

**This Instrument Prepared By:**

Brett Kinsey, Esq.  
Nelson Mullins Riley & Scarborough LLP  
1905 NW Corporate Blvd., Suite 310  
Boca Raton, Florida 33431

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
PALENCIA**

This Declaration of Covenants, Conditions and Restrictions of Palencia is hereby made by **Forestar (USA) Real Estate Group Inc., a Delaware corporation**, whose mailing address is 4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610.

**WITNESSETH:**

Declarant is the owner in fee simple of the property described in **Exhibit "A"** attached hereto and made a part hereof (the "**Property**"); and

Declarant intends, but shall not be required, to develop the Property as a residential community and to construct single family homes on the Property, provided that in any event such construction will be subject to the covenants, conditions, restrictions, reservations, easements, liens and charges hereinafter set forth; and

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, conveyed, leased, mortgaged and otherwise dealt with subject to the protective covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter set forth, all of which are for the purpose of enhancing and protecting the value, desirability and plan of development for the same. Said covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the Property and shall be binding upon all parties having and/or acquiring any right, title or interest in said property or any portion thereof, and shall inure to the benefit of each and every person or party, from time to time, owning or holding an interest in said Property.

**ARTICLE I**

**DEFINITIONS**

The following words and terms when used in this Declaration or any Supplemental Declaration or any amendment hereto (unless the context shall clearly indicate otherwise) shall have the following meanings:

Section 1. "**Access Control System**" shall mean any system intended to control access to the Property or any portion thereof. THE DECLARANT, BUILDERS AND THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR

INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THE DECLARANT, BUILDERS AND THE ASSOCIATION, AND THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. THE DECLARANT, BUILDERS, AND THE ASSOCIATION SHALL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY CASUALTY OR INTRUSION INTO A HOME.

Section 2.     “Applicant” shall have the meaning set forth in Article VIII, Section 4 hereof.

Section 3.     “ARC” shall have the meaning set forth in Article VIII, Section 6 hereof.

Section 4.     “Articles” mean and refer to the Articles of Incorporation of Palencia Community Association, Inc., a not-for-profit Florida corporation, attached hereto as **Exhibit “B”**, and all exhibits which are attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms thereof.

Section 5.     “Assessments” shall have the meaning set forth in Article VI, Section 1 hereof.

Section 6.     “Association” means Palencia Community Association, Inc., a not-for-profit Florida corporation, its successors and assigns.

Section 7.     “Association Documents” shall have the meaning set forth in Article XV, Section 18 hereof.

Section 8.     “Association Property” shall have the meaning set forth in Article XIV, Section 1 hereof.

Section 9.     “Board of Directors” or “Board” means the Board of Directors of the Association, as set forth in the Bylaws (as defined below).

Section 10.    “Builder” means any person or entity other than the Declarant who (i) holds title to a Lot prior to, during and until completion of construction of a Home thereon (as evidenced by issuance of a certificate of occupancy) and the sale of such Home to a third party, (ii) is duly licensed, either itself or through an affiliated entity, to perform construction services, and (iii) is approved by the Declarant in writing as a Builder or to whom Declarant sells one or more Lots in the event such Builder is not designated in writing. The term “Builders” shall collectively refer to all persons or entities meeting the definition of “Builder” as provided herein. D.R. Horton, Inc., a Delaware corporation, is hereby approved by the Declarant as a “Builder.”

Section 11.    “Bylaws” mean the Bylaws of Palencia Community Association, Inc., attached hereto as **Exhibit “C”** and all exhibits attached thereto and made a part thereof, and shall include such amendments, if any, as may be adopted from time-to-time pursuant to the terms thereof.

Section 12. “Class A Member” means individually each of the Class A Members (as defined in Article IV hereof).

Section 13. “Class A Members” shall have the meaning set forth in Article IV hereof.

Section 14. “Class A Membership” shall have the meaning set forth in Article IV hereof.

Section 15. “Class B Member” shall have the meaning set forth in Article IV hereof.

Section 16. “Class B Membership” shall have the meaning set forth in Article IV hereof.

Section 17. “Common Area” shall mean any real property interests within the Community designated as Common Areas from time to time by the Declarant, by a Plat or by a recorded amendment to this Declaration or Supplemental Declaration, as well as any personal property located thereon or owned by the Association, and provided for, owned, leased by, or dedicated to, the common use and enjoyment of the Owners within the Community. The Common Areas may include, without limitation, private roads, the Access Control System, recreational facilities, entrance features, signage, irrigation lines and equipment, landscape buffers, mail kiosk(s), and improvements, which are owned by or dedicated to the Association. Common Area specifically includes, but is not limited to, Tracts 100, 300, 500, 501, 600, 601, 602, 603, 604, 605, 606, 607 and 608, as shown on the Plat. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF “COMMON AREA” AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT THE DECLARANT TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN THE DECLARANT’S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF ANY COMMON AREAS TO BE OWNED BY THE ASSOCIATION, EXCEPT AFTER CONSTRUCTION OF SUCH ITEM AND CONVEYANCE OF ANY SUCH ITEM TO THE ASSOCIATION.

Section 18. “Community” or “Palencia” means the community planned for development upon the property described in Exhibit “A” or any property annexed as provided herein; the said being within Sarasota County, in the State of Florida.

Section 19. “Community Standards” shall mean such architectural and design standards, if any, established by the Declarant, the Board or the ARC, as provided in Article VIII hereof.

Section 20. “Conservation Areas” shall have the meaning set forth in Article XIII, Section 4 hereof.

Section 21. “County” shall mean Sarasota County, Florida.

Section 22. “Declarant” means Forestar (USA) Real Estate Group Inc., a Delaware corporation, or any successor of Declarant who may be assigned all or a part of the rights and obligations of Declarant pursuant to a written assignment executed by Declarant and recorded

among the Public Records of Sarasota County, in the State of Florida. If Declarant assigns only a portion of its rights and obligations as Declarant hereunder to an assignee, then the term Declarant as used in this Declaration shall mean such assignee only when necessary to give such assignee the rights and obligations of Declarant hereunder which were assigned to such assignee to the same extent as if such assignee had been the original Declarant, and said assignee shall not have any of the rights and obligations of Declarant hereunder which were not specifically assigned to such assignee.

Section 23. “Declaration” means this instrument, together with the Exhibits attached hereto and made a part hereof, and shall include such amendments, if any, as may be adopted from time to time pursuant to the terms hereof.

Section 24. “Development Period” shall mean the period commencing upon recording of this Declaration and ending on the date upon which all Homes within the Property, as ultimately planned and as fully developed, have been conveyed by the Declarant and/or Builders to Owners other than Declarant or Builders.

Section 25. “Drainage Improvements” shall have the meaning set forth in Article IX, Section 22 hereof.

Section 26. “FCC” shall have the meaning set forth in Article IX, Section 16 hereof.

Section 27. “Governing Documents” means the Declaration, Articles, Bylaws, Rules and other documents governing the administration and operation of the Community.

Section 28. “Home” is a single-family dwelling constructed upon and including a Lot. Home shall mean both Villas and detached single-family dwellings, where applicable.

Section 29. “Indemnified Parties” shall have the meaning set forth in Article XV, Section 21 hereof.

Section 30. “Individual Assessments” shall have the meaning set forth in Article VI, Section 1 hereof.

Section 31. “Institutional First Mortgage” is a mortgage executed in favor of an Institutional First Mortgagee, which mortgage is a first and prior mortgage encumbering a Home.

Section 32. “Institutional First Mortgagee” is a bank, federal savings bank, and loan association, any insurance company, pension fund, real estate trust, Federal National Mortgage Association or its assigns, Federal Home Loan Mortgage Company or its assigns, or any other party engaged in the business of mortgage financing, which owns or holds a first and prior mortgage encumbering a Home, and shall include any corporate subsidiary of such entity.

Section 33. “Listed Parties” shall have the meaning set forth in Article XV, Section 19 hereof.

Section 34. “Losses” shall have the meaning set forth in Article XV, Section 21 hereof.



Section 35. “Lot” is a designated lot within the property described on the Plat or any property annexed thereto and becoming a part of the Property conveyed or to be conveyed to an Owner upon which there has been constructed or will be constructed a Home.

Section 36. “Member” is every person or entity who is a Member in the Association by ownership of a Lot or as otherwise provided herein and in accordance with Article III, Section 1 and the Bylaws. Notwithstanding anything contained herein to the contrary, Builders shall not be considered “Members” until after the expiration of the Class B Membership.

Section 37. “Operating Expenses” is all actual and estimated costs and expenses of operating the Association. Operating Expenses may include, without limitation, the following: all costs of ownership, maintenance, operation, and administration of the Common Area, including, without limitation, recreation facilities, any private roadways and right-of-ways comprising the Common Areas, the Access Control System, any mail kiosks, signage, entry features, parking areas and community sidewalks; all amounts payable by the Association under the terms of this Declaration; all costs of community lighting including up-lighting and entrance lighting, all amounts payable in connection with irrigation costs incurred by the Association for Common Area irrigation; costs of utilities; amounts payable to a telecommunications provider for telecommunications services furnished to Owners (if and as applicable); any fees due under any bulk service agreement entered into on behalf of the Owners by the Association or Declarant; taxes; insurance; bonds; salaries; management fees; professional fees; service costs; costs of supplies; maintenance, repair, replacement, and refurbishment costs; all amounts payable in connection with Association sponsored social events; and any and all costs relating to the discharge of the Association’s obligations hereunder, or as determined to be part of the Operating Expenses by the Board. By way of example, and not of limitation, Operating Expenses shall include all of the Association’s legal expenses and costs relating to or arising from the enforcement and/or interpretation of this Declaration. Notwithstanding anything to the contrary herein, Operating Expenses shall not include reserves. All references to “operating expenses” in the Governing Documents shall be deemed to mean “Operating Expenses” as defined in this paragraph.

Section 38. “Owner” is the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those parties having such interest merely as security for the performance of any obligation; provided however, where context requires, to the extent a term, covenant, condition or restriction herein which applies to all “Owners” is contrary to another term, covenant, right, easement, condition or restriction which applies specifically to the Declarant and/or specifically to Builders, then the specific provisions applicable to the Declarant and/or applicable to Builders shall prevail and the Declarant or Builders, as applicable, shall not be deemed an “Owner” for purposes of such conflicting provisions.

Section 39. “Permit” shall mean the Environmental Resource Permit attached hereto as **Exhibit “D”** or other permits issued for Surface Water Management Systems (hereinafter defined) by the WMD (hereinafter defined).

Section 40. “Plat” is the plat or plats of the Property, to be recorded in the Public Records of Sarasota County, State of Florida, as the same may be amended from time to time. The

term Plat shall also include any additional plats of property subsequently added to the terms of this Declaration by a supplemental Declaration.

Section 41. “Property” is the property described in Exhibit “A” and such additions thereto as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

Section 42. “Regular Assessments” shall have the meaning set forth in Article VI, Section 1 hereof.

Section 43. “Required Demolition” shall have the meaning set forth in Article XI, Section 9 hereof.

Section 44. “Required Repair” shall have the meaning set forth in Article XI, Section 9 hereof.

Section 45. “Retention/Detention Area Slopes” shall have the meaning set forth in Article XIII, Section 9 hereof.

Section 46. “Retention/Detention Area Slopes Maintenance Standards” shall have the meaning set forth in Article XIII, Section 9 hereof.

Section 47. “Rules” are collectively the rules and regulations, which the Board of Directors may promulgate or impose and thereafter modify, alter, amend, rescind and augment any of the same with respect to the use, operation, and enjoyment of the Property and any improvements located thereon.

Section 48. “Special Assessments” shall have the meaning set forth in Article VI, Section 1 hereof.

