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**DECLARATION OF MAINTENANCE COVENANTS  
FOR  
TOSCANA ISLES**

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**DECLARATION OF MAINTENANCE COVENANTS  
FOR  
TOSCANA ISLES**

**THIS DECLARATION OF MAINTENANCE COVENANTS** is made this 15<sup>th</sup> day of October 2012 by **VANGUARD LAND, LLC**, a Florida limited liability company ("Vanguard"), joined by **CARIBBEAN BAY MORTGAGE LENDER, LLC**, a Florida limited liability company ("Caribbean Bay").

**RECITALS:**

A. Caribbean Bay is the owner of certain real property in Sarasota County, Florida, more particularly described in Exhibit "A" attached hereto.

B. Vanguard and Caribbean Bay intend to improve, develop, and convey portions of the property described in Exhibit "A" for residential, commercial, recreational and other uses and purposes as part of a community to be known as "Toscana Isles."

C. By virtue of this Declaration, Vanguard and Caribbean Bay intend to provide a flexible and reasonable procedure for the designation of lands that will be a part of the community, to impose upon such lands mutually beneficial restrictions under a general plan of improvement for the benefit of all owners thereof, and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such lands.

**NOW, THEREFORE**, Vanguard, joined by Caribbean Bay, does hereby establish this Declaration and place upon those lands more particularly described herein the following covenants, conditions, and restrictions.

**ARTICLE 1  
DEFINITIONS**

Unless prohibited by the context in which they are used, the following words, when used in this Declaration, shall have the following meanings:

1.1 "Annual Assessment" shall mean an Assessment levied annual by the Board against a Parcel in accordance with the provisions of Article 8.2 for the payment of a portion of the Common Expenses.

1.2 "Army Corps Permit" shall mean Department of the Army Permit No. SAJ-2011-01313 (IP-MEP), dated September 10, 2012, issued for the Community by U.S. Army Corps of Engineers, as may be amended.

1.3 "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, a copy of which is attached to this Declaration as Exhibit "B."

1.4 "Assessment" shall mean an assessment levied by the Board against a Parcel in accordance with the provisions of Article 8 for the payment of Association Expenses.

1.5 "Association" shall mean Toscana Isles Community Association, Inc., a Florida corporation not for profit.

1.6 "Association Expenses" shall mean all expenses incurred by the Association in the performance of its obligations or the exercise of its powers pursuant to this Declaration, the Articles of Incorporation, or the Bylaws.

**1.7** "Attorney's Fees" shall mean all reasonable attorney's fees incurred in connection with a matter, including fees for trial and appellate proceedings and fees for services not involving litigation.

**1.8** "Board" shall mean the Board of Directors of the Association.

**1.9** "Bylaws" shall mean the Bylaws of the Association, a copy of which is attached to this Declaration as Exhibit "C."

**1.10** "Common Areas" shall mean all real and personal property (or interest therein), that is: (a) owned by the Association; (b) identified as such in this Declaration or in any instrument executed by Declarant and recorded in the Public Records; (c) designated by Declarant in an instrument delivered to the Association as property intended for the common use and enjoyment of all Owners; or (d) maintained by the Association for the benefit of all Owners.

**1.11** "Common Expenses" shall have the meaning set forth in Article 6.2.

**1.12** "Community" shall mean the Initial Property, together with any additional property as hereafter may be made subject to this Declaration.

**1.13** "Community Standards" shall mean the minimum standards of conduct, maintenance, or other activity applicable to the Community and the Owners that are established from time to time by the Board.

**1.14** "Construction Work" shall mean any installation, construction, restoration, replacement, alteration, addition, or demolition of Improvements on a Parcel or on the Common Areas.

**1.15** "Declarant" shall mean Vanguard Land, LLC, a Florida limited liability company, any successor or legal representative of Vanguard Land, LLC, or any Person to whom all rights of Vanguard Land, LLC, under this Declaration are hereafter assigned pursuant to written instrument duly recorded in the Public Records.

**1.16** "Development Plan" shall mean the Toscana Isles Planned Unit Development dated December 2011, revised December 29, 2011, and January 30, 2012, issued for the Community by the City of Venice, as may be amended from time to time by Declarant.

**1.17** "Environmental Preservation Guidelines" shall mean those guidelines promulgated by Declarant from time to time relative to the maintenance, upkeep, and preservation of those portions of the Community or adjacent lands which are under the jurisdiction and control of any governmental authority or for which Declarant desires or requires environmental protection or controls in accordance with Article 5.6.

**1.18** "Final Development Date" shall mean the earlier of the following two dates: (a) the date on which Declarant records a notice in the Public Records that development of the Community has been completed; or (b) January 1, 2040.

**1.19** "Fine" shall mean an amount assessed by the Board against an Owner in accordance with the provisions of Article 15.3.

**1.20** "Improvements" shall mean all buildings, driveways, parking areas, walks, walls, fences, signs, structures, utility installations, site paving, grading, mechanical equipment, solar energy devices, antennae, satellite dishes, water and sewer lines, drains, wells, irrigation systems, and other improvements of any kind, together with any subsequent alterations, additions, or replacements.

**1.21** "Initial Property" shall mean the real property described in Exhibit "A" attached to this Declaration.

**1.22** "Institutional Mortgagee" shall mean a savings and loan association, bank, credit union, mortgage banker, mortgage broker, insurance company, pension fund having assets in excess of \$100 million, agency of any state government, or agency of the United States Government (including the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation), and its subsidiaries, affiliates, successors, and assigns, holding a first mortgage lien upon any Parcel.

**1.23** "Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to a Parcel.

**1.24** "Parcel" shall mean a platted subdivision tract that is depicted on the Plat.

**1.25** "Parcel Improvements" shall mean all Improvements located on a Parcel.

**1.26** "Person" shall mean a natural person, corporation, partnership, trustee, or other legal entity.

**1.27** "Plat" shall mean the plat of the Property recorded in Plat Book \_\_\_\_\_, page \_\_\_\_\_, Public Records of Sarasota County, Florida, and any plat subsequently recorded in the Public Records with respect to other property which is made subject to this Declaration.

**1.28** "Property" shall mean the Initial Property and any subsequent property submitted to this Declaration.

**1.29** "Public Records" shall mean the Public Records of Sarasota County, Florida.

**1.30** "Reclaimed Water" shall mean water that has received a degree of treatment and basic disinfection at a wastewater treatment facility but does not qualify as potable water under applicable governmental regulations.

**1.31** "Rules and Regulations" shall mean the rules and regulations of the Association adopted by the Board from time to time pursuant to the Bylaws.

**1.32** "Special Assessment" shall mean an assessment levied by the Board against a Parcel in accordance with the provisions of Article 8 as a supplement to an Annual Assessment for the payment of a portion of the Common Expenses.

**1.33** "Surfacewater Management System" shall mean the waters of all lakes, ditches, ponds, swales, culverts, inlets, and outfalls used in connection with the retention, drainage, and control of surface waters within the Community, together with all drainage control devices and apparatus used in connection therewith, all wetlands and associated buffer areas, all wetland mitigation areas, and all easements therefor as may exist by virtue of this Declaration or other recorded instrument or plat.

**1.34** "SWFWMD" shall mean the Southwest Florida Water Management District.

**1.35** "SWFWMD Permit" shall mean Southwest Florida Water Management District Permit No. 649124/43012290.008, dated October 25, 2011, as amended by Permit No. 658583/43012290.009, dated February 16, 2012, issued for the Community by the Southwest Florida Water Management District, as may be amended.

**1.36** "Turnover" shall mean the date on which the Turnover Meeting described in Article 6.2 of the Articles of Incorporation occurs.

**ARTICLE 2**  
**THE COMMUNITY**

**2.1 Description.** Declarant intends to develop the Community for residential, commercial, recreational, and other uses and purposes. Each Owner will be a member of the Association pursuant to Article 3. Each Parcel will be subject to Assessments by the Association pursuant to Article 8.

**2.2 Initial Property Within the Community.** The Community initially shall be comprised of the Initial Property, which is hereby made, and henceforth shall be held, transferred, sold, conveyed, and occupied, subject to this Declaration.

**2.3 Expansion of the Community.** Declarant shall have the right, but not the obligation, in its sole discretion from time to time, to change the boundaries of the Community to add additional property adjacent to the Community. Any such change shall be made by an amendment to this Declaration, which amendment shall be executed by Declarant and the owner of the additional property and recorded in the Public Records. Upon the addition of any additional property, all the provisions of this Declaration shall apply to such additional property to the same extent as they apply to the Initial Property. Expansion of the Community may include the designation of additional lands as Common Areas.

**2.4 Withdrawal of Property from the Community.** Declarant reserves the right, in its sole discretion from time to time, to withdraw any property from the Community at any time prior to the Turnover by the execution and recording in the Public Records of an amendment to this Declaration providing for the removal of such property from the provisions of this Declaration. Such amendment shall not require the consent of any Person other than Declarant and the owner of the property being removed. Notwithstanding the foregoing, no Parcel may be removed by Declarant from the provisions of this Declaration; and if the removal of the property from the provisions of this Declaration would leave any remaining portion of the Community without reasonable access to a public road or to utilities services, Declarant, concurrently with such removal, shall provide such easements as are necessary to provide such reasonable access.

**ARTICLE 3**  
**THE ASSOCIATION**

**3.1 Purposes.** The general purposes of the Association are to operate, maintain, manage, and improve the Common Areas, and other portions of the Community, to the extent set forth in this Declaration; to implement and enforce the provisions of this Declaration wherever applicable and appropriate; and to promote the health, safety, and social welfare of the Owners. In the furtherance of such purposes, the Association, through the Board, shall have the power and duty to levy Assessments and to enforce collection thereof in the manner provided in Articles 8 and 9. The Association shall also have such powers and duties as may be prescribed by the terms hereof or its Articles of Incorporation and Bylaws.

**3.2 Membership.** All Owners shall automatically be members of the Association. Membership of an Owner shall terminate as the Owner's vested interest in the fee title to a Parcel terminates and thereafter shall pass to such Owner's successors in title as an appurtenance to such Parcel. The Association has one class of members.

**3.3 Voting.** In all matters concerning the Association, each member is entitled to one vote for each Parcel owned by the Owner.

## **ARTICLE 4**

### **COMMON AREAS**

**4.1 General.** The Common Areas are comprised of property intended for the common use and benefit of all Owners.

**4.2 Common Areas.** The Common Areas shall include the Surfacewater Management System. By designation in the manner set forth in Article 1.9, the Common Areas may also include, by way of illustration and not as a limitation, common open space; utility and amenity areas intended for the use and benefit of all Owners; water, sewer, well, irrigation, and wastewater treatment lines, facilities, apparatus, equipment, and systems; and other Improvements used by the Association for administrative or maintenance purposes.

**4.3 Enjoyment of Common Areas.** Every Owner shall have the nonexclusive right to use and enjoy the Common Areas, subject to this Declaration, the Rules and Regulations, the Community Standards, and any agreement entered into by the Association. An Owner who leases his Parcel shall be deemed to have delegated such right to the Parcel's lessee during the term of the lease.

A. No Person shall, without the written approval of Declarant, do any of the following on any part of the Common Areas: operate motorcycles for any purpose other than as a means of transportation on any access easement; boat, fish, or swim other than activities permitted within lakes and ponds designated by the Declarant; permit the running of animals; light any fires; fell any trees or injure any landscaping; hunt, or carry or discharge firearms or other weapons; interfere with any drainage, utility, or access easements; build any structures other than recreational or other common facilities constructed or approved by Declarant; discharge any liquid or material, other than natural drainage, into any lake, pond, or watercourse; alter or obstruct any lakes, ponds, or watercourses; or interfere with any water control structures or apparatus. The designation of areas in which certain of the foregoing activities may occur shall be made by the Association, in its discretion, provided that any such designation may be subsequently revoked or changed by the Association or Declarant.

