) "Service Area Supplement" means and refers to a Supplement to this Declaration designating a Service Area, establishing Service Area Assessments and adding or deleting covenants, conditions, restrictions and easements for a Service Area.
- (nn) "Special Assessments" has the meaning set forth in Article VI, Section 6 of this Declaration.
- (oo) "Specific Assessments" has the meaning set forth in Article VI, Section 10 of this Declaration.
- (pp) "Start-Up Assessments" has the meaning set forth in Article VI, Section 4 of this Declaration.
- (qq) "Supplemental Declaration" means any instrument which extends the effect of this Declaration to Additional Property pursuant to Article II of this Declaration.
- (rr) "SWFWMD ERP" means Southwest Florida Water Management District Environmental Resource Permit(s) applicable to the Property, as may be amended or modified from time to time.
- (ss) "SWFWMD WUP" means Southwest Florida Water Management District Water Use Permit(s) applicable to the Property or any other water use permit affecting the Property, as may be amended or modified from time to time.

(tt) "Surface Water Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40D-4, 40D-40, or 40D-42, Florida Administrative Code ("F.A.C."). The Surface Water Management System may include, but is not limited to: inlets, littoral areas, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, wetland mitigation areas, drainage easements, underdrains and filtration systems. The lands and facilities comprising the Surface Water Management System may be owned by the CDD.

(uu) "Turnover" has the meaning set forth Article IV, Section 3 of this Declaration.

(vv) The "Work" means the initial development of all or any portion of the Property pursuant to the Master Plan, including the construction and installation of streets, utility systems, community facilities, buildings, and other improvements, and the sale, lease, or other disposition of the Property as improved or unimproved parcels, but does not include the construction of individual Residential Units by Persons other than Developer. Such term is to be broadly construed to include any and all activities, uses, structures, and improvements necessary, convenient, or desirable to accomplish such construction and disposition.

(ww) "Working Capital Assessment" has the meaning set forth in Article VI, Section 5 of this Declaration.

(xx) "Zoning Ordinance" means County Ordinance PDR-12-03(Z)(G), as the same has been and may be amended from time to time.

## ARTICLE II

### PROPERTY RIGHTS AND COMMON AREA

1. Property. The Property is and shall be improved, held, transferred and occupied subject to this Declaration. As of the date hereof, Developer intends to develop the Property described in Exhibit "A" attached hereto as the first phase of the Development. In addition, Developer may, in the future, but shall have no obligation, to annex and submit to the lands encumbered by this Declaration the lands described in Exhibit "D" (or any portion thereof) to this Declaration. If Developer elects to annex and submit Additional Property to the Property encumbered by this Declaration, then Developer shall follow the procedures set forth in Section 3 below. Until such time, only the Property described in Exhibit "A" to this Declaration shall be encumbered hereby, and this Declaration shall not be deemed an encumbrance against the Additional Property described in Exhibit "D". Developer specifically reserves the right to change, supplement, amend, add to, delete and/or modify in any way the Development and the Property, all in Developer's sole and absolute discretion in furtherance of the development of the Development.

2. Additional Property. In addition to the Additional Property described on Exhibit "D" of this Declaration, Developer shall have the right, but not the obligation, to bring within the scope of this Declaration, any Additional Property lying in the vicinity of the Property at any time within twenty (20) years from the date this Declaration is recorded in the Public Records, which annexation may be accomplished without the consent of the Association, the Owners, or any mortgagee or other lien holder. If

Developer elects to annex and submit any such Additional Property to this Declaration, Developer shall follow the procedure set forth in Section 3 below.

Notwithstanding the foregoing, Developer shall not be obligated to develop any Additional Property under a common scheme, and Developer shall not be prohibited from re-zoning or changing plans with regard to such Additional Property. The Association and all Lot Owners, through acceptance of a deed or other conveyance of their Lots, shall be deemed to have automatically consented to any such rezoning, replatting, change, addition or deletion thereafter made by Developer to the Property, including changes to the Common Areas, and shall evidence such consent in writing if requested to do so by Developer at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this consent provision). Developer explicitly reserves the right to change Lot type, size, configuration, the housing, building and dwelling unit plans, styles, sizes, and configurations, landscaping, amenities, Common Areas, and the general scheme of development, the general development plan and the like, in any way Developer deems reasonable, in Developer's sole discretion. In the event that Developers elects not to annex any Additional Property, the Association acknowledges and agrees that the Developer shall have the right to establish such additional covenants, conditions, restrictions, and easements as may be necessary on or across the Property for the benefit of the Additional Property so long as such do not materially affect the Association.

3. Method of Annexation. Additions authorized under this Article II shall be made, if at all, by recording a Supplemental Declaration extending this Declaration to Additional Property. Each Supplemental Declaration shall describe the real property to be annexed and shall state that it is being made pursuant to the terms of this Declaration for the purpose of annexing property to this Declaration and extending the jurisdiction of the Association to the Additional Property. The Supplemental Declaration may contain additional terms and/or modifications not materially inconsistent with this Declaration to reflect the different character, if any, of the real property being annexed or of the housing or development approaches being implemented. Such additional terms may also provide for additional property owners' associations having administrative responsibility and control over certain portions of the Property. From and after recordation of any Supplemental Declaration in the Public Records, the Additional Property described therein shall constitute part of the Property and shall be subject to the provisions of this Declaration and to the jurisdiction of the Association. Notwithstanding anything to the contrary herein, Developer reserves the right to make any modifications, changes or deletions to the Common Areas, including the landscaping and landscape buffers, open space and all other areas of the Property upon the Additional Property becoming part of the Property.

4. Other Extensions. The extension of the provisions of this Declaration to any lands other than as set forth above must be approved by at least two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly convened for such purpose at which a quorum is present, and by Developer so long as Developer is a Member of the Association. Such extension shall become effective upon recording an amendment to this Declaration, executed by the Association and the Owners of all interests in lands to which the provisions of this Declaration are extended with the formalities from time to time required for a deed under the laws of the State of Florida.

5. Common Area and Common Maintenance Area.

(a) Conveyance of Common Area. The Developer may convey or cause to be conveyed to the Association in one or more conveyances, and the Association shall accept the title to, the Common Area owned by Developer at such time as, in Developer's sole discretion, Developer deems appropriate. The conveyance shall be subject to taxes for the year of conveyance, restrictions, conditions, and limitations of record, and easements for ingress, egress, drainage and public utilities and other rights in favor of the CDD,



governmental entities or private parties as deemed appropriate by the Developer and all matters set forth on the applicable Plat. Upon recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds. The Association shall accept title to the Common Areas in their "As Is, Where Is" condition. No title insurance or title opinion shall be provided to the Association by the Developer. All costs and expenses of any conveyance of any property by Developer to the Association shall be paid for by the Association.

**THE ASSOCIATION SHALL ACCEPT "AS IS" THE CONVEYANCE OF THE COMMON AREA WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WITH RESPECT THERETO, OR WITH RESPECT TO THE IMPROVEMENTS AND REPAIRS TO BE COMPLETED AFTER THE CONVEYANCE, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR THE ORDINARY OR ANY PARTICULAR PURPOSE, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES REGARDING FUTURE REPAIRS OR REGARDING THE CONDITION, CONSTRUCTION, ACCURACY, COMPLETENESS, DESIGN, ADEQUACY OF THE SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS OR FURNITURE WHICH AS BEEN OR WILL BE USED IN SUCH PROPERTY OR REPAIRS, EXCEPT AS SET FORTH HEREIN.**

(b) Right of the Developer to Designate Property as Common Area. Notwithstanding anything to the contrary contained in this Declaration or any Plat, the Developer shall have the right, in its sole discretion, to designate land, easements, use rights and personal property owned by the Developer as Common Area provided only that such land shall be located within the Property or contiguous to the Property (for purposes of this subsection, property separated only by public or private roads, water bodies, or open space shall be deemed contiguous). Addition of land to the Common Area shall be evidenced by recording a deed or Supplemental Declaration, as applicable, in the Public Records, which shall specifically reference such addition. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such herein, or subsequently designated as such by the Developer pursuant to a Plat of such lands, or a deed conveying such lands (or any interest therein) to the Association, or otherwise pursuant to this subsection, even if the Developer consents or acquiesces to the use of such land by the Owners.

(c) Use by Developer and Other Persons. Notwithstanding the transfer of ownership of the Common Area to the Association, the Developer shall have the right to use and occupy, and to allow Builders to use and occupy, portions of the Common Area without payment of any rent or use fee for purposes of a sales and marketing center, special events, the placement of sales and construction trailers and equipment, vehicular parking, and the placement of sales and marketing signs, until Developer and all Builders have sold all Lots within the Property, notwithstanding Turnover. Developer shall have the right to cause the Association to enter into a written agreement evidencing this right and no such agreement shall be deemed to be a violation of any fiduciary or other duty of the officers or directors of the Association authorizing or executing such written agreement. The Association shall have the right and authority to allow, by easement, license, rental agreement or otherwise, the use of Common Area by Persons providing utility, telecommunications, security or other services to the Development. The Developer and the Association shall have the right to allow the CDD to use any portion of the Common Area on such terms as the Developer or the Association deems appropriate. The Association shall also have the right and authority to allow school, civic charitable social groups, and other non-profit organizations to use the Common Area as determined from time to time by the Board of Directors, provided such use does not unreasonably interfere with the Owners' use of the Common Area.

(d) The Association shall operate, maintain and repair the Common Area and the Common Maintenance Area at all times regardless of whether fee simple ownership shall be with Developer or another party. Notwithstanding anything to the contrary in the Governing Documents, the Association shall accept fee simple title to Common Area and shall assume all responsibilities associated with Lot Maintenance Services (as applicable), all in their "As-Is, Where-Is" condition.

6. Owner's Easements of Enjoyment. Every Owner of a Lot and his or her lessees have a nonexclusive right and easement of enjoyment in and to the Common Area that is appurtenant to, and passes with, the title to every Lot subject to the easements and other property rights granted in this Article, and subject to the following:

(a) Assessments. Assessments for maintenance, repair, replacement, and operation of the Common Area and improvements and facilities, if any, situated upon the Common Area as provided in this Declaration or other applicable recorded instruments.

(b) Dedication. The right of the Owner of the Common Area, with the consent of the Developer if not the Owner of the Common Area, to dedicate or transfer all or portions of the Common Area or interests therein to any public agency, authority, or utility including the right to dedicate or transfer any public or private utility, drainage or utility easements that are Common Area or are located on Common Area. Any dedication or transfer made by Developer as part of the Work or prior to Turnover shall not require the approval of the Members or the Association. Any other dedication or transfer must be approved by at least two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly convened for such purpose at which a quorum is present, and must be evidenced by a recorded certificate of the Association executed by the Association with the formalities from time to time required for a deed under the laws of the State of Florida.

(c) Developer. The rights of the Developer hereunder to add land from the Common Area and to occupy and use (and allow Builders and other third parties to use and occupy) portions of the Common Area for a sales and marketing center, the placement of sales and construction trailers and equipment, vehicular parking, and the placement of sales signs.

(d) Rules and Regulations. The Association's right to adopt, alter, amend, rescind and enforce reasonable Rules governing the use of the Common Area.

(e) Governing Documents. The provisions of the Governing Documents and all matters shown on any Plat of all or part of the Property.

(f) Easements. (i) The right of the Developer and, following the conveyance of the Common Area to the Association, the Board of Directors of the Association to grant easements for utilities, access or drainage or other rights in, on, under, through or over all or any part of the Common Area, whether to the CDD, other governmental entities or private parties, as deemed advisable by the Developer or the Board of Directors, as applicable; and (ii) the right of Developer to reserve unto itself additional non-exclusive easements in, on, under through or over Common Area, and the right of Developer to grant additional non-exclusive easements in, on, under, through or over Common Area to owners of property not part of the Property for purposes of access, ingress, egress, utilities or drainage.

(g) Requirements of Law. The provisions of applicable Laws and all construction, water quality, environmental protection and other permits issued in connection with the development of the Property.

(h) General. Real estate taxes and special assessments levied by governmental authorities having jurisdiction over the Common Area, and restrictions, limitations and easements of record.

7. General Association Easement; General Drainage Easement. All Lots are subject to the following perpetual non-exclusive easements:

(a) The Association is hereby granted a perpetual, non-exclusive easement for ingress and egress upon, over and across each Lot for the performance of the Association's duties hereunder, provided that such easement will not encroach on any portion of the building pad on which a Residential Unit is constructed.

(b) Each portion of the Property is hereby burdened with a perpetual, non-exclusive easement in favor of each other portion of the Property for the drainage of ground and surface waters into, over and throughout, the Surface Water Management System in the manner established by Developer as part of the Work.

(c) Developer and its successors, assigns, agents and invitees hereby reserve and are granted an easement for ingress, egress, access and use on, over, under and through and across all of the Property which access and use easement shall continue until such time as the Developer no longer owns or controls any Lot within the Property.

8. Property Boundary Buffer. As part of the Work, Developer may construct privacy fence(s), wall(s) and/or landscaped buffer(s) across some of the Lots and/or portions of the Common Area to separate the Property or portions thereof from adjoining portions of the Property, right-of-ways or other properties (as applicable, the "Property Boundary Buffer"). All Lots adjacent to any Property Boundary Buffer or upon which portions of the Property Boundary Buffer are located, are subject to an exclusive perpetual easement for the location of the Property Boundary Buffer. All such Lots are also subject to easements to the Association and the CDD for the maintenance, repair and replacement of the Property Boundary Buffer and the landscaping associated therewith. Unless as otherwise specified by the Association or CDD, Owners of Lots adjacent to any Property Boundary Buffer, or of Lots on which any portion of the Property Boundary Buffer are located, shall be obligated to maintain, at such Lot Owner's cost and expense, the interior of such Property Boundary Buffer facing such Owner's Lot, and the Association or the CDD (as designated on the Plat) shall maintain the exterior of the Property Boundary Buffer, and replace the Property Boundary Buffer as and when required. The Property Boundary Buffer shall be located within landscape buffer, wall or similar easements designated on the Plat.

9. Plat Easements. Reference is made to the utilities, drainage, ingress and egress, non-access, and other easements shown or reserved on a Plat, including, but not limited to a ten (10) foot easement along each front lot line, a five (5) foot easement along the inside of each rear lot line, a ten (10) foot easement along the outside of each rear lot line and a five (5) foot easement along each side lot line for drainage and utilities. The Developer shall have the unrestricted right without the approval or joinder of any other Person to designate the use and to alienate, release or otherwise assign the easements shown or reserved on a Plat unless such easements have been previously conveyed or dedicated. The easements may be used to construct, maintain and operate water mains, drainage ditches, sewer lines and other suitable installations for drainage and sewage disposal, maintain Conservation Areas, or for the installation, maintenance, transmission and use of water, electricity, gas, telephone, cable systems, reclaimed irrigation water or treated effluent and other utilities, whether or not the easements are shown on the Plat to be for drainage, utilities, or other purposes. The Owners of the Lots subject to easements shown on the Plat shall acquire no right, title or interest in any of the cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over or under the easement area. The Owner of a Lot subject to any easement shall not construct any improvements on the easement areas, nor alter the flow of drainage, nor landscape such areas with hedges, trees or other landscape items that might interfere with the exercise of the easement rights. If any Owner constructs any improvements on such easement areas or landscapes such areas as aforesaid, the Owner of the Lot shall

remove at the Owner's expense the improvements or landscape items upon written request of Developer, the Association or the grantee of the easement. If the Owner fails to promptly remove improvements or landscaping, the Developer, the Association or the grantee of the easement may enter on the Lot and remove the improvements or landscaping at the expense of the Owner, who shall reimburse the cost of removal within fifteen (15) days of demand. The party removing the improvements or landscaping shall not be liable for trespass, nor responsible for any damage caused by the removal and shall not be required to restore any portion of the Lot damaged by the removal.

10. Lake or Pond and Surface Water Management Easements. The Association and the CDD are hereby granted: (a) perpetual non-exclusive unobstructed drainage easements over and through the Surface Water Management System and the ponds, lakes, marshes and other wetlands situated in whole or in part on the Property, whether part of the Surface Water Management System or otherwise; (b) perpetual non-exclusive easements for access and maintenance, including an easement for ingress and egress over and across all areas of the Surface Water Management System and all streets, roadways, Common Area, driveways and walkways, including the right to enter upon any portion of any Lot which is a part of, or adjacent to the Surface Water Management System or any pond, lake, marsh or wetland, whether part of the Surface Water Management System or otherwise, at any reasonable time and in a reasonable manner, for purposes of operating, maintaining and repairing the Surface Water Management System as required by this Declaration, any Plat, any instrument recorded in the Public Records, the SWFWMD ERP or by Law, as applicable, including, but not limited to, work within the retention areas, drainage structures, and drainage easements; and (c) perpetual non-exclusive easements over and across each Lot bordering on or encompassing any portion of the Surface Water Management System, or a pond, lake, marsh or wetland, whether part of the Surface Water Management System or otherwise, from the top of the embankment to the rear lot line (including any submerged portions of the Lot), for the installation, use, maintenance, repair and replacement of the Surface Water Management System.

11. All Rights and Easements Appurtenant. The benefit of all rights and easements granted by this Article constitute a permanent appurtenance to, and pass with, the title to every portion of the Property enjoying such benefit. Whenever any such right or easement is described as nonexclusive by this Article its benefit nevertheless is exclusive to the portions of the Property granted such benefit by this Article, unless this Article expressly grants such benefit to additional Persons. In no event does the benefit of any such easement extend to the general public.

12. Ownership Rights Limited to Those Enumerated. No transfer of title to any Lot passes any rights in and to the Common Area, except as expressly enumerated in this Declaration. No provision in any deed or other instrument of conveyance of any interest in any Lot shall be construed as passing any right, title, and interest in the Common Area, except as expressly provided in this Declaration. Any Owner may delegate his or her right of enjoyment and other rights in the Common Area to any Persons from time to time lawfully occupying such Owner's Lot, subject to the Association's Rules and Article III, Section 14, below.

13. Platting and Subdivision Restrictions. Developer may from time to time, plat or replat all or any part of the Property owned by Developer, and may widen or extend any right-of-way shown on a Plat or convert a Lot or other portions of the Property for use as a right-of-way or other uses, provided that Developer owns the lands where such changes occur. Developer may also establish covenants and restrictions and amendments thereto with respect to any such portion of the Property. No Owner, other than Developer, shall subdivide or change the boundary lines of any Lot or combine Lots without the prior written approval of (a) Developer, if prior to Turnover, or (b) the Board, if after Turnover. Any such action shall only be effective upon recording in the Public Records of a Plat or other instrument reflecting the subdivision or new boundaries of the affected Lots.

### ARTICLE III

#### USE RESTRICTIONS

1. Residential Use. Each Lot and the buildings constructed therein shall be used for single family residential purposes only, and no group foster care homes, day care homes or community residential homes are permitted. Only one (1) single family dwelling (attached, semi-detached or detached) may be constructed on each Lot. No trade, business, commercial activity or profession may be conducted in, on, or from any Lot. The foregoing does not prohibit Developer's or any Builder's operation of a sales center or model home used as a sales office for the marketing and sale of homes in the Development, and does not prohibit a "home office" within a Residential Unit, provided that: (a) no work or service is conducted on the Lot that can be seen or heard outside of the Residential Unit; (b) there is not a material increase in traffic to and from the Lot; and (c) no one other than the Owner or lawful occupants of the Residential Unit shall regularly work at or visit the "home office" for business purposes. The letting, renting, or leasing of Residential Units for non-transient residential purposes shall not constitute a trade or business.

2. Architectural Standards.

(a) Initial Construction. No building, fence, wall, mailbox, swimming pool, driveway or other permanent or semi-permanent fixtures or improvements, including landscaping, shall be installed or constructed on a Lot, nor may the Lot be cleared for construction of improvements or the installation of landscaping, except in accordance with plans and specifications, (including a site plan and landscape plan for the Lot), showing the nature, kind, height, color, materials, location and other pertinent information (including samples of materials when requested) about the proposed improvements, that have been approved in writing by the Developer or the Design Review Committee, as applicable, in accordance with the procedures described in Article VIII hereof.

(b) Modifications of Exteriors. A Lot Owner may not cause or permit any alteration, modification, renovation or reconstruction to be made to the exterior of his or her Residential Unit or Lot including driveways and landscaped areas, nor make any additions to the exterior of his or her Residential Unit including the installation of window air conditioners, except in accordance with plans and specifications (including site plans and landscaping plans when applicable) showing the nature, kind, height, color, materials, location and other pertinent information (including material samples when requested) that have been approved by the Design Review Committee.

3. Minimum Square Footage. Residential Units shall have a minimum square footage of one thousand (1,000) square feet interior heated and air conditioned living area, exclusive of garages, porches and patios based on approximate Lot size, as set forth in the Design Review Guidelines.

4. Other Structures. Except as to items initially approved by the Developer, no sheds, tanks, storage buildings, clotheslines, basketball hoops or support structures, children's play structures, dog houses, gazebos, decks, screened or enclosed porches, swimming pools, or structures of any type, whether similar or dissimilar to those herein enumerated and whether intended to be temporary or permanent, may be erected on a Lot, unless approved by the Design Review Committee in accordance with the procedures set forth in the Design Review Guidelines. Basketball hoops or support structures may not be attached to the Residential Unit and must be easily removed and stored within the Residential Unit, or otherwise out of view, when not in use. No shed or outbuilding of any kind shall be at any time used as a residence either temporarily or permanently. Prior to the start of construction of the Residential Unit, no trailer, mobile home, shed, or outbuildings shall be erected or permitted to remain on any Lot, nor shall any construction materials or other items be stored on the Lot, except as approved by Developer. Notwithstanding the foregoing any Owner may construct an access ramp for ingress and egress to the Residential Unit on its Lot, if a resident or occupant of

the Residential Unit has a medical necessity or disability that requires a ramp for ingress and egress, in accordance with and subject to the conditions of Section 720.304(5), Florida Statutes. Neither Developer nor any Builder doing business in the Property shall be prohibited from erecting or maintaining temporary dwellings, model homes and other structures for development and marketing purposes, provided such are in compliance with the appropriate governmental requirements, and further provided that any Builder first obtains Developer's written approval of such temporary dwelling, home or structure prior to installing or constructing same, such approval to be granted or denied by Developer in Developer's reasonable discretion. Such rights of the Developer and Builders shall survive Turnover and shall continue for so long as the Developer or any such Builders owns any Lots within the Property.

5. Landscaping. In connection with the initial construction of a Residential Unit on a Lot, complete landscaping plans for the Lot shall be prepared and submitted with the Lot site plan and the Residential Unit plans and specifications as part of the architectural approval process in accordance with the Design Review Guidelines. The Developer or Association may create standardized landscaping requirements for each Lot. All landscaping plans shall include an automatic underground sprinkler system. Irrigation water for Lots shall be supplied by the Association, and not by wells located on Lots; provided, however, that such prohibition shall not prohibit Developer from installing and maintaining wells within the Property for the benefit of the Association or the CDD (including to supply irrigation water to the Lots). Site plans and landscaping plans shall be designed to preserve to the maximum practical extent existing trees. No trees may be removed by any Owner in violation of any Law or the final approved site plan. In any event, no tree or shrub plantings will be permitted in a location that will prevent the CDD's or the Association's use of access easements granted or reserved herein or on any Plat. In addition, planting of nuisance exotic species of plants in or adjacent to the Conservation Areas is expressly prohibited.

6. Street Trees.

(a) Initial Construction Street Tree Requirements. As part of the initial construction of a Residential Unit on a Lot, the Builder shall plant street trees in accordance with the Aviary at Rutland Ranch Planting Plan applicable to the location of the Lot.

(b) Removal and Replacement of Street Trees. If any street tree located on a Lot at the time of the completion of the Residential Unit thereafter dies, such street tree shall be replaced by the Owner within thirty (30) days, at the Owner's expense by a native canopy tree with a minimum three inch (3") caliper tree having an over-all-height minimum of 10 feet, meeting the current Manatee County requirement for street tree replacement as more particularly described in the Notice to Buyers attached to this Declaration as Exhibit "F" and any additional requirements of the Design Review Committee. If any Owner fails to timely replace any street tree, the Association may enter on the Lot and replace the street tree at the expense of the Owner, who shall reimburse the cost of such replacement within fifteen (15) days of demand.

7. Permits and Restrictions. The Property has been or will be developed in accordance with requirements of the SWFWMD ERP, and the Developer, the Association, the CDD, or any permittee or successor permittee under the SWFWMD ERP, has the right to assure that all terms and conditions thereof are enforced. The Association, or any permittee or successor permittee under the SWFWMD ERP, shall have the right to bring an action, at law or in equity, against a Lot Owner violating any terms or provision of the SWFWMD ERP. No person shall alter the drainage flow of the Surface Water Management System, including buffer areas or swales, without the prior written approval of the SWFWMD.

All Owners of Lots shall, by acceptance of title to a Lot, be deemed to have assumed the obligation to comply with the requirements of the SWFWMD ERP as such relate to the Lot. Except as required or permitted by the SWFWMD, no Owner of a Lot shall alter, fill, dredge, place sod or excavate, or perform similar activities on any portion of their Lot or adjacent areas which contains jurisdictional wetlands, uplands

buffers, or conservation areas as established by the ACOE or SWFWMD, unless and until such activity is authorized by or exempt from the requirements of ACOE and SWFWMD. In the event that a Lot Owner violates the terms and conditions of the SWFWMD ERP and for any reason the Developer, the Association, the CDD, or any permittee or successor permittee under the SWFWMD ERP, is cited therefor, the Lot Owner agrees to indemnify and hold the Developer, the Association, the CDD, and any permittee or successor permittee under the SWFWMD ERP, harmless from all costs arising in connection therewith, including without limitation all costs and attorneys' fees as well as costs of curing such violation. Unless first approved by the Design Review Committee and SWFWMD, no Owner other than the Developer may obstruct, alter or in any way modify the method and/or structures of drainage utilized or installed by Developer, the Association, or the CDD from, on or across any Lot, Common Area, Common Maintenance Area or easement area; nor shall any structure or material be erected, placed or maintained which shall in any way obstruct such drainage devices or facilities or impede their efficient operation. No elevation changes shall be permitted on any Lot which materially adversely affect the drainage of or to neighboring Lots or the Common Area.

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

No Owner of a Lot or other property within the Development may construct or maintain any building, Residential Unit, or structure, or undertake or perform any activity in or to any portion of the Surface Water Management System, including, without limitation, the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements described in the SWFWMD ERP and recorded Plat or Plats of the Development, unless prior approval is received from SWFWMD. Such prohibited activities shall include, without limitation, digging or excavation, depositing fill, debris or any other material or item, constructing or altering any water control structure, or any other construction to modify the Surface Water Management System.

Each Owner within the Development at the time of construction of a building, Residential Unit, or structure shall comply with the construction plans for the Surface Water Management System approved and on file with SWFWMD.