Section 49. “Supplemental Declaration” shall mean and refer to an instrument filed in the Public Records of Sarasota County pursuant to Article II below which subjects additional property to this Declaration, creates additional classes of members, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. The Declarant may, by Supplemental Declaration, create additional classes of membership with such rights, privileges and obligations as may be specified in such Supplemental Declaration in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

Section 50. “Surface Water Management System” or “SWMS” shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, mitigation areas, swales, retention and detention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage easements and those works defined in Section 373.403, Florida Statutes (2019). The SWMS includes those works authorized by WMD pursuant to the Permit. The Association will be responsible for operation and maintenance of the SWMS.

Section 51. “Turnover” shall have the meaning set forth in Article IV hereof.

Section 52. “Villa Assessment” shall have the meaning set forth in Article VI, Section 1 hereof.

Section 53. “Vacant Lot” means any Lot that does not have a Home that is occupied or a Home that is issued a Certificate of Occupancy. All terms of this Declaration applicable to Lots shall also be applicable to Vacant Lots unless otherwise provided herein.

Section 54. “Villa” means an attached single-family dwelling sharing at least one party wall with an adjacent Villa constructed on a Lot within the Community.

Section 55. “Villa Lot” means a Lot on which a Villa has been constructed or is intended by the Declarant or a Builder to be constructed.

Section 56. “Villa Owner” shall mean the Owner of a Villa Lot.

Section 57. “Water Bodies” shall have the meaning set forth in Article XV, Section 20 hereof.

Section 58. “Withdrawn Property” shall have the meaning set forth in Article II, Section 3 hereof.

Section 59. “WMD” shall mean the South Florida Water Management District.

Section 60. “Working Fund Contribution” shall have the meaning set forth in Article VII, Section 1 hereof.

The foregoing definitions shall be applicable to this Declaration and to any Supplemental Declaration hereto or any amendment to this Declaration, unless otherwise expressly provided herein or therein.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Sarasota County, and is the property described in Exhibit “A”, and such additions as may hereafter be brought within the jurisdiction of the Association and subject to the terms of this Declaration.

Section 2. Application of Declaration. The Property shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions of this Declaration, and any and all supplements and lawful amendments hereto and any and all supplements and lawful amendments thereto. By receipt of delivery of a deed to any of the Property or other instrument evidencing ownership, whether or not it shall be so expressed in any such deed or other conveyance or adjudication, each Owner hereby agrees to abide by and accept title to such portion of the Property and all terms and provisions of this Declaration. The filing of this Declaration and subjecting the Property to the covenants, conditions, restrictions, reservations, easements, liens and charges contained herein shall not be construed in any way as inhibiting or prohibiting the Declarant or

Builders from conveying the Lots or improvements within the Property to third parties free and clear of any covenants, conditions, restrictions, reservations, easements, liens and charges, except for those specifically provided for in this Declaration. Lots so conveyed by the Declarant to third parties shall be used and held by said third parties in accordance with this Declaration.

Section 3. Additional Property. Additional property may become subject to this Declaration or be withdrawn from the terms of this Declaration in the following manner:

(a) Annexation Without Approval of Class A Membership. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option, from time to time at any time to annex and subject to the provisions of this Declaration and the jurisdiction of the Association, all or any portion of the real property described in a Supplemental Declaration. Such Supplemental Declaration shall not require the consent of the Class A Members or any other party, other than the record title owner of such real property. Any such annexation shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other person said right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transfer or assignment is memorialized in a written, recorded instrument executed by Declarant.

(b) Annexation With Approval of Class A Membership. Subject to the consent of the owner thereof, after the expiration of the Class B Membership the Association may annex additional real property to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of not less than sixty-seven (67%) percent of the Class A Members of the Association. Annexation shall be accomplished by filing of record in the public records of Sarasota County, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by an authorized officer of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon recording of such Supplemental Declaration unless otherwise provided therein. The relevant provisions of the Bylaws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section and to ascertain the presence of a quorum at such meeting.

(c) Acquisition of Real Property. The Declarant may convey or cause to be conveyed to the Association additional real property, or any improvements thereon or interest therein, improved or unimproved, and upon conveyance or dedication to the Association, the same shall be accepted by the Association and thereafter shall be maintained by the Association at its expense as a Common Area for the benefit of all of its Members. Annexation of additional property or future development phases of the Community, if annexed herein, may result in additional Common Area improvements being owned and maintained by the Association and conveyance of Common Areas therein shall not require the consent of any other Owner or Builder.

(d) Withdrawal of Property. Declarant shall be entitled to withdraw portions of the Property owned by Declarant from the terms and conditions of this Declaration, subject to the terms and conditions of this Section. For purposes of this Declaration, the portion of the Property withdrawn from the terms hereof shall be referred to as the “**Withdrawn Property.**” In order to

withdraw such portion of the Property from the terms of this Declaration, Declarant shall record in the Public Records of Sarasota County an instrument executed with the formalities of a Deed, which instrument shall make reference to this Declaration, state that the purpose of the instrument is to withdraw the Withdrawn Property from the terms and conditions of this Declaration, and contain a legal description of the Withdrawn Property. Declarant shall have the right to withdraw portions of the Property from the terms and conditions of this Declaration without the joinder, ratification or approval of the Association, any Owner, or any lienholder, provided that Declarant is the fee simple owner of the Withdrawn Property, and provided that the withdrawal of the Withdrawn Property shall not result in a material change to the scheme of development of the Community. Upon the withdrawal of the Withdrawn Property from the terms and conditions of this Declaration, the Withdrawn Property shall no longer be subject to the terms of this Declaration, including all exhibits hereto, or any other covenants, restrictions and/or regulations provided herein or adopted hereunder, except for those easements, rights-of-way, or other portions hereof which, by their terms, specifically survive the termination of this Declaration, which shall include the withdrawal of such lands from the terms and conditions of this Declaration.

(e) Amendment. This Article II, Section 3 shall not be amended by the Association without the prior written consent of Declarant during the Development Period or so long as the Declarant or any Builder holds Lots for sale in the ordinary course of business.

### ARTICLE III

#### MEMBERSHIP AND TRANSFERS

Section 1. Membership. Except as otherwise provided herein, every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of the Association; provided, however, Builders shall not be considered "Members" until after the expiration of Class B Membership. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to a Lot and may not be separated from ownership of the Lot; provided, however, Builders shall not be considered Members until after the expiration of Class B Membership. Ownership of a Lot shall be the sole qualification for membership. Except as otherwise provided herein, the Owner of record of each Lot shall be subject to assessment by the Association, as hereinafter provided, and shall be subject to enforcement by the Association in accordance with the terms and provisions of this Declaration.

Section 2. Transfer. Upon the transfer of a Home, whether by sale, gift, demise or otherwise, the new Owner shall, within five (5) days after taking title to the Home, provide the Association notice of such transfer and contact information and any additional information the Association may require. The prior Owner shall deliver to the new Owner any mailbox key(s), gate access devices, or other items issued to the prior Owner by the Association. In the event the prior Owner shall fail to do so, or in the event an Owner loses such a device, the new Owner shall purchase a replacement mailbox key, gate access device, or other item from the Association or its designee. The Association shall not be required to replace or repair any mailbox lock or mailbox key for any Owner, and any repair or replacement of a mailbox lock or mailbox key shall be at the Owner's cost and expense.

## ARTICLE IV

### VOTING RIGHTS

The Association shall have two (2) classes of voting membership:

Class A. “**Class A Members**” shall be those Owners defined in Article III with the exception of the Declarant and Builders until the Class B Membership ceases to exist and is converted to Class A Membership, and the “**Class A Membership**” shall mean the membership in the Association held by a Class A Member. Builders shall not be considered Members until the Class B Membership ceases to exist and is converted to Class A Membership. Once the Class B Membership ceases to exist and is converted to Class A Membership, Builders shall be Class A Members. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article III. When more than one (1) person or entity holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. When the Class B Membership ceases to exist and is converted to Class A Membership, the Declarant and each Builder shall hold a Class A Membership for each Lot owned.

Class B. The “**Class B Member**” shall be the Declarant and the “**Class B Membership**” shall mean the membership in the Association held by the Class B Member. The Class B Member shall be entitled to three (3) votes for each Class A Member; provided, however, upon the conversion of the Class B Membership to Class A Membership, the Declarant shall be entitled to one (1) vote for each Lot they own in the same manner as all other Class A Members. “**Turnover**” shall mean the transfer of operation of the Association by the Declarant to Owners other than Declarant. The Turnover of the Association by the Declarant shall occur at a meeting where the Class A Members shall elect a majority of the Board. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify in writing all Owners and Builders of the date, location, and purpose of the Turnover meeting. The Turnover shall take place, and the Class B Membership shall cease and be converted to Class A Membership on the happening of the following events, whichever occurs earliest, unless otherwise required by Florida law:

- (a) Three (3) months after ninety (90%) percent of the Lots have been conveyed to Class A Members, which shall not include Builders until after the Class B Membership ceases to exist; or
- (b) Thirty (30) days after Declarant elects to terminate the Class B Membership in a written instrument signed by Declarant and delivered to the Secretary of the Association; or
- (c) As otherwise required by Section 720.307, Florida Statutes (2019).

Notwithstanding the foregoing, Declarant shall be entitled to appoint at least one (1) member of the Board of Directors of the Association as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots within the Property. After

Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant-owned voting interest in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the members of the Board of Directors.

## ARTICLE V

### PROPERTY RIGHTS

Section 1. Membership Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the non-exclusive use of the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Area, and in aid thereof, to mortgage said Common Area, provided, the rights of such mortgagee in said Common Area shall be subordinate to the rights of the Owners hereunder. The right to mortgage the Common Area provided herein shall not become effective until a Home has been constructed upon each Lot within the Property and each Lot has been conveyed from the Declarant to a Class A Member. No such rights to mortgage shall be effective unless approved by a vote of two-thirds (2/3rds) of all Members at a duly noticed meeting for the purpose of approving such mortgage.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes. No such dedication or transfer shall be effective unless approved by a vote of two-thirds (2/3rds) of the Class A Members at a duly noticed meeting and the vote of the Class B Member, if any, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the duly called meeting at which the vote on such dedication or transfer is held;

(c) The right of the Declarant or the Association to establish, from time to time, certain easements over the Common Area for utilities, broadband communications, cable television and other common services purposes;

(d) The right of the Association to charge reasonable fees for the use of designated facilities (if any) on the Common Area and to temporarily close facilities for repair or maintenance;

(e) Existing easements and agreements of record and those easements granted by the Declarant or the Association in accordance herewith, including without limitation private access easement granted to the Association for the use and benefit of the Owners, their guests, tenants, and invitees, if any; and

(f) Easements referred to in Article X hereof;

(g) The right to the use and enjoyment of the Common Area and facilities thereon, once construction thereof has been completed, shall extend to all Owners and their family,

tenants, guests and invitees, provided there is delegation of the right of enjoyment in accordance with the Bylaws and subject to regulation from time to time by the Association in its Rules;

(h) Access to certain Common Area within the Property may not be obtained from an Owner's or Member's Lot or other Common Area or publicly dedicated streets or properties. Thus, to obtain access to certain Common Area for which access cannot be obtained from the Owner's Lot, other Common Area or publicly dedicated streets or properties, the Owner shall need to obtain the permission of an Owner whose Lot is contiguous to said Common Area. The fact that an Owner shall not have access to certain Common Area from his or her Lot, Common Area or publicly dedicated streets or properties does not allow an Owner to avoid liability for Assessments (as defined below) provided for in Article VI of this Declaration; and

(i) The other provisions of this Declaration, the Articles and Bylaws.

Section 2. Common Area.