B. The Association and Declarant shall have the right to use suitable portions (if any) of the Common Areas for performances, exhibitions, and other presentations of interest to the Owners and others and to charge admission therefor.

C. No portion of the Common Areas utilized as common open space shall be denuded, defaced, or otherwise disturbed in any manner at any time, except for maintenance or repair or as otherwise provided in this Declaration, without the prior written approval of the City of Venice.

D. A nonexclusive and perpetual right of ingress and egress over and across all Common Areas is hereby granted to the following Persons while in pursuit of their duties: (1) representatives of fire, police, and sheriff's departments; and (2) health, pollution control, and emergency medical service personnel.

**4.4 Dedication to Public.** Declarant shall have the sole and absolute right at any time, without necessity of approval of the Association, but with the approval of the City of Venice, to dedicate to the public any portion of the Common Areas deemed appropriate by Declarant. Notwithstanding anything in this Declaration or the Articles of Incorporation to the contrary, if the Association is dissolved in accordance with the Articles of Incorporation, any Common Areas owned by the Association, including the Surfacewater Management System, shall be conveyed to an appropriate agency of local government, provided such agency is willing to accept the conveyance, and if not accepted, then to another corporation not for profit similar to the Association.

**4.5 Surfacewater Management System.** The Association shall install all improvements and complete all work in the Community required by the Army Corps Permit and the SWFWMD Permit. All costs incurred by the Association in installing the improvements and completing the work required by the Army Corps Permit and the SWFWMD Permit shall be included in the Common Expenses of the Association.



Notwithstanding that the Surfacewater Management System will be part of the Common Areas, Declarant reserves sole ownership of the Surfacewater Management System and the sole right to control the water level and maintenance of all lakes, ponds, swales, drainage control devices, and all other areas and apparatus comprising the Surfacewater Management System. No use of the water in any of the Surfacewater Management System's lakes or ponds may be made by the Association or other Persons without Declarant's prior written consent, which consent may be withheld in sole and absolute discretion.

A. Without limiting the foregoing, Declarant has the right to control the water level and maintenance of, and to remove or withdraw all or any part of the water from, any lake or any other portion of the Surfacewater Management System for any purpose, including but not limited to maintenance, compliance with governmental regulations, or extraction of fill dirt. In no event, however, shall Declarant remove or permit to be removed all or substantially all of the water in any such lake or other portion of the Surfacewater Management System for a period longer than one year unless required to do so by governmental regulations or by other reasons beyond the control of Declarant. In conjunction with such activities, Declarant may place temporary stakes, fences, barriers, or equipment within any easement area adjacent to any such lake or other portion of the Surfacewater Management System. No Person shall have any claim against Declarant, or the Association for any inconvenience or interference with such Person's view, peace and quiet, welfare, access to light and air, or any similar or related claim caused by such activities undertaken or authorized by Declarant.

B. Subject to compliance with applicable governmental regulations, Declarant may, in its sole and absolute discretion and without notice, add Reclaimed Water to any lake or other portion of the Surfacewater Management System for any purpose, including but not limited to purposes related to irrigation of any lands within the Community or any other lands outside of the Community. No Person shall have any claim against Declarant or the Association for the Declarant exercising of such rights or the manner in which such discretion is exercised.

C. Declarant may from time to time assign any or all of its rights, title, interest, easements, powers, duties, obligations, and privileges reserved or granted hereunder to the Association or to any other Person.

D. The rights of Declarant enumerated in this Article 4.5 or elsewhere in this Declaration are for the sole benefit of Declarant and may be exercised, waived, released, or assigned, in whole or in part, in Declarant's sole discretion. No Person shall have any cause of action against Declarant on account of Declarant's exercise, manner of exercise, failure to exercise, waiver, release, or assignment, in whole or in part, of any of such rights.

## **ARTICLE 5** **MAINTENANCE**

**5.1 General.** The responsibility for maintenance of the Community shall be divided among the Association and the Owners.

**5.2 Maintenance of the Common Areas.** Except as otherwise provided by the terms of this Declaration, the Association shall maintain and keep in good repair all portions of the Common Areas, which maintenance and repairs shall include, by way of illustration and not as a limitation: maintenance of all lakes, ponds, swales, and other watercourses, and related drainage facilities and apparatus, that are part of the Surfacewater Management System; maintenance of all landscaping and other Improvements that are part of the Common Areas; and insect, pest, and aquatic control to the extent necessary or desirable, in the judgment of the Association, to supplement the service provided or required by Federal, state, and local governments.

A. The Association shall have a perpetual right and easement on, over, and under the Parcels (exclusive of the interior of Parcel Improvements) to dispense pesticides and to take such other action as the Association may deem necessary or desirable to control insects and vermin within the

Community. The authorization to provide pest services shall not be construed as an obligation on the part of the Association to provide such services.

B. In the event the Association, or any successor organization, shall fail to maintain the Common Areas in reasonable order and condition, the City of Venice shall have the right, but not the obligation, to enter the Community for the purpose of maintaining the Common Areas. All expenses incurred by the City of Venice in maintaining the Common Areas shall be assessed pro rata against the Parcels and shall be payable by the Owners of such Parcels within 60 days after receipt of a statement therefor. If any Owner fails to pay such assessment within such 60-day period, the City of Venice may file a lien on such Owner's Parcel for the amount of such assessment. The rights of the City of Venice contained in this Article 5.2.B shall be in addition to any other rights the City of Venice may have in regulating the operation and development of the Community, but shall also be subject to any applicable judicial or legislative restrictions.

**5.3 Maintenance of Parcels and Certain Adjoining Areas.** Except as otherwise provided by the terms of this Declaration or as otherwise approved by Declarant:

A. Each Owner shall be responsible for the maintenance of his Parcel Improvements.

B. Owners of Parcels adjacent to any lake or other body of water within the Community shall maintain and irrigate sod on that portion of the Community lying between the Parcel boundary and the water's edge of such lake or other body of water.

C. Each Owner shall be responsible for the installation of the landscaping and buffer improvements required by the Development Plan within 90 days after written notice from the Association that the installation must be completed.

D. Each Owner shall keep his Parcel free of trash, junk, litter, and debris and, to the extent the Association's maintenance of the Parcel does not include maintenance of vegetation on the Parcel, shall maintain such vegetation in a neat and trim manner.

All maintenance required by this Article 5.3 shall be performed in a manner consistent with the Community Standards and all applicable restrictions. If any Owner fails to perform his maintenance responsibilities, the Association shall have the right, but not the obligation, to perform such maintenance responsibilities, provided the Association has first, in any situation not involving an emergency, by written notice to the Owner, afforded the Owner a period of 30 days within which to correct the failure. If the Association exercises its right to perform an Owner's maintenance responsibilities, agents and employees of the Association, together with such other Persons as may be authorized by the Board, shall have the right to enter upon the Owner's Parcel to perform such maintenance, all without liability or responsibility, criminal or civil, for trespass or any other action. All costs incurred by the Association in performing an Owner's maintenance responsibilities, together with the Administrative Fee, shall be included in the Individual Parcel Expenses pursuant to Article 6.3 and shall be assessed against the Owner's Parcel as an Individual Parcel Assessment in accordance with Article 8.3.

**5.4 Additional Association Maintenance.** With respect to property dedicated to the public, the Association may undertake or assume maintenance responsibilities for any part of such properties by agreement with the owner thereof, if the Board determines that such maintenance is necessary or desirable to maintain the Community Standards. The cost of such maintenance shall be included in the Common Expenses.

**5.5 Administrative Fee.** If any Owner fails to perform its maintenance responsibilities hereunder and the Association thereafter performs such responsibilities, then in addition to any other rights which the Association may have with respect to such failure, the Association shall be entitled to charge a reasonable administrative fee for its rendition of services necessary to cure such failure (the "Administrative Fee"). Unless a lower amount is established by the Board, the amount of the Administrative Fee shall equal 10 percent of the cost to the Association for curing such failure.

**5.6 Environmental Preservation Guidelines.** The Association shall be responsible for implementing and carrying out the Environmental Preservation Guidelines. The cost of implementing and carrying out the Environmental Preservation Guidelines, which includes the cost to monitor and maintain any wetland mitigation areas in compliance with all applicable regulations of SWFWMD, shall be included in the Common Expenses. The Environmental Preservation Guidelines shall include provisions for the maintenance, upkeep, and preservation of the Surfacewater Management System, wetlands, wetlands fringing hammocks, and all other environmentally sensitive or governmentally regulated areas within the Community. The Environmental Preservation Guidelines may also include applicable governmental requirements regarding the performance and monitoring of the Surfacewater Management System and other environmental conditions and requirements imposed by governmental authority in conjunction with any development order or approval for the Community or the Additional Property, or any part thereof. Except for activities that may otherwise be permitted by the City of Venice and SWFWMD, no activities, including filling, excavating, removal of vegetation (both trees and understory), and storage of materials, may be undertaken or performed within any portion of the Common Areas constituting a "wetland preserve" or "wetland buffer."

**5.7 Surfacewater Management System.** In addition to its maintenance obligations under the foregoing provisions of this Article 5, the Association shall comply with the following provisions with respect to the Surfacewater Management System:

A. The Association shall operate and maintain the Surfacewater Management System (including supplemental littoral zone planting; maintenance of littoral zone vegetation, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas; removal of exotic and nuisance species from littoral zones and wetlands mitigation areas; and periodic dredging and silt removal from stormwater retention areas) in compliance with all applicable regulations of the City of Venice, SWFWMD, and other governmental authorities. SWFWMD shall have a right to take enforcement measures against the Association, including civil action for injunction or penalties, if the Association fails to operate and maintain the Surfacewater Management System in compliance with all applicable regulations of SWFWMD.

B. The Association shall provide all stormwater, hydroperiod, wetland mitigation, littoral zone planting, and wetland planted buffer monitoring data collection and reporting required by the City of Venice, SWFWMD, or other governmental authorities.

## **ARTICLE 6**

### **ASSOCIATION EXPENSES**

**6.1 Classification of Expenses.** The Association Expenses are classified as follows: (a) Common Expenses, which are defined in Article 6.2; and (b) Individual Parcel Expenses, which are defined in Article 6.3.

**6.2 Common Expenses.** "Common Expenses" shall mean all expenses incurred by the Association in connection with the management and administration of the Community and the operation, maintenance, improvement, protection, management, and conservation of the Common Areas. By way of illustration and not as a limitation, the Common Expenses shall include:

- A. Costs of operation, maintenance, repair, and replacement of the Common Areas.
- B. Costs of installing improvements and completing work required by the Army Corps Permit and the SWFWMD Permit.
- C. All ad valorem taxes assessed against the Common Areas.
- D. All other taxes assessed against or payable by the Association in connection with the Common Areas or the Community as a whole.

- E. All utility charges incurred in connection with the operation of the Common Areas.
- F. All premiums for insurance obtained by the Association pursuant to Articles 7.1, 7.2, and 7.3.
- G. Engineering, architectural, accounting, legal, and other professional and employee services engaged by the Board in connection with the Common Areas or the Community as a whole.
- H. A reasonable contingency fund for the ensuing fiscal year in such amount, if any, as the Board may deem appropriate.
- I. A reasonable annual reserve for anticipated major capital repairs, maintenance and improvement, and capital replacements, in such amount, if any, as the Board may deem appropriate.
- J. Compensation of officers and directors and reimbursement of actual expenses incurred by officers and directors, if authorized by the Board.
- K. Repayments of loans procured by the Association for any of its authorized purposes in connection with the Common Areas or the Community as a whole, including interest thereon.
- L. Any expense identified by the terms of this Declaration as part of the Common Expenses.
- M. All administrative expenses for operating the Association (including salaries, wages, and benefits paid to employees of the Association).
- N. All expenses incurred by the Association that are not Individual Parcel Expenses.
- O. All other expenses relating to the Common Areas or the Community as a whole deemed necessary or desirable by the Board for accomplishing the purposes, objectives, or responsibilities of the Association.