8. Waterbodies and Wetlands.

(a) Maintenance of Shoreline Areas. Unless as otherwise specified by the Association of the CDD, each Owner of a Lot abutting a pond, lake, marsh or wetland, shall have the obligations set forth in Article VII, Section 1 of this Declaration with respect to the shoreline of the ponds, lakes, marshes and wetlands abutting such Owner's Lot.

(b) Conveyance of Water Bodies and Wetlands. Developer expressly reserves the right to convey to the Association or the CDD, or any other Person, fee simple title to the ponds, lakes, marshes and other wetlands, situated within the Property (excluding any portion thereof located within an Owner's Lot). Any such conveyance may, among other things, regulate, limit and/or restrict the rights of Owner's to use of the ponds, lakes, marshes or wetlands located within the Property. By acceptance of title to a Lot, each Lot Owner acknowledges that use of the ponds, lakes, marshes and other wetlands by any Owner, for any purpose, is not warranted or guaranteed. Furthermore, the owner of the ponds, lakes, marshes and other wetlands, from time to time, shall have the right to promulgate rules and regulations regarding the use thereof. Notwithstanding the foregoing, for the safety and welfare of all Owners and other Persons present within the Property, Developer hereby grants the following rights, and restricts and limits each Owner's right to use the ponds and lakes in accordance with this sub-subsection.

(c) Access by Owners. No Owner, other than the Owner of the particular Lot abutting a pond or lake, for the purpose of performing his or her maintenance obligations as required by Article VII, Section 1 of this Declaration, if applicable, shall have any rights of access to the portions of the Property lying between the rear property line of such Lot and the shoreline of any pond or lake. Notwithstanding the foregoing, no Owner shall have any right of access to any water body or wetlands except as specifically set forth in this Declaration.

(d) Installation by Owners. Owners (other than Developer) have no right to attach docks, anchor or store boats, canoes or other watercraft, or to clear, or otherwise disturb vegetation between the boundary of the Lot and such ponds, lakes, marshes and other wetlands or within the water body or wetlands themselves. Owners and occupants of such Lots located adjacent to ponds, lakes, marshes or other wetlands have no right to install landscaping, fences, retaining walls or other improvements along the boundary of their Lot or the pond, lake, marsh or other wetland, unless expressly permitted by the Design Review Guidelines or the Design Review Committee.

(e) Express Prohibitions. In addition to any other restrictions set forth herein, unless permitted by the Manatee County Land Development Code, the following acts and activities are expressly prohibited within the boundaries of the wetlands or wetland buffer areas without the prior written consent of Manatee County:

- (i) Development (as defined by the LDC).
- (ii) Construction or placing of buildings, roads, signs, billboards, advertising, or other structure on or above the ground.
- (iii) Construction or placing of utilities on, below or above the ground without appropriate local, state, or federal permits or other authorization.
- (iv) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.
- (v) Removal, mowing or trimming of trees, shrubs or other vegetation.
- (vi) Application of herbicides, pesticides, or fertilizers.
- (vii) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances which would affect the surface.
- (viii) Surface use except for purposes that permit the land or water areas to remain in its natural condition.
- (ix) Planting of vegetation not native to Southwest Florida.

(f) Drainage and Irrigation Uses. No Owner shall have the right to pump or otherwise remove any water from any part of the Surface Water Management System for irrigation or any other use; however, the Association may do so in compliance with the SWFWMD WUP and applicable SWFWMD regulations. Nothing other than stormwater or irrigation water may be discharged into the Surface Water Management System. Notwithstanding any provision of this Declaration to the contrary, Developer reserves unto itself, the CDD and the Association, a perpetual easement and right to drain water into the Surface Water Management System in compliance with the SWFWMD ERP and for the Association to use the water within the Surface Water Management System for irrigation or any other use permitted pursuant to the SWFWMD WUP and any other applicable governmental regulations and subject to obtaining appropriate permits therefor, and provided that such use does not adversely affect any of the CDD's tax



exempt financing. Developer also reserves the right, subject to the SWFWMD ERP, to alter the Surface Water Management System from time to time to enhance the Surface Water Management Systems' operation and effectiveness, including dredging, reconstruction of banks, reconfiguration of shorelines, installation and removal of drainage facilities, and similar activities.

(g) WARNING. ALL OWNERS, GUESTS, TENANTS, LICENSEES, INVITEES, AND ANY AND ALL OTHERS CONCERNED (COLLECTIVELY, "USERS"), ARE HEREBY NOTIFIED OF THE POTENTIAL DANGERS ASSOCIATED WITH THE PONDS, LAKES, MARSHES AND WETLANDS LOCATED WITHIN THE PROPERTY. ANY PONDS OR LAKES WITHIN THE PROPERTY ARE ARTIFICIAL AND MAY CONTAIN STEEP SLOPES, SHARP DROPS AND CHANGES IN DEPTH, UNRELIABLE EMBANKMENTS, AND/OR OTHER POTENTIAL HAZARDS OR DANGERS, INCLUDING, WITHOUT LIMITATION, ALLIGATORS, SNAKES AND OTHER WILDLIFE. ALL USERS ARE HEREBY FORMALLY NOTIFIED AND CAUTIONED OF THE POTENTIAL DANGERS ASSOCIATED WITH THE PONDS, LAKES, MARSHES AND WETLANDS. NEITHER THE DEVELOPER, NOR THE ASSOCIATION, THE CDD, OR ANY BUILDER, ASSUMES ANY RESPONSIBILITY AS TO ANY PERSONAL INJURY OR DEATH THAT MAY ARISE IN CONNECTION WITH ANY PONDS, LAKES, MARSHES OR WETLANDS. ALL USERS ASSUME ALL RISKS AND ANY LIABILITY ASSOCIATED WITH ANY PERSONAL INJURY OR DEATH THAT MAY ARISE IN CONNECTION WITH ANY PONDS, LAKES, MARSHES OR WETLANDS.

Each Owner, by acceptance of title to a Lot, is deemed to have assumed all risks and liability associated with residing adjacent to, or near, any pond, lake, marsh or wetland, and is hereby deemed to have agreed to hold harmless the Developer, the Association, the CDD, and any Builder from any claims associated with the ponds, lakes, marshes and wetlands within or adjacent to the Development, and to assume all risks and any liability associated with any personal injury or death that may arise in connection with the ponds, lakes, marshes and wetlands within or adjacent to the Development with respect to themselves, family members, invitees, licensees, social guests, lessees, or any others affiliated with the Owner. Any Person entering upon or near or otherwise using any pond, lake, marsh or wetland shall be responsible for his or her own personal safety and shall assume all risks of personal injury or death relating to such entry or use. In particular, parents or caretakers of minors, or others which may require adult supervision or assistance, should exercise caution in connection with the ponds, lakes, marshes and wetlands within or adjacent to the Development. Developer, the Association, the CDD and any Builder, shall not in any way be a guardian or insurer of safety in connection with the presence, entry upon, or use of any ponds, lakes, marshes or wetlands within or adjacent to the Property or in the Development, and shall not be held liable or responsible for any personal injury or death, property damage, or any other loss due to, arising out of, or related to use thereof for any purpose.

Because of the potential dangers, Owners, their family members, invitees, licensees, social guests, lessees, occupants or any others affiliated with Owners shall not have the right to utilize the ponds, lakes, marshes or wetlands for any recreational purposes, except as expressly permitted in the Rules, or if applicable any rules adopted by the CDD pursuant to Chapter 190, *Florida Statutes*, from time to time.

(h) Disclaimer. Neither Developer, nor the Association, the CDD, or any Builder makes any warranties, representations or guaranties regarding the ponds, lakes, marshes and wetlands within or adjacent to the Development: (i) as to the use or fitness of the ponds, lakes, marshes or wetlands for a particular purpose, (ii) that the use of any ponds, lakes, marshes or wetlands may or may not be restricted or prohibited in the future, (iii) as to the water quality of any ponds, lakes, marshes or wetlands, (iv) that pond, lake, marsh or wetland levels will be maintained at any particular level, or that the elevation of such waters will remain the same, (v) as to the aesthetics of the ponds, lakes, marshes or wetlands, or (vi) that the view from any Lots abutting any ponds, lakes or wetlands will be maintained, remain unchanged or unobstructed. Neither

Developer, nor the Association or the CDD, makes any assurance or assumes any responsibility as to personal injury or death that may arise from residing adjacent to a pond, lake, marsh or wetland within or adjacent to the Development.

9. Conservation Areas.

(a) Nature of Conservation Areas. The Development includes Conservation Areas as designated on Plats or conservation easements recorded against the Conservation Areas, as required by governmental or quasi-governmental authorities having jurisdiction over the Development. Each Owner, by acceptance of title to a Lot, acknowledges that such Conservation Areas have been created in compliance with applicable Law to provide for the perpetual restriction and maintenance of such areas to promote habitat preservation and to protect environmental resources within the Development. All such Conservation Areas are intended to be owned in fee simple by the CDD, and maintained by the CDD. Each Owner, by acceptance of title to a Lot, acknowledges that the CDD is required to, and will conduct certain maintenance activities within the Conservation Areas from time to time, and each Owner agrees not to impede the same. Each Owner, by acceptance of title to a Lot, acknowledges and agrees that the Conservation Areas may be utilized only in such manner as permitted by the conservation easements established by the Plats, by separate conservation easements recorded against the Conservation Areas, by applicable Law, or as permitted by this Declaration, and for no other purposes.

(b) Use and Restrictions. The Conservation Areas may not be utilized for development of any building sites and must, to the extent practicable, be left in their natural state. No Owner shall clear any Conservation Area, dump any materials into any Conservation Area, plant any nuisance or exotic species in or adjacent to any Conservation Area, or otherwise modify its natural state. The Conservation Areas may (without obligation) be integrated by the Developer, Association or the CDD into the Development for use as natural conservation and/or passive park areas, and may be utilized for nature trail, bicycle, jogging, or other pedestrian trails, natural-resource-based community recreation areas, or other passive recreational purposes as may be determined appropriate by the Developer, Association or the CDD. The Developer reserves the right to provide for road and access crossings through Conservation Areas, and to otherwise make use of the Conservation Areas as permitted by applicable Law. Each Owner shall utilize Conservation Areas only in such manner as may be permitted from time to time by the Developer, Association or the CDD, and in no other manner and for no other purpose. The CDD is hereby granted perpetual easements, across each Lot which abuts a Conservation Area or any portion of the Property adjacent to a Conservation Area, for ingress and egress to such Conservation Areas for the purposes of exercising any right or performing any obligation provided in this Declaration, the SWFWMD ERP or applicable County requirements and criteria.

(c) Express Prohibitions. In addition to any other restrictions set forth in subsection (b) above, unless permitted by the Manatee County Land Development Code, the following acts and activities are expressly prohibited within the boundaries of the wetland, wetland buffer and upland preservation areas without the prior consent of Manatee County:

(i) Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground.

(ii) Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.

(iii) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.

- (iv) Removal, mowing, or trimming of trees, shrubs or other vegetation.
- (v) Application of herbicides, pesticides or fertilizers.
- (vi) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.
- (vii) Surface use except for purposes that permit the land or water areas to remain in its natural condition.
- (viii) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.
- (ix) Acts or uses detrimental to such retention of land or water areas.

10. Fences and Walls.

(a) General. Except as to items initially approved by the Developer, no fences or walls of any kind shall be placed or installed on the Property without the written approval of the Design Review Committee. The foregoing includes the right to regulate the size, location, style, material and color of all fences and walls, and to require styles and colors compatible with other fences and improvements. Hedges or dense vegetation are encouraged as a preferred method for privacy screening. Chain Link or other forms of wire fences shall not be permitted. Generally, but subject to the Design Review Committee, white vinyl PVC fence shall be permitted. In any event, no fences or walls will be permitted within any Conservation Areas, within any easement (including, but not limited to drainage, utility, and access easements) except those erected by Developer, or in a location that will prevent the Developer's, the CDD's or the Association's use, as applicable, of access easements granted in this Declaration, by recorded instrument, or on any Plat for the purpose of accessing the Conservation Areas, any portion of the Surface Water Management System, other Common Areas or Property Boundary Buffers, or any ponds, lakes, marshes or wetlands, whether part of the Surface Water Management System or otherwise.

(b) Property Boundary Buffer. Without the prior written approval of the Developer, its successors or assigns, which may include the Association or the CDD, the Property Boundary Buffer, as described in Article II, Section 8 hereof, may not be removed, altered or modified in any manner whatsoever nor used for any purpose except to provide privacy to the Property.

(c) Preservation of Easement Rights. Specific reference is made to the easements shown or reserved on the Plat and those granted or reserved in this Declaration. No fence, wall, or other improvement that interferes with exercise of these easement rights may be constructed, installed or maintained in these easement areas except by the Developer. Any improvements or landscaping located in these easement areas are subject to removal at the expense of the Owner of the Lot when requested by Developer, the Association, the CDD or the grantee of the easement.

11. Setback Lines. All structures, driveways and other improvements constructed on a Lot will be in compliance with applicable zoning requirements, including the Zoning Ordinance as amended from time to time. The Developer and Design Review Committee, as applicable, shall have the right to impose setbacks greater than those required by the Zoning Ordinance as amended from time to time. Without limiting the foregoing, to assure that structures, driveways and other improvements will be located with regard to adjacent residences and the topography of each Lot and to preserve trees, the Developer may elect to approve the location of all structures and other improvements initially constructed on all Lots, subject to compliance with applicable zoning requirements, including the Zoning Ordinance. The Design Review

Committee shall have the right to condition alterations occurring after the initial construction upon same compliance with setback and zoning requirements.

12. Parking Restrictions and Garages.

(a) Parking. No vehicle, boat, mobile home, or trailer may be parked, stored, or repaired anywhere within the Property except that functional passenger automobiles, vans, motorcycles, and non-commercial trucks of one (1) ton capacity or less (collectively "Permitted Vehicles") may be parked in the garage or driveway of the Residential Unit, or in any approved parking areas on the Lot, which approved parking areas shall never include the yard. Boats, trailers, motor homes, recreational vehicles and other vehicles that are not Permitted Vehicles may be regularly parked only in the closed garage of a Residential Unit. "Regularly parked" shall mean parked for a period longer than twelve (12) hours or more than twenty-four (24) hours per month. No vehicle may block or obstruct a sidewalk in whole or in part. No parking places may be constructed on any Lot, except as constructed in accordance with plans and specifications approved by Developer or the Design Review Committee. Commercial vehicles or any Permitted Vehicles with advertising thereon shall not be parked within public view on a regular basis. However, in recognition of the increasing practice for homeowners to drive vehicles which may be used for both personal and work purposes, the Developer and Design Review Committee are empowered to deem certain automobiles, vans, and non-commercial trucks as a "Permitted Vehicle" if such business lettering on the vehicle is professionally printed and does not constitute an eyesore. Streets within the Property shall not be regularly used for parking. No overnight street parking is permitted. The Association may enforce the foregoing restrictions in any lawful manner, including the imposition of reasonable, uniform fines for willful or repeated violations. Each Owner shall comply with the foregoing restrictions and shall cause its guests, tenants, licensees, and invitees to comply with same. Nothing in this subsection prohibits the emergency repair or servicing of Permitted Vehicles, so long as such repair or servicing is completed within twenty-four (24) hours and no fluids are discharged from the vehicle, or the temporary parking of vehicles by delivery personnel while deliveries are actively being made. The Developer and Design Review Committee are empowered to promulgate additional, more stringent Rules and Regulations regarding parking as it determines necessary in its sole discretion.

(b) Garages. All Residential Units must be constructed with a garage, which shall contain at least two (2) standard size parking places usable for parking vehicles, except for Residential Units, which are townhomes, which shall be permitted to be constructed with a garage that contains one (1) standard size parking place usable for parking a vehicle. All garages must have electric door openers which shall be maintained in a useful condition and shall be kept closed when not in use. No garage shall be permanently enclosed or converted to another use.

(c) Driveways. All improved Lots shall have a paved driveway constructed of a material approved by the Developer or the Design Review Committee as part of the plans and specifications for the Residential Unit.

13. Antenna Systems. No antennas, masts, towers, poles, aerials, satellite dishes, or similar appurtenances shall be erected, constructed, or maintained on the exterior of any Residential Unit or Lot, except that, unless prohibited by federal regulations, one satellite dish of one (1) meter or less may be installed, subject to the Design Review Guidelines and reviewed by the Design Review Committee regarding location and screening which do not unreasonably interfere with signal reception.

14. Occupancy and Leasing Restrictions.

(a) Occupancy. Each of the Residential Units shall be occupied only by the Owner or lessee of a Residential Unit, members of their family, their care-givers and nonpaying social guests. Entire (but not

portions of) Residential Units may be rented provided the occupancy is only by the lessee and the members of their family, care-givers and nonpaying social guests.

(b) Lease Requirements. All rentals of Residential Units shall be documented by a written lease which shall set forth, among other things, the address of the Residential Unit, the name(s) of the tenants, the lease commencement date and the term. The Association may, in its sole discretion, determine that it is appropriate for the Association to approve rentals of the Residential Units. A copy of the fully executed lease shall be delivered by the Owner to the Association within five (5) days of the full execution of such lease. All leases shall contain or be deemed to contain a provision that grants to the Association the write to terminate the lease as agent for the lessor in the event of a default by the lessee under these Governing Documents or additional Rules and Regulations, as amended. Rentals of less than nine (9) months in duration, or the operation of a rooming house, hostel or hotel, shall be deemed to be a commercial use for purposes of enforcement of this Declaration, and are prohibited. The tenants who are occupying a Residential Unit pursuant to a written lease shall be permitted to use the Common Area during the lease term, provided that (i) the tenants comply with any and all policies, and Rules of the Association, and (ii) the Owner assigns to such tenant and relinquishes Owner's right to use the Common Area during the lease term. Sub-leasing is strictly prohibited, and the tenant under any lease must be the occupant of the Residential Unit.

(c) Compliance. All tenants shall be subject to the terms and conditions of the Governing Documents and the rules and regulations promulgated thereunder as though such tenant were an Owner. Each Owner agrees to cause his or her lessee, and the occupants, or persons living with Owner or with his or her lessee to comply with the Governing Documents and the Rules. Each Owner is responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that the occupants of the Residential Unit are also fully liable for any violation of the documents and regulations. In the event that a lessee or occupant violates a provision of the Governing Documents or the Rules, the Board shall have the power to bring legal proceedings against the lessee to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity. The Owner will be jointly and severally liable with the tenant to the Association for any amount (as determined in the sole discretion of the Association) which is required by the Association to repair any damage to any portion of the Property or to pay any claim for personal injury, death or damage to property caused by the act or omission of the tenant. Special Assessments may be levied against the Lot for such amounts.

15. Animals. No animals, livestock, or poultry shall be raised, bred, or kept anywhere within the Property, except that a reasonable number of common household pets may be kept by the occupants of each Residential Unit, provided such pets are not kept, bred or maintained for any commercial purpose and provided further that such pets are neither dangerous nor a nuisance to the residents of the Property. "Common household pets" means dogs, cats, domestic birds, and fish. "Common household pets" shall also include any animal properly certified as a service animal as required by law. All pets shall be kept licensed and vaccinated as required by local law and ordinances. Dogs must be kept on a leash or within enclosed areas at all times. Pet owners are responsible for cleaning up any waste created by their pets. The Association, in its Rules, may establish a maximum number of pets (per species) that may be kept on a Lot and other rules governing the keeping of pets. All pet owners are responsible for the actions of their pets and agree to indemnify the Association and Developer and hold them harmless against any loss or liability of any kind whatsoever arising from the keeping of any animal on the Property. Any animals which create or contribute to a nuisance or unreasonable disturbance or annoyance may be required to be permanently removed within ten (10) days of receipt of written notice from the Board to the Owner.

16. Storage of Garbage and Trash Receptacles. All containers for the storage of garbage or trash, which have been approved for installation pursuant to Section 2 or 4 above, must be located inside of

Residential Units or within side or rear yards and must be screened from view from adjacent Lots and the adjacent streets. Except for regular collection and disposal, no rubbish, trash, garbage, or other waste material or accumulations shall be kept, stored, or permitted anywhere within a Lot, except inside the Residential Unit, or in refuse containers concealed from view. All trash, garbage and refuse shall be placed in containers (to the extent reasonably possible) and for pickup not earlier than the evening preceding pickup, and all containers for garbage and refuse shall be returned no later than the evening of pickup to their normal, hidden location. No weeds, garbage, refuse or debris of any kind shall be placed or permitted to accumulate upon any portion of the Property.

17. Utilities. All potable water and sewage facilities and service to the Property shall be supplied by the public water supply and sewage system installed by the County or by the Developer as part of the Work. Except for wells installed by Developer, no well of any kind shall be dug or drilled on the Property, including wells used to provide irrigation for the landscaping located on Lots. No septic tank may be constructed on any Lot, and no wastewater may be discharged on the open ground or into any pond, lake, marsh or wetland. All electricity service lateral lines and installations on a Lot shall be located underground, and shall be installed and maintained in accordance with the specifications of the electric utility provider installing same. All Lots shall contain irrigation systems, as described in Article V, Section 4(c) below. The Association shall be the exclusive provider of irrigation water to the Property as described in Article V, Section 4 below.

18. Renewable Resource Devices. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, such devices shall be installed only in accordance with the reasonable standards adopted from time to time by the Design Review Committee and with such Committee's approval. Such devices may not be installed on the portion of the roof of a Residential Unit facing the street. The standards shall be reasonably calculated to maintain the aesthetic integrity of the Property without making the cost of the aforesaid devices prohibitively expensive.

19. Outdoor Drying of Laundry. Outdoor drying of laundry or other items is prohibited.

20. Signs, Banners, Flags and Mailboxes.

(a) Signs, Banners and Flags. No sign of any kind shall be placed in the Common Area except by or with the approval of the Developer or the Board. No sign of any kind shall be displayed to public view within any Lot, except (a) customary address signs which may be regulated by the Design Review Committee; (b) a lawn sign of not more than four (4) square feet in size advertising a Lot or Residential Unit for sale, or advertising the Builder during the course of construction (which course shall be deemed terminated upon receipt of a Certificate of Occupancy), which complies with the requirements of the Design Review Guidelines, and (c) a sign no more than one (1) square foot in size provided by a contractor for security services located within ten (10) feet of any entrance to the Residential Unit on such Lot. All signs permitted by this subsection must be approved by the Developer (as to initial construction or address signs) or the Design Review Guidelines. Signs advertising a Lot or Residential Unit for rent are prohibited unless approved by the Developer or the Design Review Committee, which approval may be withheld. One (1) flag of the United States of America may be displayed on each Lot in accordance with the Rules or the Design Review Guidelines. No banners or other flags may be displayed on a Lot, except as permitted by the Design Review Committee and as required by law.

(b) Mailbox Kiosks. Individual mailboxes shall not be installed on any Lot. Mailbox kiosks will be located within Common Area or Common Maintenance Area within the Property. The Association shall be responsible for maintaining, repairing, replacing, and insuring (to the extent insurable), the mailbox kiosk(s) and concrete pads on which they are installed, and any trash cans and street furniture located on

such pads (as applicable, collectively, the "Mailbox Kiosk Improvements"). The cost of maintaining, repairing replacing and insuring (to the extent insurable) the Mailbox Kiosk Improvements, including reasonable reserves for such purposes (in the Association's discretion), shall be allocated equally among all Lots benefitted by such Mailbox Kiosk Improvements as part of the Regular Assessment or Service Area Assessment, subject to the right of the Association to recover from the Owner of a Residential Unit, as a Specific Assessment, any costs which the Association incurs in maintaining, repairing or replacing the Mailbox Kiosk Improvements due to damage caused by the negligence or other actions of the Owner or any occupant of the Residential Unit, or their guests or invitees.

21. Window Treatments and Air Conditioners. No reflective foil, reflective glass or other reflective material shall be installed or maintained on any windows of a Residential Unit. The portion of drapes, blinds, and other window coverings visible from the outside of the Residential Unit shall be a solid (non-patterned) color. No window air conditioning units shall be permitted. All exterior components of air conditioning units shall be screened from view from adjacent Lots and streets by approved fences, walls or shrubbery, which shall be installed to minimize noise from the air conditioning unit.

22. Security Alarms. Security alarms audible outside of the Residential Unit must be connected to a monitoring service that is able to shut-off the alarm, or the security alarm must automatically shut-off after not more than fifteen (15) minutes.

23. Obnoxious or Offensive Activity. No activity or use shall be allowed upon the Property which is a source of annoyance, embarrassment or discomfort to Owners or their tenants or invitees, or which interferes with the peaceful possession and proper use and enjoyment of the Property, nor shall any improper, unsightly, offensive or unlawful use be made of any Lot, Residential Unit or the Common Area, and all laws and regulations of applicable governmental bodies shall be observed. The Property shall be used, enjoyed and occupied in such manner as not to cause or produce any of the following effects discernible outside any Residential Unit: noise or sound that is objectionable because of its volume, duration, beat, frequency or shrillness; smoke; noxious, toxic or corrosive fumes or gases; obnoxious odors; dust, dirt or fly ash; unusual fire or explosive hazards; vibration; or interference with normal television, radio or other telecommunication by other Owners.

24. Prohibited Access and Egress. Vehicular, pedestrian or any other form of access, ingress or egress is strictly prohibited across the portion of any Lot, or other portion of the Property, which is designated on any Plat as "Non-Access/Non-Egress." No Owner, occupant or other Person shall ingress or egress across any such designated "Non-Access/Non-Egress" area.

25. General Prohibitions and Indemnity. No activity is permitted, nor shall any object or substance be kept, stored, or emitted, within the Property in violation of Law. Each Owner shall defend, indemnify, and hold the Association, Developer, and other Owners harmless against all loss from damage or waste caused by such Owner, or by any occupant of such Owner's property.

26. Construction by Developer and Builders Permitted. Nothing contained in this Article III shall prohibit or restrict normal construction activities by the Developer and Builders.

27. No View Easements. Lot Owners do not possess any view easements. Adjacent Lot Owners may be permitted to construct Residential Units, accessory structures, pool cages, fences, landscaping, or the like (as approved by the Developer or Design Review Committee) which obstruct views for other Lots or properties.

28. Storage of Personal Property. Lot Owners shall keep all personal property inside the Residential Units or within side or rear yards and must be screened from view from adjacent Lots and the

adjacent streets, except for patio furniture and accessories commonly kept outside such as a grill, which must be kept in the rear of the Lot and must be neat appearing and good condition. Personal property in this Section does not include any vehicles, which are governed under the "Parking" Section of this Article.

29. Yards. All Lots shall have a yard constructed of a landscape material approved by the Developer or the Design Review Committee. Gravel or stone yards are not permitted; however, this Declaration does not prohibit xeriscape or "Florida friendly" landscaping so long as such is approved by the Design Review Committee. All yards shall be maintained in good condition and replaced as necessary.