(a) Ownership. In the event any Common Area is dedicated to the Association, the Declarant will convey such Common Area to the Association and the Association shall maintain the Common Area conveyed to it. In addition, any easement granted in favor of the Association shall be maintained by the Association in accordance with the terms of any such grant or dedication as if such easements were Common Areas; provided, however, the use and enjoyment of such easements shall be limited to the purpose for which they were intended. The Association shall be obligated to accept conveyance of any Common Areas or grants of easements from the Declarant as deemed necessary or advisable by Declarant. The Association shall have the right to promulgate Rules for the use of Common Areas and such restrictions shall be enforceable against all Owners and their guests, tenants and invitees. Common Area shall include all property dedicated to the Association on a Plat, as well as all property conveyed to the Association.

(b) Maintenance. The Association shall be responsible for the maintenance of the Common Areas and any and all improvements situated on the Common Areas (upon completion of construction thereof by Declarant), including, but not limited to, all landscaping, paving, irrigation systems, infrastructure leading to the homesites, sidewalks, fences, private roads, gates, Access Control Systems, mail kiosks, the Surface Water Management System, and other structures, including entry features, if any, but excepting any public utilities and improvements by the city in which the Property is located or Sarasota County, in a continuous and satisfactory manner in good order, condition, and repair to the extent they are not otherwise required to be maintained by another entity. In addition, the Association shall replace as scheduled any such improvements situated on the Common Areas (upon completion of construction thereof by Declarant). The Association shall be authorized, but not required, to provide other services, to make emergency repairs and to perform other work on Lots reasonably necessary for the proper maintenance and operation of the Community, and the Association shall have easement rights necessary to perform same. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through Assessments as provided in this Declaration; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of an Owner or its guest, tenants or other invitees or by the failure of an Owner to comply with the lawfully adopted Rules of the Association shall be levied as an Individual Assessment against such



Owner individually. No Owner may waive or otherwise escape liability for the Assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

(c) Rules. The Association, through its Board of Directors, may make and enforce reasonable Rules governing the Common Areas, which Rules shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines levied in accordance with the Declaration and applicable law and suspension of the right to vote. The Board of Directors shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided herein and in the Bylaws of the Association. The Rules shall not apply to the Declarant or Builders or to any property owned by the Declarant or Builders, and shall not be applied in a manner that would prohibit or restrict the development or operation of Palencia or adversely affect the respective interests of the Declarant or Builders. Without limiting the foregoing, the Declarant, Builders and/or each of their agents, contractors and assigns, shall have the right to: (i) develop and construct Lots, Homes, Common Areas and related improvements within Palencia, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Lots and Homes and (b) residences and properties located outside of Palencia), general office and construction operations within Palencia; (iii) to the extent authorized by applicable zoning and other regulations, place, erect or construct portable, temporary or accessory buildings or structures within Palencia for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of Palencia; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or other portions of Palencia, signs and other materials used in developing, constructing, selling or promoting the sale of any portion of Palencia including, without limitation, Lots and Homes; and (vi) undertake all activities which, in the sole opinion of the Declarant, are necessary or convenient for the development and sale of any lands and improvements comprising Palencia. Notwithstanding the foregoing, the Declarant may promulgate and enforce separate rules and regulations regarding Builders, which shall be provided to such Builders in writing.

(d) Optional Services. The Association shall be authorized, but not required, to provide other services, such as installation and maintenance of entry features, the employment of stationary or patrolling guards within the Community, or other services for maintenance or repair of the Homes or structures, and performing emergency repairs and other work on Lots reasonably necessary for the proper maintenance and operation of the Community, and shall have easement rights necessary to perform same. All work pursuant to this Section and all expenses hereunder shall be paid for by the Association through Assessments as provided in this Declaration; provided, however, that the cost of any maintenance, repair or replacement caused by the negligent conduct of an Owner or its guest, tenants or other invitees or by the failure of an Owner to comply with the lawfully adopted Rules of the Association shall be levied as an Individual Assessment against such Owner individually. No Owner may waive or otherwise escape liability for the Assessments for such maintenance by non-use of the Common Areas or abandonment of his right to use the Common Areas.

(e) Access Control System. The Declarant may install a controlled access facility at one or more access points to the Community. The Association shall have the right, but

not the obligation, to contract for the installation of additional Access Control System facilities for the Community. If provided, all costs associated with any Access Control System will be part of the Operating Expenses. As long as the Declarant or Builder(s) owns any property subject to this Declaration, or which may become subject to this Declaration, the Declarant shall have the absolute right to determine how such Access Control Systems are operated, including the days and times that gates are open allowing public access to the Community. The Declarant hereby reserves for itself, Builders, and their contractors and suppliers, their respective agents and employees, and any prospective purchasers of Homes or Lots from the Declarant or Builders, an easement for free and unimpeded access through any such Access Control System, subject only to such controls and restrictions as are agreed to in writing by the Declarant. If the Association attempts to restrict or control access into the Community through means not approved by the Declarant, the Declarant may take any and all measures necessary to eliminate same, including disabling any entry system during any hours desired by the Declarant, and the Declarant shall have no liability in this regard.

THE ASSOCIATION, BUILDERS, AND THE DECLARANT SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THE ASSOCIATION, BUILDERS, AND THE DECLARANT, AND THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. THE ASSOCIATION, BUILDERS, AND THE DECLARANT WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY CASUALTY OR INTRUSION INTO A HOME.

Section 3. Declarant's and Builders' Reserved Rights. Notwithstanding any provision herein to the contrary, the property rights under this Article V shall be subject to:

(a) The right of Declarant to enter into agreements, execute all documents and take such actions and do such acts affecting the Property or the Common Area which, in the Declarant's sole discretion, are desirable or necessary to facilitate the Declarant's or Builders' development, construction, sales and marketing of the Property. However, nothing contained herein shall authorize Declarant to take any action that will diminish the rights of any lienholder or the holder of any mortgage on any Lot or the Common Area; or unilaterally change the Declaration, Articles, Bylaws and Rules in violation of Chapter 720, Florida Statutes, after the Class B Membership has terminated;

(b) Easements of record on the date hereof and any easements which may hereafter be granted by Declarant to any public or private utilities, adjacent property owners, or governmental bodies for the installation and maintenance of cable television, electrical and telephone conduit and lines, sewers or water pipes, irrigation lines, or any other utilities or services to any Lots within the Property or any portion of the Common Areas, or such easements as Declarant may determine are necessary or beneficial for the maintenance or preservation of the Property;

(c) The Declarant and each Builder shall have full rights of ingress and egress to and through, and over and about the Property, including all Common Areas, during the

Development Period and such additional period of time as Declarant or such Builder is engaged in any development, construction or improvement work, sales, leasing or marketing of the Community on or within the Property, and the Declarant and Builders shall further have an easement thereon for the purpose of storage of materials, vehicles, tools, equipment, etc., which are being utilized in such development or construction and for the use and maintenance of signs, banners, and the like being used in connection with the sale or promotion of the Property, or any portion thereof. The Declarant and Builders shall further have the right to operate and maintain models, sales centers and leasing offices and to operate and open gates and access to the Community to facilitate sales and marketing of the Community in Declarant's sole and absolute discretion during the Development Period and such additional period of time as Declarant is engaged in any construction or improvement work, sales, leasing or marketing of the Community or within the Property. During the Development Period, the Declarant shall have the exclusive right to control the operation and opening of any Access Control System to facilitate construction, sale and marketing of the Community by Declarant or Builders. No Owner, his guests, employees, servants, agents and invitees shall in any way interfere or hamper Declarant, Builders, or any of their agents, servants, employees, invitees, successors or assigns, in connection with such construction, development, promotion or sales activity; and

(d) The Declarant shall have full right to assign any or all of its right, title and interest in the Property, both as Declarant and as a Member of the Association, to another party by the execution and recording of a proper instrument in the Public Records of Sarasota County. This provision shall not, however, be construed to allow Declarant to assign a membership in the Association in a transaction separate from ownership of a Lot. Notwithstanding the foregoing, the Declarant, in its sole discretion, shall also have the right to grant to Builders and other third-parties certain rights reserved hereunder to the Declarant for the purpose of construction, sales and marketing by executing a partial, non-exclusive assignment of rights in favor of such party to be kept in the official records of the Association.

(e) Notwithstanding anything contained herein to the contrary, neither the Declarant, nor the Builders, nor the Association makes any representation whatsoever as to the commencement, completion or construction of any recreational facilities or other improvements within or upon the Common Areas. Title to any portion of the Common Areas owned by Declarant may be transferred to the Association at any time, provided that, title to all portions of the Common Areas owned by Declarant shall be transferred to the Association no later than the expiration of the Development Period. The transfer of title to any portion of the Common Areas to the Association shall be subject to: (i) all rights of Declarant and other persons set forth in this Declaration; and (ii) any restrictions or limitations contained in the instrument conveying such portion to the Association. THE ASSOCIATION AND EACH OWNER SHALL BE OBLIGATED TO ACCEPT THE COMMON AREAS AND ANY IMPROVEMENTS LOCATED THEREON IN THEIR "AS-IS" CONDITION. NEITHER THE DECLARANT NOR ANY BUILDER MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, ALL OF WHICH ARE DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW, WITH RESPECT TO THE COMMON AREAS AND THE IMPROVEMENTS THEREON INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE CONSTRUCTION, DESIGN, ADEQUACY OF SIZE OR CAPACITY RELATED TO THE USE OF THE SAME, DATE OF COMPLETION OR FUTURE ECONOMIC PERFORMANCE OR

OPERATION OF THE COMMON AREAS AND THE IMPROVEMENTS THEREON, INCLUDING ALL MATERIALS, FIXTURES, PERSONAL PROPERTY OR EQUIPMENT THEREIN. FURTHER, THE DECLARANT MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EITHER EXPRESS OR IMPLIED, THAT THE PLANS PRESENTLY ENVISIONED FOR THE COMPLETE DEVELOPMENT OF THE PROPERTY CAN OR WILL BE CARRIED OUT, OR THAT ANY REAL PROPERTY NOW OR HEREAFTER ACQUIRED BY DECLARANT IS OR WILL BE SUBJECT TO THIS DECLARATION, OR THAT ANY SUCH REAL PROPERTY (WHETHER OR NOT IT HAS BEEN SUBJECTED TO THIS DECLARATION) IS OR WILL BE COMMITTED TO OR DEVELOPED FOR A PARTICULAR (OR ANY) USE, OR THAT SUCH REAL PROPERTY IS ONCE USED FOR A PARTICULAR USE, WILL CONTINUE IN EFFECT.

Section 4. No Dedication to Public Use. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Property for public use, except for access to and from and throughout the property described in the Plat or any additions thereto for emergency access, law enforcement and persons providing essential services to the Community and its Members.

Section 5. Incorporation of Easements by Reference. Reference in the respective deeds of conveyance, or any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 6. Surface Water Management. It is acknowledged that the Property is located within the boundaries of the WMD and that an easement is hereby created over the entire Property for the surface water drainage and storage, and for the installation and maintenance of the Surface Water Management System for the Property in accordance with the Permit; provided, however that such easement shall be subject to improvements constructed within the Property as permitted by controlling governmental authorities from time to time. The Surface Water Management System shall be owned by the Association and shall be operated and maintained by the Association and/or its agents, in compliance with all approvals, codes and regulations of governmental authorities and the WMD. Such operation and maintenance shall specifically include all utility costs and equipment related to the obligations hereunder, as well as any ongoing monitoring which the Association is required to perform pursuant to the Permit. Notwithstanding the foregoing, the Association and the Association may enter into an agreement for the Association's maintenance of certain portions of the Surface Water Management System.