**6.3 Individual Parcel Expenses.** "Individual Parcel Expenses" shall mean all expenses (together with any applicable Administrative Fee and Attorney's Fees) incurred by the Association with respect to a Parcel pursuant to the provisions of this Declaration in connection with any of the following:

- A. The performance by the Association of any of the maintenance responsibilities of the Parcel's Owner pursuant to Article 5.3.
- B. The enforcement by the Association against the Parcel or its Owner of any of the restrictions or other provisions of this Declaration pursuant to Article 15.2, except for judicial actions in which the Parcel's Owner is the prevailing party.
- C. The performance by the Association of any of its maintenance responsibilities pertaining to the Community if, in the judgment of the Board, such performance was necessitated by the carelessness, negligence, or intentional act of the Parcel's Owner or the Owner's family, guests, tenants, or invitees.
- D. Any other action, service, or matter, the costs of which are specifically included in the Individual Parcel Expenses by the terms of this Declaration.

Individual Parcel Expenses shall also include any Fine assessed against a Parcel's Owner pursuant to Article 15.3.

**6.4 Approval for Expenses.** The Association shall not incur, and the Association Expenses shall not include, any expense for the services of any architect, engineer, contractor, or other consultant engaged by the Association to evaluate, or render an opinion on, the condition or quality of, or conformity to any plans and specifications or governmental laws and regulations applicable to, any then existing Improvements located within the Community unless: (a) such Improvements have been damaged by casualty loss; (b) the condition of such Improvements poses a patent, immediate, and substantial threat to the safety of the Owners; or (c) such expense is approved by the affirmative vote of the members holding at least 75 percent of the Association's membership voting rights. This Article 6.4 shall not be amended unless such amendment is made by Declarant prior to the Turnover or is approved by the percentage votes, and pursuant to the same procedures, necessary to approve any such expense as provided above.

## **ARTICLE 7**

### **INSURANCE AND CASUALTY LOSSES**

**7.1 Common Areas Insurance.** The Association shall obtain blanket all-risk coverage insurance for all insurable Improvements that are part of the Common Areas or, if blanket all-risk coverage is not reasonably available in the determination of the Board, then at a minimum insurance covering loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in the event of damage or destruction from such hazards. The cost of such insurance shall be paid by the Association and shall be included in the Common Expenses.

**7.2 Liability Insurance.** The Association shall obtain public liability insurance covering loss to the Association from damage or injury caused by the negligence of the Association or any of its members, employees, or agents, and, if reasonably available (as determined by the Board), directors' and officers' liability insurance. The public liability policy shall have coverage of at least \$1 million for bodily injury or death and \$100,000 for property damage. The cost of such insurance shall be paid by the Association and shall be included in the Common Expenses.

**7.3 Other Association Insurance.** In addition to the other insurance required by this Article 7, the Association shall obtain worker's compensation insurance if, and to the extent, required by law and a fidelity bond on directors, officers, employees, and other Persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined by the Board. Bonds shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall require at least 30 days prior written notice to the Association of any cancellation, substantial modification, or nonrenewal.

**7.4 Damage and Destruction.**

A. Immediately after damage or destruction by fire or other casualty to Improvements covered by insurance obtained by the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Improvements.

B. Any damage or destruction to the Common Areas shall be repaired or reconstructed unless all members of the Board shall decide within 60 days after the casualty not to repair or reconstruct, and such decision is approved within 60 days thereafter by Declarant.

C. Any damage or destruction to Improvements insured by policies obtained by the Association pursuant to Article 7.1 shall be repaired or reconstructed.

D. In the event it is determined in the manner described above that the damage or destruction is not to be repaired or reconstructed and no alternative Improvements are authorized, then and in that event the affected portion of the Community shall be restored substantially to its natural state and maintained by the Association, or by such other Persons as may be responsible for such maintenance under the terms of this Declaration, in a manner consistent with the Community Standards.

**7.5 Disbursement of Proceeds.** Proceeds of Association insurance policies shall be disbursed as follows:

A. If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction. Any proceeds remaining after paying such costs of repair or reconstruction shall be retained by the Association and applied to the payment of the Common Expenses.

B. If it is determined, as provided in Article 7.4, that the damage or destruction for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by the Association and applied to the payment of the Common Expenses.

**7.6 Owner's Insurance.** Each Owner shall carry casualty insurance on the insurable portions of his Parcel Improvements meeting the same requirements as set forth in Article 7.1 for insurance on the Common Areas.

A. In the event of any damage to the Owner's Parcel Improvements, the Owner shall remove all debris within 60 days, complete repair or reconstruction of the damaged Improvements within one year, and pay any costs of repair or reconstruction that are not covered by insurance proceeds.

B. Notwithstanding the provisions of Article 7.6.A, in the event of damage resulting in destruction of all or substantially all of the Owner's Parcel Improvements, the Owner may decide not to rebuild or not to reconstruct, in which case the Owner shall, within 60 days, clear the Parcel of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. Thereafter the Parcel shall be maintained by the Owner, or by such other Persons as may be responsible for such maintenance under the terms of this Declaration, in a manner consistent with the Community Standards.

C. All policies of insurance required by the terms of this Article 7.6 shall name the Association as an additional insured and shall require that the Association be given at least 30 days prior written notice of any cancellation, substantial modification, or nonrenewal.

## **ARTICLE 8** **ASSESSMENTS**

**8.1 Classification of Assessments.** There shall be three types of Assessments, to wit: (a) Annual Assessments, which shall be levied pursuant to Article 8.2 for the payment of Common Expenses; (b) Special Assessments, which shall be levied pursuant to Article 8.4 to supplement the Annual Assessments; and (d) Individual Parcel Assessments, which shall be levied pursuant to Article 8.3 for the payment of Individual Parcel Expenses.

**8.2 Annual Assessments.** The number of acres of a Parcel determines the Parcel's share of the Common Expenses. Each Parcel's share of Common Expenses is a fraction, the numerator of which is the number of acres for such Parcel and the denominator of which is the total number of acres of all Parcels contained within the Community. The Common Expenses shall be payable through Annual Assessments levied by the Board against all Parcels.

A. Prior to December 15 of each year, the Board shall establish and adopt a budget for the Common Expenses for the next fiscal year and thereupon levy an Annual Assessment against each Parcel. The budget and Annual Assessments shall be in such amount as shall be deemed sufficient in the judgment of the Board to enable the Association to pay the Common Expenses as and when they become due.

B. In adopting a budget for any fiscal year, the Board shall consider other anticipated income, including interest earned on savings and investments.

**8.3 Individual Parcel Assessments.** Each Parcel for which the Association incurs Individual Parcel Expenses pursuant to Article 6.3 shall be subject to Individual Parcel Assessments levied by the Board for the payment of such Individual Parcel Expenses. Except as otherwise provided by action of the Board, each Individual Parcel Assessment shall be deemed levied by the Board upon delivery of notice of such Individual Parcel Assessment in accordance with the provisions of Article 8.5.B.

**8.4 Special Assessments.** Special Assessments shall be levied in accordance with the following provisions:

A. **Common Expenses.** The Board may levy a Special Assessment against each Parcel in the event the revenue receivable by the Association pursuant to the Common Expenses budget adopted by the Board for any fiscal year is insufficient to pay the Common Expenses for such fiscal year; in the event of emergency situations requiring additional funds for the payment of the Common Expenses; or in the event Association reserves applicable to the Common Areas are insufficient to cover capital expenditures for the Common Areas.

B. **Application.** All Special Assessments are intended to be supplementary to the Annual Assessments. No Special Assessment that is supplementary to a Annual Assessment shall be charged to or be a lien against any Parcel that is not a Parcel as of the date on which the Board levies the applicable Special Assessment.

**8.5 Notice of Assessments.** Notice of Assessments shall be given as follows:

A. **Notice of Annual Assessments.** On or before December 20 of each year, the Association shall notify each Owner of a Parcel of the amount of the Annual Assessment levied against such Parcel for the next fiscal year. The notice shall include a copy of the Common Expenses budget for such fiscal year and shall specify the amount of the Annual Assessment per Parcel.

B. **Notice of Individual Parcel Assessments.** Notice of any Individual Parcel Assessment shall be given by the Association to the Owner of the Parcel against which the Individual Parcel Assessment is levied within 90 days after the Individual Parcel Expenses to which the Individual Parcel Assessment relates are incurred or otherwise determined by the Association.

C. **Notice of Special Assessments.** Notice of any Special Assessment shall be given by the Association within 90 days after Board approval of the Special Assessment. The notice shall include an explanation of the purpose of the Special Assessment and the basis on which the Special Assessment was levied.

D. **Failure to Notify.** In the event the Association should fail to notify an Owner of any applicable Assessment on or before the time specified above, the levy and lien of such Assessment shall not be invalidated or otherwise affected, but the time for payment of the Assessment shall be extended by the number of days the notice is delinquent. So long as notice has properly been given, failure to receive any notice given by the Association shall not excuse an Owner from the payment of any Assessment when due.

E. **Persons Entitled to Notice.** Notice of any Assessment need be sent by the Association only to the Owners of Parcels that are subject to such Assessment as of the date of the notice. It is the duty of each Owner of a Parcel that becomes subject to an Assessment subsequent to the date of notice thereof to ascertain from the Association the amount of the Assessment levied against such Parcel. Failure to ascertain such amount shall not excuse any Owner from the payment of any Assessment when due.

**8.6 Payment of Assessments.** Assessments shall be paid in accordance with the following provisions:

A. **Payment of Annual Assessments.** Annual Assessments shall be payable in full on the first day of the fiscal year or in such installments, if any, as may be approved by the Board.

B. **Payment of Individual Parcel Assessments.** Each Owner of a Parcel against which an Individual Parcel Assessment has been levied by the Board pursuant to Article 8.3 shall pay to the Association, within 30 days after notice thereof, the full amount of the Individual Parcel Assessment.

C. **Payment of Special Assessments.** Each Owner of a Parcel against which a Special Assessment has been levied by the Board pursuant to Article 8.4 shall pay to the Association the full amount of the Special Assessment on or before the time established for payment by the Board; provided, however, that no Special Assessment shall be payable sooner than 30 days following notice thereof.

D. **Installment Payments.** Any Assessment may be payable in installments if, and only to the extent, approved by the Board.

**8.7 Failure to Pay Assessments.** Each Assessment shall be the personal obligation of the Owner of the Parcel against which the Assessment is levied, ownership being determined as of the date of such levy. If any Assessment is not paid within 15 days after the date on which payment of the Assessment is due, then:

A. Interest shall accrue on the Assessment from the due date until paid at the rate of 18 percent per annum or such other legal rate as may be established by the Board;

B. A delinquency charge equal to 10 percent of the Assessment (or such lesser amount as may be established by the Board) shall be added to the Assessment;

C. If the Assessment is payable in installments, the remaining installments of such Assessment may be accelerated by the Association to maturity if the delinquent installment, together with the delinquency charge and interest due thereon, is not paid in full by the Owner within 10 days after notice by the Association of its intent to accelerate such remaining installments; and

D. The Association may bring suit against the Owner on his personal obligation to recover the amount of the Assessment, together with the delinquency charge and interest and all costs incurred by the Association, including Attorney's Fees, in preparation for and in bringing such suit.