30. Swimming Pools and Cages. No above-ground swimming pools are permitted on the Property. All pools shall be enclosed and shall comply with the applicable regulations of those bodies having jurisdiction thereon. All pools, enclosures, screening, and caging is subject to the approval of the Design Review Committee. All permanently affixed pool equipment and housing shall be underground or placed in walled-in or landscaped areas as approved by the Design Review Committee so that they shall be substantially concealed or hidden from any eye-level view from any street, adjacent property or Common Area.

31. Garage or Yard Sale. No Lot Owner may conduct a garage or yard sale without the prior written approval of the Association. No Lot Owner may conduct a garage or yard sale more than two (2) times in any twelve (12) month period. The Association is empowered to create any additional Rules and Regulations governing such garage or yard sales, including, but not limited to the manner for conducting such sales, duration, hours, and signage related thereto.

32. Boats. No motorized or electric boats shall be permitted on any lakes within the Property. Notwithstanding the foregoing, the Association may choose a lake within the Property to permit the use of non-motorized and approved canoes or kayaks, subject to the Association's rules and regulations, and all regulations issued by the County, SWFWMD or other agency with jurisdiction.

33. Storm Shutters. Storm shutters may not be placed on any Residential Unit until an official Storm Warning is issued by the appropriate governmental agency. Storm shutters must be removed within ten (10) days following the storm's passage. Absentee Lot Owners must make arrangements for a third party's removal of their storm shutters or the Association may do so at Owner's cost.

34. No Mining. No Lot Owner shall permit any mining or exploration for oil, gas, minerals, or like on their Lot.

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

36. Reservation of Fill Dirt. Developer hereby reserves the exclusive right to utilize, excavate, remove and store all fill dirt at the Property, not otherwise necessary for the development of this Development, for other projects outside of the Property. The aforementioned reservation includes an easement of ingress, egress and access for Developer, and its successors, assigns and agents, to enter the Property, excavate fill dirt from the Property, including excavation on all Common Areas/Common Maintenance Area such as lakes, and to remove the fill dirt for exclusive use by Developer on other projects offsite of the Property. While the Developer is actively developing the Property or owns at least one (1) Lot



for sale in the ordinary course of business, Developer is also permitted to, and is hereby granted an additional easement to, store and preserve the fill dirt on site at the Property in an area chosen by Developer, in its sole and absolute discretion.

#### ARTICLE IV

##### MEMBERSHIP AND VOTING RIGHTS

1. Membership. Every Owner of a Lot is a Member of the Association and is entitled to one (1) membership for each Lot owned. There shall be no other Members except that Developer shall be a Member as hereinafter provided. Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to the Lot whereupon the membership of the previous Owner automatically terminates. No Person other than an Owner of a Lot may be a Member of the Association, and a membership in the Association may not be transferred or encumbered except by the transfer of title of the Lot to which it is appurtenant.

2. Classification. The Association has two (2) classes of voting membership:

(a) Class A. So long as there is Class B membership, Class A Members are all Lot Owners except Developer. Class A Members are entitled to one (1) vote for each Lot owned by the Lot Owner, except as herein provided regarding the Developer. Upon Turnover, Class A Members are all Lot Owners, including Developer so long as Developer is an Owner.

(b) Class B. The Class B Member is Developer who is entitled to a number of votes equal to three times the total number of votes then held by Class A Members, plus one. The provisions of Article VI of the Declaration exempting portions of the Property owned by the Developer from the Association's assessments do not affect the calculation of the Class B Member's voting rights under this subsection. Developer's Class B membership will be converted to Class A membership upon Turnover.

3. Turnover of Association Control. Developer shall have the right to elect or appoint all members of the Board (directors appointed by Developer need not be Members), until such time as Members, other than Developer, are entitled to elect at least one (1) member of the Board in accordance with the Bylaws, provided the Members exercise such right. Thereafter, Developer shall be entitled to appoint or elect at least a majority of the Board until Turnover. Owners, other than Developer, shall be entitled to elect at least a majority of the members of the Board of Directors when the earlier of the following events occurs ("Turnover"):

(a) Three (3) months after ninety percent (90%) of the parcels in all phases of the Development that will ultimately be operated by the Association have been conveyed to Owners, other than Developer or Builders; or

(b) When Developer, in its discretion, so determines and declares it in an instrument recorded in the Public Records; or

(c) The occurrence of any event described in Section 720.307(1), Florida Statutes, or any successor provision thereto, which causes transition of control of the Association.

Upon Turnover, the Owners, other than Developer, shall be obligated to assume control of the Association, subject to Developer's rights set forth in this Declaration and in the Bylaws, which continue beyond Turnover. Notwithstanding Turnover, Developer shall be entitled to elect at least one (1) member of the Board of Directors as long as Developer holds for sale in the ordinary course of business at least five percent

(5%) of the Lots in all phases of the Development that will ultimately be operated by the Association. After Turnover, Developer may exercise the right to vote any Developer-owned voting interests in the same manner as any other Owner, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

4. Co-Ownership. If more than one Person holds the record title to any Lot, all such Persons are Members but only one (1) vote may be cast with respect to such Lot, and no fractional votes are permitted. Before any meeting at which a vote is to be taken, each co-owner must file the name of the authorized voting co-owner with the Secretary of the Association to be entitled to vote at any such meeting, unless such co-owners have filed a general voting authority with the Secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held by husband and wife, either co-owner is entitled to cast the vote for such Lot unless and until a written voting authority is filed with the Association designating a voting co-owner. If title is held by a corporation, the secretary of the corporation shall file with the Association a certificate designating the authorized voting representative of the corporation, which shall be effective until rescinded by the corporation.

5. Inspection and Copying of Records. The official records of the Association shall be maintained, and shall be made available to Owners for inspection or photocopying, in accordance with the procedures and requirements of Section 720.303, Florida Statutes, and any changes thereto.

6. Extraordinary Action. Certain provisions of this Declaration, the Bylaws, or the Articles may require the approval of a super-majority of the Members for certain actions. In addition, any action shall require the written approval of the Developer for so long as the Developer is a Member of the Association.

7. Amplification. The Developer and/or Members of the Association shall elect (or appoint, as applicable) the Board of Directors of the Association, who shall manage the affairs of the Association as set forth herein and in the Bylaws. The Board of Directors shall appoint officers of the Association to administer the operation of the Association. The provisions of this Article may be amplified by the Association's Articles and Bylaws, but no such amplification shall alter or amend substantively any of the rights or obligations of the Owners set forth in this Article. The provisions of this Declaration and the Articles and Bylaws shall be interpreted and enforced to avoid inconsistencies or conflicting results. If any such conflict necessarily results, however, the provisions of this Declaration shall control anything to the contrary in the Articles or Bylaws, and the provisions of the Articles shall control anything to the contrary in the Bylaws.

8. Voting. With regard to any matter in the Governing Documents that requires a vote of the Membership; such matter shall be deemed to require the vote of Members in good standing who are permitted to vote.

## ARTICLE V

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

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

- (a) enforce this Declaration, the Articles, By-Laws and rules and regulations adopted pursuant thereto by appropriate means and carry out the duties and authority of the Association hereunder;
- (b) maintain, regulate and otherwise manage and operate the Common Area;

(c) pay any real and personal property taxes and other charges assessed against the Common Area unless same are separately assessed to the Owners;

(d) obtain all required utility and other services associated with the carrying out of the Association's responsibilities hereunder;

(e) contract for and maintain such policy or policies of insurance as may be required hereunder or as the Board deems necessary or desirable to further the purposes of and protect the interests of the Association and its Members; provided further that such policies of insurance shall cover all Common Areas, regardless of the current status of the title to the Common Areas, and shall name Developer, its successors or assigns, as an additional named insured on such policies of insurance for so long as Developer, or its success and assigns, retains ownership or use of any portion of the Common Areas;

(f) have the power of entry upon any Lot reasonably necessary in connection with the carrying out of Association responsibilities hereunder;

(g) have the power to acquire, accept, maintain, repair, improve and replace Common Area;

(h) have the power to negotiate and contract for such material and services for the benefit of Owners who subscribe to or elect to accept such material or services, with payment for same to be separately billed to the Owners or advanced by the Association and repaid to the Association by Special Assessments for services;

(i) have the power and duty to maintain architectural control with respect to the Property in accordance herewith;

(j) sued and be sued, as further set forth in Article X below;

(k) assess Members, establish fines and enforce assessments and fines;

(l) contract for other services and materials necessary to operate and maintain the Common Area, Common Maintenance Area and any other contract necessary to perform the Association's duties hereunder.

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

3. The Common Area and Common Maintenance Area.

(a) General; Right of Entry. Subject to the rights of the Developer and the Owners, as set forth in this Declaration, the Association has exclusive management and control of the Common Area, and all of the Association's improvements, fixtures, furnishings, equipment, and other related personal property. The Association shall maintain the Common Maintenance Area designated as such by the Developer, the Association or this Declaration in a safe, clean, attractive, sanitary, and serviceable condition, and in good order and repair. The Association's duties with respect to each Common Maintenance Area commences upon

designation of same as a Common Maintenance Area, and includes the management, operation, maintenance, repair, replacement, and renewal of all improvements, equipment, and tangible personal property installed in the Common Maintenance Area (including, without limitation, as part of the Work), and any replacements or additions thereto made in accordance with the provisions of the Governing Documents. The cost of maintaining, repairing or replacing any Common Maintenance Area shall be a Common Expense of the Association to be collected, and paid by the Lot Owners, in the manner prescribed by this Declaration. Additionally, the Association may be responsible for Lot Maintenance Services provided by the Association as set forth in Article XIII below. If an item of maintenance, repair or replacement is a result of any intentional or negligent act of an Owner, his family, agents, contractors, tenants, guests, invitees or licensees, then the cost of such maintenance, repair or replacements, to the extent so caused, shall be the sole responsibility of the Lot Owner, and even though the cost thereof may be advanced as a Common Expense, the same shall be billed to the Lot Owner and his Lot for reimbursement plus interest and penalties not to exceed the maximum permitted by law as a Special Assessment hereunder.

The Association shall establish a maintenance program for all Common Area and Common Maintenance Area which complies with the County's Land Development Code, SWFWMD regulations, or other laws and regulations, if and as applicable. The Maintenance Program is set forth in Exhibit "G". The Association has the irrevocable right of access to each Lot during reasonable hours, when necessary for the ordinary maintenance, repair or replacement of any Common Area or Common Maintenance Area, without notice, for making emergency repairs which are necessary to prevent damage to the Common Area, Common Maintenance Area, Lots or Residential Units. The Association Right of Entry and Compliance with Manatee County Land Development Code is further set forth on Exhibit "H". The cost of maintaining, repairing, and replacing any Common Area shall be a Common Expense of the Association to be collected, and paid by the Lot Owners, in the manner prescribed by this Declaration.

(b) Roadways. Developer has the right to cause all roadways within the Property to be maintained as private roadways with or without gated access to the Development or dedicated to the County or the CDD for public use and maintenance by the County or the CDD, as applicable. Any private roadways and rights-of-way within the Property shall be conveyed to the Association as Common Area. Subject to obtaining any necessary permits therefor, the Developer may (without obligation) construct and install gates, gatehouses, guardhouses, and/or associated systems and facilities as the Developer deems appropriate for the Development. Such gates, gatehouses, guardhouses and/or associated systems and facilities within any private roadway or right-of-way shall be Common Area to be maintained by and at the Common Expense of the Association. Any private gates, gatehouses, guardhouses and/or associated systems and facilities so installed may be modified or removed, from time to time, as deemed appropriate by the Developer prior to Turnover and after Turnover, by the Association, to the extent permitted by law or any applicable permits. Notwithstanding such private roadways and gated access (if any), each Owner, by acceptance of title to a Lot, acknowledges that County Sheriff have the right and may regulate and monitor speeding on such roadways and that public and private utility providers and emergency vehicles will have access to the Development and the right to use such roadways pursuant to each Plat, this Declaration, and in accordance with all laws. If gates, gatehouses or guardhouses are installed, the Association or the CDD (if the CDD is the owner of the gates, gatehouses, guardhouses and/or associated systems and facilities) may, at its election, establish time periods during which such gates, gatehouses or guardhouses will remain open or manned, as applicable; provided, however, that Developer may require gates in the Development to remain in the fully-open position during regular marketing hours of the Development, or any Builder, until ninety-five percent (95%) of all homes that will ultimately be constructed in the Property have been sold to Owners other than Builders.

(c) Surface Water Management System. The CDD shall operate and maintain the Surface Water Management System in accordance with the permits issued by the Florida Department of Environmental Protection, the SWFWMD, and the ACOE and all regulations or conditions applicable thereto, except to the extent of each Lot Owner's maintenance obligations under Article VII. Maintenance of the Surface Water Management System(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the SWFWMD. Subject to the rights of the Developer, the County, the Association, and other governmental authorities, the CDD shall maintain the water quality in compliance with applicable law and consistent with industry standards, and control the growth and removal of exotic nuisance plants species, fungi, waterfowl and animals within the ponds, lakes, marshes and wetlands. The CDD shall also maintain those portions of the Property designated by applicable permits as conservation tracts, stormwater management tracts or similar designations, in accordance with all permit requirements, rules, and regulations promulgated by all local, state and federal authorities having jurisdiction over the Property. Any repair or reconstruction of the Surface Water Management System shall be as permitted, or if modified, as by prior written approval of the SWFWMD.

(d) Landscaped and Grassed Areas. Unless conveyed or dedicated to the County or the CDD (except pursuant to a separate agreement between the Association and the County or the CDD), the Association shall maintain, repair and replace all landscaping and grassed areas: (A) within all private rights-of-way within the Property and related utility easement areas leading to the Property; (B) at entranceways within the Property; (C) on or about lift station sites or other utility parcels within the Property; (D) in areas designated on a Plat or the Master Plan as landscaped buffer zones or landscaped areas; and (E) which have been designated as Common Maintenance Area by the Developer, except such portions of the aforesaid areas to be maintained by Lot Owners under the provisions of Article VII hereof. The foregoing maintenance, repair and replacement obligation shall include all sprinkler systems, pumps and other related improvements installed by Developer in such areas.

(e) Fences and Walls. The Association shall maintain any fences and walls designated as Common Maintenance Area by the Developer or the Association.

(f) Signage. The Association shall maintain any signage within Common Maintenance Area identifying the Development.

(g) Street Lights. Developer or the County may (without obligation) establish a municipal service taxing unit, municipal service benefit unit, or similar mechanism (sometimes referred to in this Declaration as "MSTU/MSBU"), to provide for construction, operation or maintenance of street lighting or any other service or benefit to or for the Property authorized under the terms of this Declaration or the MSTU/MSBU, or by the applicable governmental authority. In such event, the costs incurred by the MSTU/MSBU may be billed directly to the Owners or to the Association for subsequent assessment to the Owners and Lots. The Association may also lease streetlights or other facilities from a utility or other company, and include the cost thereof as part of the Regular Assessments or Service Area Assessments, as applicable.

(h) Insurance. The Association shall keep any insurable improvements located on the Common Area or Common Maintenance Area if the improvements are owned by the Association and/or if the Association has responsibility for repair or replacement of same, including fixtures and personal property of the Association, insured to the maximum insurable replacement value, as determined by the Board of Directors. The insurance shall provide coverage against loss or damage by fire or other hazards covered by a standard extended coverage endorsement and such other risks as from time to time are customarily covered with respect to improvements similar in construction, location and use, including vandalism and malicious

mischievous, and flood and water damage, if the Common Area are at any time located in a federally designated flood area and flood insurance is available under the National Flood Insurance Program. If the Association has Common Area or Common Maintenance Area, then the Association shall carry public liability insurance in amounts and with coverage as determined by the Board of Directors, but not less than \$1,000,000.00 for bodily injury and property damage for any single occurrence. To the extent from time to time available, the Association's insurance must provide for waiver of subrogation by the Association's insurer against any Owner because of unintentional acts or omissions. The Association may also carry such other types of insurance as the Board may deem appropriate, with such insureds, deductibles provisions and coverage types and amounts as shall be determined by the Board. Premiums for insurance carried by the Association shall be a Common Expense of the Association to be collected, and paid by the Lot Owners, in the manner prescribed by this Declaration. The Association may self-insure against any risk.

4        Services.

(a)        General. The Association may obtain and pay for the services of any Person (including the Developer or an affiliated entity of Developer) to manage its affairs to the extent it deems advisable and may contract for such other personnel as the Association determines are necessary, convenient, or desirable for the proper operation of the Common Area, the Common Maintenance Area, or the performance of the Association's responsibilities hereunder, whether such personnel are furnished or employed directly by the Association or by any Person with whom it contracts. The Association may obtain and pay for legal and accounting services necessary, convenient, or desirable in connection with the operation of the Property or the enforcement of the Governing Documents or the Association's Rules.

(b)        Connected Community. The Association has the right (without obligation) to enter into agreements or to assume agreements with the providers of intranet, Internet, television and radio telecommunications, and/or security services for the Lots, the Common Area and the Common Maintenance Area within the Property. The Association also has the right (without obligation) to lease or otherwise allow the occupancy of portions of the Common Area by such service providers for the installation of equipment and operation of such services with or without the payment of consideration. The cost of such services is deemed to be a Common Expense to be collected, and paid for by the Lot Owners, in the manner prescribed by this Declaration. Each Owner by acceptance of title to a Lot, subject to the terms of the Declaration, shall be deemed to have acknowledged the benefits to his or her Lot derived from any such agreement and to pay all charges thereunder applicable to his or her Lot; provided however, the Association shall not be responsible or liable for the performance or non-- performance of such service providers, but shall use reasonably diligent efforts to enforce adequate performance under such agreement for the benefit of the Owners. If a bulk service contract is entered into, then the provision of additional premium cable services to each Lot shall be determined by each individual Owner, and the cost of such additional premium cable services shall be borne directly by such individual Owner. If any cable television service contract entered into does not provide for bulk services, then the scope and cost for cable services to be provided to each Lot shall be determined by each individual Owner, and the cost thereof shall be borne directly by such individual Owner. Further, to the extent that any easements for the installation and maintenance of cable television facilities are required over any Lot to provide cable television service to the Residential Unit to be constructed on such Lot, then the Builder of such Lot shall grant to the cable television service provider with whom the Developer or the Association has entered into a written agreement any such easements as are reasonably required by such cable television provider.

(c)        Irrigation Water; Irrigation System. The Association will provide pressurized irrigation water to all or some of the Association's Common Area and/or Common Maintenance Area, to the CDD lands and to all or some Owners' Lots, through a distribution system owned, operated and maintained by the Association (the "Central Irrigation System"). All costs incurred by the Association associated with paying

for and/or providing irrigation water, facilities for irrigation and any and all operation and maintenance of irrigation facilities, including the Central Irrigation System, shall be paid by Lot Owners as an Assessment which may not be uniform for all Lots and vary by Lot size, and will be in addition to other Assessments. Prior to issuance of a certificate of occupancy for the Residential Unit on any Lot, the Builder constructing the Residential Unit on such Lot shall cause an automated underground irrigation system with automated timers to be installed on such Owner's Lot at Builder's sole cost and expense by a licensed irrigation contractor in accordance with the requirements and specifications set forth in the Aviary Residential Irrigation Performance Specifications (2018 Edition, or any later edition, herein the "Residential Irrigation Guidelines")(the "Lot Irrigation System"). The Lot Irrigation System must be connected to the Central Irrigation System. In order to ensure the efficient operation of the Central Irrigation System and the Lot Irrigation Systems, the timer settings for each individual Lot Irrigation System shall be set in accordance with a watering schedule as established by the Association or Irrigation Water Manager (as hereinafter defined), which schedule shall be adjusted from time to time. All Lot Owners shall abide by all rules, regulations and specifications of the Association by setting the timers of the Lot Irrigation System in accordance with the Association's guidelines and maintaining the same in a good and proper working order. Notwithstanding the foregoing, the Lot Irrigation System may be controlled by the Weathermatic Smartlink Water Management System or similar, which will be operated by the manager designated by the Association (the "Irrigation Water Manager") from time to time, all as described in the Residential Irrigation Guidelines. In such case, Owners will not have access, and are prohibited from accessing, the control timer for any purpose, other than for routine maintenance (for example, to test the irrigation system or perform maintenance).

The respective obligations for maintenance, repair and replacement of the Central Irrigation System and the Lot Irrigation System shall be as follows:

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

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

All components of the CDD property irrigation system up to the point of connection to the Central Irrigation System shall be regularly and properly maintained, repaired and replaced at the sole cost and expense of the CDD. The Developer and the Association, and their employees, subcontractors and agents shall have the right to enter upon any CDD property to (i) monitor and set CDD irrigation system timers; and (ii) inspect, maintain, repair and replace portions of the Central Irrigation system on such CDD property, and shall have the right to relocate such installations from time to time. The CDD shall do nothing to interfere with the operation of the Central Irrigation System, and, subject to the limits of liability set forth in Section 7628.28, Florida Statutes and other applicable law, and without waiving the same, shall be liable to the Association for any damage to the Central Irrigation System caused by the willful acts or negligence of the CDD or its contractors.

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

For questions or issues concerning irrigation, Owners shall contact the Irrigation Water Manager, at the phone number or address on file with the Association. The Association shall maintain in its offices a copy of the most recent Residential Irrigation Guidelines, and shall furnish a copy to Owners upon request, subject to reasonable copy and delivery charges. Each Owner, by acceptance of title to Owner's Lot, hereby releases Developer, the Association, the CDD, the Builders, and the Irrigation Water Manager, from any liability associated with the use of reclaimed water, groundwater and/or stormwater within the Development, including any claim of noxious odor, discoloration of the Residential Unit and improvements constructed on the Lot, or lawn and foliage health.

5. Rules. The Association has the right (without obligation) from time to time to adopt, alter, amend, rescind, and enforce reasonable Rules governing the use of the Property including, without limitation, the Lots, the Residential Units and the Common Area, so long as such Rules are consistent with the rights and duties established by the Governing Documents. The validity of the Association's Rules and their enforcement shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property as a residential community. The Rules shall be promulgated, and may be amended from time to time, by a majority vote of the Board of Directors. For so long as Developer owns any portion of the Property, no regulation, decision, amendment or other action that reasonably may have the effect of waiving, lessening, or otherwise interfering with the scope or enforcement of any Rules or restriction imposed on the Property by this Declaration will be valid without the prior written approval of the Developer. No Owner or other Person occupying any portion of the Property, or any invitee, shall violate the Association's Rules for the use of the Property and at all times shall do all things reasonably necessary to comply with the Rules. Wherever any provisions of this Article prohibit any activity, condition, or structure within the Property except as permitted by the Association's Rules, such restriction or prohibition is self-exccuting unless and until the Association issues Rules expressly permitting the same.

6. Access by Association. The Association has a right of entry on to all portions of the Property to the extent reasonably necessary to exercise any right granted or to discharge any duty imposed by the Governing Documents, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted, by the Governing Documents. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever circumstances permit, except in the event of an emergency and only then to the extent necessary to prevent personal injury or property damage. No Owner shall withhold consent arbitrarily to entry by the Association for the purpose of discharging any duty or right if such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. The Association's right of entry may be exercised by its agents, employees, contractors, and managers.

7. Maintenance Reserves. The Board may annually prepare a maintenance reserve budget which shall take into account the number and nature of replaceable assets, the useful life of each asset and the anticipated repair and replacement cost. If a maintenance reserve budget is established, the Board shall set the required maintenance reserve contribution, in an amount sufficient to permit meeting the projected



needs of the Association, as shown on the maintenance reserve budget, with respect both to amount and timing of Regular Assessments over the period of the budget. Any maintenance reserve contribution required shall be fixed by the Board and included within and distributed with the budget, as provided in Article VI, Section 3 of this Declaration. **The Developer has waived and does hereby waive all reserve accounts prior to the Turnover Date, after which time the Board may vote to establish reserves. Notwithstanding anything to the contrary herein, at no time shall Developer be obligated to pay reserves. Notice is hereby given: THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS. Developer shall have no liability for this election.**

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

**IF MAINTENANCE RESERVES ARE ESTABLISHED, DEVELOPER SHALL BE UNDER NO OBLIGATION TO FUND OR PAY THE MAINTENANCE RESERVE CONTRIBUTIONS. NOTHING IN THIS SECTION OR THIS DECLARATION SHALL REQUIRE THE ASSOCIATION TO COLLECT OR ASSESS FOR CAPITAL RESERVES. IF MAINTENANCE RESERVES ARE COLLECTED, NO REPRESENTATION IS MADE THAT THE AMOUNTS COLLECTED WILL BE SUFFICIENT FOR CAPITAL REPLACEMENTS OR REPAIRS.**

#### ARTICLE VI

#### COVENANTS FOR ASSESSMENTS

1. Creation of the Lien and Personal Obligation for the Assessments. Each Owner of a Lot by acceptance of title to such Lot, whether or not it shall be so expressed in any deed or other conveyance, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association any assessments and other charges established and levied pursuant to the terms of this Declaration, including, without limitation, the Regular Assessment, the Start- Up Assessment, the Working Capital Assessment, and any Service Area Assessment, as applicable. Assessments shall be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with interest thereon from the date due, at the highest lawful rate and costs of collection thereof, including reasonable attorneys' fees, shall be the personal obligation of the Owner of the Lot at the time the assessment was made notwithstanding that such Owner may no longer own the Lot. The personal obligation to pay all Assessments, including all past due Assessments and any penalties incurred, shall also pass to the successors in title of an Owner, and both shall be jointly and severally liable for all of the Assessments, including all past due Assessments and any penalties incurred. In addition, the assessments against Lots shall be secured

by a lien in favor of the Association as set forth herein which lien shall remain on the Lot and shall run with the land and title thereto, and such continuing lien shall pass to the successors in title of an Owner. No Owner of a Lot may waive, avoid or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or common services, or abandonment of his or her Lot.

2. Exempt Property. The following property shall be exempt from the assessments, charges and liens created herein: (a) Common Area; (b) lands owned by Developer which have not been annexed to the Property by this Declaration or any Supplemental Declaration; and (c) lands dedicated to the County, the CDD, or other governmental authority, any utility company or the public;

3. Developer Assessments.

(a) Notwithstanding any provision of this Declaration, the Articles or By-Laws to the contrary, prior to the Turnover Date, Developer shall not be obligated for nor subject to any Assessment for any Lot that it may own, nor shall it be responsible for any Special Assessment except those to which Developer shall consent in writing.

