

Prepared by and return to:  
Kelly M. Fernandez, Esq.  
Persson, Cohen & Mooney, P.A.  
236 Pedro St.  
Venice, Florida 34285

**OPEN SPACE RESTRICTION AND COVENANT  
PURSUANT TO THE CITY OF VENICE LAND DEVELOPMENT REGULATIONS**

This Open Space Restriction and Covenant Pursuant to the City of Venice Land Development Regulations (“Restriction”) is made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Neal Communities of Southwest Florida, LLC, a Florida limited liability company and Border and Jacaranda Holdings, LLC, a Florida limited liability company (collectively “Owner”).

**RECITALS:**

A. Owner is the fee simple owner of lands within the City of Venice, Sarasota County, Florida, described in Exhibit “A”, attached hereto and made a part hereof (the “Property”) and warrants that it has full authority to impose the restrictions and covenants herein.

B. At Owner’s request, the City Council of the City of Venice, Sarasota County, Florida, rezoned the Property to Planned Unit Development (“PUD”) by Ordinance No. 2018-11 (the “Rezone Ordinance”).

C. Section 87-2.2.4.5.A. of the City of Venice Code of Ordinances (“City Code”) requires lands zoned PUD to contain a minimum of fifty percent (50%) “open spaces”. This is a land use restriction and is a condition of the City’s enactment of the Rezone Ordinance.

D. Section 87-2.2.4.4.D. of the City Code requires land in a PUD designated as open space to be restricted by appropriate legal instrument satisfactory to the City Attorney as open space perpetually, or for a period of not less than 99 years.

NOW THEREFORE, Owner does hereby declare and covenant that the Property shall hereafter be subject to the following provisions, restrictions, reservations, covenants, conditions and easements:

1. Recitals. The Recitals set forth above are true and correct and are incorporated herein by reference.

2. Planned Unit Development Open Space. The open spaces depicted or described in Exhibit “A”, attached hereto and incorporated herein by reference (hereinafter referred to as the “Open Space Lands”), are restricted as follows for 99 years from the date this Restriction is recorded:

- a. The Open Space Lands shall be unoccupied, or predominantly unoccupied, by buildings or other impervious surfaces.

- b. The Open Space Lands shall only be used for stormwater management, parks, recreation, conservation, preservation of native habitat and other natural resources, or historic or scenic purposes.
- c. No more than five percent (5%) of the Open Space Lands may be occupied by impervious surfaces.

3. This Restriction does not confer or imply governmental regulatory approval or disapproval for the uses listed herein. Any development or use rights otherwise appertaining to the Open Space Lands are relinquished and shall not be asserted.

4. Recording; Covenant Running with the Land. This Restriction shall be recorded in the public records of Sarasota County, Florida, shall constitute a covenant running with the land and shall be binding upon the Owner, its successors and assigns, and shall continue as a servitude running in perpetuity with the Open Space Lands.

5. Governing Law; Enforcement; Venue. This Restriction shall be governed and construed in accordance with the laws of the State of Florida and may be enforced by the City of Venice by filing an action for injunctive relief in the circuit court. Venue for any such enforcement proceeding shall be Sarasota County, Florida.

6. No Third Party Rights. This Restriction is solely for the benefit of the City of Venice and is provided by Owner solely for the purpose of complying with applicable zoning requirements. No right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party.

7. Amendment. This Restriction may be amended by Owner by recording in the Public Records an instrument for that purpose executed by Owner in the same manner as this Restriction. However, no amendment shall be effective without the written joinder and consent of the City Council for the City of Venice, Sarasota County, Florida.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

In witness whereof, Owner has caused this Restriction to be executed in its name the date first above written.

WITNESSES:

Owner:

**NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC**, a Florida limited liability company

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

By: Pamela Curran  
Name: Pamela Curran  
Its: Manager

Alondra Garcia  
Witness

Alondra Garcia  
Print Name of Witness

Max Good  
Witness

Max Good  
Print Name of Witness

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me by means of (☒) physical presence or (☐) online notarization this 16<sup>th</sup> day of October, 2023, by Pamela Curran, as Manager of NCDG Management, LLC, a Florida limited liability company, as Manager of Neal Communities of Southwest Florida, LLC, a Florida limited liability company, on behalf of the Company, (☒) who is personally known to me, or (☐) who has produced \_\_\_\_\_ as identification.