**8.8 Proof of Payment of Assessment.** Upon the request of any Owner or Institutional Mortgagee and the payment to the Association of such reasonable processing fee as may be established by the Board, the Association shall furnish a certificate in writing signed by an officer of the Association showing the amount of unpaid Assessments, if any, against any Parcel in which such Owner or Institutional Mortgagee has an interest, the year or years for which any such unpaid Assessments were levied, and any interest or other charges owing thereon. Such certificate, in the absence of fraud, shall be conclusive evidence of the payment of any Assessment therein stated to have been paid.

## **ARTICLE 9**

### **LIEN OF ASSESSMENTS**

**9.1 Creation of Lien.** Each Assessment levied by the Board against a Parcel shall be secured by a lien in favor of the Association against the Parcel and Improvements thereon in accordance with the provisions of this Article 9. The lien shall secure not only the amount of the Assessment, but also all interest, delinquency charges, and costs of collection as provided by Article 8.7. The lien of every Assessment levied against a Parcel located within the Initial Property shall attach and become a charge on the Parcel, and all Improvements thereon, upon the recording of this Declaration.



**9.2 Enforcement of Lien.** In the event any Assessment is not paid within 30 days after the Assessment is due, the Association shall have the right to file a claim of lien in the Public Records. The Assessment lien may be enforced by the Association by foreclosure suit in the same manner as a mortgage or construction lien foreclosure or in such other manner as may be permitted by law. In the event the Association files a claim of lien against any Parcel, the Association shall be entitled to recover from the Owner of such Parcel, the interest and delinquency charge provided by Article 8.7 and all costs, including Attorney's Fees, incurred in preparing, filing, and, if applicable, foreclosing the Assessment lien, and all such costs, delinquency charges, interest, and Attorney's Fees shall be secured by such lien.

**9.3 Priority of Lien.** It is the intent hereof that the Assessment lien against each Parcel shall be subordinate and inferior only to the lien of taxes and special assessments levied by the County of Sarasota and other governmental bodies and to the lien of any mortgage upon such Parcel given to an Institutional Mortgagee prior to the recording of a claim of lien; provided, however, that such subordination shall not apply to Assessments which become due and payable after a sale or transfer of the Parcel pursuant to a decree of foreclosure of such mortgage or any other proceeding or transfer in lieu of foreclosure of such mortgage.

## **ARTICLE 10** **RESTRICTIONS**

**10.1 Nuisances.** No Person shall create any public or private nuisance, or engage in any noxious, illegal, or offensive activity, within the Community. By way of illustration and not as a limitation, no Owner shall place or keep any substance, material, or thing that emits foul or obnoxious odors or that is unsightly, unkempt, or unsanitary; cause unreasonable noise or other conditions that disturb, in the opinion of the Board, the reasonable peace, quiet, safety, or comfort of the occupants of adjacent properties; or conduct outside burning of wood, leaves, trash, garbage, or household refuse. Notwithstanding that construction activities may temporarily disturb the peace and quiet of the occupants of adjacent properties, such construction activities shall be permitted, subject only to such reasonable limitations as may be imposed by the terms of the Rules and Regulations. No Person shall have any claim against Declarant or any other Person for any interference with such Person's view, peace and quiet, welfare, or access to light and air caused by any such construction activities.

**10.2 Damage and Insurance Rates.** No Person shall engage in any activity causing damage to, or any increase in insurance rates on, any Improvements within the Community.

**10.3 Clearing of Vegetation.** No Person other than Declarant shall cut down, remove, or clear from any Parcel or the Common Areas any trees, shrubs, or other vegetation except as otherwise may be authorized in writing by Declarant or the Association.

**10.4 Pollutants.** No Person shall discharge any substance or solution into any street, easement, surfacewater drain, or portion of the Properties so as harmfully to affect any landscaping or vegetation or pollute the Surfacewater Management System.

**10.5 Governmental Regulations.** No Person shall violate in any respect the provisions of any governmental laws or regulations applicable to the Surfacewater Management System or the Community. Each Owner, at the time of construction of a dwelling or other Improvements on his Parcel, shall comply with the construction plans for the Surfacewater Management System pursuant to Chapter 40D-4, Florida Administrative Code, approved and on file with SWFWMD. No Owner may construct or maintain any dwelling or other Improvements on, or undertake or perform any activity (including filling; digging; excavating; storage of materials; or removal of trees, understory, or other vegetation) in, any wetland, wetland mitigation area, wetland buffer area, upland conservation area, drainage easement area described in any SWFWMD approved permit and applicable subdivision plat, or any other area comprising the Surfacewater management System unless prior approval is received from SWFWMD, Sarasota County Regulation Department, pursuant to Chapter 40D-4, Florida Administrative Code.

**10.6 Alterations.** Except as may otherwise be authorized by the terms of this Declaration or by the prior written consent of the Association or Declarant, no Person other than Declarant shall: (a) erect, install, or alter any Improvements on any portion of the Common Areas; or (b) erect, install, or alter any Improvements which the Association is required to maintain pursuant to the terms of this Declaration.

**10.7 Occupants Bound.** All provisions of this Declaration, the Rules and Regulations, the Community Standards, and the Environmental Preservation Guidelines applicable to an Owner's Parcel governing the conduct of the Owner shall also apply to all occupants of the Parcel and all family members, guests, and invitees of the Owner. Each Owner shall cause all such occupants, family members, guests, and invitees to comply with such provisions and shall be jointly and severally responsible with such occupants, family members, guests, and invitees for any violation by them of such provisions. The lease of any Parcel shall be deemed to include a covenant on the part of the tenant to comply with, and be fully bound by, such provisions.

## **ARTICLE 11** **WARRANTIES**

Except as Declarant may otherwise expressly provide by written contract, THE CONSTRUCTION, DEVELOPMENT, AND SALE BY DECLARANT OF ANY PARCEL OR OTHER PROPERTY OR IMPROVEMENTS IN THE COMMUNITY IS WITHOUT WARRANTY, AND NO WARRANTIES OF FITNESS, HABITABILITY, OR MERCHANTABILITY AS TO ANY PORTION OF THE COMMUNITY OR IMPROVEMENTS CONSTRUCTED BY DECLARANT THEREON OR IN CONNECTION THEREWITH SHALL BE IMPLIED. EXCEPT AS DECLARANT MAY OTHERWISE EXPRESSLY PROVIDE BY WRITTEN CONTRACT, DECLARANT HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY COMMON LAW IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, HABITABILITY, AND CONFORMITY OF ANY IMPROVEMENTS WITH PLANS AND SPECIFICATIONS FILED WITH ANY GOVERNMENTAL AUTHORITY. DECLARANT MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE OR LEVELS OF ODORS, NOXIOUS FUMES, LOW FREQUENCY ELECTROMAGNETIC FIELDS, RADON, OR ANY OTHER POLLUTANT WITHIN THE COMMUNITY OR WITH RESPECT TO ANY PROPERTY OR IMPROVEMENTS CREATED FOR, CONVEYED TO, DEDICATED TO, OR MADE AVAILABLE FOR THE USE OF THE ASSOCIATION PURSUANT TO THIS DECLARATION OR ANY OTHER INSTRUMENT. DECLARANT, AND THE ASSOCIATION SHALL NOT IN ANY MANNER BE CONSIDERED INSURERS OR GUARANTORS OF ANY PERSON'S SAFETY WITHIN THE COMMUNITY NOR SHALL DECLARANT OR THE ASSOCIATION HAVE ANY LIABILITY TO ANY PERSON FOR INJURY OR LOSS RESULTING FROM THE PRESENCE OR ACTIONS OF POISONOUS SNAKES, ALLIGATORS, OR WILDLIFE OR RESULTING FROM THE PRESENCE OR MAINTENANCE OF STORMWATER RETENTION PONDS, WETLAND AREAS, OR ROADWAYS WITHIN OR ADJACENT TO THE COMMUNITY.

## **ARTICLE 12** **CONDEMNATION**

All proceeds received by the Association in connection with the condemnation, or conveyance under threat of condemnation, of the Common Areas shall be applied by the Association to the payment of the Common Expenses.

## **ARTICLE 13** **EASEMENTS**

**13.1 Grants and Reservations.** The respective rights and obligations of the Owners, the District, the Association, Developer, and others concerning easements affecting the Community shall include the following:

A. Platted Utility and Drainage Easements. Easements for the installation and maintenance of utilities and drainage facilities are shown on the Plat. Easements described on the Plat

as "Private" shall be for the benefit of the Association unless otherwise identified. Unless authorized by the Declarant and applicable law, no dwelling, structure, planting, or other materials shall be placed or permitted to remain within these easement areas which may impair the intended use thereof, including without limitation changing the direction or flow of the drainage channels in the easement areas or obstructing or retarding the flow of water through the drainage channels in the easement areas.

B. Reserved by Developer. Declarant hereby reserves for the benefit of itself, its successors and assigns, perpetual easements in gross for the installation, construction, repair, maintenance, and replacement: (1) of roadways, walkways, landscaping, wells, irrigation lines, and related equipment and facilities over, under, and across the Common Areas and all utility and drainage easement areas shown or described on the Plat; and (2) of lines, pipes, wells, drains, cables, equipment, apparatus, structures, and other Improvements for private or public utility services of all kinds, including without limitation, water, sewer, drainage, irrigation, fire protection, electricity, telephone, cable television, and trash disposal, over, under, and across the Common Areas and all utility and drainage easement areas shown or described on the Plat. Declarant may assign and convey any of the foregoing easements to such Persons as Declarant may deem appropriate for the use of such Persons as may be designated by Declarant and upon such terms as may be established by Declarant.

C. Granted to Utilities. There is hereby granted to all public and private utility companies furnishing utility services to the Community as of the time of recording of this Declaration or hereafter authorized by Developer or the Association to furnish such services a perpetual nonexclusive easement for the construction, installation, maintenance, repair, and replacement of the equipment, structures, and other Improvements by which such utility services are respectively provided over, under, across, and through such portion of the Community as may be reasonably necessary therefor.

D. Access Easement Granted to Owners. There is hereby granted to each Owner a perpetual nonexclusive access easement over the area within Tract 16 depicted on the Plat as "Private Access Easement."

E. Drainage Easement Granted to Owners and Association. There is hereby granted to each Owner and the Association a perpetual nonexclusive easement over the areas on the Plat labeled as Tract 5, Tract 9, Tract 12, Tract 13, Easement 15A, Easement 16A, Easement 18A, and Drainage and Maintenance Access Easement ("Drainage Tracts") for drainage, stormwater retention, and treatment purposes and the drainage and flowage of stormwater over those portions of such areas comprising the stormwater retention and treatment facilities as may be constructed, maintained, and expanded from time to time. The owner of a Drainage Tract shall have the right to develop all or portion of such tract for other purposes as long as such development meets all applicable laws and does not interfere, alter, or inhibit the use of such Drainage Tract for the drainage and stormwater purposes described in this article.

F. Granted to and by the Association. There is hereby granted to the Association a perpetual nonexclusive access easement across each Parcel (exclusive of the interior of Lot Improvements) for the purpose of maintaining the Common Areas and other Improvements that the Association is obligated to maintain. The Association shall have the right to grant easements under, over, across, and through the Community to such Persons and for such purposes as the Board may deem appropriate. Such easements shall be evidenced by instruments duly executed by the president or vice president of the Association and recorded in the Public Records.

**13.2 Disturbances.** The use of any easement granted under the provisions of Article 13.1 shall not include the right to disturb any building or structure within the Community, and any damage caused to same shall be repaired at the expense of the party causing such damage. In the event a Person's use of an easement granted pursuant to the terms hereof causes a disturbance of the surface of the land, the roadways, grass, landscaping, and other Improvements which are disturbed shall be restored promptly by such Person as nearly as possible to their prior condition.