(b) In consideration of such exemption, Developer shall be responsible for paying any cash shortages which result from (1) the Association's Common Expenses for the Common Maintenance Area otherwise to be funded by Assessments (excluding any reserves or expenses associated with Special Assessments for compliance, services or improvements), exceeding (2) the amount received or receivable from Owners other than Developer for such Assessments levied against such Owners or their Lots (the "Deficiency"). Notwithstanding the foregoing, the Association shall employ a fiscal management program designed to minimize the amount of any such Deficiency, including, without limitation, the deferral of expenses, to the extent reasonably possible, and elimination and/or waiver of reserves. In addition, the Developer may loan to the Association such amounts as may be required by the Association to pay the Common Expenses not produced by Assessments actually received by the Association and the amount of the Deficiency paid by the Developer. Such loans are intended to assist the Association in managing cash and provide short term borrowing to offset uncollected Assessments. The amount so loaned by the Developer, together with interest at the rate then charged on delinquent assessments shall be repaid to the Developer as funds are available to the Association, but in no event later than the Turnover Date. Developer's rights under this Section shall not be construed as a guarantee of Assessments under Section 720.308(2), Florida Statutes.

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

4. Regular Assessments.

(a) General. The Regular Assessments levied by the Association shall be used to pay the Common Expenses of the Association. Regular Assessments may include amounts established for reserves (if any, and if specifically established by the Board and not otherwise waived). The Regular Assessment does not include the Service Area Assessment, if applicable. The Regular Assessment shall be used to fund

all general activities and expenses of the Association incurred in the administration of the powers and duties granted under the Governing Documents and pursuant to Law, including the maintenance of adequate maintenance reserve accounts. In addition, if the Association elects to provide Lot Maintenance Services, as provided for in Article XIII, then the monthly service charges and other costs and expenses of the Association for providing such Lot Maintenance Services shall be a Regular assessment, unless the Board determines to include such costs as a Service Area Assessment, which assessment shall commence upon the issuance of a certificate of occupancy by the County for the Lot.

(b) Amount. The Developer shall establish the initial Regular Assessment in effect upon the recording of this Declaration. At least sixty (60) days prior to the end of each fiscal year, commencing with the fiscal year beginning January 1 immediately following the recording date of this Declaration, the Board shall prepare a budget of the estimated Common Expenses of the Association for the following fiscal year after giving due consideration to the current maintenance, operational and other costs and future needs of the Association, which may include (without limitation), insurance, utilities, taxes, professional fees, repairs, reserves (if applicable), maintenance and other operating expenses, and capital improvement budget items approved by the Board. The Board shall establish the amount of the Regular Assessment for the following fiscal year to meet the projected financial needs of the Association as set forth in the budget for said fiscal year. The Board shall send a copy of the applicable budget, together with notice of the amount of the Regular Assessments to be levied pursuant to such budget, to each Lot Owner at least thirty (30) days before the fiscal year begins. The Board shall determine the date of commencement, the amount of the assessments, and any payment schedule for each fiscal year. Unless later changed by the Board of Directors, the Regular Assessments shall be paid in advance in four (4) equal quarterly installments. The Board of Directors' determination as to the amount of the Regular Assessment and manner of collection shall be dispositive. If the Board fails for any reason to determine a budget for any fiscal year, or if the increase in any Regular Assessment in excess of fifteen percent (15%) above the previous year is not approved as required above, then the budget and assessments most recently in effect shall continue in effect until a new budget is determined. The Board may revise the budget and adjust assessments subject to the same requirements set forth above for the initial adoption of each annual budget. The Board shall prepare or cause to be prepared a roster of the Owners and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member during normal business hours in accordance with Section 720.303, Florida Statutes.

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

(d) Commencement of Regular Assessment. The Regular Assessment begins to accrue as to all Lots within the Property, excluding any portion of the Property expressly exempted in this Article, when such Lot has, at the option of the Developer, either: a) been conveyed by Developer to a third party,

including Builder; or b) been conveyed by the Developer to a third party other than Builder or has been conveyed by Builder to a third party other than Developer. The first Regular Assessment against all Lots shall be prorated according to the number of months then remaining in the fiscal year. The first Regular Assessment against any parcel shall be prorated according to the number of months then remaining in the fiscal year.

5. Start-Up Assessment. At the closing of the sale of each Lot within the Property by a Builder to the first homebuyer of any Residential Unit, the homebuyer shall pay to the Association an initial contribution in the amount of \$250.00 (the "Start-Up Assessment"); provided, however, the Board may revise the Start-Up Assessment amount at any time to an amount not to exceed the then-current Regular Assessment and Service Area Assessment (as applicable). After the one time Start-Up Assessment has been paid as to a Lot in the Property, subsequent purchasers of such Lot shall not be required to pay the Start-Up Assessment. The Start-Up Assessment shall be in addition to, not in lieu of, the Regular Assessment, Working Capital Assessment, any Service Area Assessment, Special Assessment, or Specific Assessment, levied on the Residential Unit, and shall not be considered an advance payment of such assessments. The Developer shall have no obligation to fund or pay the Start-Up Assessment. Start-Up Assessments may be used by the Association to fund initial start-up expenses and all general activities and expenses of the Association incurred in the administration of the powers and duties granted under the Governing Documents and pursuant to Law expenses, including, without limitation, the ongoing operating expenses and other expenses incurred by the Association, whether incurred prior to or after Turnover; however, the Start-Up Assessment will not be used for reserves, if any.

6. Working Capital Assessment. At the closing of each resale of each Lot in the Property by an Owner, other than a Builder, the homebuyer shall pay to the Association a working capital contribution in an amount equal to three (3) months of the Regular Assessment then in effect (the "Working Capital Assessment"). The Working Capital Assessment shall be in addition to, not in lieu of, the Regular Assessment, Start-Up Assessment, any Service Area Assessment, Special Assessment, or Specific Assessment, levied on the Residential Unit, and shall not be considered an advance payment of such assessments. The Developer shall have no obligation to fund or pay the Working Capital Assessment. The Working Capital Assessment may be used by the Association to fund all general activities and expenses of the Association incurred in the administration of the powers and duties granted under the Governing Documents and pursuant to Law, including, without limitation, the maintenance of reserve accounts (if any), and ongoing operating expenses and other expenses incurred by the Association, whether incurred prior to or after Turnover.

7. Special Assessments. The Association may levy special assessments in accordance with this section, payable in one or more installments, for the purpose of defraying, in whole or in part, any expense that is not reasonably expected to be incurred on a regular basis, including the cost of any purchase of additional real property for the use and benefit of Owners, or construction, reconstruction, renewal, repair, or replacement of a capital improvement upon the Common Area or Common Maintenance Area, including property maintained by the Association for Lot Maintenance Services ("Special Assessments"). Any Special Assessments shall be in addition to, not in lieu of, the Regular Assessment, Start-Up Assessment, any Service Area Assessment, Working Capital Assessment, or Specific Assessment, levied on the Residential Unit, and shall not be considered an advance payment of assessments. Prior to Turnover, any Special Assessment shall require approval by the Developer, and at least a majority of the Members, other than Developer, present in person or by proxy, at a special meeting duly convened for such purpose, at which a quorum is present. After Turnover, any Special Assessment shall require approval by a majority of the votes of the Members, present in person or by proxy, at a duly convened special meeting of the Members, at which a quorum is present.

8. Left Intentionally Blank.

9. Service Area Assessments. In addition to the Regular Assessments, it shall be the duty of the Board annually to prepare a separate budget covering the estimated expenses to be incurred by the Association for each Service Area on whose behalf such expenses are expected to be incurred during the coming year at least sixty (60) days prior to the beginning of each fiscal year. The Board shall be entitled to set such budget only to the extent that this Declaration, a Service Area Supplement or written agreement specifically authorizes the Board to assess certain costs as a Service Area Assessment, or if the Owners of Lots in such Service Area authorize same by a majority of the votes of the Members who are Owners of Lots in such Service Area, present in person or by proxy, at a meeting of the Members who are Owners of Lots in such Service Area, at which a quorum is present. Such budget may include a start-up working capital assessment and/or a capital contribution establishing a reserve fund for repair and replacement of capital items within the Service Area, as appropriate. Except for any portion of the Property exempted from assessments pursuant to Section 3 above, expenses incurred for the benefit of a particular Service Area shall be allocated equally among all Lots within the Service Area(s) benefited thereby and shall be levied as a Service Area Assessment irrespective of the benefit as to any particular Lot. The Board shall cause a copy of such budget, and notice of the amount of the Service Area Assessment to be levied on each Lot for the coming year, to be delivered to each Owner of a Lot in the benefited Service Area(s) at least thirty (30) days prior to the beginning of each fiscal year. Such budget and assessment shall become effective upon adoption by the Board. In addition to Service Area Assessments based on the budget of expenses on behalf of a Service Area, the Board may levy Service Area Assessments to cover unanticipated or unbudgeted expenses benefiting the Service Area.

In the event the Board fails for any reason to determine the Service Area budget for any year, then and until such time as a Service Area budget shall have been determined as provided herein, the Service Area budget in effect for the immediately preceding year shall continue for the current year; provided, however, that upon the adoption of a new Service Area budget, the same shall be deemed retroactive to the beginning of the then current Service Area budget year and each affected Owner in the Service Area shall pay the increase, if any, in such Service Area Assessment from the beginning of the year at the time the next quarterly Service Area Assessment installment is due.

The Service Area Assessment begins to accrue as to each Lot on the later of (a) the date the Service Area Assessment is adopted by the Association, or (b) when such Lot has, at the option of the Developer, either: i) been conveyed by Developer to a third party, including Builder; or ii) been conveyed by the Developer to a third party other than Builder or has been conveyed by Builder to a third party other than Developer. Any Service Area Assessments shall be in addition to, not in lieu of, the Regular Assessment, Start-Up Assessment, Working Capital Assessment, Special Assessment, or Specific Assessment, levied on the Residential Unit, and shall not be considered an advance payment of assessments. Lot Maintenance Services applicable to a particular Service Area may be included in Service Area Assessments if no otherwise included as a Regular Assessment.

10. Property Taxes. The Association shall timely pay all real estate taxes, special assessments and other taxes, if any, levied on the Common Area, and shall assess each Lot Owner for his or her proportionate amount thereof (in the same proportion as Regular Assessments are assessed). At the Board's discretion, such assessment may be payable in a lump sum within thirty (30) days after notice or all or any portion thereof may be assessed as a part of the Regular Assessment described above. Each year the Board shall determine after receiving notice of the amount of taxes due, whether such assessment shall be levied, and its amount.

11. Specific Assessments. Any indebtedness of an Owner to the Association arising under any provision of the Governing Documents may be assessed by the Association against the Owner's Lot and enforced as an assessment (a "Specific Assessment"), including, without limitation, any indemnity obligation, or any obligation by contract express or implied, and any financial obligation arising because of any act or omission of the Owner or any occupant of such Owner's Lot, including costs and expenses incurred by the Association by reason of any Owner's failure to properly maintain the exterior of his or her Lot and Residential Unit as herein provided. Any Specific Assessments shall be in addition to, not in lieu of, the Regular Assessment, Start-Up Assessment, Working Capital Assessment, Special Assessment, or Service Area Assessments, levied on the Residential Unit, and shall not be considered an advance payment of assessments.

12. Uniformity of Assessments. The Regular Assessment and any Special Assessments assessed against all Lots within the Property shall be assessed uniformly in the amount determined in accordance with this Article VI, except as to any Lots during the period such Lots are exempt from assessments as provided in Section 3 of this Article VI. During the period of time that Developer is exempt from payment of assessments pursuant to Section 3 of this Article VI, Developer shall be obligated to fund such deficits only as they are actually incurred by the Association, and Developer shall be under no obligation to fund or pay any reserves. From and after Turnover, or prior to Turnover in the event that Developer elects not to be exempt from assessments pursuant to Section 3 of this Article VI (provided, in any event, Developer shall have no obligation to fund or pay the assessments described in Sections 5 and 6 of this Article VI), Developer and Builders shall pay the Regular Assessment amount attributable to any Lots then owned by Developer or Builders, as applicable. This provision is not and shall not be construed as a guaranty or representation as to the level of assessments imposed under the provisions of this Article.

13. Certificate of Payment. The Association or any management company engaged by the Association to handle the day-to-day operations of the Association, shall furnish to any interested Person a certificate signed by an officer of the Association, or representative of the management company, setting forth whether assessments against specific lands have been paid and, if not, its unpaid balance. To defray its costs, the Association may impose a reasonable, uniform charge for issuing such certificates. A properly executed certificate of the Association or the management company, as applicable, as to the status of assessments is binding on the Association as of the date of issuance.

14. Lien for Assessments. All sums assessed to any Lot, together with interest, late charges, and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a lien against such Lot which shall run with the land and which is hereby reserved for the benefit of the Association and which shall be enforceable through appropriate legal proceedings.

15. Remedies of the Association.

(a) Personal Obligation. Any assessment not paid within thirty (30) days after its due date shall be delinquent and shall bear interest from the due date, at the rate established from time to time by the Board of Directors, not to exceed the maximum lawful rate from time to time permitted under the laws of the State of Florida. The Board of Directors shall also have the right to impose a late fee against any Owner who is more than fifteen (15) days delinquent in the payment of any assessment, in an amount determined by the Board not to exceed the greater of (i) twenty five dollars (\$25.00), or (ii) five percent (5%) of the amount past due. The Association may bring an action at law against any Owner personally obligated to pay such assessment and/or may foreclose the lien against the Lot and any Residential Unit located thereon in accordance with subsection (c) below. No Owner may waive, avoid or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or common services, or abandonment of his or her Lot, or for any other reason except as determined by a court of competent jurisdiction. A suit to

recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the Association's lien, or its priority.

(b) Lien for Assessments. When any sums assessed to any Lot are delinquent, the Association may record a claim of lien against such Lot signed by an officer of the Association, in accordance with and subject to the provisions of Section 720.3085, Florida Statutes, or any successor provision. Each such assessment, together with interest, late charges, and all costs and expenses of collection, including reasonable attorneys' fees, also is the personal obligation of the Person who was the Owner of such Lot when the assessment fell due notwithstanding that such Owner may no longer own the Lot. Additionally, an Owner is jointly and severally liable with the previous Owner of a Lot for all unpaid Assessments and penalties that come due up to the time of transfer of title to the Lot. All Assessments, together with penalties, shall also be a charge on the land and a continuing lien upon the Lot with respect to which such Assessment is levied.

(c) Foreclosure. The Association's lien against Lots may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees, and any assessments against his or her property that become due during the period of foreclosure. All such costs and expenses and assessments are secured by the lien foreclosed. The Association has the right to bid at the legal sale to acquire the property foreclosed, or to acquire such property by deed or other proceeding or conveyance in lieu of foreclosure, and thereafter to hold, convey, lease, encumber, and otherwise deal with such property as an owner, but for purposes of resale only.

16. Homesteads. By acceptance of title to a Lot, the Owner of each Lot is deemed to acknowledge that the assessments established by this Article are for the direct benefit of any homestead thereon and that the Association's lien has priority over any such homestead.

17. Subordination of Lien. The lien for the assessments provided in this Article is subordinate to the lien of any institutional First Mortgage, unless the Association's lien was recorded prior to the recording of the Mortgage. Sale or transfer of any portion of the Property does not affect the assessment lien, except that the sale or transfer pursuant to an institutional First Mortgage foreclosure or any proceeding or conveyance in lieu thereof recorded prior to the Association's lien shall limit the amount of the unpaid Assessments that became due before the mortgagee's acquisition of title owing by the institutional First Mortgage holder to the lesser of (i) the Lot's unpaid Assessments and Special Assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (ii) one percent of the original mortgage debt on the Lot; provided that the requirements of Florida Statute 720.3085 or its successor statute are complied with. Any assessment extinguished by the foreclosure of a First Mortgage or conveyance in lieu thereof, shall be deemed to be an expense of the Association collectible from all Owners (including the foreclosing First Mortgagee) in accordance with the Association's normal assessment procedures. No such sale or transfer relieves such portion of the Property from liability for assessments thereafter becoming due, or from the Association's lien.

18. Community Development District. The CDD was established for the purposes of financing certain Common Area, community infrastructure, improvements and facilities, including but not limited to the Surface Water Management System, water and wastewater utilities, public roadways, hardscaping, landscaping, irrigation systems, lighting, and conservation areas. In connection with the establishment of the CDD, assessments, taxes and fees may be assessed against the Lots or Common Area, in addition to those created by this Declaration and levied by the Association. Each Owner shall pay to the

CDD, or its designated representative, any assessments, taxes and fees levied by the CDD. STATED DIFFERENTLY, THE AVIARY AT RUTLAND RANCH COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON ANY PROPERTY WITHIN THE DISTRICT. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. In addition to any other rights that the Developer may have pursuant to this Declaration, and notwithstanding anything to the contrary herein, Developer shall have the right to convey or grant easements or other rights in the Property (including but not limited to any Common Area) to the CDD and for the purposes of ingress, egress, installation, construction, acquisition, ownership, operation, maintenance, repair, and/or replacement of public improvements contemplated under Chapter 190, Florida Statutes, and the CDD shall retain all rights under Chapter 190, Florida Statutes with respect to property and/or improvements owned by the CDD. Further, the Association has the right to enter into easements or agreements with the CDD with respect to the maintenance of any portion of the Property, or improvements constructed thereon or thereunder, in which the CDD has an interest.

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

## ARTICLE VII

### OBLIGATIONS OF OWNERS

1. Maintenance. In addition to any other express maintenance obligation of the Owners under this Declaration, each Owner at such Owner's expense, shall maintain in good order and repair and in a safe, clean, attractive and sanitary condition in keeping with the high standards of maintenance throughout the Property, all portions of his or her Lot, and the improvements located thereon, or adjacent thereto, including street trees, banks of ponds, wetlands and marshes (as described herein) and the Property Boundary Buffer adjacent to such Owner's Lot boundary. Each Lot Owner shall routinely maintain any sodded or landscaped areas adjacent to his Lot from the platted Lot lines up the curb(s) or edge(s) of right-of-way pavement, conservation/preservation/wetland buffer areas, lakes/ponds and/or exterior Property boundaries, including sidewalks ("Adjacent Areas"), excluding fences, walls, signs or other structures designated as Common Area to the Property installed by the Developer or Association, which shall be the responsibility of the Association or CDD to maintain. The maintenance of such Adjacent Areas by each Owner shall at all times be subject to the rights and duties of Developer and the Association to regulate, manage, modify, improve and control said Adjacent Areas as set forth in this Declaration, including the right to take over the foregoing maintenance responsibilities and discontinue Owner maintenance for all or a portion of the Adjacent Areas at any time. In no event shall Developer or Association be responsible, in any manner or form, for the natural growth of trees and other landscaping over time, or for any impact that such growth may impart on sidewalks, utilities, foundations or other improvements constructed on the Lots. Each Owner shall maintain such Lot and improvements and the foregoing Adjacent Areas at his sole expense in good condition and repair and in an attractive condition in keeping with the high standards of maintenance throughout the Property. Landscape maintenance shall include regular lawn mowing, fertilizing (unless prohibited by SWFWMD, the Association's Rules, or applicable law as to any Lot abutting a pond, lake, marsh or wetland), pest control, pruning, irrigation, edging, maintenance and replacement of street trees, and repair



and replacement of sidewalks abutting such Owner's Lot. Owners are strictly prohibited from disposing of grass or other lawn clippings in any pond, lake, marsh or wetland. Each Owner of a Lot abutting a pond, lake, marsh or wetland, shall have the following obligations with respect to the shoreline of the pond, lake, marsh or wetland, from the rear boundary of such Owner's Lot to the water line of such pond, lake, marsh or wetland: (i) to clean and keep such area free of litter and debris, and (ii) to maintain, irrigate, mow, weed and conduct such other routine maintenance of the lawn, landscaping and landscape materials, in accordance with the SWFWMD ERP, the Association's Rules or the Design Review Guidelines, as applicable, from time to time. If all or a portion the area between the rear of an Owner's Lot and the water line of any pond, lake, marsh or wetland is required to be maintained in its natural condition with native plant material, then such Owner shall not plant any non-native landscaping or landscape materials in such area or remove or alter any native plant material from such area, unless permitted by the Design Review Committee, the SWFWMD ERP, and any applicable County requirements and criteria. All cleaning and maintenance by Owners required by this section shall be conducted in accordance with and subject to the requirements and limitations set forth in the Design Review Guidelines, the Association's Rules, the SWFWMD ERP, and any applicable County requirements and criteria. Maintenance by Owner shall include, but not necessarily be limited to, all maintenance, painting, repair, replacement and care of the structures, fixtures, equipment, appliances, roofs, gutters, downspouts, exterior building surfaces, screening and caging, shutters or other decorative and functional attachments to the exterior of the improvements, walks and other exterior improvements, street trees, exterior lawn, landscaping and Lot Irrigation System. The Association may establish various rules, regulations, standards and specifications, from time to time, regarding maintenance of Lots by Lot Owners, and all Lot Owners shall comply with same.

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

In the event of damage or destruction by fire or other casualty to the improvements on any portion of the Property, unless the improvements are completely destroyed, the Owner shall repair or rebuild such damaged or destroyed improvements in a good and workmanlike manner, within a reasonable time not to exceed one year with the repair or reconstruction commencing within one hundred and fifty (150) days of the casualty, and subject to approval by the Design Review Committee. In all cases, all debris must be removed and the parcel restored to an orderly condition as soon as possible, but not to exceed sixty (60) days after such damage or destruction. Notwithstanding damage to or destruction of improvements to a Lot, the Owner of such Lot shall remain liable for all Assessments in connection with such Lot, even though such Lot may not be fit for occupancy or habitation and even though such improvements are not reconstructed. If the Owner elects not to rebuild the improvements, then the Owner shall remove all portion of the improvements remaining excluding underground utilities, supply fill dirt and install sod on the Lot so that the Lot gives the appearance of a landscaped open space. All time periods set forth in paragraph may be extended by the Board for good cause upon written application of the Owner.

3. Right of Association to Maintain. If an Owner has failed to maintain or repair the Owner's Lot or the improvements thereon as required by this Declaration, then after notice as herein provided the

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

(a) In the case of an emergency, as determined by the Board, or when the Specific Assessment to the Owner is \$500.00 or less (including, but not limited to, routine mowing and maintenance), the Board or Property Manager of the Association may, but shall not be required to, authorize, approve and cause the repair or maintenance to be performed.

(b) in all other cases:

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

(ii) If the Owner does not correct such deficiency within fourteen (14) days of receipt of such notice, then thereafter the Board may give notice of the Board's intention that the Association shall perform such maintenance or repairs.

(iii) Thereafter the Association may effect such maintenance and repair.

(iv) All such maintenance and repair by the Association, other than emergency repairs, shall take place only during daylight hours on weekdays, excluding holidays.

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

## ARTICLE VIII

### ARCHITECTURAL CONTROL

#### 1. Architectural Approval.

(a) General. The Developer has reserved to itself and the Association, as provided in this Article, full authority to regulate the appearance of the exterior of the Lots and the Residential Units and all other structures and improvements constructed or installed in the Property to: (i) assure harmony of external design and location in relation to surrounding buildings and topography; (ii) protect and conserve the value and desirability of the Property as a residential community; (iii) maintain, to the extent reasonably practical, the exterior appearance of the improvements and landscaping located on the Property in substantially the same appearance and condition as existed at the completion of construction of the approved Residential Units, subject to normal wear and tear that cannot be avoided by normal maintenance; and (iv) maintain

compatibility of external appearance among the improvements located on the Property. Except for all construction relating to the Work and items installed by Developer as part of the Work, the Developer's prior approval is required for any and all construction of any improvements of any nature whatsoever within the Property. The power to regulate includes the power to prohibit and require the removal (when constructed or modified without approval), of those exterior appearances, uses or activities inconsistent with the provisions of this Declaration, or contrary to the best interests of other Owners in maintaining the value and desirability of the Property as a residential community. The Developer, and following assignment to the Association pursuant to subsection (b) below, the Association may adopt, rescind, and amend the Design Review Guidelines in connection with this subsection (a), provided that such rules and regulations are consistent with the provisions of this Declaration.

(b) Assignment to Association. The Developer hereby reserves the right of architectural approval of all initial Residential Units and related improvements on the Lots until the first to occur of: (i) completion of the initial Residential Unit on the last vacant Lot in the Property; or (ii) the effective date of an assignment of the architectural approval rights herein reserved from Developer to the Association. The Developer may assign, and the Association shall accept, all or some of the architectural approval rights herein reserved, as and when determined by Developer. The Developer shall not be required to assign such rights in advance of the time set forth in this subsection, notwithstanding Turnover.

(c) Design Review Committee. Notwithstanding anything in this Declaration to the contrary, the Developer shall have the exclusive right to review and approve or disapprove the initial improvements to be constructed on each Lot within the Property. The Developer, or the Association following assignment to the Association pursuant to subsection (b) above, shall appoint a standing committee identified as the Design Review Committee, composed of three (3) or more persons who need not be Owners to review and approve or deny any alterations, additions, renovations or reconstruction of any improvements on a Lot previously approved by the Developer. The Design Review Committee shall act by simple majority vote. The Design Review Committee does not have the authority to approve matters contrary to the provisions of this Declaration, the Design Review Guidelines, or to approve matters disapproved by the Developer. Refusal to approve any new improvements or any alterations, additions or other modifications may be based on any grounds, including purely aesthetic ones, which in the sole discretion of the Design Review Committee are deemed sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of landscaping, shall be deemed an alteration requiring approval; provided, however, that temporary lights, flags and other decorations, customary for holidays, shall not require approval hereunder (but may be regulated as to quantity, nature, hours of operation, and how long they may remain in place pursuant to the Rules or the Design Review Guidelines). Because each situation is unique, in approving or disapproving requests submitted to it hereunder the Developer or the Design Review Committee may vary its standards among the various portions of the Property to reflect differing characteristics. Accordingly, approval or disapproval of a request pertaining to one Lot shall not serve as precedent for a similar request from an Owner of another Lot where there are relevant characteristics distinguishing one from the other. Notwithstanding anything to the contrary herein, in the event the Association is responsible for exterior maintenance of any dwelling unit, such as but not limited to, painting or roof maintenance or other Lot Maintenance Services, then the Developer, the Association or the Design Review Committee may, in its sole and absolute discretion, prohibit any exterior attachment, modification, restoration, reconstruction, expansion or other improvement of any kind whatsoever.

(d) Miscellaneous. The Developer, or the Association (following assignment to the Association pursuant to subsection (b) above), may establish fees to defray the costs associated with the architectural review process. No member of the Design Review Committee shall be entitled to compensation for services performed, except any professional advisor may be paid a reasonable fee approved by the Developer or the

Board of Directors of the Association, plus any actual expenses incurred in the performance of their duties. All fees and an estimation of expenses shall be paid by the applicant for approval at the time the application is submitted as hereinafter provided.