Section 7. Association's Obligation to Indemnify. The Association and each Owner covenant and agree jointly and severally to indemnify, defend and hold harmless Declarant, Builders, their officers, directors, shareholders, and any related persons or corporations and their employees from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas or other property serving the Association, and improvements thereon, or resulting from or arising out of activities or operations of the Association or Owners, and from and against all costs, expenses, court costs, attorneys' fees and paraprofessional fees (including, but not limited to, all

trial and appellate levels and whether or not suit be instituted), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expense of fulfilling this covenant of indemnification shall be Operating Expenses to the extent such matters are not covered by insurance maintained by the Association.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments to be Paid to the Association. The Declarant, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance (including any purchaser at a judicial sale), is deemed to covenant, which covenant shall run with the land and be binding on every Owner, and agrees to pay to the Association: (1) any Regular Assessments (as defined below) or charges for the payment of Operating Expenses of the Association (including, without limitation, payment of taxes which may be assessed against any Common Areas or any personal property which may in the future be owned by the Association) (“**Regular Assessments**”); and (2) any special assessments for improvements, or to fund any deficits between the amount collected for Regular Assessments in accordance with the annual budget and the amount determined necessary by the Association for the proper management and maintenance of the Common Areas, together with other costs and/or expenses levied or imposed against the Association or property of the Association (“**Special Assessments**”); and (3) any individual assessments or charges incurred by the Association on behalf of one or more Lots but not all Lots (“**Individual Assessments**”). In addition to Regular Assessments, Special Assessments, and Individual Assessments, each Villa Owner covenants to pay its proportionate share of all expenses incurred by the Association directly related to its obligations for repair, replacements and maintenance of the Villa Lots as set forth in this Declaration (“**Villa Assessments**”). All such Regular Assessments, Special Assessments, Individual Assessments, and Villa Assessments, collectively referred to as “**Assessments**”, shall be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with such interest thereon and costs of collection thereof, including attorney’s fees, as hereinafter provided and any applicable late fee imposed by the Board of Directors, shall be a charge on the Property and shall be a *continuing lien* relating back to the date of recordation of the Declaration upon any Lot against which each such assessment is made, and said lien may be enforced in the same manner in which mortgages are enforced. Each such Assessment, together with interest, costs (including applicable late fees), and reasonable attorneys’ fees for its collection, including attorneys’ fees involved at all appellate levels and whether or not suit is instituted, shall also be the personal obligation of the person or entity who was the Owner of the Lot at the time when the Assessment becomes due. Each Owner shall be jointly and severally responsible with the previous Owner for all Assessments due to the Association prior to the transfer of title, without prejudice to any right the present Owner may have to recover any amounts paid by the present Owner from the previous Owner.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used for, among other things, the purpose of operating and maintaining the Association and the

Community. Special Assessments shall be used to fund capital improvements, deficits in the collection of Regular Assessments to cover Operating Expenses of the Association, and other purposes deemed necessary by the Board, subject to Section 5 of this Article VI. Individual Assessments shall be for the costs incurred by the Association which by nature are applicable only to one or more Lots, but less than all Lots. By way of example and not limitation, in the event an Owner fails to maintain their Lot in a manner required by the Governing Documents, the Association shall have the right (but not the obligation), through its agents and employees, to enter upon the Lot and to repair, restore, and maintain the Lot and/or Home as required by the Governing Documents. The costs of any such repair, restoration and/or maintenance, plus the reasonable administrative expenses of the Association and any costs incurred in bringing a Lot and/or Home into compliance with the Governing Documents, shall be an Individual Assessment charged against the Lot. The Villa Assessments shall be levied against Villa Owners only and shall include any costs directly related to the Villa Lots only, to the exclusion of the other Owners.

Section 3. Basis of Regular Assessments and Establishment of Reserves. For the initial year of operation of the Association, the annual amount for Regular Assessments shall be the amount as set forth in the estimated operating budget of the Association for the initial year of operation. From and after January of the next operating year, the Regular Assessment shall be determined in accordance with the Articles of Incorporation and Bylaws of the Association taking into account current maintenance costs and future needs of the Association as well as the number of Lots subject to the Declaration at the beginning of the next operating year. Assessments of any kind may be levied for the creation of reasonable reserves for any of the aforesaid purposes. The Board may, but shall have no obligation to, include a "Reserve for Replacement" in the annual budget of the Association in order to establish and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements comprising a portion of the Common Areas or Lots. Each Owner acknowledges the Association is responsible for the repair and maintenance of capital improvements that may result in a Special Assessment due to reserves not being collected. Because reserve accounts are not being initially provided for by the Declarant, the Members of the Association may elect to collect reserves after the expiration of the Class B Membership upon the affirmative approval of a majority of the total voting interests of the Association obtained by a vote of the Members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the Association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the Board shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once reserves are established as provided in this subsection, the reserve accounts must be funded or maintained through the collection of Assessments or have their funding waived in the manner provided by Chapter 720, Florida Statutes. Notwithstanding anything contained herein to the contrary, reserves will not be funded by the Declarant for the Lots Declarant owns so long as Declarant is funding any deficits in Operating Expenses pursuant to Section 12 of this Article VI.

Section 4. Uniform Rate of Assessment. Unless otherwise provided for herein, both Regular Assessments and Special Assessments must be fixed at a uniform rate and may be collected on an annual, quarterly or monthly basis or at any other interval as determined by the Board of Directors. Regular Assessments shall be calculated based on the total number of Lots planned for the Community by the Declarant until Turnover. After Turnover, Regular

Assessments shall be calculated based on the number of Lots subject to the Declaration. Unless otherwise established by the Board, Regular Assessments for all Lots shall be collected in advance on a monthly basis. Payments of all Assessments will be made directly to the Association or its designated management company and in no instance shall any mortgagees have the obligation to collect Assessments. Notwithstanding the foregoing, (a) due to the state of completion and level of services provided by the Association to Vacant Lots, each Vacant Lot shall not be assessed until such Vacant Lot ceases to be a Vacant Lot and (b) Lots owned by the Declarant shall be exempt from payment of Assessments during any period of time that Declarant is funding deficits in Operating Expenses in accordance with Section 12 of this Article VI.

Section 5. Special Assessment for Capital Improvements. In addition to the Regular Assessment authorized above, the Association may levy in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or to cover deficits in the collection of Regular Assessments to cover Operating Expenses of the Association; PROVIDED that, prior to the expiration of Class B Membership, any such Special Assessments proposed to be levied by the Board shall first be approved by a majority of the votes of Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 15 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. Any Vacant Lot as of the date the Special Assessment is levied shall not be obligated to pay the Special Assessment. The Special Assessment shall be allocated equally to all other Lots that are not Vacant Lots. Lots owned by the Declarant shall be exempt from payment of Special Assessments during any period of time that Declarant is funding deficits in Operating Expenses in accordance with Section 12 of this Article VI.

Section 6. Quorum for Any Action Authorized Under Section 5. At each meeting called for the purpose of Class A Members voting to approve any Special Assessment proposed by the Board as provided in Section 5 above, the presence at the meeting of Class A Members or of proxies entitled to cast thirty percent (30%) of all the votes of Class A Members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, one additional meeting may be called, subject to the notice requirements set forth in Section 5 and the required quorum at any such subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Regular Assessments; Due Dates. The Regular Assessments provided for herein shall commence as to each Lot upon the conveyance of the Lot by the Declarant to or by a Builder to a Class A Member other than a Builder; provided, however, each Vacant Lot shall not be assessed until the applicable Vacant Lot ceases to be a Vacant Lot as provided in this Section. For purposes of Assessments, each Vacant Lot shall cease to be a Vacant Lot upon the earliest of the following events to occur: a) a Certificate of Occupancy being issued for a Home constructed on the applicable Lot; or b) the occupancy of a Home constructed on the applicable Lot. The Regular Assessment due and payable for each Lot once it ceases to be a Vacant Lot shall be adjusted according to the number of months remaining in the calendar year in which the full Regular Assessment becomes due. The first Regular Assessment shall be adjusted

according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Regular Assessment against each Lot at least thirty (30) days in advance of each Regular Assessment period. Written notice of the Regular Assessment shall be sent to every Owner subject thereto together with the due date of such Assessments established by the Board of Directors. The Board of Directors, if necessary to insure cash flow, may institute reasonable late payment fees for any delinquent payment of the Regular Assessment. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors or its agent for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within ten (10) days (or such other period of time established by the Board of Directors) after the due date, an administrative late fee of the greater of Twenty-Five and no/100 Dollars (\$25.00) or 5% of the amount of the installment that is past due, together with interest in an amount equal to the maximum rate per annum allowable by law beginning from the due date until paid in full may be levied. The Association, acting through its Board of Directors, may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot to which the Assessment is levied, and interest, costs and reasonable attorneys' fees, including at all appellate levels and whether or not suit is instituted, in collection or enforcement shall be added to the amount of such Assessment. Additionally, the Board of Directors may at its discretion accelerate the Assessments then due from a delinquent Owner for the next twelve (12) months. The Association may also notify any mortgagees or lenders of Owner, any co-borrowers and/or guarantor(s) without recourse to Declarant and/or the Association of delinquencies in the payment of Assessments. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot. All payments on accounts shall be first applied to fines levied in accordance with the terms of the Declaration, interest accrued by the Association, then to any administrative late fees, then to collection costs and attorney fees, and then to the delinquent Assessments. The allocation of payments described herein shall apply notwithstanding any restrictive endorsement, designation or instruction placed on or accompanying a payment. Additionally, if a Home is occupied by a tenant and the Owner is delinquent in the payment of Assessments, the Association may demand from the tenant payment to the Association of all monetary obligations, including without limitation, Assessments due from the Owner to the Association. So long as the Owner remains delinquent, future rent payments due to the Owner may be collected by the Association and shall be credited to the monetary obligations of the Owner to the Association. If within fourteen (14) days from written demand of the Association, the tenant provides the Association with written evidence of making prepaid rent payments, the tenant shall receive credit for the prepaid rent for the applicable period of such prepaid rent.

Section 9. Individual Assessment Against a Particular Owner of Lot. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and the improvements situated thereon in accordance with the terms and conditions of the Declaration and any promulgated Rules in a manner satisfactory to the Board of Directors to a minimum standard of consistency with the general appearance of the Property as initially constructed and improved by the Declarant or Builder (taking into account normal wear and tear and exposure to normal exterior conditions, but



not to the point of unsightliness), the Association, after approval by a majority of the Board of Directors, shall have the right (but not the obligation), through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot, and the exterior of the buildings and any other improvements erected thereon. The costs of such exterior maintenance performed by the Association on behalf of the Owner may be assessed against the Owner's Lot as an Individual Assessment; and said Assessment shall be enforced in the same manner as provided for in Section 8 of this Article VI. In addition, in the event any Owner, its guests, tenants or invitees cause any damage to the Common Areas or any improvements located thereon, including irrigation lines or equipment, facilities, landscaping, sidewalks or any other property or improvements maintained by the Association, such Owner shall be responsible for the cost of any repairs required to correct such damage and the cost thereof may be assessed to the Owner as an Individual Assessment.

Section 10. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be superior to all other liens except tax liens and the liens of any bona fide Institutional First Mortgage to an Institutional First Mortgagee recorded prior to any lien for Assessments by the Association; provided, however, that said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens, and secure indebtednesses payable in monthly, quarterly or annual payments over a period of not less than ten (10) years.

Section 11. Exempt Property. The following Property subject to this Declaration shall be exempt from the Assessments created herein: (a) any portion of the Property dedicated to and accepted by a local public authority; (b) the Common Area; and (c) any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Florida; however, no land or improvements devoted to dwelling use shall be exempt from said Assessments. In addition, Lots owned by the Declarant may be exempt from payment of Assessments during any period of time that Declarant is funding deficits in Operating Expenses in accordance with Section 12 of this Article VI.