**ARTICLE 14**  
**RIGHTS OF DECLARANT**

**14.1 Declarant's Rights in the Association.** Until the Final Development Date, the Board shall have no authority to, and shall not, without the written consent of Declarant, which may be withheld in Declarant's sole discretion, undertake any action which shall:

A. Prohibit or restrict in any manner the sales, marketing, and leasing activities and programs of Declarant or any Owner;

B. Decrease the level of maintenance services performed by the Association pursuant to this Declaration;

C. Impose any Special Assessment, Individual Parcel Assessment, or Fine against Declarant's property or Declarant;

D. Alter or amend this Declaration, the Articles of Incorporation, or the Bylaws;

E. Modify, amend, or alter the Surfacewater Management System;

F. Terminate or cancel any contracts of the Association entered into prior to the Turnover;

G. Terminate or waive any rights of the Association under this Declaration;

H. Convey, lease, or encumber any portion of, or interest in, the Common Areas;

I. Terminate or cancel any easements granted hereunder or by the Association;

J. Terminate or impair in any fashion any easements, powers, or rights of Declarant hereunder;

K. Restrict Declarant's right of use, access, and enjoyment of any of the Properties; or

L. Take any other action impairing, in Declarant's sole discretion, the quality of the Community or the health, safety, or welfare of the Owners.

**14.2 Rights to Common Areas.** Declarant shall have the right in its sole discretion to permit the use of any portion of the Common Areas by the general public or by such Persons as Declarant may designate.

**14.3 Development.** At the time of recording of this Declaration, development and construction of the Parcels and Improvements in the Community have not been completed. Declarant reserves all rights and easements necessary or desirable with respect to the Community to complete such development and construction and to effect the sale or lease of all the Parcels. Inasmuch as the completion of such development, construction, sales, and leasing is essential to the establishment and welfare of the Community and the Owners, no Owner shall do anything to interfere with the development, construction, sales, or leasing activities of Declarant. Without limiting the generality of the foregoing, nothing in this Declaration, the Articles of Incorporation, or the Bylaws shall be construed to:

A. Prevent Declarant, or its contractors or subcontractors, from taking whatever steps they determine to be necessary or desirable to effect the completion of the development of the Community, including, without limitation, the alteration of construction plans and designs as Declarant deems advisable in the course of such development (all models, sketches, and artists' representations showing plans for future development of the Properties being subject to modification by Declarant at any time and from time to time without notice); or

B. Prevent Declarant, or its contractors or subcontractors, from erecting, constructing, and maintaining within the Community such structures as may be reasonably necessary for the development of the Community, the construction of Improvements therein, and the sale and leasing of the Parcels.

Declarant shall have the express right to construct, maintain, and carry on such facilities and activities within the Community as, in the sole opinion of Declarant, may be reasonably necessary, convenient, or appropriate to the construction of Improvements or sale or leasing of Parcels, including, but not limited to, administrative offices, signs, model units, and sales offices. The right to construct, maintain, and carry on such facilities and activities shall specifically include the right to use any Parcel owned by Declarant and any clubhouse, community center, or other property owned by the Association as administrative offices, sales offices, and models.

**14.4 Toscana Isles Name.** No Person shall use the term "Toscana Isles" or any derivative thereof in any printed or promotional material without the prior written consent of Declarant. However, Owners may use the term "Toscana Isles" in printed or promotional matter where such term is used solely to specify that the Owner's Parcel is located within the Community, and the Association shall be entitled to use the term "Toscana Isles" in its name.

**14.5 Assignment.** Declarant may from time to time assign any or all of its rights, title, interest, easements, powers, duties, obligations, and privileges reserved hereunder to the Association or to any other Person.

**14.6 Exercise of Declarant's Rights.** The rights of Declarant enumerated in this Article 14 or elsewhere in this Declaration are for the sole benefit of Declarant and may be exercised, waived, released, or assigned, in whole or in part, in Declarant's sole discretion. No Person shall have any cause of action against Declarant on account of Declarant's exercise, failure to exercise, waiver, release, or assignment, in whole or in part, of any of such rights.

## **ARTICLE 15**

### **REMEDIES**

**15.1 Compliance by Owners.** Each Owner shall comply, and shall cause the Owner's family, guests, tenants, and invitees to comply, with the restrictions and covenants set forth in this Declaration. Each Owner shall further comply, and shall cause the Owner's family, guests, tenants, and invitees to comply, with the Environmental Preservation Guidelines, the Community Standards, and the Rules and Regulations.

**15.2 Enforcement.** Upon failure of an Owner to comply with the provisions of Article 15.1, the Association shall be entitled to exercise all rights and remedies provided by the terms of this Declaration and, in addition, to commence an action against the Owner for any relief allowed by law, including, without limitation, money damages, injunctive relief, or any combination thereof. In any such action in which the Association is the prevailing party, the Association shall be entitled to recover its costs and Attorney's Fees.

**15.3 Fines.** Upon failure of an Owner to comply with the provisions of Article 15.1, the Association may, in the sole discretion of the Board and in addition to all other remedies to which the Association may be entitled pursuant to Article 15.2, impose a Fine upon the Owner pursuant to the following provisions:

A. Notice. The Association shall afford an opportunity for hearing to the Owner, after notice of not less than: (1) three days in the event of an emergency or if the Owner's actions constitute: (a) a threat to the health or safety of other Owners; (b) a threat to the water quality of the Surfacewater Management System or a violation of any provisions of this Declaration applicable to the Surfacewater Management System; or (c) a violation of any provisions of the Environmental Preservation Guidelines or any governmental laws and regulations applicable to the Surfacewater Management System or the

Community; or (2) 14 days, in all other cases. The notice shall include a statement of the date, time, and place of the hearing and a statement of the matters allegedly constituting a violation of Article 15.1.

B. **Hearing.** At the hearing, the Owner shall have the opportunity to review, challenge, and respond to any material considered by the Board; to present evidence; and to provide written and oral argument on all issues involved.

C. **Amount.** The Board may impose Fines according to the following schedule:

(1) The Board may impose a Fine not in excess of \$1,000 per day from the date of the Owner's violation of the provisions of Article 15.1 until such violation ceases, if the violation threatens the health or safety of other Owners or constitutes a violation of: (a) any provisions of this Declaration applicable to the Surfacewater Management System; (b) any provisions of the Environmental Preservation Guidelines; or (c) any provisions of governmental laws and regulations applicable to the Surfacewater Management System or the Community.

(2) With respect to any other violation by an Owner of the provisions of Article 15.1, the Board may impose a Fine not in excess of \$100 per day from the date of the Owner's violation until such violation ceases.

D. **Individual Parcel Assessments.** Any Fine levied by the Board against an Owner shall be included in the Individual Parcel Expenses applicable to such Owner's Parcel and shall be assessed as an Individual Parcel Assessment in accordance with the provisions of Article 8.

E. **Application of Fines.** All proceeds received by the Association from Fines shall be applied to the payment of the Common Expenses, as the Board in its discretion may determine.

F. **Nonexclusive Remedy.** Fines shall not be construed as an exclusive remedy and shall exist in addition to all other rights and remedies to which the Association may be legally entitled; however, any Fine paid by an Owner shall be deducted or offset against any damages that the Association may otherwise be entitled to recover from such Owner.

G. **Governing Law.** The right of the Association to impose Fines, the procedures applicable to the imposition of Fines, and the amount of Fines shall be subject to the provisions of controlling law.

**15.4 Association Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by the affirmative vote of at least 75 percent of the total voting membership rights. Such approval shall not be required, however, with respect to any of the following:

A. Judicial or administrative proceedings brought by the Association against Persons other than Declarant to enforce the provisions of this Declaration, the Articles of Incorporation, or the Bylaws;

B. Judicial or administrative proceedings brought by the Association against Persons other than Declarant for the collection of Assessments;

C. Judicial or administrative proceedings involving challenges to ad valorem taxation;

D. Judicial or administrative proceedings instituted against the Association; or

E. Counterclaims brought by the Association in judicial or administrative proceedings instituted against it.

This Article 15.4 shall not be amended unless such amendment is made by Declarant prior to the Turnover or is approved by the percentage votes, and pursuant to the same procedures, necessary to commence or prosecute proceedings as provided above.

**15.5 Mediation.** No Owner or other Person bound by this Declaration shall commence or prosecute any judicial or administrative proceeding against the Association or Declarant involving any matter related to this Declaration, the Articles of Incorporation, the Bylaws, the Community, any property or Improvements within the Community, or rights or interest therein, without first submitting the issue to which such proceeding relates to nonbinding mediation in accordance with the following provisions:

A. If agreed to by the Association or Declarant, respectively, the mediation shall be conducted through the Citizens Dispute Settlement Center for the Twelfth Judicial Circuit for the State of Florida pursuant to Section 44.201, Florida Statutes.

B. In all other cases, the mediation shall be conducted in accordance with Rule 1.700 et. seq. of the Florida Rules of Civil Procedure; provided, however, that mediation in accordance with such rules may be initiated through a mediator agreed upon by the parties without order of court. If the parties cannot agree upon a mediator, then either party may move the court to name a mediator and initiate mediation pursuant to such rules.

C. The requirement for mediation of a claim against the Association or Declarant may be waived by the Association or Declarant, respectively.

#### **ARTICLE 16** **DURATION**

**16.1 Covenants to Run with the Title to the Land.** The provisions of this Declaration, as amended and from time to time as herein provided, shall be deemed to run with the title to the property subject hereto and shall remain in full force and effect until terminated in accordance with the provisions of Article 16.2 or otherwise according to the laws of the State of Florida.

**16.2 Term.** The provisions of this Declaration shall be binding upon all Owners and shall continue in full force and effect for a period of 50 years from the date on which this Declaration is recorded in the Public Records, after which time they shall be deemed to be automatically extended for successive periods of 10 years each unless prior to the commencement of any such 10-year period: (a) Owners holding at least two-thirds of the total votes of the Association membership approve the termination of the provisions of this Declaration; and (b) a written instrument certifying that such approval has been obtained is signed by the president and secretary of the Association and recorded in the Public Records.

#### **ARTICLE 17** **AMENDMENTS**

This Declaration may be amended at any time and from time to time upon: (a) the approval of the Association members holding at least two-thirds of the membership voting rights; and (b) the recording in the Public Records of an amendatory instrument executed by the president and secretary of the Association certifying that such approval has been obtained; provided, however, that: (1) no amendment shall be effective prior to the Final Development Date without Declarant's express written joinder and consent; (2) no amendment affecting the Surfacewater Management System, including the water management portions of the Common Areas, shall be effective without the written consent of SWFWMD; and (3) no amendment materially and adversely affecting the rights or interests of the City of Venice shall be effective without the written consent of the City of Venice. This Declaration may also be amended by Declarant alone at any time prior to the Turnover by the recording in the Public Records of an instrument for that purpose executed by Declarant. All amendments shall reasonably conform to the general purposes of this Declaration set forth herein.

**ARTICLE 18**  
**SURFACEWATER MANAGEMENT**

**18.1 Surfacewater Management System Facilities.** Pursuant to Article 5, the Association shall be responsible for maintenance of the entire Surfacewater Management System Facilities on-site stormwater management systems serving only one Parcel. In performing such maintenance, the Association shall comply with the following provisions:

A. The Association shall operate, inspect, and maintain the Surfacewater Management System Facilities (including supplemental littoral zone planting, maintenance of littoral zone vegetation, removal of exotic and nuisance species from littoral zones and wetlands mitigation areas, and periodic dredging and silt removal from stormwater retention areas) in compliance with all applicable regulations of, and permits issued by, the City of Venice, SWFWMD, and other governmental authorities.