2. Applications. All applications for architectural approval must be accompanied by detailed and complete plans and specifications, including a site plan showing existing trees, exterior elevations of structures, landscaping plan, floor plan, and samples of exterior finishes and colors, all of which shall be in such detail and shall contain such items as the Developer, the Association or the Design Review Committee, as applicable, shall reasonably require, and in accordance with the Design Review Guidelines. The Developer, the Association or the Design Review Committee, as applicable, shall respond to the applicant within thirty (30) days after receipt of the application either approving, disapproving for specific reasons, or requesting additional information. All approvals must be in writing. If, within thirty (30) days of receipt of any application for architectural approval, the Developer, the Association, or the Design Review Committee, as applicable, has not responded in writing to the applicant, then the subject application shall be deemed disapproved.

3. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from the Developer or the Association or the Design Review Committee, neither the Developer, nor the Association, the Board of Directors, the Professional Advisor or members of the Design Review Committee, shall be liable to an Owner or to any other Person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other Person arising out of or in any way related to the subject matter of any such reviews, inspections, consents or required approvals, whether granted or denied. Architectural approvals shall not be deemed to be a representation or opinion as to compliance with applicable zoning and building code requirements, or that the proposed improvements have been properly designed or constructed or that they are fit for their intended purpose.

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

## ARTICLE IX

### AMENDMENTS

1. By Developer. Prior to Turnover, Developer shall have the right to unilaterally amend this Declaration for any purpose, except as prohibited by applicable Law. Any amendment made by Developer pursuant to this section shall not require the joinder or consent of any Owner, the Association, the holder of any Mortgage, lien or other encumbrance affecting the Property, or any other Person.

2. By Association. After Turnover, this Declaration may be amended by the Association, from time to time, with the approval of at least two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly convened for such purpose, at which a quorum is present, and with the prior written consent of Developer for so long as Developer is a Member.

3. Relating to Builders. Notwithstanding anything to the contrary in this Declaration, the Association may not remove, revoke, modify or amend any right, privilege or approval expressly afforded to a Builder pursuant to the terms of this Declaration, or otherwise granted by Developer to any Builder,

without such Builder's prior written consent, so long as such Builder owns any Lot in the Property, which consent may be withheld by Builder, in its discretion.

4. Validity of Amendments. No amendment may remove, revoke, or modify any right or privilege of the Developer without the written consent of the Developer (or the assignee of any right or privilege of Developer affected by such amendment). If an Owner consents to any amendment to this Declaration, the Articles or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any amendment to this Declaration will become effective upon recording unless a later effective date is specified in the amendment. A copy of any amendment to this Declaration shall be provided to the Owners within thirty (30) days after recording. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

5. Mortgagee Consent. Except to the extent specifically required by Section 720.306(1)(d)l, Florida Statutes, amendments to this Declaration shall not require the consent of any Mortgagee, and all amendments shall be valid against all Mortgagees regardless of their consent. Any Mortgagee that receives written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Board does not receive a written response from the Mortgagee within sixty (60) days of the date of the Board's request, provided such request is delivered to the Mortgagee in a manner permitted under Section 720.306(4), Florida Statutes.

## ARTICLE X

### COMPLIANCE AND ENFORCEMENT

1. Compliance. Every Owner, occupant, and visitor to a Lot shall comply with the Governing Documents and the Rules, and shall be subject to sanctions for violations as described in this Article. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents or Rules, whether by such Owner or the occupants or visitors to such Owner's Lot, and for any damage to the Common Area or Common Maintenance Area that such Owner, its occupants or visitors may cause.

2. Enforcement; Remedies for Non-Compliance. The Developer, the Association, and any affected Owner shall have the right to enforce the Governing Documents and the Rules, including all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such provisions and the right to recover damages for such violations, by any appropriate proceeding at law or in equity. In addition, the Board may impose sanctions for violation of the Governing Documents or Rules, including, without limitation, those listed below and any others described elsewhere in the Governing Documents, the Rules, or applicable Law. Notwithstanding anything to the contrary herein, this Declaration, no enforcement proceedings may be maintained by the Owners of fewer than fifteen (15) Lots, and further provided, no enforcement proceedings by Lot Owners may be brought, exclusive of a proceeding by the Association, unless and until the provisions of this Article have been fully satisfied as a condition precedent to the bringing of the enforcement proceeding.

In the event Lot Owners seek to bring enforcement proceedings at law or in equity regarding the Declaration, restrictions, conditions, covenants, reservations, rules, regulations, specifications, guidelines, standards, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such provisions and the right to

recover damages for such violations (except for enforcement of Assessments per this Section), then as a condition precedent to the filing of such suit or proceeding at law or in equity, and in addition to any pre-suit mediation requirements as provided in Chapter 720, Florida Statutes, the Lot Owners shall refer the matter to the Association's Board for a final determination before filing a suit or claim at law or in equity; at which time, all other provisions of this Declaration regarding pre-suit conditions, notices and mandatory demand notices for mediation, including but not limited to all Attorney Statement Letters, must be fully complied with and met.

(a) Sanctions Requiring Prior Notice and Hearing. After written notice and an opportunity for a hearing:

(i) impose reasonable monetary fines, not to exceed \$100.00 for a single violation or \$100.00 per day without a limitation on the aggregate amount due in the case of a continuing violation; provided, in the case of a continuing violation, only a single notice and opportunity for hearing is required. The Board may adopt a schedule of fines establishing a range of fines for particular types of violations, which range may vary depending on the nature of the violation. There is no limit on the aggregate amount of any fine for a continuing violation;

(ii) suspend the right of any Owner and occupants of a Lot to use any Common Area (other than as required to provide vehicular and pedestrian access and utilities to the Lot which they own or occupy) for a reasonable period of time;

(iii) suspend services the Association provides to the Lot if the Owner is more than ninety (90) days delinquent in paying any assessment or other charge owed the Association, which suspension may continue until such assessments or other charges have been paid in full; provided, nothing herein shall authorize the Board to suspend essential utilities (i.e., electricity, natural gas, or water);

(iv) exercise self-help or take action to abate any violation of the Governing Documents or Rules in a non-emergency situation (including removing personal property that violates the Governing Documents or Rules), except as to Common Area as to which Section 2(b)(ii) below shall control;

(v) without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who causes damage to any property within the Property owned by others, or fails to comply with the terms and provisions of Article VIII and the Design Review Guidelines, from continuing or performing any further activities in the Property;

(vi) levy Specific Assessments to cover costs the Association incurs in bringing a Lot into compliance with the requirements of the Governing Documents or Rules, or in repairing damage to any portion of the Common Area or Common Maintenance Area resulting from actions of any Owner or occupant of a Lot, their contractors, subcontractors, agents, employees, visitors or invitees; and

(vii) record a notice of violation with respect to any Lot on which a violation exists.

If, after notice and an opportunity for a hearing, the violation continues or recurs within twelve (12) months after the date of such notice, the Board may impose any of the above sanctions without further notice or opportunity for another hearing.

(b) Other Sanctions. The Board may take the following actions to obtain compliance with the Governing Documents or Rules without prior notice or a hearing, provided they are approved at a properly noticed Board meeting and, upon approval, the Owner (and occupant, if applicable) is notified by mail or hand delivery:

(i) suspend the vote allocated to any Lot if the Owner is more than ninety (90) days delinquent in paying any monetary obligation to the Association pursuant to Article VI, which suspension may continue until all of such Owner's monetary obligations to the Association are paid in full;

(ii) suspend the right of any Owners and occupants of a Lot to use any Common Area (other than as required to provide vehicular and pedestrian access and utilities to the Lot which they own or occupy) if the Owner is more than ninety (90) days delinquent in paying any monetary obligation to the Association, which suspension may continue until all of such Owner's monetary obligations to the Association are paid in full;

(iii) exercise self-help or take action to abate a violation on a Lot in any situation that requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(iv) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(v) require an Owner, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Lot that is in violation of any requirements of the Governing Documents or Rules and to restore the property to its previous condition;

(vi) enter the property and exercise self-help to remove or cure a violating condition if an Owner fails to take action pursuant to subsection 2(b)(v) above within ten (10) days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or any violation, or both.

(vii) bring suit at law for monetary damages or in equity to stop or prevent

3. The Developer's Right to Impose Sanctions. In the event that the Association fails or refuses to take action or impose sanctions under this Article after notice from the Developer of a violation of the Governing Documents or Rules, the Developer shall have the right to levy monetary fines on behalf of the Association after notice and hearing (if required) in the same manner as the Association under Section 2 above. In addition, the Developer may exercise self-help or take action to abate a violation or bring suit at law or in equity in the same manner as the Association under this Section 3.

4. Attorneys' Fees. In any action to enforce the Governing Documents or any Rules against any Owner, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees and court costs, reasonably incurred in such action. Notwithstanding the foregoing, in no event may such costs and expenses be recovered against the Association or Developer, unless otherwise required by Law. If the Association (or Developer, on behalf of the Association) is the prevailing party against any Owner, such costs and expenses, including reasonable attorneys' fees, may be assessed against the Owner's Lot, as provided in Article VI.

5. No Waiver. Failure by the Developer, the Association or any Owner to enforce any covenant, condition or restriction contained herein, in the other Governing Documents or in the Rules, or any delay in such enforcement, will not constitute a waiver of the right to do so at any time, nor shall such failure to enforce or delay in enforcement create any liability for the Developer or the Association to any Owner or any other Person.

6. Enforcement by SWFWMD or ACOE. Notwithstanding any other provisions contained elsewhere in this Declaration, SWFWMD and the ACOE shall have the rights and powers enumerated in this section. SWFWMD and the ACOE shall have the right to enforce, by a proceeding at law

or in equity (including, without limitation, bringing a civil action for injunction and/or penalties), the provisions contained in this Declaration which relate to the maintenance, operation, and repair of the Surface Water Management System and/or jurisdictional lands subject to the regulation of SWFWMD and/or the ACOE. Any repair or reconstruction of the Surface Water Management System shall be as permitted, or if modified, as approved by SWFWMD and/or the ACOE, as applicable.

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

Notwithstanding anything herein contained to the contrary, the Association shall be required, at a duly called meeting of the Members at which a quorum is present, to obtain the approval of the Owners of eighty percent (80%) of all of the Lots prior to the payment of legal or other fees or costs to persons or entities engaged by the Association for the purpose of suing or making, preparing or investigating any lawsuit or mediation or arbitration as required, or commencing any lawsuit, mediation or arbitration, other than for the following purposes:

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

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

This Article shall not be amended unless such amendment is made by Developer or is approved by the percentage votes, and pursuant to the same procedures, necessary to commence or prosecute proceedings as provided above.

#### ARTICLE XI



## COMPLIANCE WITH CODE

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

1. Alternate Maintenance by County. In the event the Association fails to maintain the Common Area in reasonable order and condition in accordance with applicable governmental approvals, the provisions of the Code allow for the County, upon specified notice and hearing, to enter the Common Area for the purpose of maintaining same. The cost of such maintenance by the County shall be assessed pro-ratedly against the Lots and such charges are payable by the Owners within sixty (60) days after receipt of a statement therefore from the County, and if unpaid at the end of such period shall become a lien on the Lots.

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

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

4. Right of Entry by County. A right of entry upon the Common Area is hereby granted to County and other governmental law enforcement officers, health and pollution control personnel, emergency medical service personnel, and firefighting personnel, and to governmental suppliers of utilities, while in the pursuit of their duties. All such governmental personnel are further granted authority to enforce cleared emergency vehicle access in the performance of their duties to the extent same may be reasonably necessary.

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

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

(a) Fiscal Program. Attached, as Exhibit "P", is a Fiscal Program for the Association for a period of ten (10) years. The Fiscal Program reflects reserve funds estimated to be adequate for the maintenance and care of the Common Area, including all lands, facilities and uses under the purview of the Association and to be maintained by the Association. The Fiscal Program is in part based upon the assumption that the Association will follow the Maintenance Program described below.

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

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

(d) Holdings. There is attached hereto as Exhibit "E" a List of Holdings of the Association, reflecting a listing of all lands, buildings, equipment, facilities and other holdings of the Association, as proposed.

(e) Right of Entry. Attached as Exhibit "H" is the Right of Entry providing for rights and duties of Owners and the County.

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

8. Right of Entry of the Southwest Florida Water Management District. To the extent required by any SWFWMD permit, a right of entry is hereby granted to the Southwest Florida Water Management District, upon prior notice to Association to conduct on-site research to access pollution removal efficiency of the surface water management system. Such right shall also include the authority to install and operate testing and monitoring equipment and such other reasonable assistance measures as are needed on site.

9. Limitation on Amendment. Notwithstanding any other provision of this Declaration relating to amendments, neither this Article, nor any provision of this Declaration affecting this Article may be amended without the written consent of the planning director of the County.

## ARTICLE XII

### GENERAL PROVISIONS

1. Term and Renewal. The provisions of this Declaration shall run with and be binding on the Property, and all other lands to which it may hereafter be extended as provided herein, and shall be binding on all Persons having any right, title, or interest therein, their respective heirs, successors, and assigns and shall inure to the benefit of and be enforceable by the Developer, the Association or any Owner, their respective heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded, whereupon these provisions shall be extended automatically for successive renewal periods of ten ( 10) years each, unless Members representing at least two-thirds (2/3) of the total votes of the Association elect not to reimpose this Declaration as evidenced by an instrument executed by such Owners and recorded in the Public Records during the six (6) month- period immediately preceding the beginning of any renewal period.

2. Interpretation. Unless the context expressly requires otherwise, the use of the singular includes the plural and vice versa; the use of one gender includes all genders; the use of the terms "including" or "include" is without limitation; and the use of the terms "will", "must", and "should" have the same effect as the use of the term "shall". Wherever any time period is measured in days, if any such time period expires on a Saturday, Sunday, or national bank holiday, it shall be extended to the next succeeding calendar day that is not a Saturday, Sunday, or national bank holiday. The terms "Lot" and "Property" mean all or any portion applicable to the context and include any and all improvements, fixtures, trees, vegetation and other property from time to time situated thereon, and the benefit of all appurtenant easements. This Declaration shall be construed liberally in favor of the party seeking to enforce its provisions to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development and enjoyment thereof. Headings and other textual divisions are for indexing purposes only and are not to be used to interpret, construe, apply or enforce any substantive provisions. The provisions of this section apply to the interpretation, construction, application, and enforcement of all the Governing Documents.

3. Reservation of Right to Release Restrictions. Subject to applicable zoning requirements, in each instance where a structure has been erected, or the construction thereof is substantially advanced, in such a manner that some portion of the structure encroaches upon any set-back or easement area or the Common Area, or otherwise violates this Declaration, Developer reserves for itself the right to release the portion of the Property from the encroachment and to grant an exception to the requirements of this Declaration without the consent or joinder of any Person irrespective of who owns the affected lands, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots and the overall appearance of the Property. Upon granting of an exception to an Owner, the exception granted shall be binding upon all subsequent Owners of the affected Lots.

4. Rights of First Mortgagees. Any First Mortgagee and insurers or guarantors of First Mortgages have the following rights:

(a) Inspection. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect current copies of the Governing Documents and Regulations and the books, records, and financial statements of the Association; and

(b) Financial Statements. Upon written request to the Secretary of the Association, to receive copies of the annual financial statements for the immediately preceding fiscal year of the Association, provided, however, the Association may make a reasonable, uniform charge to defray its cost incurred in providing such copies; and

(c) Meetings. To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon.

(d) Notices. By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable, uniform annual fee that the Association from time to time may establish for the purpose of defraying its costs, any First Mortgagee, insurer, or guarantor of a First Mortgage shall be entitled to receive any notice that is required to be given to the Class A members of this Association under any provision of the Governing Documents. Additionally, any such First Mortgagee, insurer, or guarantor of a First Mortgage giving written notice to the Association shall be entitled to written notice of: (i) any condemnation or casualty loss affecting a material portion of the Property or any Lot encumbered by its First Mortgage; (ii) any 60-day delinquency in the payment of assessments or charges owed by the Owner of any Lot encumbered by its First Mortgage; (iii) lapse, cancellation or material modification of any insurance

coverage or fidelity bond maintained by the Association; and (iv) any proposed action requiring the consent of a specified percentage of mortgage holders.

5. Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration shall be interpreted, or enforced to prevent Developer, or its contractors, subcontractors, agents, employees, successors or assigns from doing or performing on all or any part of the Property owned or controlled by Developer whatever it or they determine to be necessary, convenient, or desirable to complete the Work. The foregoing includes the right for Developer and any Person designated by Developer in writing to construct and use signs, construction trailers, or buildings, model units, design centers, and offices for sales and resales of Lots.

6. Security. Developer or the Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be.

NEITHER THE ASSOCIATION, NOR THE CDD, NOR DEVELOPER OR ANY BUILDER, SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY, HOWEVER, AND NEITHER THE ASSOCIATION, NOR THE CDD, NOR THE DEVELOPER OR ANY BUILDER, SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, THE CDD, DEVELOPER AND ANY BUILDER DO NOT REPRESENT OR WARRANT THAT (A) ANY FIRE PROTECTION SYSTEM, ELECTRONIC MONITORING SYSTEM, GATEHOUSE OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DEVELOPER OR THE DESIGN REVIEW COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED, (B) THAT ANY FIRE PROTECTION OR ELECTRONIC MONITORING SYSTEMS, GATEHOUSE OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, OR (C) THAT FIRE PROTECTION OR ELECTRONIC MONITORING SYSTEMS, GATEHOUSE OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, THE CDD, DEVELOPER AND ANY BUILDER ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO HOMES AND TO THE CONTENTS OF HOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, THE CDD, DEVELOPER AND ANY BUILDER, HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, 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 ELECTRONIC MONITORING SYSTEMS, GATEHOUSES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

7. Assignment. Developer may assign to any Person, including persons engaged in the business of constructing improvements on Lots for resale purposes, all or some of the rights, privileges and exemptions granted herein to Developer in connection with the ownership, use, or development of a portion of the Property. Any such assignment shall be non-exclusive unless otherwise noted, and shall be effective only for so long as such right, privilege or exemption would inure to the benefit of Developer.

8. Severability. Invalidation of any provision of the Governing Documents by judgment or court order will not affect any other provision, all of which will remain in full force and effect; provided, however, any court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in the Governing Documents when necessary to avoid a finding of invalidity while effectuating Developer's intent of providing a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Property.

9. Notices. Any notice required to be sent to any Owner, occupant or tenant of any Residential Unit, the Developer or the Association under the provisions of this Declaration shall be delivered by such means as required or permitted by the Bylaws, or applicable law.

10. Venue. Venue for any dispute shall lie solely and exclusively in Manatee County, Florida, or, as applicable, the federal district court in Tampa, Florida.

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

ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTIES ARE HEREBY NOTIFIED OF THE FOREGOING ACTIVITIES AND, BY ACCEPTANCE OF TITLE TO THEIR RESPECTIVE PORTIONS OF THE PROPERTY OR MAKING ANY USE THEREOF, AUTOMATICALLY ACKNOWLEDGE, STIPULATE AND AGREE (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE AREAS WHERE SUCH ACTIVITIES ARE BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DEVELOPER, THE CDD AND ANY OTHER PARTY CONDUCTING OR PARTICIPATING IN SUCH ACTIVITIES SHALL NOT BE LIABLE FOR ANY LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTIES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT

IS A MATERIAL INDUCEMENT TO DEVELOPER TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES.

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

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

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

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS, SNAKES, MICE AND OTHER WILDLIFE MAY HABITAT OR ENTER INTO WATER BODIES, COMMON AREAS, LOTS AND DWELLING UNITS WITHIN OR NEARBY THE PROPERTIES AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

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

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

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

AND ALL CLAIMS OR LOSSES ARISING DIRECTLY OR INDIRECTLY FROM THE INSTALLATION, MAINTENANCE AND OPERATION OF SUCH THIRD PARTY UTILITIES.

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

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

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

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

JUST AS THIS DEVELOPMENT WILL IMPACT THE SURROUNDING AREAS, THE EXISTING AND FUTURE DEVELOPMENT OF SURROUNDING AREAS WILL IMPACT THE PROPERTY AND YOUR USE AND ENJOYMENT OF YOUR PROPERTY. AS SURROUNDING AREAS ARE DEVELOPED, PEOPLE LIVING IN THIS PROPERTY MAY BE IMPACTED BY NEW OR EXPANDED ROADWAYS, EXISTING AND INCREASED POPULATION AND TRAFFIC, INCLUDING THE POSSIBILITY THAT RESIDENTS AND THEIR CHILDREN IN THE SURROUNDING DEVELOPMENTS MAY ENTER AND USE PUBLIC INFRASTRUCTURE IN



THE PROPERTY, AND ADDITIONAL NOISE AND OTHER EFFECTS OF LAND AND ROADWAY DEVELOPMENT. DEVELOPER MAKES NO REPRESENTATIONS TO OWNER AS TO THE NATURE OF CURRENT AND FUTURE ROADWAYS IMPROVEMENTS, INCLUDING COUNTY THOROUGHFARE PLANS. ROADS IN AND ADJACENT TO THE PROPERTY MAY BE EXPANDED, WIDENED AND FURTHER DEVELOPED AND DEVELOPER MAKES NO REPRESENTATION TO OWNER AS TO HOW FUTURE ROADWAY PLAN MAY AFFECT THE PROPERTY AND THE OWNER'S USE OF HIS LOT.

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

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

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

INCLUDING BUT NOT LIMITED TO, ANY AND ALL PRODUCTS AND MATERIALS USED IN, ON OR IN CONNECTION WITH THE PROPERTY IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, MATERIALS ASSOCIATED WITH THE ROADWAYS, INCLUDING ASPHALT. DEVELOPER AND THE CDD SPECIFICALLY DISCLAIM ANY AND ALL NEGLIGENCE ASSOCIATED WITH THE PROPERTY IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, THINNING, WEARING OR OTHER DESTRUCTION TO ASPHALT OR CONCRETE ON THE ROADWAYS RESULTING IN WEAR AND TEAR, THINNING, HOLES, SUBSURFACE FAILURES, CRACKS AND THE LIKE; IMPROPER DRAINAGE OR RETENTION FAILURES ASSOCIATED WITH THE STORMWATER SYSTEM, LAKES, PONDS, DRAINS AND SWALES; AND ANY DEFECTS ASSOCIATED WITH FAILURES OF THE WATER AND SEWER SYSTEM. ALL LOT OWNERS AND THE ASSOCIATION, TO THE EXTENT PERMITTED BY LAW, SHALL RECEIVE THIS PROJECT AND THE PROPERTY IMPROVEMENTS THEREIN "AS IS" AND "WHERE IS" AND PRIOR TO PURCHASING ANY LOT IN THE SUBDIVISION SHOULD CONDUCT WHATEVER INSPECTION OR INQUIRY AS MAY BE CONSIDERED NECESSARY TO BE CERTAIN OF THE QUALITY AND CONDITION OF THE PROPERTY IMPROVEMENTS. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE FACE OF THIS DOCUMENT. THIS ABSOLUTE DISCLAIMER OF WARRANTY OF ALL PROPERTY IMPROVEMENTS IS OF THE ESSENCE OF THIS AGREEMENT AND BY PURCHASING A LOT HEREIN SUBJECT TO THE RESTRICTIONS, RESERVATIONS AND COVENANTS SET FORTH HEREIN THIS AGREEMENT, ALL LOT OWNERS (AND MORTGAGEES), AS WELL AS THE ASSOCIATION, AGREE, ACCEPT AND ACKNOWLEDGE THAT DEVELOPER AND THE CDD HAVE HEREBY DISCLAIMED ANY AND ALL LIABILITY ASSOCIATED WITH THE PROPERTY IMPROVEMENTS.

#### ARTICLE XIII

##### LOT MAINTENANCE SERVICES

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

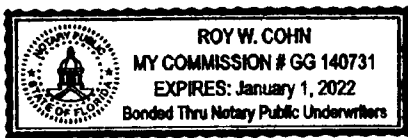
IN WITNESS WHEREOF, Developer has executed this Declaration the date first stated above.

By: John Falkner  
John Falkner, President

STATE OF FLORIDA

COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of February, 2019 by John Falkner, as President of Aviary Development Group, Inc., a Florida Corporation. He is personally known to me.



Roy W. Cohn  
Notary Public State of Florida

**JOINDER BY AVIARY AT RUTLAND RANCH HOMEOWNERS ASSOCIATION, INC.**

The Aviary at Rutland Ranch Homeowners Association, Inc., a Florida not for profit corporation, hereby joins in and consents to this Declaration of Covenants, Conditions and Restrictions for the Aviary at Rutland Ranch for the purpose of accepting all terms, covenants, conditions, restrictions, reservations, and easements therein, as well as accepting all rights, obligations, and responsibilities of the Association as set forth therein said Declaration of Covenants, Conditions and Restrictions for the Aviary at Rutland Ranch, including specifically the acceptance of all operation and maintenance responsibilities associated with all Common Area.

**IN WITNESS WHEREOF**, the undersigned party has executed this Joinder on the 22 day of February, 2019.

Witnesses

Ana M Houston

Ana M Houston

Print Name

**THE AVIARY AT RUTLAND RANCH  
HOMEOWNERS ASSOCIATION, INC.**

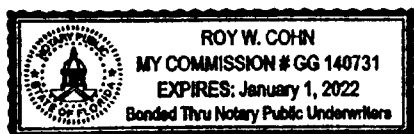
By: Stephen J. Cerven  
Stephen J. Cerven, President

Alexandra G. Puxon

Print Name

State of Florida  
County of Manatee

The forgoing instrument was acknowledged before me this 22 day of February, 2019, by Stephen J. Cerven, as President of and on behalf of Aviary at Rutland Ranch Homeowners Association, Inc., who is personally known to me.

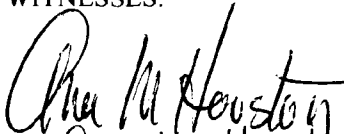


Roy W. Cohn  
Notary Public

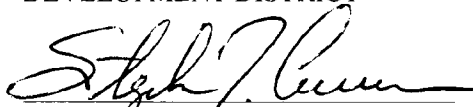
**CDD Joinder**

THE AVIARY AT RUTLAND RANCH COMMUNITY DEVELOPMENT DISTRICT ("CDD") does hereby join the foregoing "DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE AVIARY AT RUTLAND RANCH" ("Declaration") for the limited purpose of acknowledging the CDD's rights and responsibilities with respect to the maintenance of public infrastructure owned by the CDD, as more fully described therein, and without waiving any of the CDD's rights or authority under Chapter 190 of the Florida Statutes, or other applicable law, including but not limited to the power of eminent domain. The CDD shall be a third-party beneficiary of the Declarations with the right to enforce the same.

WITNESSES:

  
By: Ana M Houston

AVIARY AT RUTLAND RANCH COMMUNITY  
DEVELOPMENT DISTRICT

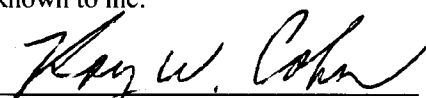
  
By: Stephen J. Cerven  
Its: Chairman of the Board of Supervisors

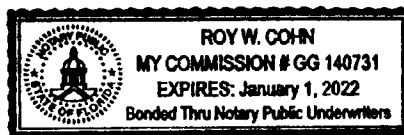
  
By: Rosa Oralle

STATE OF FLORIDA

COUNTY OF MANATEE

The foregoing instrument was sworn to, subscribed and acknowledged before me this 22<sup>nd</sup> day of February, 2019 by Stephen J. Cerven as Chairman of the Board of Supervisors of AVIARY AT RUTLAND RANCH COMMUNITY DEVELOPMENT DISTRICT. He is personally known to me.