Section 12. Declarant's Right to Deficit Fund Operating Expenses. Notwithstanding any provision that may be contained to the contrary in this Declaration, for as long as Declarant is in control of the Association, the Declarant shall not be liable for Assessments against such Lots owned by the Declarant, provided that the Declarant funds any deficit in Operating Expenses exclusive of reserves, cost of capital improvements, and non-budgeted repairs or replacement, as specified in Section 720.308(1)(b), Florida Statutes. For the purposes hereof, a deficit shall be computed by subtraction from said Operating Expenses (exclusive of the items described in the foregoing sentence) all Assessments, income, Working Fund Contributions (as defined below) and any other contributions and other sums and income received or receivable by the Association. The Declarant may at any time commence to pay Assessments to the Lots that it owns and thereby automatically terminate its obligations under this Declaration to fund a deficit in the Operating Expenses, or any time or from time to time elect again to fund deficits as aforesaid. When all Lots within the Property are sold and conveyed to Members, the Declarant shall have no further liability of any kind to the Association for the payment of Assessments or deficits other than those that arose to prior to such time. Should Declarant, in its sole discretion, elect to fund cash shortfalls caused by delinquencies or other matters which would not otherwise require deficit funds from the Declarant, or make excess contributions over the totality of the deficit funding period, such funds shall be considered a loan to the Association to be paid back to the Declarant by the Association. THE DECLARANT DOES NOT PROVIDE A GUARANTEE OF THE LEVEL OF

ASSESSMENTS. AS SUCH, THERE IS NO MAXIMUM GUARANTEED LEVEL OF ASSESSMENTS DUE FROM OWNERS. IN THE EVENT THE DECLARANT ELECTS TO DEFICIT FUND IN LIEU OF PAYING ASSESSMENTS ON THE SAME BASIS AS OTHER OWNERS, THE DECLARANT SHALL SPECIFICALLY ELECT TO FUND THE DEFICIT AS PROVIDED IN SECTION 720.308(1)(B), FLORIDA STATUTES (2019). AS SUCH, THE PROVISIONS OF SECTIONS 720.308(2) THROUGH 720.308(6), FLORIDA STATUTES (2019), ARE NOT APPLICABLE TO THE DECLARANT OR THE CALCULATION OF THE DEFICIT OR OTHER AMOUNTS DUE FROM THE DECLARANT.

## ARTICLE VII

### WORKING FUND CONTRIBUTION

Section 1. Working Fund Contribution on Sale by Declarant or Builder. At the time of a conveyance of a Lot by the Declarant or Builder to an Owner other than the Declarant or Builder, such purchaser of the Lot shall pay to the Association the amount of \$750.00 as a contribution to working capital. These monies (hereinafter called “**Working Fund Contribution**”) shall be the Association’s property, and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and Bylaws. The Working Fund Contribution shall be deemed ordinary Association income and need not be separated from or held or applied differently than Assessments. No refund of a Working Fund Contribution will be made on re-sale. Notwithstanding the foregoing, the Declarant may elect, in its sole discretion to waive the Working Fund Contribution on the initial sale of a Lot. The funds derived from such all such contributions are income to the Association and shall be used by the Board of Directors exclusively for purposes which provide a direct benefit (as defined in 77 Fed. Reg. 15574 (Mar. 16, 2012)) to the Community, including, without limitation, future and existing capital improvements, Operating Expenses, support costs and start-up costs. Any conveyance from Declarant to a Builder or from a Builder to Declarant shall be exempt from the obligation to pay a Capital Contribution to the Association with respect to such conveyance.

Section 2. Working Fund Contribution on Sale by Owner Other Than Declarant or Builder. At the time of a resale of a Lot pursuant to a sale by an Owner other than the Declarant or a Builder, the purchaser of the Lot shall pay to the Association the amount of \$750.00 as a Working Fund Contribution. These monies shall be the Association’s property and shall be held by the Association through its Board of Directors, pursuant to the powers described in the Articles and Bylaws. The Working Fund Contribution shall be deemed ordinary Association income and need not be separated from or held or applied differently than Assessments. No refund of a Working Fund Contribution will be made on re-sale. The funds derived from such all such contributions are income to the Association and shall be used by the Board of Directors exclusively for purposes which provide a direct benefit (as defined in 77 Fed. Reg. 15574 (Mar. 16, 2012)) to the Community, including, without limitation, future and existing capital improvements, Operating Expenses, support costs and start-up costs.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

Section 1. Review of Proposed Construction. Subject to Section 2 below, no improvement or alteration of any kind, including, but not limited to, a fence, wall or other addition, structure, or equipment (including exterior paint, roofing, landscaping, antennas, awnings, and shutters) shall be installed, painted, erected, removed or maintained within the Property, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing by, a majority of the Board of Directors and must comply with the Community Standards. The Board of Directors shall approve proposals or plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Property and that the appearance of any improvement or other structure affected thereby will be in harmony with surrounding structures and improvements (or the surrounding area contemplated by Declarant, if within the Development Period) and is otherwise desirable and in compliance with the Community Standards. The Board of Directors may condition its approval of proposals and plans and specifications as it deems appropriate and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The Board of Directors may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Board of Directors may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. The Board of Directors may by a majority vote establish a requirement that a sum of money in an amount to be determined by the Board be deposited in escrow with the Association as a security deposit for the purpose of defraying (a) the cost of any damage to the Common Area or other portions of the Property resulting from acts or omissions of contractors, vendors or other invitees of Owners in connection with any work performed (as determined in the sole discretion of the Association) or (b) the cost of remediation undertaken by the Board (if any, in the Board's sole discretion) in accordance with Article VIII, Section 4(c) hereof. Until receipt by the Board of Directors of any required plans and specifications, the Board of Directors may postpone review of any plans submitted for approval. The Board of Directors shall have forty-five (45) days after delivery of all required materials to approve or reject any such plans. If an Owner's plans are not approved within such 45-day period, said plans shall be deemed not approved; provided, however, if the Owner resubmits the plans and the Owner's plan are still not approved 45 days thereafter, the plans shall be deemed approved. All changes and alterations shall be subject independently to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees. Any alteration or modification to the location and/or placement of exterior walls of any Home shall be further conditioned on compliance with Sarasota County ordinances and the obtaining of applicable governmental approvals, if any.

Section 2. No Waiver of Future Approvals. The approval of the Board of Directors of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any

similar proposals, plans and specifications, drawings or matters whether subsequently or additionally submitted for approval or consent.

Section 3. Liability of the Board of Directors. No member of the Board of Directors (or Declarant) shall be liable to any Owner or other person by reason of mistake in judgment, failure to point out deficiencies in plans, or any other act or omission in connection with the approval of any plans. Any Owner submitting plans hereunder by the submitting of same, agrees (i) not to seek any damages or make any claim arising out of approval of plans hereunder, and (ii) to indemnify and hold the Board of Directors, the Association and Declarant harmless from any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and costs at all tribunal and appellate levels (and whether or not suit is instituted), arising out of the approval of any plans regardless of the negligence of the committee members, their representatives, or appointing entity.

Section 4. Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required hereunder the applicant for such approval ("**Applicant**") shall give written notice of completion to the Board of Directors.

(b) Within thirty (30) days thereafter, the Board of Directors (or its duly authorized representative) may inspect such completed work. If the Board of Directors finds that such work was not affected in substantial compliance with the approved plans or Community Standards, it shall notify the Applicant in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

(c) If an Applicant is notified of any noncompliance, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board of Directors ruling. If Applicant does not comply with the Board of Directors ruling within such period, the Board of Directors, at its option, may either remove the noncomplying improvement or remedy the noncompliance (an easement therefore being hereby created), and Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. This amount, together with interest thereon at the rate of eighteen (18%) percent per annum from the date the noncompliance was to have been remedied or removed, the maximum late fee allowed under Florida Statutes for each month that a violation exists if payment is not made within thirty (30) days after announcement, and all costs and reasonable attorneys' fees incurred by the Association in collection, enforcement or abatement, as appropriate (including attorneys' fees incurred at all appellate levels and whether or not suit is instituted) shall be a personal obligation of Owner and shall not pass to the successors in title of Owner unless expressly assumed by such successors. Such amount (including interest, costs, late fees and attorneys' fees as provided above) shall also be a *continuing lien* and run with the land on the Owner's Property if not paid within thirty (30) days after notice enforceable in the same manner in which mortgages are enforced by foreclosure, or by bringing an action at law or equity against the Owner.

(d) If for any reason the Board of Directors fails to notify the Applicant of any noncompliance within forty-five (45) days after receipt of written notice of completion from the Applicant, the improvement shall be deemed to have been made in accordance with the approved plans. Notwithstanding anything contained herein to the contrary, each Owner is solely responsible for ensuring all improvements comply with the Community Standards.

Section 5. Variances. The Board of Directors may authorize variances from compliance with any of the architectural provisions of this Declaration or the Community Standards when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variance must be evidenced in writing and must be signed by at least two (2) members of the Board of Directors. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or the Community Standards shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the Community Standards for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot and Home, including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by any governmental or municipal authority.

Section 6. Architectural Review Committee. The Board of Directors may assign all of its responsibilities under Article VIII to an Architectural Review Committee to be appointed by the Board of Directors (the "ARC").

Section 7. Community Standards. Each Owner, and its contractors and employees shall observe, and comply with, the Community Standards that now or may hereafter be promulgated by the Declarant, the Board or the ARC. The Community Standards shall be effective from the date of adoption; shall be specifically enforceable by injunction or otherwise; and shall have the effect of covenants as if set forth herein verbatim. The Community Standards shall not require any Owner or Builder to alter the improvements approved by the Board or ARC and previously constructed. Until the expiration of the Development Period, the Declarant shall have the right to approve the Community Standards, which approval, may be granted or denied in Declarant's sole discretion.

Section 8. Exemption. Notwithstanding anything to the contrary, any improvements of any nature made or to be made by the Declarant, any Builder or their contractors, agents and assigns, including, without limitation, improvements made or to be made to the Common Areas or any Lot or Home, shall not be subject to the review and approval by the Board, the ARC or the Association. The Declarant may non-exclusively assign an exemption any other third party, in Declarant's sole discretion. Any such assignment shall not modify or diminish the Declarant's exemption hereunder. Notwithstanding anything to contrary, prior to the Turnover, the Declarant shall have the right to approve any proposals or plans and specifications or drawings for any work done or proposed, in lieu of the Association. The Declarant's review and approval of plans shall be deemed approval of the Board, the ARC and the Association, and such approval may not be revoked or modified, and any modifications of such approved plans shall only require approval of the Declarant. All improvements of any nature made by a Builder or any other Owner must comply with the Community Standards.

## ARTICLE IX

### USE RESTRICTIONS

The following Use Restrictions shall apply to all Lots within the Community, except for any Lots owned by the Declarant or Builders. Except as otherwise provided herein, each Owner must comply with the following:

Section 1. Residential Purposes. No Lot shall be used for any purpose other than for residential purposes. The occupancy of each Home shall be limited to the maximum number of persons allowable in accordance with Federal Regulations and local ordinances based on the size and configuration of the Home. No building shall be erected altered, placed or permitted to remain on any Lot other than a Home, related appurtenances, and other structures originally constructed by the Declarant or a Builder or in accordance with ARC approval and in accordance with the Community Standards.

Section 2. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, barn, shed or other out-building shall be placed or used on any Lot without the approval of the Board or the ARC, as applicable. No such structures shall at any time be used as a residence or appurtenance to such residence, either temporary or permanent. The foregoing shall not apply to temporary construction trailers or other temporary structures used by the Declarant or a Builder.