B. The Association shall provide all stormwater, hydroperiod, wetland mitigation, littoral zone planting, and wetland planted buffer monitoring data collection and reporting required by the City of Venice, SWFWMD, or other governmental authorities.

C. Unless otherwise specifically set forth herein, the Association shall maintain all sod, plantings, or other lateral support to prevent erosion of pond embankments within the Community.

D. The Association shall maintain all outfall structures, filters, and skimmers in or on lakes or ponds within the Community to prevent plugging or leakage.

**18.2 Developer Rights.** Developer shall have the sole right to control the water level and maintenance of all lakes, ponds, swales, drainage control devices, and all other areas and apparatus comprising the Surfacewater Management System Facilities. Except with Developer's prior written consent, which consent may be withheld for any reason deemed sufficient by Developer, no Person, including the District and the Association, may pump or otherwise remove water from any lake or pond now or hereafter existing within or near the Community for the purpose of irrigation or otherwise make any use of such water. Nothing set forth in this Article 18.2 shall be construed to abrogate the responsibility of the District and the Association to operate and maintain the Surfacewater Management System Facilities in compliance with all applicable regulations of Manatee County, SWFWMD, and other governmental authorities, nor shall the exercise of Developer's rights under this Article 18.2 materially impede the fulfillment of such responsibility. No Person shall, without the written approval of Developer, boat, fish, or swim within any of the lakes or ponds within the Community; discharge any liquid or material, other than natural drainage, into any portion of the Surfacewater Management System Facilities; or alter, obstruct, or interfere with any portion of the Surfacewater Management System Facilities.

**18.3 City of Venice Rights.** In the event the Association, as applicable, or any successor organization should fail to adequately maintain the Surfacewater Management System Facilities in accordance with City of Venice standards, the City of Venice shall have the right, but not the obligation, to enter the Community for the purpose of maintaining the Surfacewater Management System Facilities.

**18.4 SWFWMD Rights.** In the event the Association, as applicable, or any successor organization should fail to maintain the Surfacewater Management System Facilities in accordance with SWFWMD regulations and permits, SWFWMD shall have the right, but not the obligation, to take enforcement measures, including a civil action for injunctive relief and penalties, against the District, the Association, or successor organization, as applicable, to compel it to correct such failure. If the District or the Association ceases to exist: (1) the control of, or right of access to, that portion of the Surfacewater Management System Facilities previously maintained by it shall be conveyed or dedicated to an appropriate governmental unit or public utility and, if not accepted, shall be conveyed to a non-profit corporation similar to the Association; and (2) all the Owners shall be jointly and severally responsible for operation and maintenance of such portion of the Surfacewater Management System Facilities in



accordance with SWFWMD regulations and permits, unless and until a successor non-profit corporation similar to the Association assumes responsibility for such operation and maintenance.

**18.5 SWFWMD.** SWFWMD requires the following provisions:

A. No Person shall remove or cause the removal of any cattails or other littoral shelf vegetation established within any pond or lake within the Community. For purposes of this Article 18.5, the term "removal" includes without limitation dredging, the application of herbicide, cutting, and the introduction of grass carp. Owners shall address questions regarding authorized activities within ponds and lakes to SWFWMD's Surface Water Regulation Manager, Sarasota Service Office.

B. No Person may construct or maintain any building, residence, or structure, or undertake or perform any activity, in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas, and drainage easements described in the Plat and the approved SWFWMD permit for the Community, unless prior written approval is received from SWFWMD, Sarasota Regulation Department.

C. Wetland buffers shall remain in an undisturbed condition except for the construction and maintenance of approved drainage facilities.

D. No Person shall conduct any construction activities (including digging or excavating; depositing fill, debris, or any other material or item; constructing or altering any water control structure; or any other construction) relative to any portion of the Surfacewater Management System Facilities unless prior approval is received from SWFWMD, Sarasota Regulation Department, pursuant to Chapter 40D-4, Florida Administrative Code.

E. If the Community includes a wetland mitigation area or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed, or sprayed with herbicide without the specific written approval of SWFWMD. Furthermore, if the Community includes a wetland mitigation area requiring ongoing monitoring and maintenance, the District shall allocate sufficient funds in its annual budgets for such monitoring and maintenance until SWFWMD determines that the area is successful in accordance with applicable SWFWMD permits.

F. Each property owner within the Community 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 SWFWMD.

**ARTICLE 19**  
**MISCELLANEOUS**

**19.1 Governing Law.** The construction, validity, and enforcement of the provisions of this Declaration shall be determined according to the laws of the State of Florida. The venue of any action or suit brought in connection with this Declaration shall be in Sarasota County, Florida.

**19.2 Notices.** Any notice authorized or required to be given to any Owner, or such Owner's representative, under the provisions of this Declaration shall be in writing and shall be deemed to have been properly given when mailed, postage prepaid, to the last known address of the Person who appears as the Owner, or such Owner's representative, on the records of the Association at the time of such mailing. Any notice authorized or required to be given to the Association under the provisions of this Declaration shall be in writing and shall be deemed to have been properly given when mailed, postage prepaid, to the address of the Association's principal office at the time of such mailing.

**19.3 Waiver.** Failure of Declarant or the Association to insist upon strict performance of any provision of this Declaration with respect to any Owner or property in the Community shall not be deemed to be a waiver of such provision as to such Owner or property unless Declarant or the Association has executed in writing a waiver thereof. Any such written waiver of any provision of this Declaration by

Declarant or the Association with respect to any Owner or property in the Community shall not constitute a waiver of such provision as to any other Owner or property.

**19.4 Individual Liability.** The obligations of Declarant or Declarant arising out of this Declaration or under any other instrument are corporate obligations and do not extend to the employees, officers, directors, shareholders, and limited partners of Declarant. Such employees, officers, directors, shareholders, and limited partners shall have no individual liability in any action brought, or for any claim asserted, by the Association or by any Owner in connection with the construction, development, or sale of any Parcel or other property or Improvements within the Community or in connection with any matter related to the Properties or the rights or obligations created by or pursuant to this Declaration.

**19.5 Invalidation.** The invalidation of any provision of this Declaration by lawful court order shall not affect or modify any of the other provisions of this Declaration, which other provisions shall remain in full force and effect.

**19.6 Usage.** Whenever used herein, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders. Titles of Articles, paragraphs, and subparagraphs of this Declaration are for convenience only and neither limit nor amplify the provisions of this Declaration.

IN WITNESS WHEREOF, Declarant, joined by Caribbean Bay, has caused this Declaration to be executed in their names as of the date set forth above.

WITNESSES:

VANGUARD LAND, LLC

Rosanna DeMarco  
Signature of Witness

Rosanna DeMarco  
Print Name of Witness

Maria E. Miller  
Signature of Witness

MARIA E. MILLER  
Print Name of Witness

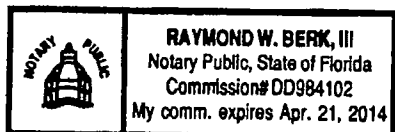
By: [Signature]  
John R. Peshkin, as Manager

STATE OF FLORIDA  
COUNTY OF SARASOTA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments in the state and county named above, personally appeared John R. Peshkin, as Manager of VANGUARD LAND, LLC, a Florida limited liability company, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged, not under oath, that he executed the foregoing instrument for and on behalf of the company as such officer for the purposes therein expressed and that he was duly authorized by the company to do so.

WITNESS my hand and official seal in the state and county named above this 15<sup>th</sup> day of October 2012.

(Notary Seal)



[Signature]  
Signature of Notary Public

Raymond Berk  
Print Name of Notary Public

I am a Notary Public of the State of Florida  
and my commission expires on 4/21/14

JOINDER

Caribbean Bay hereby joins in and consents to the foregoing Declaration.

WITNESSES:

CARIBBEAN BAY MORTGAGE LENDER, LLC

Brent W. Snowdon  
Signature of Witness  
BRENT SNOWDON  
Print Name of Witness

By: [Signature]  
Print Name: William M. Lezinski  
As its: Authorized Signatory

[Signature]  
Signature of Witness  
MARK CALLAGHER  
Print Name of Witness

STATE OF PENNSYLVANIA  
COUNTY OF LUZERNE

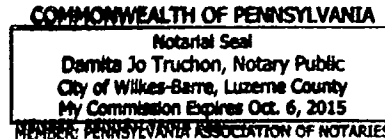
I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgments in the state and county named above, personally appeared William M. Lezinski, as Manager of **CARIBBEAN BAY MORTGAGE LENDER, LLC**, a Florida limited liability company, to me known to be the person described in and who executed the foregoing instrument, and he acknowledged, not under oath, that he executed the foregoing instrument for and on behalf of the company as such officer for the purposes therein expressed and that he was duly authorized by the company to do so.

WITNESS my hand and official seal in the state and county named above this 12<sup>th</sup> day of October 2012.

(Notary Seal)

[Signature]  
Signature of Notary Public  
Damita Jo Truchon  
Print Name of Notary Public

I am a Notary Public of the State of Pennsylvania  
and my commission expires on 10-6-2015



**EXHIBIT "A"**

**LEGAL DESCRIPTION:**

THE SOUTH 1/2 OF THE SOUTHWEST 1/4, AND THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 22, TOWNSHIP 38 SOUTH, RANGE 19 EAST; AND THE NORTH 1/2 OF THE SOUTHWEST 1/4, AND THE NORTHWEST 1/4, AND THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 38 SOUTH, RANGE 19 EAST, SARASOTA COUNTY FLORIDA, LESS THE PROPERTY DESCRIBED IN: OFFICIAL RECORDS BOOK 2086, PAGE 571; OFFICIAL RECORDS BOOK 2086, PAGE 574; OFFICIAL RECORDS BOOK 2093, PAGE 1304; AND OFFICIAL RECORDS INSTRUMENT NO. 2008047514, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

## **EXHIBIT "B"**

### **ARTICLES OF INCORPORATION** **OF** **TOSCANA ISLES COMMUNITY ASSOCIATION, INC.** **(A Corporation Not For Profit)**

In order to form a corporation under and in accordance with the provisions of the laws of the State of Florida for the formation of corporations not for profit, the undersigned does hereby adopt and set forth these Articles of Incorporation, viz:

#### **ARTICLE 1** **NAME AND ADDRESS OF CORPORATION**

The name of this corporation shall be:

TOSCANA ISLES COMMUNITY ASSOCIATION, INC.

hereinafter in these Articles of Incorporation referred to as the "Association." The initial principal office address of the Association is 7350 Point of Rocks Road, Sarasota, Florida 34242.

#### **ARTICLE 2** **PURPOSES**

**2.1 General Purposes.** The Association is organized for the purpose of promoting the health, safety, and social welfare of the owners of Parcels within the community in Sarasota County, Florida, known as "Toscana Isles" (the "Community"), which is being developed by Vanguard Land, LLC, a Florida limited liability company ("Declarant"), and performing all duties assigned to the Association under the provisions of the "Declaration of Maintenance Covenants for Toscana Isles" (the "Declaration") to be recorded in the Public Records of Sarasota County, Florida.

**2.2 Specific Purposes.** The purposes of the Association shall include the following:

A. To operate, maintain, manage, improve, and administer the use of the Common Areas, including the Surfacewater Management System, and other portions of the Community, to the extent set forth in the Declaration.

B. To perform all duties and obligations assigned to the Association by the terms of the Declaration.

C. To take such other action as may be deemed appropriate by the Board of Directors to promote the health, safety, and social welfare of the Owners.

D. To operate without profit and for the sole and exclusive benefit of its members.

**2.3 Construction.** All capitalized words and terms used herein which are defined in the Declaration shall be used herein with the same meanings as defined in the Declaration. In the event of any conflict between the provisions of these Articles of Incorporation and the provisions of the Declaration, the provisions of the Declaration shall control.