  
Notary Public State of Florida



**EXHIBITS**

<b>Exhibit "A"</b>	<b>Legal Description</b>
<b>Exhibit "B"</b>	<b>Articles of Incorporation for Association</b>
<b>Exhibit "C"</b>	<b>By-laws for Association</b>
<b>Exhibit "D"</b>	<b>Potential Lands to be Annexed</b>
<b>Exhibit "E"</b>	<b>List of Holdings</b>
<b>Exhibit "F"</b>	<b>Notice to Buyers</b>
<b>Exhibit "G"</b>	<b>Maintenance Program</b>
<b>Exhibit "H"</b>	<b>Right of Entry</b>
<b>Exhibit "I"</b>	<b>Fiscal Program</b>

**Exhibit "A"**

**AVIARY AT RUTLAND RANCH PHASE 1A & 1B LEGAL DESCRIPTION**

**Page 1 of 2**

**Aviary at Rutland Ranch Phase 1A & 1B**

**Legal Description by: ZNS Engineering**

A PARCEL OF LAND IN SECTION 35, TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 35; THENCE ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 S00°02'27"W, A DISTANCE OF 51.29 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 675 (RUTLAND ROAD); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE S44°35'45"E, A DISTANCE OF 116.57 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 34,327.47 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE AND SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 00°04'21", A DISTANCE OF 43.43 FEET (CHORD = 43.43 FEET; CHORD BEARING = S44°38'02"E) FOR A POINT OF BEGINNING; THENCE CONTINUE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 1°10'39", A DISTANCE OF 705.42 FEET (CHORD = 705.41 FEET, CHORD BEARING = S45°15'32"E) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S45°50'52"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 252.53 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE, GO N36°52'07"E, A DISTANCE OF 563.88 FEET; THENCE N25°24'48"E, A DISTANCE OF 2980.08 FEET; THENCE N64°35'12"W, A DISTANCE OF 111.45 FEET; THENCE S46°03'49"W, A DISTANCE OF 146.00 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 110.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 97°42'02", A DISTANCE OF 187.57 FEET (CHORD = 165.66 FEET; CHORD BEARING = N85°05'10"W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N36°14'08"W, A DISTANCE 276.14 FEET; THENCE S53°45'52"W, A DISTANCE OF 68.91 FEET TO A POINT ON A CURVE, CONCAVE TO THE EAST, HAVING A RADIUS POINT THAT BEARS N84°25'46"E, A DISTANCE OF 400.00 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°33'57" A DISTANCE OF 38.86 FEET (CHORD = 38.84 FEET, CHORDING BEARING = N2°47'16"W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N00°09'26"E, A DISTANCE OF 29.03 FEET; THENCE N89°50'34"W, A DISTANCE OF 50.00 FEET; THENCE N00°09'26"E, A DISTANCE OF 68.70 FEET; THENCE S76°36'01"W, A DISTANCE OF 158.10 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 90.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 49°35'03", A DISTANCE OF 77.89 FEET (CHORD = 75.48 FEET, CHORD BEARING = N78°36'27"W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N53°48'56"W, A DISTANCE OF 50.55 FEET; THENCE S63°00'34"W, A

**Page 2 of 2**

**Aviary at Rutland Ranch Phase 1A & 1B**

**Legal Description by: ZNS Engineering**

DISTANCE OF 222.19 FEET TO A POINT ON A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS POINT THAT BEARS S69°40'50"W, A DISTANCE OF 1195.08 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 13°16'09", A DISTANCE OF 276.77 FEET (CHORD = 276.16 FEET, CHORD BEARING = S13°41'05"E); THENCE S82°16'56"W, A DISTANCE OF 154.49 FEET TO A POINT ON A CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS POINT THAT BEARS S82°19'55"W, A DISTANCE OF 1234.89 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°55'51", A DISTANCE OF 278.70 FEET (CHORD = 278.11 FEET, CHORD BEARING = N14°08'00"W) TO THE POINT OF COMPOUND CURVATURE OF CURVE, CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 30.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°08'56", A DISTANCE OF 23.64 FEET (CHORD = 23.03 FEET, CHORD BEARING = N43°10'24"W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N65°44'52"W, A DISTANCE OF 37.12 FEET; THENCE S30°07'54"W, A DISTANCE OF 243.07 FEET; THENCE S27°13'44"W, A DISTANCE OF 160.40 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 110.00 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 77°36'45", A DISTANCE OF 149.01 FEET (CHORD = 137.87 FEET, CHORD BEARING = S66°02'06"W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N75°09'32"W, A DISTANCE OF 471.71 FEET TO THE POINT OF CURVATURE OF A CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 200.00 FEET; THENCE WESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 62°35'41", A DISTANCE OF 218.50 FEET (CHORD = 207.79, CHORD BEARING = S73°32'38"W) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S42°14'47"W, A DISTANCE OF 179.26 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE S00°02'27"W, ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF AFOREMENTIONED SECTION 35, A DISTANCE OF 1088.29 FEET; THENCE S45°51'06"E, A DISTANCE OF 847.56 FEET; THENCE S44°08'54"W, A DISTANCE OF 712.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 104.12 ACRES, MORE OR LESS.



**Exhibit "B"**

**AVIARY AT RUTLAND RANCH  
ARTICLES OF INCORPORATION**

# *State of Florida*

## *Department of State*

I certify from the records of this office that AVIARY AT RUTLAND RANCH HOMEOWNERS ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on January 9, 2019.

The document number of this corporation is N19000000481.

I further certify that said corporation has paid all fees due this office through December 31, 2019 and that its status is active.

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

*Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capital, this  
the Twenty-fifth day of February,  
2019*



*Ramona R. Bee*  
**Secretary of State**

Tracking Number: 6366788739CU

To authenticate this certificate, visit the following site, enter this number, and then follow the instructions displayed.

<https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication>

ARTICLES OF INCORPORATION  
OF  
AVIARY AT RUTLAND RANCH HOMEOWNERS ASSOCIATION, INC.

The undersigned, acting as incorporator of a corporation not for profit under Chapters 617 and 720, Florida Statutes, adopts the following Articles of Incorporation for the corporation:

ARTICLE I: NAME

The name of this corporation is "Aviary at Rutland Ranch Homeowners Association, Inc.," which shall be referred to as the "Association" in these Articles.

ARTICLE II: PRINCIPAL OFFICE

The Association's initial principal office and mailing address is 35100 State Road 64 East, Myakka City, Florida 34251.

ARTICLE III: INTERPRETATION

All capitalized terms used herein that are not defined shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for The Aviary at Rutland Ranch, to be recorded by Aviary Development Group, Inc., a Florida corporation ("Developer"), in the public records of Manatee County, Florida, as such Declaration may be amended from the time ("Declaration"). Reference is made to the terms and provisions of the Declaration where necessary to interpret, construe, and clarify the provisions of these Articles, and the rules of interpretation set forth in the Declaration apply to the interpretation, construction, application, and enforcement of these Articles. By subscribing and filing these Articles, the Incorporator intends their provisions to be consistent with the provisions of the Declaration and to be interpreted, construed, applied, and enforced with those of the Declaration to avoid inconsistencies or conflicting results.

ARTICLE IV: PURPOSE AND POWERS OF THE ASSOCIATION

The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its Members. The purposes for which the Association is formed are: (a) to promote the health, safety, and general welfare of the residents within all or any portion of that tract of land located in Manatee County, Florida, which is described in and made subject to the provisions of the Declaration, and any additions to such lands as hereafter may be brought within the Association's jurisdiction in the manner provided in the Declaration (collectively, the "Property"); and (b) to perform all obligations and duties and to exercise all rights and powers of the Association as specified in the Declaration and the other Governing Documents described therein, and as provided by law.

In furtherance of its purposes, unless indicated otherwise by the Declaration, these Articles or the Bylaws, the Association is empowered to, without limitation:

- (a) exercise all powers authorized by Chapters 617 and 720, Florida Statutes;

(b) exercise all powers necessary or desirable to perform the obligations and duties and to exercise the rights, powers, and privileges of the Association from time to time set forth in these Articles, the Declaration, and the Bylaws, including, without limitation, the right to enforce all of the provisions of these Articles, the Declaration, and the Bylaws pertaining to the Association in its own name, including, without limitation, enforcement of the provisions relating to the operation and maintenance of the Surface Water Management System;

(c) own, hold, improve, operate, maintain, sell, lease, transfer, and otherwise dispose of property of any nature whatsoever, real, personal, or mixed, tangible or intangible, in connection with the Association's affairs;

(d) adopt budgets and fix, levy, collect, and enforce by any lawful procedure all charges or assessments established by, or pursuant to, the Declaration, including, without limitation, adequate assessment of fees for the costs of operation and maintenance of the Surface Water Management System and assessments for services or materials for the benefit of Owners or the Property for which the Association has contracted with third party providers;

(e) use the proceeds collected from assessments to pay all costs, expenses, and obligations lawfully incurred in connection with the Association's affairs including, without limitation, all licenses, taxes, or other governmental charges levied or imposed against the Association's property;

(f) maintain, control, manage, repair, replace, improve, and operate all the Common Areas and Common Maintenance Areas, including but not limited to the street right-of-ways and the Surface Water Management System and all associated facilities. The Association shall operate, maintain and manage the Surface Water Management System in a manner consistent with the SWFWMD Permit requirements and applicable SWFWMD rules, and shall assist in the enforcement of the provisions of the Declaration that relate to the maintenance of the Surface Water Management System;

(g) buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(h) borrow money for any lawful purpose;

(i) participate in mergers and consolidations with other nonprofit corporations organized for similar purposes, subject to such limitations as may be set forth in these Articles, the Declaration or the Bylaws;

(j) from time to time adopt, amend, rescind, and enforce reasonable rules and regulations regarding the use of the Property and/or the Common Areas consistent with the rights and duties established by the Declaration;

(k) contract with others for performance of the Association's management and maintenance responsibilities under the Declaration, for the provision of services by the Association to others to the extent beneficial for the Owners or the Property, and for the furnishing of services or materials for the benefit of the Owners or the Property consistent with the provisions of the Declaration, including, without limitation, contracting for utility, irrigation, telecommunications, internet, and security services;

(l) adopt, alter, and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the Association's affairs, subject to such limitations as may be set forth in these

Articles, the Declaration or the Bylaws; provided that such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration;

(m) to sue and be sued as set forth in the Declaration;  
(n) to purchase insurance upon the Common Areas and Common Maintenance Areas or for the protection of the Association or its members; and

(o) have and exercise all rights, powers, and privileges that a corporation not for profit may now or hereafter have or exercise under the laws of the State of Florida, together with all other rights, powers, and privileges reasonably to be implied from the existence of any right, power, or privilege so granted, or granted by the Declaration, or these Articles, or reasonably necessary, convenient, or desirable to exercise any right, power, or privilege so granted.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers that may now or hereafter be allowed or permitted by law, subject to such limitations as may be set forth in these Articles, the Declaration or the Bylaws. The Association's powers may be exercised by its Board of Directors, unless indicated otherwise by these Articles, the Declaration or the Bylaws.

#### ARTICLE V: MEMBERSHIP: VOTING REQUIREMENTS

The Association shall be a membership corporation without certificates or shares of stock. The Owner of each Lot shall be a "Member" of the Association, including contract sellers, but excluding all persons who hold any interest in any Lot merely as security for the performance of fill obligation. An Owner of more than one Lot is entitled to one membership for each Lot owned. Change of membership in the Association shall be established by the recording in the Public Records of Manatee County, Florida, of a deed or other instrument establishing a change of record title to a Lot. The Owner designated in such instrument shall thereupon become a member of the Association and the membership of the prior owner shall thereupon be terminated. Membership is appurtenant to, and may not be separated from ownership of the Lot or transferred except by transfer of record title to the Lot. There shall be two (2) classes of Membership as provided in the Declaration, which shall have such voting rights as set forth in the Declaration.

#### ARTICLE VI: BOARD OF DIRECTORS

The number, manner of election and indemnification of the Board of Directors shall be as provided for in the Bylaws of the Association, as amended from time to time in accordance therewith.

The names and addresses of the initial Board of Directors are as follows:

Stephen J. Cerven  
35100 State Road 64 E  
Myakka City, FL 34251

A. John Falkner  
35100 State Road 64 E  
Myakka City, FL 34251

Scott A. Falkner  
35100 State Road 64 E  
Myakka City, FL 34251

#### ARTICLE VII: OFFICERS

The affairs of the Association shall be administered by such officers as may from time to time be created by the Board of Directors as permitted by the Declaration and the Bylaws. The names and addresses of the initial officers are as follows:

President: Stephen J. Cerven  
Secretary: Scott A. Falkner  
Treasurer: Stephen J. Cerven

#### ARTICLE VIII: EXISTENCE AND DURATION

Existence of the Association shall commence with the filing of these Articles with the Florida Department of State, Division of Corporations. The Association exists perpetually. In the event of termination, dissolution or liquidation of the Association: (a) the assets of the Association shall be conveyed to an appropriate governmental unit or public entity, or, if not accepted by a governmental unit or public entity, conveyed to a non-profit corporation similar in nature to the Association, which shall assume the Association's responsibilities; and (b) all responsibility relating to the Surface Water Management System and the related permits must be assigned to and accepted by an entity approved by SWFWMD and the ACOE, as applicable.

#### ARTICLE IX: AMENDMENTS

For so long as Developer has the right to appoint or elect a majority of the Board of Directors, these Articles may be amended by Developer without a vote of the membership and without the joinder or consent of the holder of any mortgage, lien or other encumbrance affecting any portion of the Property or any other Person. Thereafter, these Articles may be amended only upon a resolution duly adopted by the Board of Directors, with the affirmative vote or written consent of Members representing at least two-thirds (2/3) of the total votes of the Association, and the written consent of Developer for so long as Developer owns and holds any Lot for sale in the ordinary course of business.

#### ARTICLE X: INCORPORATOR

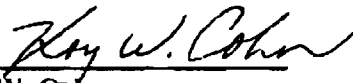
The name and address of the incorporator of this corporation is:

Stephen J. Cerven  
35100 State Road 64 East  
Myakka City, Florida 34251

#### ARTICLE XI: REGISTERED AGENT AND OFFICE

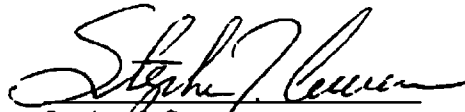
The initial registered office of the Association is 35100 State Road 64 East, Myakka City, FL 342251, and the initial registered agent of the Association at such address is Roy W. Cohn.

Having been named as registered agent to accept service of process for the above stated corporation at the place designated in this certificate, I am familiar with and accept the appointment as registered agent and agree to act in this capacity.

  
\_\_\_\_\_  
Roy W. Cohn

Date: January 7, 2019

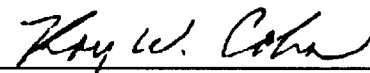
IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the sole incorporator of the Association, has executed these Articles of Incorporation this 7<sup>th</sup> day of January, 2019. I submit this document and affirm that the facts stated herein are true. I am aware that any false information submitted in a document to the Department of State constitutes a third degree felony as provided for in Florida Statutes §817.155.

  
\_\_\_\_\_  
Stephen J. Cervon  
Incorporator

STATE OF FLORIDA  
COUNTY OF MANATEE

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of January, 2019, by Stephen J. Cervon, who is personally known to me.



  
\_\_\_\_\_  
Roy W. Cohn, Notary Public

**Exhibit "C"**

**AVIARY AT RUTLAND RANCH  
BY-LAWS**



**BYLAWS OF**  
**AVIARY AT RUTLAND RANCH HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**NAME, PRINCIPAL OFFICE AND DEFINITIONS**

1. Name. The name of the corporation is Aviary at Rutland Ranch Homeowners Association, Inc. ("Association").
2. Principal Office. The Association's principal office shall at 35100 State Road 64 E, Myakka City, FL 34251, until otherwise changed by the Board of Directors.
3. Definitions and Interpretation. All capitalized terms used herein that are not defined shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for The Aviary at Rutland Ranch, to be recorded by Aviary Development Group, Inc., a Florida corporation ("Developer"), in the public records of Manatee County, Florida, as such declaration may be amended from time to time ("Declaration"). In the case of any conflict between the Declaration, the Association's Articles of Incorporation ("Articles") and these Bylaws, the Declaration governs over the Articles and Bylaws, and the Articles govern over the Bylaws, unless otherwise provided by law.

**ARTICLE II**  
**MEETINGS OF MEMBERS**

1. Membership. The Association shall have two (2) classes of membership, Class A and Class B, as defined in the Declaration. The provisions of the Declaration pertaining to membership are incorporated herein by this reference. Members of the Association are referred to generally in these Bylaws as "Members."
2. Place of Meetings. The Association shall hold meetings at its principal office or at such other suitable place convenient to the Members as the Board may designate.
3. General. The Association shall hold its first meeting, whether a regular or special meeting, within one (1) year after the date of the Association's incorporation, on such date and at such time and place as determined by the Board of Directors. The Board shall set the date and time of subsequent regular annual meetings.
4. Annual Meetings. The annual meeting of the Association shall be held each year during the month of October or November, on such date and at such time and place as the Board determines. Annual meetings may be conducted electronically (i.e., via the Internet, intranet, or teleconference) if, and to the extent, permitted by law.
5. Special Meetings. Special membership meetings may be called at any time: (a) by the President of the Association; (b) by the Board of Directors; or (c) upon the written request of the Members in good standing who are entitled to cast at least fifteen percent (15%) of the total votes in the Association. Such meetings shall be held on such date and at such time and place as the Board of Directors determines.
6. Notice of Meetings. The President, the Secretary or the Officer or other persons calling a meeting of the Members shall give or cause to be given to all Members actual notice of all membership meetings, which shall be mailed, delivered, or electronically transmitted to the Members not less than fourteen (14)

days but no more than forty-five (45) days prior to the meeting. In the case of a special meeting or when otherwise required by law, the Declaration, the Articles or these Bylaws, the purpose of the meeting shall also be stated in the notice. No business shall be conducted or transacted at a special meeting except as stated in the notice.

7. Proof of Notice. The person or persons actually giving notice of any meeting shall execute an affidavit confirming compliance with the notice requirements for such meeting; and any such executed affidavit, attested by the Secretary and filed among the official records of the Association, is conclusive as to the regularity of any notice with respect to any Person absent actual knowledge of any defect in notice.

8. Waiver of Notice. A Member's attendance at any meeting constitutes a waiver by such Member of notice of the time, date and place thereof, and of all defects in notice, unless an objection on the basis of lack of proper notice is raised at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

9. Written Action. Any action required to be taken at a meeting of the Members by the Declaration, Articles, these Bylaws or Florida law may be taken without a meeting, without prior notice and without a vote if the action is approved by written consent of Members representing at least the minimum number of votes that would be necessary to authorize such action at a meeting where all Members entitled to vote were present and voted. Such approval shall be evidenced by one (1) or more written consents specifically authorizing the proposed action, dated and signed by approving Members holding the requisite number of votes. The Association need not give prior notice before soliciting such consent; however, the Association must send written consent forms to all Members for action authorized pursuant to this Section to be valid. All consents must be signed, dated and delivered to the Secretary within sixty (60) days after the Association's receipt of the earliest dated consent. The Secretary shall file (or cause to be filed) such consents with the Association's minutes, and the consents shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members summarizing the authorized action.

10. Certificate. An instrument signed by any executive Officer of the Association, and attested by the Secretary, is conclusive proof that any required approval has been obtained in accordance with these Bylaws as to persons without actual knowledge to the contrary.

11. Quorum. The presence of Members in good standing in person or by proxy entitled to cast thirty percent (30%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws. If such quorum is not present or represented at any meeting, the Members present and entitled to vote shall have the power to adjourn the meeting from time to time, as provided in Section 12 below, until a quorum is present or represented.

12. Adjournment. If any Association meeting cannot be held because a quorum is not present, the Members entitled to cast a majority of the votes present at such meeting may adjourn the meeting to a time at least five (5) but not more than thirty (30) days from the scheduled date of the original meeting. Unless the time and place at which the adjourned meeting will be held is announced at the original meeting, the Association shall give Members notice of the adjourned meeting not less than ten (10) days prior to the meeting. Otherwise, the Board shall provide notice to the Members of the time and place for reconvening the meeting in the manner prescribed for regular meetings of Members. At the reconvened meeting, if a quorum is present, any business may be transacted that might have been transacted at the original meeting.

13. Proxies. At all meetings of Members, each Member may vote in person or by limited proxy. All proxies shall be in writing, dated and signed by the Member and filed with the Secretary prior to its use, and shall identify the Lot for which it is given and the meeting for which it is to be effective. No Person shall be permitted to hold more than five (5) proxies. A Member represented by a valid proxy at any meeting is "present" for all purposes. Every proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meeting thereof. A proxy is revocable at any time at the pleasure of the Member who executes it. A proxy shall automatically expire ninety (90) days from the date of granting, unless a shorter period is provided in the proxy. A proxy shall not be valid for more than ninety (90) days.

14. Membership List. A complete list of the Members entitled to vote at all meetings, and their respective addresses, must be kept on file at the Association's office, open to inspection by any Member. The list must also be available at any meeting for inspection by any Member.

15. Voting Requirements.

(a) Members shall have such voting rights as are expressly set forth in these Bylaws, the Articles or the Declaration, which provisions are specifically incorporated by this reference. Except where these Bylaws, the Articles or the Declaration establish different voting requirements or expressly require the approval of Developer or any other Person, the majority vote of those Members entitled to vote present in person or by proxy at a duly called and convened meeting at which a quorum is present shall constitute the act of the membership. Only those Members shown as Members in good standing upon the Association's books are entitled to vote.

(b) After Turnover, the following actions must be approved by two-thirds (2/3) of the total votes of each class of Members, present in person or by proxy and voting at a duly convened meeting at which a quorum is present, and by Developer for so long as Developer is a Member: (i) any mortgaging of the Association's property; (ii) any merger or consolidation of the Association; or (iii) any dissolution of the Association. Before Turnover, the Members shall have no right to approve or disapprove the matters contemplated in this subsection.

(c) After Turnover, any purchase of additional lands to be owned by the Association for the benefit of Owners must be approved by two-thirds (2/3) of the total voting interests of the Members present in person or by proxy, at a meeting duly convened for such a purpose at which a quorum is present, and by Developer for so long as Developer is a Member. Before Turnover, the Members shall have no right to approve or disapprove the matters contemplated in this subsection.

(d) The right to cast the vote attributable to each Lot shall be determined, established and limited pursuant to the provisions of this Section:

(i) Single Owner: If the Lot is owned by one natural person, that person shall be entitled to cast the vote for the Lot.

(ii) Multiple Owners: If a Lot is owned by more than one person, either as co-tenants or joint tenants, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record Owners and filed with the Secretary of the Association.

(iii) Life Estate with Remainder Interest: If a Lot is owned by a life tenant, with others owning the remainder interest, the life tenant shall be entitled to cast the vote for the Lot. If the life estate is owned by more than one person, the authority to vote shall be

determined as herein otherwise provided for voting by persons owning a Lot in fee in the same manner as the life tenants own the life estate.

(iv) Corporations: If a Lot is owned by a corporation, the officers or employees thereof entitled to cast the vote for the Lot shall be designated by a certificate executed by an executive officer of the corporation and attested by the Secretary or an Assistant Secretary, and filed with the Secretary of the Association.

(v) Partnership: If a Lot is owned by a general or limited partnership, the general partner entitled to cast the vote for the Lot shall be designated by certificate executed by all general partners and filed with the Secretary of the Association.

(vi) Trustees: If a Lot is owned by a trustee or trustees, such trustee or trustees shall be entitled to cast the vote for the Lot. Multiple trustees may designate a single trustee, or a beneficiary entitled to possession, and a single trustee may likewise designate such beneficiary as the person entitled to cast the vote for the Lot by a certificate executed by all trustees and filed with the Secretary of the Association.

(vii) Estates and Guardianships: If a Lot is subject to administration by a duly authorized and acting Personal Representative or Guardian of the property, then such Personal Representative or Guardian shall be entitled to cast the vote for such Lot upon filing with the Secretary of the Association a current certified copy of his Letters of Administration or Guardianship.

(viii) Tenants by the Entirety: If a Lot is owned by a husband and wife as tenants by the entirety, they may designate a voting member in the same manner as other multiple owners. If no certificate designating a voting member is on file with the Association, and only one of the husband and wife is present at a meeting, he or she may cast the vote for their Lot without the concurrence of the other owner. If both spouses are present, they may jointly cast the vote for their Lot, but if they are unable to agree on the manner of casting such vote, they shall lose their right to vote on such matter, although the Lot may still be counted for purposes of a quorum.

(ix) Leases: If a Lot is leased, the owner-lessor shall be entitled to cast the vote for the Lot, except that the owner may designate a lessee as the person entitled to cast the vote for the Lot by a certificate executed by all owners and filed with the Secretary of the Association.

(x) Certificate: Whenever a certificate designating a voting representative is permitted or required, such certificate shall, once filed, be valid until revoked. In the absence of a valid certificate, a Lot shall not be counted in determining a quorum unless all owners required to execute such certificate are present, in person or by proxy, and such Lot Owners shall lose their vote on any particular matter unless they concur on the manner in which the vote of the Lot is to be cast on that matter.

16. Joinder in Minutes of Meeting. Members may join in the action of a meeting or any portion thereof by signing and concurring in the minutes or a selected portion thereof. Such joinder shall constitute the vote of such Members for the purpose of concurring in any action of a meeting.

17. Conduct of Meetings. The President shall preside over all Association meetings, provided that in the President's absence, the Vice President or another Board designee shall preside. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions

occurring at such meetings are recorded in the Association's minute books. At any meeting of the membership, a Member shall have the right to speak for at least three (3) minutes on any item properly before the meeting. The Board may adopt reasonable written rules governing the frequency, duration and other manner of Member statements consistent with Section 720.306, Florida Statutes.

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

- (a) Election of Chairman of the meeting (if necessary).
- (b) Calling of the roll and certifying of the proxies.
- (c) Proof of notice of the meeting or waiver of notice.
- (d) Reading and disposal of any unapproved minutes.
- (e) Reports of officers.
- (f) Reports of committees.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.
- (j) Announcements.
- (k) Adjournment.

19. Delinquent Members. In accordance with the Declaration if any Assessment or portion thereof imposed against a Member remains unpaid for ninety (90) days following its due date, such Member's voting rights in the Association shall be automatically suspended until all past due Assessments and other sums then due are paid, whereupon the voting rights shall be automatically reinstated.