Section 3. Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Community, or any matter which affects the health, safety or welfare of the owners or occupants of the Property, as determined by the Board in its sole discretion. Such activity shall specifically include, but not be limited to, the use or discharge of firecrackers or fireworks. This Section shall not apply to sales, marketing, construction and development activities by Builders.

Section 4. Animals; Pets. No livestock or poultry shall be kept, maintained, or bred in any Home or elsewhere within the Property. No pets shall be kept, maintained or bred in any Home except for fish in an aquarium and birds in cages maintained in the interior of the Home and not more than a total of three (3) domestic cats or dogs (other than dogs which in the reasonable determination of the Board of Directors or under applicable codes, ordinances, or regulations are determined to be a threat to the safety of the occupants of the Property which shall not be allowed under any circumstances in the Property) or three (3) domestic cats shall be permitted to be kept in a Home or Lot, provided such animals are not kept, bred or raised for commercial purposes. In no event may more than three (3) total pets be permitted to be kept in a Home. Notwithstanding the foregoing, the Board of Directors shall specifically have the power, in their sole discretion, to either permit additional domestic dogs or cats to be kept as pets by an Owner if, in the determination of such Board of Directors, the pets shall not cause or be deemed to constitute a nuisance to any other Owner. Each person bringing or keeping a pet within the Property shall be absolutely liable to the Association, other Owners and their invitees for any damage to persons or property caused by any pet brought upon or kept upon the Property and it shall be the duty and responsibility of each such Owner and any other individual responsible for such pet to immediately to clean up after such animals which have deposited droppings or otherwise used any portion of

the Property or public street abutting or visible from the Property. Animals belonging to Owners or invitees of any Owner must be kept within an enclosure or, on a leash held by a person capable of controlling the animal. No pets shall be "tied out" in a yard or on a porch or patio and left unattended for any extended period of time. The Association shall have the right to promulgate Rules relating to animals and the right to restrict or require removal any such animals determined by the Board or applicable codes or regulations to constitute a nuisance or danger to the Community. In addition, all pet owners shall be required to maintain at all times adequate homeowners' insurance coverage for any and all liabilities related to the pet(s) owned and kept on the Lot, which insurance shall name the Association as an additional insured to the extent such endorsement is available. Proof of such insurance coverage shall be provided by the Owner to the Association upon request of the Association. If such coverage is not provided as required herein, the Association shall have the right to require the pet to be removed from the Lot until the appropriate insurance coverage is obtained.

Section 5. Signs. During the Development Period, Owners other than the Declarant and Builders shall not display signs of any kind to the public view on any Lot, except one sign not larger than 18" X 24" and placed in one ground floor window or one second story window advertising that property is for sale or for rent. From and after the end of the Development Period, the location of any such sign on a Lot as well as the color, materials and other aesthetic features of such sign shall be set forth in the Community Standards or Rules promulgated by the Board or ARC. The Declarant, the Builders, and the Association are exempt from this Section; provided, further, the Declarant specifically reserves the right, for itself and for Builders, and their respective agents, employees, nominees and assigns the right, privilege and easement to construct, place and maintain upon any property within the Community such signs as the Declarant deems appropriate in connection with the development, improvement, construction, marketing and sale of any of the Lots and Homes; provided, however, notwithstanding anything to the contrary herein, the exercise by a Builder of the rights and exemptions in this Section shall be subject to the Declarant's prior written approval as to the location, size, content and design of such Builder's signs within the Community, which approval shall not be unreasonably withheld, conditioned or delayed.

Section 6. Garbage. No Lot shall be used or maintained as a dumping ground for rubbish. Except for normal construction debris on a Lot during the course of construction of a Home, all trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Except for normal construction debris on a Lot during the course of construction of a Home, trash, garbage or other waste shall be kept in sanitary, covered containers, and shall be kept within an enclosed garage until the evening before or the morning of curbside garbage pick-up, and such garbage containers must be picked up and stored in the garage no later than 8:00 p.m. on the day of such curbside garbage pick-up. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. In no event shall such equipment and/or containers be visible from the Common Area streets, from neighboring Property or within property contained in the Plat, except for a reasonable time immediately prior to and after scheduled trash collection, and in all events in compliance with the Sarasota County Code. This Section shall not apply to normal construction debris on the Property during the course of development of the Community by the Declarant or the construction of a Home or improvements on other portions of the Property (as approved by Declarant) by a Builder.

Section 7. Laundry; Renewable Energy Devices. Subject to the provisions of Section 163.04, Florida Statutes (2019), to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home or Lot. Clotheslines may be installed in the rear of a Lot so long as not visible from the front of the Lot; provided, that, any such clothesline shall be removed when it is not in use as a clothesline. Nothing in this Declaration shall be deemed to prohibit the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, such devices shall be installed only as approved by the Board or the ARC and in accordance with the Community Standards.

Section 8. Personal Property; Patio and Lawn Furniture. All personal property of Owners or other occupants of Homes shall be stored within the Homes. No personal property, except usual patio furniture, may be stored on, nor any use made of, the Common Areas, any Lot or Home, or any other portion of the Community, which is unsightly or which interferes with the comfort and convenience of others. No patio furniture or swings shall be installed or placed within or upon any portion of the front of a Home or Lot so as to be visible from any street adjacent to the Lot or any other property, without the prior written approval of the ARC or the Board, as applicable. The Board or the ARC may establish standards for patio furniture and patio swings at its sole discretion. Swings and patio furniture will not be approved by the Board or the ARC for placement in front of the Home unless a front porch is part of the architectural design of the Home. Except as otherwise approved by the Board or the ARC in accordance with the foregoing, all other outdoor furniture must be used and stored only in the rear of the Home and shall not be visible from the street in front of the Home. No furniture may be stored on the lawn of the Home. The Board may require the removal of any patio furniture or lawn furniture that is unsightly or creates a nuisance in the Boards' sole discretion. In the event a Home will be unoccupied for a period of seven (7) or more days, prior to departure by the Owner, such Owner must remove all patio furniture and lawn furniture from outside the Home and Lot. In addition, all patio furniture, lawn furniture and lawn ornaments shall be removed from outside and stored within the Home upon issuance of any storm warnings of a Tropical Storm Warning or higher storm warning.

Section 9. Vehicles and Parking.

(a) Parking in the Community is limited to designated driveways and garages or any other paved or concrete surfaces designated by the Declarant for parking. No vehicles of any nature shall be parked on any portion of a Lot or other portion of the Community, except on the surfaced parking area thereof. Vehicles shall not be parked on the paved or concrete surfaces comprising the Common Areas, except on the side of the street adjacent to the Home. Vehicles may not be parked in the street between midnight and 6:00 a.m. To the extent the Community has any guest parking (if applicable), Owners and any other occupants of a Home are prohibited from parking in such guest parking spaces. Vehicles may be parked in the Home's garage or in the driveway on the Lot. Car covers are prohibited and license tags on all vehicles must be current. No vehicle which cannot operate on its own power shall remain in the Community for more than twenty-four (24) hours, except in the garage of a Home. No repair or maintenance, except for emergency repairs of vehicles shall be made within the Community, unless in the garage of a Home. No vehicles within the Community shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view. Any trailer, commercial vehicle, recreational vehicle, boat, rowboat, canoe, jet ski or boat trailer shall not be permitted to be parked



outside of an enclosed garage. This restriction shall not be deemed to limit service vehicles whose purpose is to perform maintenance and delivery service to the Owners or the Association during normal working hours or for work performed for the Declarant, Builders or the Association which are necessary in the development, maintenance or management of the Association. The term "commercial vehicle" includes trucks and vehicular equipment or other vehicles which are used, or which are ordinarily intended to be used for commercial purposes or which contain materials regularly used in trade or business. No vehicles displaying commercial advertising or a "for sale" sign shall be parked within the public view. Automobiles issued by Sarasota County or other governmental entity (i.e., police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Lot. No vehicle within the Community shall be used as a domicile or residence either temporarily or permanently. No all-terrain vehicles (ATVs) or mini motorcycles are permitted at any time on any paved surfaces forming a part of the Common Areas. Notwithstanding any other provision in this Declaration to the contrary, this Section shall not apply to any vehicles utilized in connection with construction, improvement, installation, or repair by Declarant, Builders or their contractors or agents.

(b) Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein, the Association is authorized to order the towing of any vehicle (at said vehicle owner's expense) for a violation of this Section if a vehicle remains in violation of this Section for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such a vehicle was cited for such violation within the preceding fourteen (14) day period. Each Owner by acceptance of title to a Home irrevocably grants the Association and its designated towing agent the right to enter a Lot and tow vehicles parked in violation of this Declaration. Neither the Association nor the towing company shall be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing or removal and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. An affidavit of the person posting the foresaid notice stating that it was properly posted shall be conclusive evidence of proper posting. For purposes of this paragraph, "vehicle" shall also mean campers, boats, watercraft, mobile homes, trailers, etc. By accepting title to a Lot, the Owner provides to the Association the irrevocable right to tow or remove vehicles parked on the Owner's Lot and the Common Area which are in violation of this Declaration.

Section 10. Septic Tanks. No septic tanks or individual wells will be permitted on any Lot.

Section 11. Garages. No garage may be improved for purposes of making same a living area, nor shall garage doors be removed except for replacement (in which case the Owner must obtain approval of any replacement door from the Board of Directors). No garage may be used for the operation of a business or for any commercial purpose of any kind. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required.

Section 12. Window Covering. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the Board or the ARC, as applicable. Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted. No security bars shall be placed on the windows of any Home. No reflective tinting or mirror finishes

on windows shall be permitted unless approved by the Board or the ARC, as applicable. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones. Window or wall air conditioner units are prohibited.

Section 13. Flags. No flags or banners will be permitted other than a Flag permitted by Section 720.304, Florida Statutes, or other local, state or federal law, which must be displayed in a respectful manner and which is subject to reasonable standards for size, placement and safety as may be adopted by the Board or the ARC, as applicable. The Declarant, Builders, and the Association are exempt from this Section; provided, further, the Declarant specifically reserves the right, for itself and for Builders, and their respective agents, employees, nominees and assigns the right, privilege and easement to construct, place and maintain upon any property within the Community such flags as the Declarant deems appropriate in connection with the development, improvement, construction, marketing and sale of any of the Lots and Homes; provided, however, notwithstanding anything to the contrary herein, the exercise by a Builder of the rights and exemptions in this Section shall be subject to the Declarant's prior written approval as to the location, size, content and design of such Builder's flags within the Community, which approval shall not be unreasonably withheld, conditioned or delayed.

Section 14. Business Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Declarant or Builders, administrative offices of Declarant or Builders, no commercial or business activity shall be conducted in the Community that disrupts the residents, including without limitation, within any Home. No portion of the Common Areas may be used for any commercial or business purpose, including but not limited to fitness training, without the prior written consent of the Board. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Home for such Owner's personal use; provided, however, business invitees, customers, and clients shall only be permitted if the business is conducted within the Home and shall not disrupt the residential nature of the Community unless the Board of Directors provides otherwise in the Rules. No Owner may actively engage in any solicitations for commercial purposes within the Community. No solicitors of a commercial nature shall be allowed within the Community, without the prior written consent of Association. No day care center, child care facility, elder care facility, assisted living facility or halfway house may be operated out of a Home. No garage sales are permitted, except as permitted by the Board.

Section 15. Pools. Above ground swimming pools are not permitted on Lots. Above ground hot tubs may be permitted on lanais or patios so long as the hot tub is under the roof of the Home and complies with all applicable Community Standards. All pools and hot tubs must be approved by the Board or the ARC, as applicable, prior to installation or such improvements are subject to removal at the Owner's expense.