#### **ARTICLE 3** **GENERAL POWERS**

**3.1 General Powers.** The Association shall have all powers which are or may be conferred upon a corporation not for profit by the laws of the State of Florida, except as prohibited herein.

**3.2 Specific Powers.** The powers of the Association shall include the following:

A. To purchase, accept, lease, or otherwise acquire title to, and to hold, mortgage, rent, sell, or otherwise dispose of, any real or personal property related to the purposes or activities of the Association; to make, enter into, perform, and carry out contracts of every kind and nature with any person, firm, corporation, or association; and to do any other acts necessary or expedient for carrying on any of the activities of the Association and pursuing any of the objects and purposes set forth in these Articles of Incorporation and not forbidden by the laws of the State of Florida.

B. To establish budgets and to fix Assessments to be levied against Parcels in the Community pursuant to the Declaration for the purpose of defraying the expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, including reasonable contingency funds for ensuing years and reasonable annual reserves for anticipated major capital repairs, maintenance, improvements, and replacements.

C. To place liens against any Parcel in the Community for delinquent and unpaid Assessments and to bring suit for the foreclosure of such liens or otherwise enforce the collection of such Assessments for the purpose of obtaining revenue in order to carry out the purposes and objectives of the Association, all in accordance with the provisions of the Declaration.

D. To hold funds solely and exclusively for the benefit of the members of the Association for the purposes set forth in these Articles of Incorporation.

E. To adopt, promulgate, and enforce rules, regulations, bylaws, covenants, restrictions, and agreements in order to effectuate the purposes for which the Association is organized.

F. To delegate such of the ministerial functions of the Association as may be deemed to be in the Association's best interest by the Board of Directors.

G. To charge recipients of services rendered by the Association and users of property of the Association where such charges are deemed appropriate by the Board of Directors.

H. To pay all taxes and other charges or assessments, if any, levied against property owned, leased, or used by the Association.

I. To borrow money for the acquisition of property or for any other lawful purpose of the Association, and to make, accept, endorse, execute, and issue debentures, promissory notes, or other obligations of the Association for borrowed monies, and to secure the payment of any such obligation by mortgage, pledge, security agreement, or other instrument of trust, or by lien upon, assignment of, or agreement in regard to all or any part of the real or personal property, or property rights or privileges, of the Association wherever situated.

J. To enforce by any and all lawful means the provisions of these Articles of Incorporation, the Bylaws of the Association which may be hereafter adopted, and the terms and provisions of the Declaration.

K. To exercise all powers conferred upon the Association by the Declaration, subject to all limitations and obligations imposed upon the Association by the terms thereof.

L. To operate and maintain

#### **ARTICLE 4** **MEMBERS**

**4.1 Members.** The Association shall have one class of members, comprised of all Owners of Parcels.

**4.2 Termination of Membership.** The membership of the members in the Association shall automatically terminate upon conveyance or other divestment of title to such member's Parcel, except that nothing herein contained shall be construed as terminating the membership of any member who may own two or more Parcels as long as such member continues to own at least one Parcel.

**4.3 Membership Appurtenant to Parcel Ownership.** The interest of any member in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to the Parcel that is the basis of his membership in the Association.

**4.4 List of Members.** The Secretary of the Association shall maintain a list of the members of the Association. Whenever any person or entity becomes a member of the Association, it shall be such party's duty and obligation to so inform the Secretary in writing, giving his name, mailing address, and legal description of his Parcel; provided, however, that any notice given to or vote accepted from the prior Owner of such member's Parcel before receipt of written notification of change of ownership shall be deemed to be properly given or received. The Secretary may, but shall not be required to, search the Public Records or make other inquiry to determine the status and correctness of the list of members of the Association maintained by him and shall be entitled to rely upon the Association's records until notified in writing of any change in membership.

## **ARTICLE 5 VOTING**

The voting rights of the members of the Association shall be as set forth in the Declaration.

## **ARTICLE 6 BOARD OF DIRECTORS**

**6.1 Number.** The affairs of the Association shall be managed by a Board of Directors consisting initially of three Directors. The number of Directors comprising succeeding Boards of Directors shall be as provided from time to time in the Bylaws of the Association, but in no event shall there be less than three Directors.

**6.2 Appointment and Election.** All Directors shall be appointed by Declarant until the Turnover Meeting of the members. Commencing with the Turnover Meeting, all Directors shall be elected by the members of the Association. As used herein, the Turnover Meeting shall mean the first annual or special meeting of members following the earlier of the following two dates: (a) date which is three months after 90 percent of the Parcels that will ultimately be included in the Community have been conveyed to Owners other than Declarant or Caribbean Bay; or (b) the date on which Declarant, by written notice to the Association, relinquishes its right to appoint the Directors.

**6.3 Election Procedures.** Elections of Directors shall be by plurality vote.

**6.4 Qualification and Term.** Directors need not be members of the Association. Directors appointed by Declarant shall not serve fixed terms, but shall serve at the pleasure of Declarant. Except as may be otherwise required by the terms of Article 6.2, Directors elected by the members shall be elected at the annual meeting of members, and their term shall expire at the next succeeding annual meeting of members.

**6.5 Removal.** Any elected Director may be removed from office with or without cause only by vote of members representing a majority of the Association's membership voting rights. Any Director appointed by Declarant may be removed and replaced with or without cause by Declarant, in Declarant's sole discretion.

**6.6 Initial Board.** The names and addresses of the persons constituting the first Board of Directors are as follows:



John R. Peshkin	-	7350 Point of Rocks Road Sarasota, Florida 34242
Brian Watson	-	7350 Point of Rocks Road Sarasota, Florida 34242
Samantha Peshkin	-	7350 Point of Rocks Road Sarasota, Florida 34242

## **ARTICLE 7** **OFFICERS**

**7.1 Number, Qualification, and Term.** The officers of the Association, to be elected by the Board of Directors, shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board of Directors shall deem appropriate from time to time. The President shall be elected from among the membership of the Board of Directors, but no other officer need be a Director. The same person may hold two or more offices, provided, however, that the office of President and Secretary shall not be held by the same person. The affairs of the Association shall be administered by such officers under the direction of the Board of Directors. Officers shall be elected at the annual meeting of the Board of Directors, and their term shall expire at the next succeeding annual meeting of the Board of Directors.

**7.2 Initial Officers.** The names of the officers who are to manage the affairs of the Association until the first annual meeting of the Board of Directors are as follows:

John R. Peshkin	-	President
Brian Watson	-	Vice President
Samantha Peshkin	-	Secretary
Brian Watson	-	Treasurer

## **ARTICLE 8** **CORPORATE EXISTENCE**

The Association shall have perpetual existence.

## **ARTICLE 9** **BYLAWS**

The first Board of Directors of the Association shall adopt Bylaws consistent with these Articles of Incorporation. Thereafter, the Bylaws may be altered, amended, or repealed by a majority vote of the Directors in the manner provided by such Bylaws.

## **ARTICLE 10** **AMENDMENTS TO ARTICLES OF INCORPORATION**

These Articles of Incorporation may be altered, amended, or repealed by the affirmative vote of a majority of the Board of Directors.

## **ARTICLE 11** **REGISTERED OFFICE AND REGISTERED AGENT**

The registered and principal office of the Association shall be at \_\_\_ 4163 Clark Road

Sarasota, FL 34233, and the registered agent at such address shall be 200 S. Orange Ave., Sarasota, Florida, 34236. The Association may, however, maintain offices and transact business in such other places within or without the State of Florida as may from time to time be designated by the Board of Directors.

**ARTICLE 12**  
**BUDGET AND EXPENDITURES**

The Association shall obtain funds with which to operate by Assessments levied against its members in accordance with the provisions of the Declaration, as the same may be supplemented by the provisions of these Articles of Incorporation and the Association's Bylaws. Pursuant to the Declaration, the Board of Directors shall annually adopt budgets for the operation of the Association for the ensuing fiscal year and for the purpose of levying Assessments against the Parcels, which budgets shall be conclusive and binding upon all members; provided, however, that the Board of Directors may thereafter at any time approve or ratify variations from such budgets.

**ARTICLE 13**  
**INCORPORATOR**

The name and street address of the incorporator of the Association is as follows:

John R. Peshkin

-

7350 Point of Rocks Road  
Sarasota, Florida 34242

**ARTICLE 14**  
**INDEMNIFICATION OF OFFICERS AND DIRECTORS**

All officers and Directors shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred in connection with any proceeding (including appellate proceedings) or settlement thereof in which they may become involved by reason of holding such office. In no event, however, shall any officer or Director be indemnified for his own willful misconduct or, with respect to any criminal proceeding, his own knowing violation of provisions of law. The Association may purchase and maintain insurance on behalf of all officers and Directors for any liability asserted against them or incurred by them in their capacity as officers and Directors or arising out of their status as such.

**ARTICLE 15**  
**DISSOLUTION OF THE ASSOCIATION**

**15.1 Dissolution.** Upon expiration of the term of the Declaration, the Association may be dissolved upon a resolution to that effect being approved by the holders of two-thirds of the members of the Board of Directors and upon compliance with any applicable laws then in effect.

**15.2 Distribution of Assets.** Upon dissolution of the Association, all of its assets remaining after provision for payment of creditors and all costs and expenses of such dissolution shall be distributed in the following manner:

A. Any Common Areas owned by the Association shall be conveyed to an appropriate agency of local government, provided such agency is willing to accept the conveyance. If no such agency is willing to accept the conveyance, then the common areas shall be dedicated to such other entity as may be approved by the City of Venice.

B. Except as may be otherwise provided by the terms of the Declaration, all remaining assets, or the proceeds from the sale of such assets, shall be apportioned among the Parcels pro rata to the number of Owners of such Parcels based on each Owners' share of the Common Expenses as set forth in Article 8.2 of the Declaration, and the share of each Parcel shall be distributed to the then Owner thereof.

**ARTICLE 16**  
**BINDING EFFECT**

The provisions hereof shall bind and inure to the benefit of the members and their respective successors and assigns.

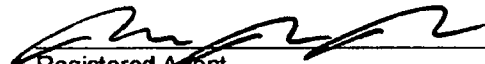
**IN WITNESS WHEREOF**, the above-named incorporator has executed these Articles of Incorporation this 15<sup>th</sup> day of October 2012.

  
\_\_\_\_\_  
**JOHN R. PESHKIN**  
Incorporator

**ACCEPTANCE BY REGISTERED AGENT**

Having been appointed Registered Agent for the above corporation, I hereby accept such appointment. I further certify that I am familiar with, and accept, the obligations of that position as provided by Florida Statutes.

Cross Street Corporate Services, LLC

  
\_\_\_\_\_  
Registered Agent  
As its vice-president

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## **EXHIBIT "C"**

### **BYLAWS** **OF** **TOSCANA ISLES COMMUNITY ASSOCIATION, INC.**

#### **ARTICLE 1** **IDENTITY AND DEFINITIONS**

Toscana Isles Community Association, Inc., a Florida corporation not for profit (the "Association"), has been organized for the purpose of promoting the health, safety, and social welfare of the owners of parcels within the community in Sarasota County, Florida, known as "Toscana Isles" (the "Community") and performing all duties assigned to it under the provisions of the "Declaration of Maintenance Covenants for Toscana Isles" (the "Declaration") to be recorded in the Public Records of Sarasota County, Florida. The terms and provisions of these Bylaws are expressly subject to the Articles of Incorporation of the Association and to the terms, provisions, conditions, and authorizations contained in the Declaration. All words and terms used herein which are defined in the Declaration shall be used herein with the same meanings as defined in the Declaration.

#### **ARTICLE 2** **LOCATION OF PRINCIPAL OFFICE**

The principal office of the Association shall be located at 7350 Points of Rock, Sarasota, Florida 34242, or at such other place as may be established by resolution of the Board of Directors of the Association.