### ARTICLE III BOARD OF DIRECTORS

1. Qualification and Governance. The Board of Directors shall govern the Association's affairs. Each Director shall have one (1) vote. Directors, other than those appointed by Developer, shall be Members. Directors must be at least eighteen (18) years old. If an Owner is not an individual, any officer, director, partner, or any trust officer of such Owner shall be eligible to serve as a Director unless a written notice to the Association signed by the Owner specifies otherwise. An Owner or resident of any Lot on which any assessments, fines, or other charges owed to the Association are more than ninety (90) days past due is not eligible to serve as a Director. A person who has been convicted of a felony in Florida or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony under Florida law, is not eligible to serve as a Director unless his or her civil rights have been restored for at least five (5) years as of the date on which such person seeks election to the Board. The validity of any Board action is not affected if it is later determined that a Director was ineligible to serve.

2. Number of Directors; Initial Directors. At no time may the Board of Directors (the "Board") consist of fewer than three (3) Directors. Initially, the Board shall consist of three (3) Directors. After fifty percent (50%) of the parcels in all phases (both existing and proposed) of the Development have been conveyed to Owners other than Developer or Builders, the Board shall consist of five (5) Directors. The Board must consist of an odd number of Directors at all times.
3. Term of Office. So long as Developer has the right to appoint all Directors, Directors shall hold office as determined by Developer. Otherwise, the term of office for all Directors shall be one (1) year. Each Director shall hold office until a successor has been appointed or elected, as applicable, unless the Director sooner dies, resigns, is removed, is incapacitated or otherwise unable to serve. Directors may serve any number of consecutive terms.

ARTICLE IV  
APPOINTMENT; NOMINATION, ELECTION, AND REMOVAL OF DIRECTORS:

1. Until Turnover.
  - (a) Until Turnover, and subject to subsection (b) below, Developer has the right to appoint, remove and replace all members of the Board of Directors, who shall serve at the pleasure of Developer.
  - (b) Members of the Association, other than the Developer or Builders, are entitled to elect one (1) member of the Board of Directors when fifty percent (50%) of the parcels in all phases (both existing and proposed) of the Development have been conveyed to Owners other than Developer or Builders.
2. Upon Turnover.
  - (a) Upon Turnover, Members are entitled to elect at least a majority of the Directors. Developer is entitled to appoint, remove and replace one (1) Director for so long as Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in all phases of the Development that will ultimately be operated by the Association. After Turnover, nominations for election to the Board of Directors may be made by a nominating committee appointed by the Board ("Nominating Committee"), or in any other manner determined by the Board of Directors from time to time. If there is no Nominating Committee, nominations may be made from the floor at the annual meeting. Nominations for positions on the Board of Directors may include as many persons as the Board of Directors shall in its discretion determine, but not less than the number of vacancies that are to be filled. Any Member other than Developer or Builders may nominate himself or herself as a candidate by notice to the Nominating Committee (or to the Secretary if there is no Nominating Committee).
3. Election of Directors. Election to the Board of Directors shall be by secret written ballot. Directors shall be elected by the membership at the first meeting of Members held after Turnover. If the number of nominees is equal to or less than the number of positions to be filled, then those candidates shall be deemed elected without a vote. If the number of nominees exceeds the number of positions to be filled, an election shall be held, and the person receiving the largest number of votes cast by the Members entitled to vote is elected. Cumulative voting is not permitted.
4. Removal; Vacancies. Any member of the Board of Directors can be recalled (voted out of office), with or without cause, by a majority vote of the total voting interests of the Association. However, if appointed or elected by a certain class of Members, only that class of Members can vote to recall a Director so elected or appointed. In the event of death, resignation or removal of a Director, a majority of the remaining members of the Board of Directors may declare a vacancy and appoint a successor to fill

the vacancy until the next annual meeting, at which time the Members shall elect a successor for the remainder of the term. At any meeting at which a quorum is present, a majority of the Directors may remove any Director who has three (3) consecutive unexcused absences from Board meetings or who is more than thirty (30) days delinquent in the payment of any assessments or other charges due to the Association. The Board may appoint a successor to fill the vacancy for the remainder of the term. Any Director whose removal is sought shall be given notice prior to any meeting called for that purpose.

#### ARTICLE V MEETINGS OF DIRECTORS

1. Organizational Meeting. The Board shall hold an organizational meeting within ten (10) days following each annual Association meeting, at such place and time as the Board may determine.
2. Regular Meetings. The Board may, from time to time, establish a schedule of regular meetings to be held at such time and place as the Board may designate.
3. Special Meetings. Special Board meetings must be held when called by the President, or by any two Directors.
4. Petition by Members. If Members entitled to cast at least twenty percent (20%) of the total voting interest in the Association petition the Board in writing to address a particular item of business at a Board meeting, the Board shall place the petitioned item of business on its agenda at its next regular Board meeting or at a special Board meeting, which shall be held within sixty (60) days after receipt of the petition. Other than addressing the petitioned item at the meeting, the Board is not obligated to take any other action required by the petition.
5. Open to Members. All meetings of the Board must be open to all Members, except for:  
(a) meetings of the Board held for discussing personnel matters; (b) meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege; and (c) such other matters, if any, as provided by law.
6. Notice and Quorum.
  - (a) Notice; Waiver of Notice
    - (i) Notice to Directors. Notices of Board meetings shall specify the place and time of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall give notice to each Director by personal delivery, first class mail, postage prepaid, facsimile, electronic mail or other electronic communication device, with confirmation of transmission. All such notices shall be sent to the Director's fax number, electronic mail address, or address as shown on the Association's records. Notices sent by first class mail shall be sent at least seven (7) business days before the time set forth meeting. Except for emergency meetings, notices given by personal delivery, facsimile, or other device shall be delivered or transmitted at least seventy-two (72) hours before the time set for the meeting. A Director's presence at any meeting constitutes a waiver of notice of such meeting and of any and all objections to the place or time of such meeting, or the manner in which it has been called or convened, unless the Director at the beginning of the meeting objects to the transaction of business because the meeting is improperly called or convened.
    - (ii) Notice to Members. Except for emergency meetings, notice of all Board meetings shall be mailed or delivered to each Member at least seven (7) days before the meeting,

or, in the alternative, shall be posted in a conspicuous place within the Property at least forty-eight (48) hours in advance of the meeting. Assessments may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting petitioned by Members in accordance with this Article V, Section 4 above, or at which special assessments or amendments to rules regarding use of Lots will be considered must be mailed, delivered, or electronically transmitted to each Member and posted conspicuously on the Property not less than fourteen (14) days before the meeting. Notice may be transmitted electronically only to those Members who have consented in writing to receive notice by electronic means, and then only in a manner authorized by law. A Member's presence at any meeting constitutes a waiver of notice of such meeting and of any and all objections to the place or time of such meeting, or the manner in which it has been called or convened, unless the Member at the beginning of the meeting objects to the transaction of business because the meeting is improperly called or convened.

(iii) Waiver of Notice. Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (1) a quorum is present, and (2) either before or after the meeting each Director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the meeting's purpose. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

(b) Participation by Telephone. Members of the Board or any committee designated by the Board may participate in Board or committee meetings by means of telephone or other electronic means, through which all persons participating in the meeting can hear each other. Participation in this manner shall constitute presence at the meeting for all purposes.

(c) Quorum. At all Board meetings, a majority of the Directors shall constitute a quorum for all purposes, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the act of the Board, unless otherwise provided in the Governing Documents or by Florida law. A meeting at which a quorum is initially present may continue, notwithstanding the withdrawal of one or more Directors, if at least a majority of the required quorum for that meeting approves any action taken.

7. Conduct of Meetings. The President shall preside over all Board meetings, provided that in the President's absence, the Vice President or another Board designee shall preside. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are recorded in the minute books. The Board may adopt reasonable written rules governing the right of Members to speak consistent with Section 720.303, Florida Statutes.

8. Adjournment. A majority of the Directors present at any meeting duly called, regardless of whether a quorum exists, may adjourn the meeting to another time and place not less than five (5) but not more than thirty (30) days from the date of the original meeting, but notice of such adjourned meeting must be given to the Directors not present at the time of adjournment. At the reconvened meeting, if a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

9. Voting. Any Director present at a Board Meeting at which action on any matter is taken is presumed to have assented to such action unless the Director votes against the action, or abstains from voting because of an asserted conflict of interest. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of Officers. A vote or abstention



from voting on each matter voted upon for each Director present at a Board meeting must be recorded in the minutes.

10. Action Without a Meeting. Any Board action taken or to be taken at a Board meeting may be taken without a meeting if a written consent to such action is signed by all Directors and filed in the minutes of the Board. Such consent shall have the same force and effect as a unanimous vote.

## ARTICLE VI POWERS AND DUTIES OF DIRECTORS

### 1. Powers of Directors.

(a) The Board of Directors may exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Governing Documents or Florida law, including but not limited to the following:

(i) Operate the Association in accordance with applicable law, including, Chapters 617 and 720, Florida Statutes, the Declaration, Articles and the Bylaws;

(ii) Employ for the Association a manager, an independent contractor, or such other consultants or employees as they deemed necessary, and to prescribe their duties, provided, however, that the Board shall not delegate policy-making authority or ultimate responsibility for those duties set forth in this Article VI, Section 2 below. The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager that might arise between Board meetings;

(iii) Adopt, publish, and amend from time to time rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, establish penalties for the infraction thereof; and

(iv) Adopt and amend from time to time procedures for the Association's imposition of sanctions for violation of the Governing Documents.

(b) The Board shall not take any action, or implement any policy or program that would tend to impair rights of Developer or Builders under the Declaration or these Bylaws, interfere with development or construction of any portion of the Property, or diminish the level of services the Association provides.

### 2. Duties of Directors. The Board of Directors has the following duties:

(a) As more fully provided in the Declaration:

(i) Prepare and adopt an annual budget, including maintenance of Common Area, and if elected by the membership in the manner proscribed by Florida law, to establish reserve accounts for replacement of those parts of the Common Area which have a limited useful life span;

(ii) Budget and fix the amount of the Annual Maintenance Assessment against each Lot at least sixty (60) days before the fiscal year begins;

- (iii) establish and fix the amount of the other assessments described in the Declaration;
  - (iv) send a copy of each annual budget, and written notice of the amount of the Annual Maintenance Assessments to be levied pursuant to such budget, to every Owner at least thirty (30) days before the fiscal year begins;
  - (v) foreclose the lien against any Lot for which assessments have not been paid, in accordance with the Declaration and applicable law or to bring an action at law against the Owner personally obligated to pay the same; and
  - (vi) levy fines and impose sanctions for violation of the Declaration and other published guidelines and standards imposed under the Declaration in the manner provided by the Declaration and applicable law;
- (b) Provide for the operation, care, upkeep and maintenance of the Common Area and Common Maintenance Areas;
- (c) Contract with and/or employ any and all contractors, managers, employees, or other personnel or entities necessary to carry out the duties and obligations of the Association contained in the Governing Documents;
- (d) Supervise employees of the Association and, where appropriate, provide for compensation of such employees and for the purchase of necessary equipment, supplies, and materials to be used by such employees in the performance of their duties;
- (e) Enter into, perform, and enforce contracts and other agreements between the Association and third parties;
- (f) Open bank accounts on the Association's behalf and designate signatories;
- (g) Deposit all funds received on the Association's behalf in a bank depository which the Board shall approve, and use such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;
- (h) Prepare, provide and file such financial reports and other reports as may be required by Chapter 720, Florida Statutes, subject to the terms thereof;
- (i) Enforce by legal means, or in the manner provided in the Declaration, the provisions of the Governing Documents and bringing any proceedings that may be instituted on behalf of or against the Owners concerning the Association;
- (j) Procure and maintain property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) Pay the cost of all services rendered to the Association;
- (l) Keep a detailed accounting of the Association's receipts and expenditures;
- (m) Make available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Governing Documents and all

other books, records, and financial statements of the Association as provided in Article XIII, Section 3 of these Bylaws;

(n) Initiate or defend litigation on behalf of the Association;

(o) Maintain, and retain for the time periods required, the "official records" of the Association, as required by Chapter 720, Florida Statutes; and

(p) Otherwise undertake all duties, enforce all rights, and perform all obligations granted to the Association pursuant to the Declaration.

3. Standard of Care. The Board shall exercise its powers in a reasonable, fair and nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents. Directors shall discharge their duties in a manner that the Director reasonably believes in good faith to be in the best interests of the Association.

4. Compensation. No Director shall receive any salary or compensation for the performance of any duties as a Director or for any service he may render to the Association. The Association may reimburse any Director or Officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other Directors.

5. Conflict of Interest. Notwithstanding anything in these Bylaws, the Articles or the Declaration to the contrary, any contract or other transaction between the Association and any of its Directors or Officers, or with any entity in which a Director or Officer has a financial interest, must comply with the requirements of Section 617.0832, Florida Statutes, and Chapter 720, Florida Statutes. Notwithstanding anything to the contrary contained herein, Directors appointed by Developer may be employed by or otherwise transact business with Developer or its affiliates, and Developer may transact business with the Association or its contractors, subject to applicable law.

6. Certification by Directors. Within ninety (90) days after election or appointment to the Board, each Director shall deliver to the Secretary of the Association a written certification meeting the requirements of Section 720.3033, Florida Statutes. A Director who does not timely file the certification or education certificate shall be suspended from the Board until he or she complies with this requirement and the Board may temporarily fill the vacancy during the period of suspension. The Board shall retain a copy of each certification and educational certificate for a period of five (5) years after the Director's election; provided, however, the failure to have the written certification or educational certificate on file does not affect the validity of any Board action.

## ARTICLE VII OFFICERS

1. Enumeration. The Association's Officers are a President, Vice President, Secretary, and Treasurer. The President and Secretary shall at all times be members of the Board of Directors. The Board may appoint by resolution such other Officers, who shall hold office for such period, have such authority, and perform such duties as the Board may determine, from time to time. Any two or more offices may be held by the same person, except the offices of President and Secretary.

2. Election and Term of Office. The initial Officers of the Association shall be elected by the Board at its organizational meeting or by unanimous written consent in lieu thereof, and thereafter at the first Board meeting following each annual meeting of the Members or by unanimous written consent in lieu thereof. Officers shall be elected annually by the Board and each shall hold office for one

(1) year unless the officer shall sooner resign, or shall be removed, or otherwise disqualified to serve. After Turnover, Officers may not hold the same office for more than two (2) consecutive terms.

3. Removal and Vacancies. The Board may remove any Officer with or without cause, by a vote of at least a majority of the Directors, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4. Resignation. Any Officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

5. Powers and Duties. The Association's Officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall prepare or supervise the preparation of meeting minutes as required by Florida law.

#### ARTICLE VIII COMMITTEES

1. Permanent Committees. At such time as the Association has the right to appoint the Design Review Committee as provided in the Declaration, the Board shall appoint a Design Review Committee on behalf of the Association.

2. Other Committees. The Board, from time to time, may appoint and dissolve such other committees as the Board deems appropriate in carrying out the business of the Association and to serve for such periods as the Board may designate by resolution. Committees may not act without specific Board authority and may not bind the Association contractually or financially.

3. Service Area Committee. To the extent that a Service Area Supplement, as such is defined in the Declaration, is recorded designating a portion of the Property as a Service Area then, after Turnover, an initial Service Area Committee shall be appointed by the Board from among the Owners or occupants of Lots in the Service Area. A Service Area Committee shall be operated in the manner set forth in this section, unless otherwise provided for in the Service Area Supplement. Unless otherwise provided in the Service Area Supplement, members of a Service Area Committee shall serve a 2- year term. After the initial Service Area Committee (appointed by the Board) serves the initial 2- year term, Members owning a Lot within the Service Area shall elect the members of the Service Area Committee. At any election of a Service Area Committee, only one (1) vote may be cast for each Lot in the Service Area and the three (3) candidates with the highest number of votes of the owners of Lots in the Service Area, present in person or by proxy, at a meeting duly convened for such purpose, shall be elected as members of the Service Area Committee. Any such Service Area Committee shall be created for the purpose of advising the Board of Directors on matters concerning Service Area Assessments.

#### ARTICLE IX DEVELOPER'S RIGHT TO DISAPPROVE

1. Notice to Developer. For so long as Developer is a Member, the Association shall give Developer written notice of all meetings of the Members, the Board, and committees and any actions that

any of them propose to take by written consent in lieu of a meeting. The Association shall give such notice to Developer at Developer's principal address as it appears on the Department of State's records or at such other address as Developer has designated in writing to the Association, or as to Board meetings, in accordance with Article V, Section 6 of these Bylaws. Such notice shall set forth with reasonable particularity the agenda to be followed at such meeting.

2. Developer's Right to Disapprove So long as Developer holds any Lot for sale in the ordinary course of business, Developer shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee that, in Developer's sole judgment, would tend to impair rights of Developer or Builders under the Declaration or these Bylaws, interfere with development or construction of any portion of the Property, or diminish the level of services the Association provides.

#### ARTICLE X INDEMNIFICATION OF OFFICERS AND DIRECTORS

To the fullest extent permitted by law, the Association shall indemnify every Officer, Director, employee, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an Officer, Director, employee, or committee member, if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such action was unlawful. The termination of any such action, suit, or proceeding by judgment, order, settlement, conviction, or a plea of nolo contendere or its equivalent shall not in and of itself create a presumption that the person did not act in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interest of the Association or that he or she had reasonable cause to believe that his or her conduct was unlawful. The right to indemnification provided herein shall not be exclusive of any other rights to which any present or former Officer, Director, employee, or committee member may be entitled. In accordance with the procedures and subject to the conditions and limitations of Florida law, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former Officer, Director, employee, or committee member in any proceeding to which he or she may be a party by reason of being or having been an Officer, Director, or committee member. The foregoing indemnification obligations shall be controlled and interpreted by applicable law with respect to the indemnification of directors and officers of a not-for-profit corporation.

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

#### ARTICLE XI ACCOUNTING

The Board shall follow the following accounting standards unless the Board specifically determines otherwise by a resolution duly adopted and permitted under Florida law:

1. Budget. The Board of Directors shall adopt a budget for each fiscal year which shall include the estimated funds required to defray the current expenses and may include funds for reserves. The budget may provide funds for specifically proposed and approved improvements. The Board of Directors shall adopt a budget in accordance with the Declaration.

2. GAAP. Accounting and controls should conform to generally accepted accounting principles.

3. No Commingling. The Association's cash accounts shall not be commingled with any other accounts, and during the period that Developer has the right to appoint or elect at least a majority of the Board of Directors, operating accounts shall not be commingled with reserve accounts.

4. Declarant Exemption From Assessments for Lawsuits. The Declarant shall not be liable for the payment of any Assessments applicable to Lots it owns which relate in any way to the payment of legal or other fees to persons or entities engaged for the purpose of suing, or making, preparing or investigating possible claims against the Declarant.

## ARTICLE XII EMERGENCY PROVISIONS

In the event of an "emergency" as defined in Sections (f) and (g) below, the Board may execute the emergency powers described in this Article XII and any other emergency powers authorized by Sections 617.0207 and 617.0303, Florida Statutes, as amended from time to time:

(a) The Board may name as assistant officers, any Members of the Association who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of emergency, to accommodate the incapacity or absence of any officer of the Association.

(b) The Board may relocate the principal office of the Association or designate alternative principal offices or authorize the officers to do so.

(c) During the emergency, the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practical manner, including publication, radio, cellular phone, or e-mail. The Director or Directors in attendance at such meeting shall constitute a quorum and all actions taken thereat shall be actions of the Board.

(d) Corporate action taken in good faith during an emergency under this Article in the interest of the Association shall bind the Association and shall have the rebuttable presumption of being reasonable and necessary.

(e) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency provisions shall incur no liability for doing so.

(f) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(g) For purposes of this Article only, an "emergency" exists only during the period of the time that the Property or the immediate geographic area in which the Property is located, is subjected to:

- (i) A state of emergency declared by local, state or federal civil or law enforcement authorities;
- (ii) A hurricane warning;
- (iii) A partial or complete evacuation order;
- (iv) Federal or state disaster area status, or

- (v) A catastrophic occurrence, whether natural or manmade, which seriously damages or threatens to seriously damage the physical existence of the Property, such as an earthquake, tidal wave, hurricane, tornado, war, civil unrest, or an act of terrorism.
- (h) An emergency also exists for purposes of this Article XII during the time when a quorum of the Board cannot readily be assembled because of the occurrence of an event as defined in subsection (g) above.

### ARTICLE XIII MISCELLANEOUS

1. Fiscal Year. The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year.
2. Conflicts. If there are conflicts among the provisions of Florida law, the Articles, the Declaration, and these Bylaws, the provisions of Florida law, the Declaration, the Articles, and these Bylaws (in that order) shall prevail.
3. Books and Records.

(a) Inspection by Members and Mortgagees. The official records of the Association shall be maintained within the State of Florida for at least seven (7) years and shall at all times during reasonable business hours, be subject to inspection by any Member within ten (10) business days after receipt by the Association of a written request, subject to rules adopted by the Board from time to time reasonably restricting the frequency, time, place, and manner of inspection. The Board shall provide for such inspection to take place within forty-five (45) miles of the Property or within the County in which the Association is located. The Board may comply with this Section by making the records available to a Member electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed on request. A Member or the Member's authorized representative may use a portable scanning device or similar technology to make an electronic copy of records which the Member would otherwise be entitled to copy hereunder. Notwithstanding the above, the exempted records listed in Section 720.303(5), Florida Statutes shall not be available to Members for inspection or copying.

(b) Rules for Inspection. The Board may adopt reasonable written rules governing the frequency, time, location, notice, scope, and manner of inspections but may not require that an Owner state or demonstrate any proper purpose for the inspection or state any reason for the inspection, and may not limit an Owner's right to inspect records to less than one 8-hour business day per month. The Association shall maintain an adequate number of copies of the recorded governing documents to ensure availability to Members and prospective Members. The Association shall have the right to require reasonable proof that any person requesting access to the records of the Association is either a Member or an authorized representative of a Member. If the Association has a copy machine, it must provide Owners with copies requested if fewer than twenty-five (25) pages. The Association may charge up to \$0.25 per page. If the copies requested exceed twenty-five (25) pages, an outside duplicating service may be used and actual costs, as supported by the vendor invoice, may be charged. In addition, the Association may charge fees to cover the costs for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and the personnel costs do not exceed \$20.00 per hour; provided, however, that personnel costs may not be charged for records requests that result in the copying of twenty-five (25) or fewer pages.

(c) Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A Director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

(d) Additional Information. Neither the Association nor any authorized agent thereof shall be required to provide a prospective purchaser or lienholder with information about the Property or the Association except as required by Section 720.301, Florida Statutes. If, upon request of the current Owner, the Association elects to provide information which is not required by law to be provided or disclosed, it may charge a reasonable fee to the current Owner for providing good faith responses to requests for such information, such fee not to exceed the amount set forth in Section 720.303, Florida Statutes, as it may be amended, plus the reasonable cost of photocopying and any attorney fees incurred by the Association in connection with such response.

(e) Minutes of Meetings. Minutes of all meetings of Members and of the Board of Directors shall be available for inspection by Members, or their authorized representatives, and Board members at reasonable times. The Association shall retain these minutes for at least seven (7) years.

4. Amendment.

(a) Prior to Turnover, Developer shall have the right to unilaterally amend these Bylaws for any purpose, except as prohibited by law. After Turnover, these Bylaws may be amended only with the approval of at least two-thirds (2/3) of the votes of the Members, present in person or by proxy, at a meeting duly convened for such purpose, at which a quorum is present, and with the written consent of Developer for so long as Developer is a Member.

(b) Notwithstanding Subsection (a) above, after Turnover, no amendment to these Bylaws which purports to change the quorum requirement or percentage of votes necessary to take action under a specific clause shall be effective unless approved by at least that fraction or percentage of votes that would be required for action to be taken under that clause. A copy of any amendment shall be provided to the Owners within thirty (30) days after same is executed and all necessary consents (if any) are obtained.

(c) No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer, or the assignee of such right or privilege.

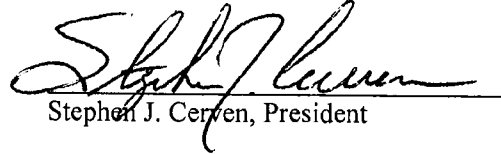
*[Attestation follows.]*



ATTESTATION

IN WITNESS WHEREOF, the undersigned has signed this document for the purpose of authenticating it as the Bylaws of Aviary at Rutland Ranch Homeowners Association, Inc., a Florida not for profit corporation, as adopted by its Board of Directors, this 7<sup>th</sup> day of January, 2019.

Aviary at Rutland Ranch HOMEOWNERS  
ASSOCIATION, INC.,  
a Florida not for profit corporation

  
Stephen J. Cerven, President

**Exhibit "D"**

**AVIARY AT RUTLAND RANCH  
POTENTIAL LANDS TO BE ANNEXED**

A PARCEL OF LAND IN SECTIONS 23, 24, 25, 26 AND 35, TOWNSHIP 33 SOUTH, RANGE 19 EAST, MANATEE COUNTY, FLORIDA, BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 35; THENCE S00°12'02"W, ALONG THE WEST LINE OF THE SOUTHEAST ¼ OF SAID SECTION 35, A DISTANCE OF 51.29 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 675 (RUTLAND ROAD); THENCE S44°26'31"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 116.57 FEET TO A POINT OF CURVATURE OF A CURVE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 34,327.47 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE AND SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 00°04'21", A DISTANCE OF 43.50 FEET (CHORD = 43.50 FEET; CHORD BEARING = S44°28'42"E) FOR A POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 01°10'39", A DISTANCE OF 705.41 FEET (CHORD = 705.40 FEET, CHORD BEARING = S45°06'12"E) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S45°41'31"E, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 252.53 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE, GO N37°01'42"E, 563.72 FEET; THENCE N25°34'23"E, 3222.26 FEET; THENCE N00°57'03"E, A DISTANCE OF 2682.99 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST ¼ OF AFOREMENTIONED SECTION 26; THENCE N00°57'03"E, ALONG THE EAST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 2409.36 FEET; THENCE N88°54'02"E, 271.54 FEET; THENCE N70°32'44"E, 648.96 FEET; THENCE N68°21'51"E, 417.16 FEET; THENCE N03°00'35"W, 2592.20 FEET; THENCE N01°14'30"W, 82.56 FEET TO A POINT ON THE SOUTHERLY MONUMENTED AND MAINTAINED RIGHT-OF-WAY LINE OF STATE ROAD 62; THENCE S88°43'00"W, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 2568.15 FEET; THENCE S15°48'34"W, 2179.19 FEET TO THE CENTERLINE OF GAMBLE CREEK, MORE OR LESS; THENCE S46°27'15"W, 781.45 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 26; THENCE S00°03'14"W ALONG THE WEST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 2654.18 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST ¼; THENCE S00°01'26"W, ALONG THE WEST LINE OF THE SOUTHEAST ¼ OF SAID SECTION 26, A DISTANCE OF 2657.96 FEET, TO THE SOUTHWEST CORNER OF SOUTHEAST ¼ OF SAID SECTION 26; THENCE S00°12'02"W, ALONG THE WEST LINE OF THE NORTHEAST ¼ OF AFOREMENTIONED SECTION 35, A DISTANCE OF 1713.47 FEET; THENCE S45°41'31"E, 847.56 FEET; THENCE S44°18'29"W, 712.75 FEET TO THE POINT OF BEGINNING.