Kathryn A. Pignatelli  
Signature of Notary Public

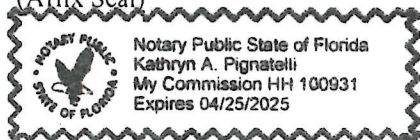
Print Notary Name: Kathryn A. Pignatelli

NOTARY PUBLIC STATE OF FLORIDA

Commission No. HH100931

Expiration Date: 04-25-2025

(Affix Seal)



**BORDER AND JACARANDA HOLDINGS, LLC**, a Florida  
limited liability company

Aleandra Starda  
Witness

Aleandra Starda  
Print Name of Witness

Kathryn A. Pignatelli  
Witness

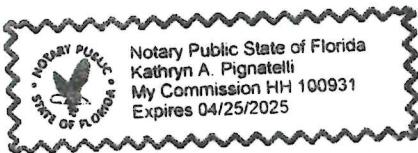
Kathryn A. Pignatelli  
Print Name of Witness

By: Pamela Curran  
Name: Pamela Curran  
Its: Manager

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me by means of (☒) physical presence or (☐) online notarization this 16<sup>th</sup> day of October, 2023, by Pamela Curran, as Manager of Border and Jacaranda Holdings, LLC, a Florida limited liability company, on behalf of the Company, (☒) who is personally known to me, or (☐) who has produced \_\_\_\_\_ as identification.

(Affix Seal)



Kathryn A. Pignatelli  
Signature of Notary Public  
Print Notary Name: Kathryn A. Pignatelli  
NOTARY PUBLIC STATE OF FLORIDA  
Commission No. HH100931  
Expiration Date: 04-25-2025

**ACCEPTANCE**

The City of Venice hereby accepts this Open Space Restriction and Covenant Pursuant to City of Venice Land Development Regulations described above.

**ATTEST**

\_\_\_\_\_  
Nick Pachota, Mayor

\_\_\_\_\_  
Kelly Michaels, MMC, City Clerk

Approved as to form:

\_\_\_\_\_  
Kelly M. Fernandez, City Attorney

### Exhibit "A"

Tracts 300, 301, 302, 303, 304, 305, 306, 502, 503, 504, 600, 601 and 603 as identified and described on the plat for Cielo, a Subdivision, as recorded in Plat Book 53, Page 288 of the Public Records of Sarasota County, Florida,

**LESS AND EXCEPT:** That portion of the aforementioned Tracts lying within the following described property:

### **"EXHIBIT"**

DESCRIPTION (as prepared by the certifying Surveyor and Mapper):

A tract of land being all of Tracts 500 and 501, and being a portion of Tracts 300, 301, 306 and 600 of Cielo recorded in Plat Book 53, Page 288 of the Public Records of Sarasota County, Florida, lying in Section 35, Township 38 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

Begin at the southeast corner of Tract 700 of Cielo recorded in Plat Book 53, Page 288 of the Public Records of Sarasota County, Florida; thence S.00°00'06"W. along the east boundary line of said Cielo plat, a distance of 478.24 feet; thence N.89°14'10"W., a distance of 935.70 feet; thence N.00°45'50"E., a distance of 59.13 feet; thence N.89°10'16"W., a distance of 1,148.28 feet to the west boundary line of said plat of Cielo; thence N.00°19'42"E. along said west boundary line, a distance of 420.06 feet to the south line of said Tract 700; thence S.89°10'25"E. along said south line of Tract 700, a distance of 2,080.82 feet to the POINT OF BEGINNING.

Containing 929,427 square feet or 21.3367 acres, more or less.

#### NOTES:

1. THIS SKETCH IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR ELECTRONIC SIGNATURE AND SEAL OF A FLORIDA SURVEYOR AND MAPPER.
2. BEARINGS SHOWN HEREON ARE RELATIVE TO SOUTH LINE OF TRACT 700 OF CIELO, BEING S89°10'25"E.
3. THIS IS A SKETCH ONLY AND DOES NOT REPRESENT A FIELD SURVEY.

10/13/2023

Robert R. Cunningham, P.S.M.  
Florida Registration No. 3924

Date of Signature

This is NOT a Survey and Not valid without all sheets.

Oct 13, 2023 - 11:21:30 EDMEDIAV:\2156\active\215617172\survey\PUBLIX AND APARTMENT SITE RELEASE LSM1\215617172v-spsk01.dwg

SKETCH & DESCRIPTION OF A  
TRACT OF LAND LOCATED IN  
SECTION 35, TOWNSHIP 38 S., RANGE 19 E.,  
SARASOTA COUNTY, FLORIDA



**Stantec**

6800 Professional Parkway East, Sarasota, FL 34240-6414  
Phone 941-507-6800 • Fax 941-507-4810  
Certificate of Accreditation #2011 • www.stantec.com  
Licensing Numbers: 0000

TASK CODE: 900	DRAWN BY: EDM	CHKD BY: RRC	CAD FILE: 215617172v-spsk01	PROJECT NO: 215617172	SHEET 2 OF 2	DRAWING INDEX NO: B17172v-spsk01*	REV:
-------------------	------------------	-----------------	--------------------------------	--------------------------	-----------------	--------------------------------------	------