Section 16. Telecommunications. No exterior visible antennae, radio masts, towers, poles, aerials, satellite dishes, or other similar equipment shall be placed on any Home or Lot without the prior written approval thereof being first had and obtained from the Board or the ARC as required by this Declaration. Each Owner agrees that the location of such items must first be approved by the Board or the ARC, as applicable, in order to address the safety and welfare of the residents of the Community. No Owner shall operate any equipment or device which will interfere with the radio or television reception of others. All antennas not covered by the Federal

Communications Commission (“FCC”) rules are prohibited. Installation, maintenance, and use of all antennas shall comply with restrictions adopted by the Association and the Board of Directors and shall be governed by the then current rules of the FCC.

Section 17. Fences. No Owner shall be permitted to install a fence to enclose any portion of the Lot without the prior approval of the Board or the ARC (as applicable) in accordance with Article VIII, which shall approve the material, location and height. All fences must be in compliance with the Community Standards. No “invisible fence”, “dog electric fence” or similar device intended to restrain animals through the use of wirelessly transmitted signals shall be permitted. Any perimeter fences or fences along the rear lot line of two Lots with a common rear lot line originally installed by the Declarant, a Builder or the Association shall be maintained by the Association for the benefit of all Owners. Any fence approved in writing by the Board or the ARC shall be maintained by the record title owner of the Lot in accordance with this Declaration and the Community Standards. Due to the Association’s maintenance requirements and responsibilities, the installation of fences within a drainage easement area is not expected to be approved by the Board or the ARC. However, in the event a fence is installed within a drainage easement area, with prior written ARC approval, the Owner is solely responsible for fence repair or replacement if the drainage easement area needs to be accessed or as otherwise provided in this Declaration. All screening and screened enclosures shall have the prior written approval of the Board or the ARC and shall be in compliance with the Community Standards. All enclosures of balconies or patios, including addition of vinyl windows, shall be approved by the Board or the ARC and all decks shall have the prior written approval of the Board or the ARC, as applicable.

Section 18. Hurricane Shutters. Any hurricane shutters or other protective devices visible from outside a Home shall be of a type as approved by the Board or the ARC, as applicable. Panel, accordion and roll-up style hurricane shutters may not be left closed or installed during hurricane season (i.e. June 1 through November 30 of each year). Such hurricane shutters may be installed upon forty-eight (48) hours prior to the expected arrival of a hurricane and must be removed within seventy-two (72) hours after the end of a hurricane watch or warning or as the ARC may determine otherwise. Approved hurricane shutters that are clear or match the paint color of the Home may be left closed or installed during hurricane season (i.e. June 1 through November 30 of each year). Except as the Board may otherwise decide and as provided herein, shutters may not be closed at any time other than a storm event. Notwithstanding the foregoing, in the event of an emergency and issued storm warning, Owners may install temporary emergency storm protective window coverings up to seventy-two (72) hours prior to the expected arrival of a storm, which must be removed within seventy-two (72) hours after the end of such storm. Bahama type shutters are not allowed.

Section 19. Lakes. No Owner shall use, or permit any guests, family member or invitee to use any bodies of water located within the Community for recreational purposes, including swimming, fishing, boating, jet skiing, or any other types of water sports. Swimming, wading or fishing in any body of water within the Community is prohibited. No planting, fencing or other improvements or additions to the landscape area or grassed area surrounding any body of water in the Community and within the maintenance easements surrounding the bodies of water are permitted. No installation of sand or other materials intended to simulate a beach shall be permitted along the lake banks, within the maintenance easements surrounding the lake or rear yards of Lots adjacent to the lakes. The Association has the right to further restrict use of bodies

of water in the Community in promulgated Rules established by the Association. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ANY WATER BODIES IN THE COMMUNITY MAY VARY FROM TIME TO TIME. THERE IS NO GUARANTEE BY THE DECLARANT OR ASSOCIATION AND ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME. AT TIMES, AREAS IN THE COMMUNITY WHICH ARE DESIGNED TO RETAIN WATER, MAY HAVE LITTLE TO NO WATER RETENTION AND WATER LEVELS MAY BE NON-EXISTENT.

Section 20. Drones and other Unmanned Aerial Systems. Drones and other unmanned aerial systems may only be used within the Community in accordance with applicable federal, state and local laws. Any purported violations of such law(s) should be reported to governmental authorities instead of to the Association.

Section 21. Gardens and Plantings. No Lot may have a plot of ground where herbs, fruits, flowers or vegetables are grown in the front yard of the Lot. A Lot may have one garden plot in which herbs, fruits, flowers or vegetables may be grown in the rear yard of the Lot, which may not exceed more than 100 square feet in size, provided that the Owner receives the approval of the Board as required by this Section. The Owner shall submit to the Board a plot plan showing the proposed location of the garden and the types of plants proposed to be grown in such garden. Such submission shall be reviewed as if the same were a submission for a new improvement or an alteration to an existing improvement. Any such garden must be screened from view of adjacent property. The foregoing shall not prohibit the planting of flowers or other decorative plants or trees in the front yard of the Lot, provided that such planting does not result in the front yard of the Lot becoming, in the sole opinion of the Association, overgrown with such plants or trees. The Association shall not be required to maintain any garden or any other plantings on any Lot except as required by this Declaration.

Section 22. Drainage System and Improvements. The Association shall be solely responsible for drainage systems and facilities, which may be comprised of swales, pipes, pumps, retention/detention area slopes, easements, or other improvements (the “**Drainage Improvements**”), and which may be located within Common Areas or Lots and such Drainage Improvements are considered part of the SWMS. The Association shall also be responsible for the maintenance of grassy and lawn areas and routine maintenance of any drainage easements located upon the Lots. The Association shall be responsible for routine maintenance and shall ensure functionality of the approved designed drainage patterns inclusive of all easements, swales, buffers and vegetative areas at all times. Should any area of drainage pattern demonstrate a pooling or flooding effect, the Association shall be responsible to rectify the drainage pattern to its original intended design and any and all costs associated with such repairs shall be payable by all Owners as part of the Operating Expenses. In the event Drainage Improvements are adversely affected by landscaping, fences, structures, or any other improvements (including, without limitation, pavers), the cost to correct, repair, or maintain such Drainage Improvements shall be the responsibility of the record title owner of the Lot that includes such improvements, except as otherwise maintained or repaired by the Association. By way of example, and not of limitation, if the Owner of one Lot plants a tree (pursuant to Board or ARC approval) and the roots of such tree subsequently affect

Drainage Improvements within another Lot, the Owner that planted the tree shall be solely responsible for the removal of the roots which adversely affects the adjacent Lot. NOTWITHSTANDING THE FOREGOING, THE ASSOCIATION AND THE DECLARANT SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DRAINAGE PROBLEMS OF ANY TYPE WHATSOEVER.

Section 23. Leases. All leases or any other agreements with tenants for occupancy of a Home shall be in writing and a copy of such lease agreement shall be provided to the Association prior to execution of such lease. In the event a Home is leased and copy of the lease is not provided to the Association, then the Association, within five (5) days after determination that the Home has been leased without the Association's prior receipt of such lease, may charge the Owner a fine of \$500.00 and require that the Owner and tenant submit a copy of the lease to the Association in accordance herewith within five (5) days after the Association's request for such lease. The Owner or lessee providing such lease to the Association shall pay to the Association or its management agent a fee of One Hundred Fifty and No/100 (\$150.00) Dollars to cover the costs of ensuring such lease complies with this Section and examining records plus all reasonable costs incurred by the Association to conduct a background check. No lease shall be for a term of less than thirty (30) days. No Home may be leased more than four (4) times in any calendar year unless otherwise approved by Association in the case of hardship; provided, however, that if a tenant defaults under its lease agreement and the Owner terminates such lease on account of such default, then such Owner may be entitled to replace the defaulted and terminated tenancy with a new tenant under a new lease agreement (for a term of at least thirty (30) days), and such new tenancy shall not count as an additional lease for the specified period. The Owner will be jointly and severally liable with the tenant to the Association for any sum which is required by the Association to affect such repairs or to pay any claim for injury or damage to property caused by the negligence of the tenant. The Board of Directors may by a majority vote establish a requirement that a sum of money not to exceed One Thousand and No/100 Dollars (\$1,000.00) or one month's rent, whichever is greater, be deposited in escrow with the Association as a security deposit for the purpose of covering the cost of any damage to the Common Area or other portions of the Property resulting from acts or omissions of tenants (as determined in the sole discretion of the Association). The number of occupants must comply with applicable codes regarding the size of the Home. The tenant, as part of the lease, shall agree to abide by and adhere to the terms and conditions of this Declaration together with all Rules and all policies adopted by Association. By acceptance of a deed to a Home, the Owner hereby agrees to remove, at the Owner's sole expense, by legal means including eviction, his or her tenant should the tenant refuse or fail to abide by and adhere to this Declaration, the Rules and any other policies adopted by Association. Notwithstanding the foregoing, should an Owner fail to perform his or her obligations under this Section, the Association shall have the right, but not the obligation, to evict such tenant and the costs of the same shall be charged to the Owner as an Individual Assessment. During such time as a Home is leased, the Owner of such Home shall not enjoy the use privileges of the Common Areas appurtenant to such Home. The Owner shall deliver to the tenant any mailbox key(s), gate access devices, or other items issued to the Owner by the Association. In the event the Owner shall fail to do so, or in the event the tenant loses such a device, the tenant shall purchase a replacement mailbox key, gate access device, or other item from the Association or its designee. The Association shall not be required to replace or repair any mailbox lock for any Owner or tenant. The tenant shall be required to return all mailbox keys, gate access devices and other items issued to the Owner by the Association to the Owner at the end of the lease. If a Lot or Home is occupied by a tenant and the Owner is delinquent

in paying any monetary obligation due to the Association, the Association may demand that the tenant pay to the Association all rental payments becoming due and continue to make such payments until all the monetary obligations of the Owner related to the Lot have been paid in full and the Association releases the tenant or until the tenant discontinues tenancy, in accordance with the terms of Florida law.

Section 24. Golf Carts. Golf carts, which are motor vehicles designed for recreational purposes and not capable of speeds in excess of 20 miles per hour, may be operated on roads within the Community but are prohibited on the sidewalks. Golf carts shall only be operated in compliance with Chapter 316, Florida Statutes. No person under the age of 14 shall operate a golf cart in the Community. All occupants of a golf cart must have a designated seat, no person shall ride on the back of the cart or stand on the cart. Golf carts shall only be operated during daylight hours and must be equipped with efficient brakes, steering apparatus, safe tires, rearview mirror, and red reflective warning devices on both the front and rear of the golf cart. All golf cart drivers shall comply with all traffic laws, including stopping at stop signs and using appropriate directional signals and yielding to car traffic. Golf carts may not be stored or parked in any driveway overnight, rather they must be within an enclosed garage. All golf cart owners shall register the golf cart with the Association. The Association may require proof of insurance and the display a Community registration sticker. The Association reserves the right to revoke golf cart privileges to any Owner, occupant or other person who violates the foregoing restrictions or requirements. Low Speed Vehicles, known as LSVs, are prohibited from use in the Community.

Section 25. Exemptions. Notwithstanding anything to the contrary, any restrictions contained in this Article that would disrupt, inhibit, limit or impede the construction, sales, and marketing of Homes in the Community as determined by Declarant in its sole discretion shall not apply to the Declarant or Builders.

## ARTICLE X

### EASEMENTS

Section 1. Public Services. Easements are reserved over each Lot and the Common Areas for public service purposes including but not limited to, police protection, fire protection, emergency services, postal service and meter reading.