LESS THE PROPERTY THAT IS ALREADY SUBJECT TO THIS DECLARATION

**Exhibit "E"**

**AVIARY AT RUTLAND RANCH PHASE 1A and 1B  
LISTING OF HOLDINGS  
FOR THE AVIARY AT RUTLAND RANCH HOMEOWNERS ASSOCIATION, INC. AND THE  
AVIARY AT RUTLAND RANCH COMMUNITY DEVELOPMENT DISTRICT**

Below is a listing of proposed holdings for the Aviary At Rutland Ranch Homeowners Association, Inc. a Florida corporation, not-for-profit (the "HOA") and for the Aviary at Rutland Ranch Community Development District, a local unit of special-purpose government ("CDD") in the Subdivision known as the Aviary at Rutland Ranch Phase 1A and 1B. References are to the Aviary at Rutland Ranch Phase 1A and 1B Subdivision Plat (the "Plat"). The tracts described are designated on the Plat and consist of lands within the subdivision.

Tract #	Designation	Ownership/ Maintenance Entity
100 through 107	Open Space, subject to easements	CDD/CDD or HOA
200	Recreational Area including future improvements and amenities	HOA/HOA
500 through 510	Lake maintenance & Drainage Easement	CDD/ CDD and/or HOA
600 through 603	Conservation Wetland Area/Easement	CDD/ CDD and/or HOA

It is contemplated that the Association will take title to any tracts listed above as Association tracts and the improvements thereon. The use and maintenance of the tracts designated above will be subject to the Declaration of Covenants, Conditions and Restrictions, for the Aviary at Rutland Ranch, and the Land Development Code of Manatee County.

**Exhibit "F"**

**AVIARY AT RUTLAND RANCH  
NOTICE TO BUYERS**

All capitalized terms not defined herein shall have the meaning ascribed to them in the Declaration of Covenants, Conditions and Restrictions for the Aviary at Rutland Ranch, as amended from time to time (the "Declaration"), to which this Notice to Buyers is attached. The following notice is provided to purchasers of Lots in the Aviary at Rutland Ranch (the "Subdivision"), located in Manatee County, Florida:

1. Each Lot is subject to the Declaration of Covenants, Conditions and Restrictions for the Aviary at Rutland Ranch, as amended from time to time, a copy of which shall be provided upon execution of your contract to purchase.
2. Ownership of a Lot in said Subdivision automatically makes you a member of the AVIARY AT RUTLAND RANCH HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association"), and you are subject to its Articles of Incorporation, Bylaws, Declarations and Rules. The Association's Articles of Incorporation, Bylaws, together with the Declaration are referred to herein as the "Governing Documents." Each Lot entitles its Owner to One (1) vote in the affairs of the Association.
3. The Association has the right and power to assess and collect, as provided in the Governing Documents, the costs of operation and maintenance of the Common Area and Common Maintenance Area, which you have a right to enjoy, in accordance with, and subject to, the Governing Documents. A proposed budget for maintenance of Common Area and Common Maintenance Area for the first ten (10) years (the "Fiscal Program") is attached to the Declaration as Exhibit "I", but is subject to adoption, amendment and/or modification by the Board of Directors.
4. The initial proposed assessments by the Association for each Lot is as reflected in the Fiscal Program, attached as Exhibit "I" to the Declaration, as may be revised, amended and supplemented from time to time, including annually by the Association's Board and for each new phase. You are hereby notified that the Association may increase that assessment amount as may be required to maintain the amenities of the Subdivision. There shall be a onetime assessment (the "Start-up Assessment") payable to the Association by each Owner who purchases a Lot from a Builder. The Start-up Assessment shall be in the amount of \$250. The Start-up Assessment shall be established as of and paid at the time of legal title to a Lot is conveyed to any Owner other than a Builder. Start-up Assessments shall be expended solely for regular Common Expenses and not for any reserves. Start-up assessments are not advance payments of Assessments and shall not affect the liability of an Owner or a Lot for Assessments.
5. The Owner of each Lot shall be responsible for the planting and maintenance of all trees on such Lot as required by the Declaration, Manatee County codes and ordinances and pursuant to final site plan approval for the Subdivision. Such plan approval requires that each Lot owner plant trees in accordance with the Manatee County Land Development Code. Design Review Committee approval as required by the Declaration shall be withheld until such time as the plans and submissions presented for each Lot comply with the tree planting obligations provided for herein. Upon such initial planting, each Lot Owner shall be responsible for maintenance of the trees and such trees may not be removed without appropriate permits and authorizations provided by Manatee County. In the event that a tree planted in compliance with the requirements of this paragraph dies or is removed, the Owner of the Lot is responsible to replace the tree within thirty (30) days thereafter, as required by the terms of the Declaration and the County's Land Development Code. If an Owner fails to comply with the foregoing requirements, then after notice and

compliance with the procedural requirements of the Declaration, the Association may take such action as is necessary to achieve compliance. All costs of the Association in so doing shall be assessed to the particular Owner and his Lot as a Specific Assessment. Until so collected, such costs shall be treated as an expense to the Association. Maintenance of street trees by Lot Owners shall include proper root pruning to avoid interference of the tree roots with sidewalks, utilities, foundations of other improvements, etc.

Prior to Certificate of Occupancy for a Residential Unit, one (1) canopy tree shall be planted per Lot per roadway frontage (corner lots must have two (2) street trees). All street trees will be planted within twenty-five (25) feet of the right-of-way, but not in the right-of-way or any public or private utility easement. Street trees will be spaced no closer together than twenty-five (25) feet. When proposed lots have a minimum of one hundred (100) feet of frontage or greater, one (1) canopy tree shall be planted within twenty-five (25) feet of the right-of-way of each local street within a residential development for every fifty (50) linear feet, or substantial fraction thereof. For proposed lots with less than sixty (60) feet of frontage smaller maturing canopy trees or understory trees may be utilized subject to prior Developer or Association approval, and subject to compliance with the final site plan and Manatee County codes and ordinances.

6. Street Trees:

- a. Canopy trees within 10' of a public sidewalk shall meet Manatee County Public Works Standard Section 301.0 and Exhibit 301.1 entitled "Sidewalk Location Close to Trees". All sidewalks in the right of way within 10' of an existing or proposed tree that will exceed 6" in diameter at maturity shall be 5" thick and contain 2-#3 rebar centered vertically and spaced 3' on center. Palms are not considered trees.
- b. If within ten (10') ft. of the tree trunk, potable water service line shall have 48 inches of cover from top of pipe from the meter to the home connection; or, as an alternative, the water line may be installed at 18 inches with a polyethylene service pipe conforming with AWWA C-901.
- c. Where within ten (10') ft. of the tree trunk, irrigation service lines from the street shall have 48 inches of cover from top of pipe to the valve, or, as an alternative, the irrigation line may be installed at 18 inches with a polyethylene service pipe conforming with AWWA C-901. Irrigation valve shall be located as far as possible from the regulated street tree location to minimize impacts to this infrastructure.

7. Landscape plantings and irrigation shall be provided at various landscape buffer locations within the Subdivision, as shown in the Final Site Plan for the Subdivision. Purchasers are hereby notified that such plantings are a code requirement, constituting an obligation on the part of the Developer, its successors and assigns, to Manatee County for Subdivision approval, and as such, plantings and irrigation may not be removed, altered, or destroyed. The costs for the maintenance and replacement of such irrigation and planting shall be borne by the CDD or the HOA.

8. Declarant and/or Developer reserve the right to make any modifications, changes or deletions to the landscaping and landscape buffers on the Property for adjacent development including for the addition of property to the Subdivision.

9. It shall be the responsibility of each Owner at the time of construction of a building, residence or structure, to comply with the requirements, if any, of the Manatee County Public Works Department to

have the ability to connect into any system for reclaimed effluent irrigation which may be installed in the future.

10. Sidewalks for individual lots shall be installed at the time of home construction prior to the issuance of a Certificate of Occupancy. All sidewalks shall be installed in accordance with the approved construction drawings and meeting the standards of the Manatee County Land Development Code.

11. Portions of the internal streets within this Subdivision may be privately owned and maintained by either a Homeowner's Association or other appropriate legal entity.

12. The following language pertaining to SWFWMD is included as part of the deed restrictions for each Lot:

Unless otherwise specified by the terms of the applicable Southwest Florida Water Management District permit, two copies of all information and reports required by the applicable permit shall be submitted to:

Manatee Regulation Department  
Southwest Florida Water Management District  
670 Fruitville Road  
Sarasota, FL 34240-9711

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

- No Owner within the Subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the buffer area(s) and drainage easement(s) described in the approved permit and recorded Plat of the Subdivision, unless prior approval is received from the Southwest Florida Water Management District, Manatee Regulation Department.
- No construction activities may be conducted relative to any portion of the surface water management system facilities. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the surface water management system facilities. If the Subdivision includes a wetland mitigation area, as defined in Section 1.7.24, or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the District. Construction and maintenance activities that are consistent with the design and permit conditions approved by the District in the Environmental Resource Permit may be conducted without specific written approval from the District.
- The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities.
- Any amendment of the declaration of protective covenants, deed restrictions or declaration of condominium affecting the surface water management system facilities.

- If the Association ceases to exist, all of the Lot Owners, parcel owners or unit owners shall be jointly and severally responsible for operation and maintenance of the surface water management system facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility as explained in Subsection 2.6.2.2.4.h.
- For Subdivisions which have on-site wetland mitigation as defined in Section 1.7.24, which requires on going monitoring and maintenance, the declaration of protective covenants, deed restrictions or declaration of condominium shall include a provision requiring the Association to allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until the District determines that the area(s) is (are) successful in accordance with the Environmental Resource Permit.
- Each property Owner within the Subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the Southwest Florida Water Management District (SWFWMD).
- The operation and maintenance entity shall submit inspection reports when and as required by the District and in the form required by the District and per the permit for the Subdivision.
- The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the District. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Any questions regarding authorized activities within the wet detention ponds shall be addressed to the District's Regulation Manager, Manatee Service Office.
- All Lots abutting wet detention ponds shall have the following language (or similar language as approved in writing by the Manatee Regulation Department) as part of the deed restrictions:

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

13. Rye Road may be extended in the future from County Road 675 to State Road 62 over Gamble Creek as a six (6) lane divided arterial roadway.
14. County Road 675 may be expanded in the future as a six (6) lane divided roadway.
15. Internal roadways of the Subdivision may be extended in the future as inter-neighborhood ties to the east and west of the Subdivision.
16. As provided in Article III, Section 9(c) of this Declaration, unless permitted by the Manatee County Land Development Code, the following acts and activities are expressly prohibited within the boundaries of the wetland, wetland buffer and upland preservation areas without the prior consent of Manatee County:
  - a. Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground.

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

17. The Subdivision is adjacent to agricultural uses that may include the use of pesticides and herbicides and may have odors and noises associated with such agricultural uses. Adjacent properties to the Subdivision may also be used for horse riding stables, pasture land with farm animals, such as cattle, and the like.

18. The Subdivision is located adjacent to rural, agricultural and/or natural resource land management areas. Smoke from open burning, odors, dust and noises associated with these existing land uses may occur on an ongoing basis. Potential buyers of property in this area shall recognize the need for such land management activities.

19. The Subdivision lies in Zones X, A, AE and floodway per FIRM Panels 12081C0215E, 12081C0205E and 12081C0185E effective March 17, 2014.

THE BUYER IS HEREBY NOTIFIED THAT IF THEIR STRUCTURE LIES WITHIN THE FLOODPLAIN, THEIR MORTGAGE LENDER MAY REQUIRE THEM TO PURCHASE FLOOD INSURANCE. SUCH MORTGAGE LENDER MAY MAKE ITS OWN DETERMINATION, WHICH MAY DIFFER FROM MANATEE COUNTY BUILDING AND DEVELOPMENT SERVICES DEPARTMENT'S FLOODPLAIN DIVISION.

20. Visibility Triangles must be maintained per the Land Development Code of Manatee County, Florida.

21. The foregoing statements are only summary in nature and shall not be deemed to supersede or modify the provisions of the Declaration, or any lot sales contract between any homebuyer and any Builder or Declarant.



**Exhibit "G"**

**AVIARY AT RUTLAND RANCH  
MAINTENANCE PROGRAM**

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

- |            |  |
|------------|--|
| Weekly:    | Landscape and lawn service.<br>Irrigation inspection and maintenance.<br>Landscape inspection and maintenance and maintenance of plantings<br>Amenity/facility inspections and maintenance   |
| Monthly:   | Cleaning of streets from construction of homes (during construction only)<br>Inspection of and maintenance of access gates and operators.<br>Amenity/facility inspections and maintenance.   |
| Quarterly: | Landscape fertilization (based on fertilization schedule, may not be as often as quarterly).<br>Inspection and repair of irrigation pump and lines<br>Amenity/facility inspections and maintenance.  |
| Yearly:    | Mulch and tree trimming.<br>Inspect and repair mailboxes (if applicable)<br>Inspection of and maintenance on entry medians and signs<br>Inspection of and maintenance of streets and sidewalks (if applicable).<br>Amenity/facility inspections and maintenance.<br>Annual monitoring and maintenance, including removal, of nuisance, exotic plant species. |

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

It is anticipated that the budgetary information submitted for the first year of operation indicates more than adequate funds for maintenance as well as operation of the facilities. Subsequent years may require additional funds, which will be assessed and collected as required by the Declaration to which each lot is subject.

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

Notwithstanding anything to the contrary herein, if any of the preceding infrastructure is owned, operated and/or maintained by the Community Development District, then the Community Development District will develop its own Maintenance Program for the inspection and maintenance of same, and such inspection and maintenance of said infrastructure shall be the sole responsibility and cost of the Community Development District and not the Association unless as otherwise agreed to in writing by the Association. The Association shall not be required to inspect or maintain any infrastructure dedicated to or controlled by the Community Development District or the County unless otherwise agreed to in writing by the Association.

**Exhibit "H"**

**AVIARY AT RUTLAND RANCH  
RIGHT OF ENTRY  
and  
COMPLIANCE WITH MANATEE COUNTY LAND DEVELOPMENT CODE**

The Manatee County Land Development Code, Ordinance 90-01, adopted on July 25, 1990 by the Board of County Commissioners of Manatee County, Florida requires adequate ownership and management measures be provided in residential developments to protect and perpetually maintain all common improvements and open space. The following provisions are stipulated and are hereby incorporated as part of the Declaration of Covenants, Conditions, and Restrictions for the Aviary at Rutland Ranch.

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

**Exhibit "I"**

**AVIARY AT RUTLAND RANCH  
FISCAL PROGRAM**

The estimated ten-year fiscal budget for Aviary is provided below. The budget is for a ten (10) year period which begins in 2019. This budget is for the operation and maintenance of the Common Area and Common Maintenance Area by the Association.

[Attached on the following page.]

**The Aviary at Rutland Ranch Homeowners Association**  
Estimated 10 Year Budget  
SUBJECT TO CHANGE BY DEVELOPER WITHOUT NOTICE AT ANY TIME  
Based on 784 Single Family Homes

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
<b>INCOME</b>										
Assessment Income	\$ 794,268.00	\$ 823,481.40	\$ 864,655.47	\$ 907,888.24	\$ 953,282.66	\$ 1,000,946.79	\$ 1,050,994.13	\$ 1,103,543.83	\$ 1,158,721.03	\$ 1,216,657.08
<b>TOTAL INCOME</b>	<b>\$ 794,268.00</b>	<b>\$ 823,481.40</b>	<b>\$ 864,655.47</b>	<b>\$ 907,888.24</b>	<b>\$ 953,282.66</b>	<b>\$ 1,000,946.79</b>	<b>\$ 1,050,994.13</b>	<b>\$ 1,103,543.83</b>	<b>\$ 1,158,721.03</b>	<b>\$ 1,216,657.08</b>
<b>OPERATING EXPENSES</b>										
General & Administrative										
Management Fees	\$ 75,264.00	\$ 79,027.20	\$ 82,978.56	\$ 87,127.49	\$ 91,483.86	\$ 96,058.06	\$ 100,860.96	\$ 105,904.01	\$ 111,199.21	\$ 116,759.17
CPA & Tax Prep	\$ 5,500.00	\$ 5,775.00	\$ 6,063.75	\$ 6,366.94	\$ 6,685.28	\$ 7,019.55	\$ 7,370.53	\$ 7,739.05	\$ 8,126.00	\$ 8,537.31
Legal Fees	\$ 2,500.00	\$ 2,625.00	\$ 2,756.25	\$ 2,894.06	\$ 3,038.77	\$ 3,190.70	\$ 3,350.24	\$ 3,517.75	\$ 3,693.64	\$ 3,878.32
Insurance	\$ 25,000.00	\$ 26,250.00	\$ 27,562.50	\$ 28,940.63	\$ 30,387.86	\$ 31,907.04	\$ 33,502.39	\$ 35,177.51	\$ 36,936.39	\$ 38,783.21
Corporate Filing/Annual Report	\$ 62.00	\$ 65.10	\$ 68.36	\$ 71.77	\$ 75.36	\$ 79.13	\$ 83.09	\$ 87.24	\$ 91.60	\$ 96.18
Bank Charges	\$ 1,000.00	\$ 1,050.00	\$ 1,102.50	\$ 1,157.63	\$ 1,215.51	\$ 1,276.28	\$ 1,340.10	\$ 1,407.10	\$ 1,477.46	\$ 1,551.33
Postage & Mail	\$ 3,000.00	\$ 3,150.00	\$ 3,307.50	\$ 3,472.88	\$ 3,646.52	\$ 3,828.84	\$ 4,020.29	\$ 4,221.30	\$ 4,432.37	\$ 4,653.98
Office Expense	\$ 2,500.00	\$ 2,625.00	\$ 2,756.25	\$ 2,894.06	\$ 3,038.77	\$ 3,190.70	\$ 3,350.24	\$ 3,517.75	\$ 3,693.64	\$ 3,878.32
Printing & Reproduction	\$ 2,500.00	\$ 2,625.00	\$ 2,756.25	\$ 2,894.06	\$ 3,038.77	\$ 3,190.70	\$ 3,350.24	\$ 3,517.75	\$ 3,693.64	\$ 3,878.32
Archiving/Storage	\$ 240.00	\$ 252.00	\$ 264.60	\$ 277.83	\$ 291.72	\$ 306.31	\$ 321.62	\$ 337.70	\$ 354.58	\$ 372.32
Permits & Fees	\$ 62.00	\$ 65.10	\$ 68.36	\$ 71.77	\$ 75.36	\$ 79.13	\$ 83.09	\$ 87.24	\$ 91.60	\$ 96.18
Access Cards/FOB's	\$ 3,500.00	\$ 3,675.00	\$ 3,858.75	\$ 4,051.69	\$ 4,254.27	\$ 4,466.99	\$ 4,690.33	\$ 4,924.85	\$ 5,171.09	\$ 5,429.65
Website	\$ 1,200.00	\$ 1,250.00	\$ 1,323.00	\$ 1,389.15	\$ 1,458.61	\$ 1,531.54	\$ 1,608.11	\$ 1,688.52	\$ 1,772.95	\$ 1,861.59
Collection Fees	\$ 750.00	\$ 787.50	\$ 826.88	\$ 868.22	\$ 911.63	\$ 957.21	\$ 1,005.07	\$ 1,055.33	\$ 1,108.09	\$ 1,163.50
Bed Debt Allowance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Subtotal General &amp; Administrative</b>	<b>\$ 123,078.00</b>	<b>\$ 129,233.90</b>	<b>\$ 135,893.50</b>	<b>\$ 142,478.17</b>	<b>\$ 149,602.08</b>	<b>\$ 157,082.18</b>	<b>\$ 164,936.29</b>	<b>\$ 173,183.11</b>	<b>\$ 181,842.28</b>	<b>\$ 190,934.37</b>
Common Area Maintenance										
Landscape Maintenance	\$ 300,000.00	\$ 315,000.00	\$ 330,750.00	\$ 347,287.50	\$ 364,651.88	\$ 382,884.47	\$ 402,028.69	\$ 422,130.13	\$ 443,236.63	\$ 465,398.46
Mulch/Tree Trimming	\$ 50,000.00	\$ 52,500.00	\$ 55,125.00	\$ 57,881.25	\$ 60,775.31	\$ 63,814.08	\$ 67,004.78	\$ 70,355.02	\$ 73,872.77	\$ 77,566.41
Landscape Replacement	\$ 15,000.00	\$ 15,750.00	\$ 16,537.50	\$ 17,364.38	\$ 18,232.59	\$ 19,144.22	\$ 20,101.43	\$ 21,106.51	\$ 22,161.83	\$ 23,269.92
Irrigation Maintenance	\$ 40,000.00	\$ 42,000.00	\$ 44,100.00	\$ 46,305.00	\$ 48,620.25	\$ 51,051.26	\$ 53,605.83	\$ 56,284.02	\$ 59,098.21	\$ 62,053.13
Lake Maintenance	\$ 30,000.00	\$ 31,500.00	\$ 33,075.00	\$ 34,728.75	\$ 36,465.19	\$ 38,288.45	\$ 40,202.87	\$ 42,213.01	\$ 44,323.66	\$ 46,539.85
Annual Nuisance, exotic plant species removal	\$ 10,000.00	\$ 10,500.00	\$ 11,025.00	\$ 11,576.25	\$ 12,155.06	\$ 12,762.82	\$ 13,400.96	\$ 14,071.00	\$ 14,774.55	\$ 15,513.28
Building Maintenance & Repairs	\$ 3,500.00	\$ 3,675.00	\$ 3,858.75	\$ 4,051.69	\$ 4,254.27	\$ 4,466.99	\$ 4,690.33	\$ 4,924.85	\$ 5,171.09	\$ 5,429.65
Building Other	\$ 3,000.00	\$ 3,150.00	\$ 3,307.50	\$ 3,472.88	\$ 3,646.52	\$ 3,828.84	\$ 4,020.29	\$ 4,221.30	\$ 4,432.37	\$ 4,653.98
Pool Maintenance	\$ 20,000.00	\$ 21,000.00	\$ 22,050.00	\$ 23,152.50	\$ 24,310.13	\$ 25,525.63	\$ 26,801.91	\$ 28,142.01	\$ 29,549.11	\$ 31,026.56
Pool Permits	\$ 450.00	\$ 472.50	\$ 496.13	\$ 520.93	\$ 546.98	\$ 574.33	\$ 603.04	\$ 633.20	\$ 664.85	\$ 698.10
Pool Maintenance & Repair	\$ 2,000.00	\$ 2,100.00	\$ 2,206.00	\$ 2,315.25	\$ 2,431.01	\$ 2,552.56	\$ 2,680.19	\$ 2,814.20	\$ 2,954.91	\$ 3,102.66
Pool Pressure Cleaning	\$ 2,500.00	\$ 2,625.00	\$ 2,756.25	\$ 2,894.06	\$ 3,038.77	\$ 3,190.70	\$ 3,350.24	\$ 3,517.75	\$ 3,693.64	\$ 3,878.32
Amenity Cleaning	\$ 17,500.00	\$ 18,375.00	\$ 19,293.75	\$ 20,258.44	\$ 21,271.36	\$ 22,334.93	\$ 23,451.67	\$ 24,624.26	\$ 25,855.47	\$ 27,148.24
Entry Maintenance	\$ 5,000.00	\$ 5,250.00	\$ 5,512.50	\$ 5,788.13	\$ 6,077.53	\$ 6,381.41	\$ 6,700.48	\$ 7,035.50	\$ 7,387.28	\$ 7,756.04
Misc. Maintenance	\$ 10,000.00	\$ 10,500.00	\$ 11,025.00	\$ 11,576.25	\$ 12,155.06	\$ 12,762.82	\$ 13,400.96	\$ 14,071.00	\$ 14,774.55	\$ 15,513.28
<b>Subtotal Common Area Maintenance</b>	<b>\$ 508,950.00</b>	<b>\$ 534,397.50</b>	<b>\$ 561,117.38</b>	<b>\$ 589,173.24</b>	<b>\$ 618,631.91</b>	<b>\$ 649,563.50</b>	<b>\$ 682,041.68</b>	<b>\$ 716,143.76</b>	<b>\$ 751,990.95</b>	<b>\$ 789,548.50</b>
Utilities										
Water/Sewer	\$ 10,000.00	\$ 10,500.00	\$ 11,025.00	\$ 11,576.25	\$ 12,155.06	\$ 12,762.82	\$ 13,400.96	\$ 14,071.00	\$ 14,774.55	\$ 15,513.28
Electric	\$ 30,000.00	\$ 31,500.00	\$ 33,075.00	\$ 34,728.75	\$ 36,465.19	\$ 38,288.45	\$ 40,202.87	\$ 42,213.01	\$ 44,323.66	\$ 46,539.85
Streetslights	\$ 86,240.00	\$ 90,552.00	\$ 95,079.60	\$ 99,833.58	\$ 104,825.26	\$ 110,066.52	\$ 115,569.85	\$ 121,348.34	\$ 127,415.76	\$ 133,786.55
Water - Irrigation	\$ 36,000.00	\$ 37,800.00	\$ 39,690.00	\$ 41,674.50	\$ 43,758.23	\$ 45,946.14	\$ 48,243.44	\$ 50,655.62	\$ 53,188.40	\$ 55,847.82
<b>Subtotal Utilities</b>	<b>\$ 162,240.00</b>	<b>\$ 169,852.00</b>	<b>\$ 177,874.60</b>	<b>\$ 187,236.83</b>	<b>\$ 196,048.67</b>	<b>\$ 199,309.11</b>	<b>\$ 204,016.16</b>	<b>\$ 214,216.97</b>	<b>\$ 224,927.82</b>	<b>\$ 236,174.21</b>
<b>Total Operating Expenses</b>	<b>\$ 794,268.00</b>	<b>\$ 823,481.40</b>	<b>\$ 864,655.47</b>	<b>\$ 907,888.24</b>	<b>\$ 953,282.66</b>	<b>\$ 1,000,946.79</b>	<b>\$ 1,050,994.13</b>	<b>\$ 1,103,543.83</b>	<b>\$ 1,158,721.03</b>	<b>\$ 1,216,657.08</b>