#### **ARTICLE 3** **MEMBERSHIP, VOTING, QUORUM AND PROXIES**

**3.1 Membership and Voting.** The qualification and classification of members, the voting rights of members, and the manner of their admission to membership and termination of such membership shall be governed by the provisions of Article 4 and Article 5 of the Association's Articles of Incorporation, as supplemented by the provisions of these Bylaws.

**3.2 Quorum.** A quorum at any meeting of the Association's members shall consist of members representing at least one-third of the total votes of the Association's members as determined in the manner set forth in Article 3.3 of the Declaration.

**3.3 Proxies.** Votes may be cast in person, by proxy, or by written ballot. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary at or before the designated time of the meeting.

**3.4 Joint Ownership.** Where an individual Parcel is owned by more than one person, the vote to which such Parcel is entitled may be cast by any of the joint owners; provided, however, that if more than one of the joint owners cast the vote to which their Parcel is entitled, the vote shall be apportioned equally among such of the joint owners as cast the vote.

**3.5 Record Date.** The number of votes to which any member is entitled at any meeting of members shall be determined as of the date fixed by the Board of Directors as the record date for such meeting, provided that such record date shall not be more than 60 days or less than 10 days prior to the date of such meeting. In the event the Board of Directors does not set a record date for any meeting of members, the record date for such meeting shall be the date of the notice of such meeting. The determination of the number of votes to which any member is entitled as of the record date shall be final, and no conveyance or acquisition of any Parcel arising after such record date shall be taken into consideration in determining the number of votes to which such member is entitled at such meeting.

**3.6 Required Vote.** Except as otherwise provided by law or by the provisions of the Articles of Incorporation, these Bylaws, or the Declaration, the affirmative vote of members representing a majority of the membership voting rights (as determined pursuant to Article 3.3 of the Declaration) represented at any duly called members' meeting at which a quorum is present shall be necessary for approval of any matter and shall be binding upon all members.

#### **ARTICLE 4** **ANNUAL AND SPECIAL MEETINGS OF MEMBERS**

**4.1 Annual Meeting.** An annual meeting of the membership of the Association shall be held each year during November or such other month as the Board of Directors may determine. The date, time, and place of the annual meeting shall be designated by the Board of Directors. The annual meeting shall be held for the purpose of electing Directors and transacting any other business authorized to be transacted by the members.

**4.2 Special Meetings.** Special meetings of the members of the Association shall be held whenever called by the President, by a majority of the Board of Directors, or by members entitled to cast votes representing at least 20 percent of the total votes of the Association membership as determined in the manner set forth in Article 3.3 of the Declaration.

**4.3 Notices.** Written notice of all members' meetings, annual or special, shall be given by the President, Vice President, or Secretary or by such other officer of the Association as may be designated by the Board of Directors. Such notice shall state the time and place of the meeting and the purpose for which the meeting is called and shall be given not less than 14 days prior to the date set for such meeting. If presented personally, a receipt of such notice shall be signed by the member, indicating the date on which such notice was received. If mailed, such notice shall be deemed to be properly given when deposited in the United States mails, postage prepaid, addressed to the member at his post office address as the same appears on the records of the Association. Proof of such mailing may be given by the affidavit of the person giving the notice and filed with the Association's minutes of meetings. Any member may, by written waiver signed by such member, waive such notice, and such waiver, when filed with the Association's minutes of meetings (whether executed and filed before or after the meeting), shall be deemed equivalent to the giving of such notice to such member.

**4.4 Lack of Quorum.** If any members' meeting cannot be organized because a quorum has not attended or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required by the terms of the Articles of Incorporation, these Bylaws, or the Declaration, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

**4.5 Presiding Officer.** At meetings of the membership, the President, or in his absence the Vice President, shall preside, or in the absence of both, the Board of Directors shall select a chairman.

#### **ARTICLE 5** **BOARD OF DIRECTORS**

**5.1 Number.** The affairs of the Association shall be managed by a Board of Directors consisting initially of three Directors. The number of Directors may be changed from time to time by resolution of the Board of Directors, but may never be less than three.

**5.2 Quorum.** A majority of the Board of Directors shall constitute a quorum to transact business at any meeting of the Board of Directors, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the Board of Directors.

**5.3 Vacancies.** Any vacancy occurring on the Board of Directors due to a Director's death, resignation, or removal shall be filled by the Board of Directors, except that Declarant shall fill any vacancy

created by the death, resignation, or removal of any Director appointed by Declarant. A Director appointed to fill a vacancy, whether by the Board of Directors or Declarant, shall serve for the unexpired term of his predecessor in office.

## **ARTICLE 6**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

#### **6.1 Powers.** The Board of Directors shall have power:

- A. To call meetings of the members.
- B. To appoint and remove at pleasure all officers, agents, and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any member, officer, or Director of the Association in any capacity whatsoever.
- C. To establish, levy, and collect the Assessments necessary to operate the Association, carry on its activities, and pay the Association Expenses and to create such reserves for extraordinary expenditures as may be deemed appropriate by the Board of Directors.
- D. To adopt and publish rules and regulations governing and restricting the use and maintenance of the Community (or any part thereof or improvements thereon) and the personal conduct of the members and their guests within the Community.
- E. To authorize and cause the Association to enter into contracts for the day-to-day operation of the Association and the discharge of its responsibilities and obligations.
- F. To appoint such committees as the Board of Directors may desire and to grant to such committees such duties and responsibilities as the Board of Directors may deem advisable.
- G. To enforce by appropriate legal means the provisions of the Declaration, the Articles of Incorporation, and these Bylaws.
- H. To exercise for the Association all powers, duties, and authority vested in or delegated to the Association, except those reserved to the members by the terms of the Declaration or the Articles of Incorporation.

#### **6.2 Duties.** It shall be the duty of the Board of Directors:

- A. To cause to be kept a complete record of all its acts and corporate affairs.
- B. To supervise all officers, agents, and employees of the Association and to see that their duties are properly performed.
- C. With reference to Assessments of the Association:
  - (1) To fix the amount of the Assessments against the members for each fiscal year in accordance with the provisions of the Declaration;
  - (2) To prepare a roster of the members and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any member; and
  - (3) To send written notice of each Assessment to each member entitled thereto.

D. To make payment of all ad valorem taxes assessed against property of the Association, real or personal.

E. To pay all expenses incurred by the Association pursuant to the Declaration for repairs, maintenance, services, insurance, and other operating expenses.

F. To ensure that all obligations of the Association under the Declaration are performed.

G. To enforce by appropriate legal means the provisions of the Declaration, the Articles of Incorporation, and these Bylaws.

## **ARTICLE 7**

### **MEETINGS OF DIRECTORS**

**7.1 Annual Meeting.** An annual meeting of the Board of Directors shall be held immediately after, and at the same place as, the annual meeting of members.

**7.2 Regular Meetings.** Regular meetings of the Board of Directors shall be held at such time and place as provided by appropriate resolution of the Board of Directors.

**7.3 Special Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two Directors.

**7.4 Notices.** Notice of regular or special meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, or telegram, at least seven days prior to the day named for such meeting, which notice shall state the time and place of the meeting and, as to special meetings, the purpose of the meeting, unless such notice is waived. Notices of meetings of the Board of Directors shall also be given to the members of the Association as and if required by Florida law.

**7.5 Consents.** The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, and any Board action taken in lieu of a meeting, shall be as valid as though made at a meeting duly held after regular call and notice, provided that, either before or after the meeting or the effective date of the action taken, each of the Directors signs a written waiver of notice and consent to the holding of such meeting, or an approval of the minutes thereof, or a consent to the action taken in lieu of a meeting. All such waivers, consents, or approvals shall be filed with the Association's minutes of meetings.

## **ARTICLE 8**

### **OFFICERS**

**8.1 Number.** The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as may be elected in accordance with the Articles of Incorporation. The President shall be a member of the Board of Directors.

**8.2 Election.** All the officers of the Association shall be elected by the Board of Directors at the annual meeting of the Board of Directors. New offices may be created and filled at any meeting of the Board of Directors.

**8.3 Vacancies.** A vacancy in any office because of death, resignation, or other termination of service may be filled by the Board of Directors for the unexpired portion of the term.

**8.4 Removal.** All officers shall hold office at the pleasure of the Board of Directors. If an officer is removed by the Board of Directors, such removal shall be in accordance with the contract rights, if any, of the officer so removed.

**8.5 President.** The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out, and shall sign all leases, notes, mortgages, deeds, and other written instruments on behalf of the Association.

**8.6 Vice President.** The Vice President, or the Vice President so designated by the Board of Directors if there is more than one Vice President, shall perform all the duties of the President in his absence. The Vice President(s) shall perform such other acts and duties as may be assigned by the Board of Directors.

**8.7 Secretary.** The Secretary shall be ex officio the Secretary of the Board of Directors and shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. He shall keep the records of the Association. He shall maintain a record of the names of all members of the Association, together with their addresses as registered by such members.

**8.8 Treasurer.** The Treasurer shall receive and deposit in appropriate institutional accounts all monies of the Association and shall disburse such funds as may be directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of the budgets adopted by the Board of Directors. The Treasurer, or his appointed agent, shall keep proper books of account and shall prepare annual budgets, statements of receipts and disbursements, and balance sheets, and the same shall be available for inspection upon reasonable request of a member.

**8.9 Salaries.** The salaries, if any, of the officers of the Association shall be set by the Board of Directors.

## **ARTICLE 9 FISCAL MANAGEMENT**

**9.1 General.** The Board of Directors shall conduct the fiscal management of the Association in accordance with the provisions of the Declaration and the Articles of Incorporation.

**9.2 Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**9.3 Budgets.** The Board of Directors shall adopt a budget for each fiscal year, which shall contain estimates of the cost of performing the functions of the Association. The adoption of a budget shall not, however, be construed as restricting the right of the Board of Directors, at any time in its sole discretion, to levy any Special Assessment in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation, maintenance, and management; in the event of emergencies; or in the event the Association's reserves are insufficient to cover expenditures for capital improvements or replacements.

**9.4 Loans.** No loans shall be contracted on behalf of the Association, and no evidences of indebtedness shall be issued in its name, unless authorized by a resolution of the Board of Directors. The Board of Directors may authorize the pledge and assignment of the Assessments and the lien rights of the Association as security for the repayment of such loans.

**9.5 Monetary Instruments.** All checks, drafts, notes, and other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, or such agent or agents, of the Association, and in such manner, as shall from time to time be determined by resolution of the Board of Directors.

**9.6 Deposit of Funds.** All funds of the Association shall be deposited from time to time to the credit of the Association in such savings and loan associations, banks, trust companies, or other depositories as the Board of Directors may select.

**9.7 Fidelity Bonds.** Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any person handling or responsible for Association funds. The



amount of such bonds shall be determined by the Board of Directors. The premiums on such bonds shall be paid by the Association.

**ARTICLE 10**  
**OFFICIAL SEAL**

The Association shall have an official seal, which shall be circular in form bearing the name of the Association, the word "Florida," the words "Corporation Not For Profit," and the year of incorporation.

**ARTICLE 11**  
**BOOKS AND RECORDS**

The books, records, and other papers of the Association shall be available at the Association's office and shall be subject to inspection by any of the Association members during regular business hours.

**ARTICLE 12**  
**AMENDMENTS**

These Bylaws may be altered, amended, or repealed by a majority vote of the Directors present at a duly constituted meeting of the Board of Directors. Any proposed alteration, amendment, or repeal shall be contained in the notice of the meeting at which it will be considered. Notwithstanding the foregoing, no amendment to these Bylaws prior to the Turnover shall be effective without the written consent of Declarant.

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