Section 2. Utilities. Easements for ingress and egress and for the installation and maintenance of all utilities, irrigation lines and equipment, Surface Water Management System, surface water management and drainage facilities, landscaping, fencing, signage, and street lighting are reserved on and over each Lot and the Common Areas in favor of the Association and other entities with maintenance responsibilities related to the same. Such easements are reserved for their intended purpose and shall not be removed by subsequent Owners. The right is also reserved to the Declarant and the Association to create additional utility easements by separate instrument as may be required from time to time.

Section 3. Encroachments. Notwithstanding any other provisions contained in this Declaration, in the event that any Home, as constructed by the Declarant or a Builder on a Lot, encroaches upon any portion of the Common Area or an adjoining Lot, then a perpetual easement

appurtenant to such Lot shall exist for the continuance of any such encroachment on the Common Area or adjoining Lot. In the event any fence, roof, overhanging roof, or portion of the Home, as constructed upon any Lot by Declarant or a Builder, encroaches or overlaps upon any other Lot or the Common Area, then, in such event, a perpetual easement appurtenant to the Lot upon which the fence, roof, overhanging roof, or Home is constructed shall exist for the continuation of any such encroachment or overlapping upon the adjoining Lots or Common Area.

Section 4. Common Area Maintenance. An easement is reserved over the Property, including each Lot, in favor of the Association for maintenance of the Common Area and to allow the Association to fulfill any and all of its maintenance obligations hereunder.

Section 5. Drainage. A non-exclusive easement shall exist in favor of the Declarant, the Association, their designees, the WMD, Sarasota County, and/or any governmental agency having jurisdiction over the Community, over, across and upon the Community for drainage, irrigation and water management purposes. Any such drainage easement shall not contain permanent improvements, including, but not limited to, sidewalks, driveways, impervious surfaces, patios, decks, pools, air conditioners, structures, utility sheds, poles, fences, irrigation systems, trees, shrubs, hedges or landscaping plants other than grass, except for (i) improvements installed by the Declarant or a Builder, (ii) landscaping of the SWMS, (iii) as required by the County or the Permit, and/or (iv) improvements approved by the Board or the ARC, as applicable. A non-exclusive easement for ingress and egress and access exists over, across and upon the Community for such parties in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation of the Community and/or installation or maintenance of utilities or which may obstruct or retard the flow of water through the Community and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

Section 6. Blanket Easement in favor of the Association. The Association is hereby granted an easement over all of the Community, including all Lots, for the purposes of: (i) constructing, maintaining, replacing and operating all Common Areas; (ii) performing any obligation the Association is obligated to perform under this Declaration; and (iii) performing any obligation of an Owner for which the Association intends to impose an Individual Assessment.

Section 7. Development Easement. In addition to the rights reserved elsewhere herein, the Declarant reserves an easement for itself and for Builders (subject to the terms and conditions of this Declaration with respect to Builders), and their nominees, over, upon, across, and under the Property as may be required in connection with the development of the Property, and other lands designated by the Declarant, and to promote or otherwise facilitate the development, construction and sale and/or leasing of Lots, Homes, any portion of the Property, and other lands designated by the Declarant. Without limiting the foregoing, the Declarant specifically reserves for itself and for Builders, and their subcontractors, suppliers and consultants, the right to use all paved roads and rights of way within the Community for vehicular and pedestrian ingress and egress to and from construction sites. Specifically, each Owner acknowledges that construction vehicles and trucks may use portions of the Common Areas. The Declarant shall have no liability or obligation to

repave, restore, or repair any portion of the Common Areas as a result of the use of the same by construction traffic, and all maintenance and repair of such Common Areas, shall be deemed ordinary maintenance of the Association payable by all Owners as part of the Operating Expenses. Without limiting the foregoing, at no time shall the Declarant and/or Builders be obligated to pay any amount to the Association on account of the Declarant's and/or Builders use of the Common Areas. The Declarant and Builders intend to use the Common Areas for sales of Lots and Homes. Further, the Declarant and Builders may market other residences and commercial properties located outside of the Community from the Declarant's or Builders' respective sales facilities located within the Community. The Declarant and Builders have the right to use all portions of the Common Areas in connection with their marketing activities, including, without limitation, allowing members of the general public to inspect model homes, installing signs and displays, holding promotional parties and outings, and using the Common Areas for every other type of promotional or sales activity that may be employed in the marketing of residential homes, subject to the prior written approval of the Declarant. At no time shall the Declarant and/or Builders incur any expense whatsoever in connection with its use and enjoyment of such rights and easements. The easements created by this Section, and the rights reserved herein in favor of the Declarant shall be construed as broadly as possible and supplement the rights of the Declarant set forth in this Declaration. Notwithstanding any other provision of this Declaration to the contrary, the exercise of such the easement rights reserved in favor of Builders pursuant to this Section shall be subject to the Declarant's prior written authorization provided in a written instrument executed by the Declarant and, at the Declarant's option, recorded in the Public Records of Sarasota County.

Section 8. Maintenance of Easement Areas. Within any the easement areas hereby reserved or created, or shown on the Plat of the Community, or within designated Common Areas or other portion of the Property containing any component of the Surface Water Management System, no digging, excavation, depositing fill material, debris or any other material or item, or altering any water control structure, or any other construction to modify the Surface Water Management System shall be allowed, and no permanent structure may be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow or drainage canals in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The area of each Lot upon which an easement is located shall be maintained continuously by the Owner of the Lot, except as otherwise expressly provided herein, and except that those improvements which are the property of a public authority or utility company shall be maintained by such authority or utility company.

Section 9. Right of Entry. The Declarant, the Builders, and the Association are granted a perpetual and irrevocable easement over, under and across all of the Community, including each Lot, for the purposes herein expressed, including, without limitation, for inspections to ascertain compliance with the provisions of this Declaration, and for the performance of any maintenance, alteration or repair which they are entitled to perform. Without limiting the foregoing, the Declarant, for itself and on behalf of Builders, specifically reserves easements for all purposes necessary to comply with any governmental requirement or to satisfy any condition that is a prerequisite for a governmental approval. By way of example, and not of limitation, the Declarant or a Builder, as applicable, may construct, maintain, repair, alter, replace and/or remove improvements, install landscaping, install utilities, and/or remove structures on any portion of the Community if the Declarant or such Builder, as applicable, is required to do so in order to obtain the release of any bond posted with any governmental agency. The Declarant, the Builder and/or



the Association shall give reasonable notice to the Owner prior to entry onto such Owner's Lot and shall enter at a reasonable time of day. Notwithstanding the foregoing, in the event of any emergency which might reasonably result in damage to any Lot or the improvements located thereon, the Association shall have the right to enter any Lot as may be reasonably necessary to resolve such emergency without prior notice to the Owner thereof. Any such entrance by the Association shall not be deemed to be a trespass upon such Lot.

## ARTICLE XI

### COVENANTS FOR HOME MAINTENANCE

Section 1. Maintenance of Detached Single-Family Homes. Each Owner shall be responsible for the maintaining, repairing, and replacing of the Home and all other improvements situated on his Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for structural maintenance, repair or replacement of walls, windows and roofs, gutters, downspouts and skylights, patio screens, screen enclosures, doors, fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Lot by any Owner, including its agents, or other designees, and/or any other maintenance obligations designated as the Owners' responsibilities from time to time in the Declaration or the Rules. It will also be the duty of each Owner to maintain in good repair any driveway servicing a single Lot, as well as any sidewalks located on or abutting his or her Lot. Any driveway servicing more than one Lot shall be treated in the same manner as a party wall, as described in Article XI, Section 2 hereof. Each Owner shall obtain the written consent of the Association prior to making any modifications requiring approval under Article VIII hereof. If any Owner breaches these covenants, the Association may enforce these covenants in accordance with the provisions of this Declaration. In addition, in the event an Owner fails to repair or replace improvements as required herein, the Association has the right, after applicable notice to the Owner of the Owner's failure to perform its obligations hereunder and reasonable time for the Owner to perform the work, to perform any work necessary to shared improvements and charge the responsible Owner or Owners the expense thereof as an Individual Assessment

Section 2. Maintenance of Villas. Except as set forth in Sections 3, 4 and 6 of this Article XI, each Villa Owner shall be responsible for the maintaining, repairing, and replacing of the Villa and all other improvements situated on his Lot in a clean, sanitary, neat, safe and orderly condition, including without limitation, all obligations for structural maintenance, repair or replacement of walls, windows and roofs, gutters, downspouts and skylights, patio screens, screen enclosures, doors, fixtures or equipment, or any equipment, facilities or other items whatsoever installed within or placed upon any Villa Lot by any Villa Owner, including its agents, or other designees, and/or any other maintenance obligations designated as the Owners' responsibilities from time to time in the Declaration or the Rules. It will also be the duty of each Villa Owner to maintain in good repair any driveway servicing his or her Villa Lot, as well as any sidewalks located on or abutting his or her Villa Lot. Each Owner shall obtain the written consent of the Association prior to making any modifications requiring approval under Article VIII hereof. If any Owner breaches these covenants, the Association may enforce these covenants in accordance with the provisions of this Declaration. Except as otherwise provided herein, each Owner of a Villa shall bear the responsibility to repair and maintain the unfinished surface of the exterior portion of the common wall shared by two adjacent Villas, or party wall, which is located within

his residence. Both Owners shall equally share the cost of repair and maintenance of the structural and interior portions of the party wall. However, if either the negligence or willful actions of an Owner or its tenants, guests or invitees causes damage to the party wall, such Owner shall bear the entire cost of repair. Each Owner shall have the right to enter the adjacent Villa Lot, including the residence located thereon, where necessary in connection with the repair or maintenance of a party wall, upon reasonable prior notice to the affected Owner(s) and at reasonable times and an easement for same is hereby created. Any repair or reconstruction shall utilize substantially similar materials, design and location as originally existed. No openings may be cut in the party wall or structural changes made thereto, unless agreed upon by Owners sharing the party wall. Any common fences constructed on the property line between Lots, all portions of the roof constructed on attached Villas and driveways shared by two or more Villas shall be treated in the same manner as a party wall; each Owner shall maintain the portion of such common fence, roof or driveway located on his or her Lot. Each Owner shall maintain any attic or space between the ceiling of the uppermost floor of their Villa and the lower boundary of the roof, and Owners of Villas sharing a roof shall share equally in the repair and maintenance of the shared roof and the cost thereof. No openings, structural changes, or alterations to any shared roof or driveway may be made unless approved by Owners of Villas sharing such roof or driveway and by the Association as required in this Declaration. Any party by negligence or willful act that causes a shared fence or roof to be exposed to elements, infestations or other injurious activity, shall bear the entire cost of furnishing necessary treatments, protections or repairs resulting from damage. In addition, in the event an Owner fails to repair or replace improvements as required herein, the Association has the right, after applicable notice to the Owner of the Owner's failure to perform its obligations hereunder and reasonable time for the Owner to perform the work, to perform any work necessary to shared improvements and charge the responsible Owner or Owners the expense thereof as an Individual Assessment.

Section 3. Lawn Maintenance. It shall be the duty of the Association to maintain and cut the grass located on an Owner's Lot and the right-of-way located immediately adjacent to such Owner's Lot, the cost of such grass maintenance on the Lot being assumed by the Association for the benefit of the entire Property as if same were Common Area, and such costs being considered with the budget as part of grounds' maintenance. The foregoing shall be performed at the Board's discretion and on such intervals as the Board may decide in its sole and absolute discretion. The Board may also require the Owners to provide such maintenance at such Owner's expense. It shall be the duty of the Owner to replace any dead or dying grass located on his or her Lot and/or the right-of-way and any lake bank located immediately adjacent to such Owner's Lot. The Owner shall not plant any trees or shrubbery on his Lot without first obtaining the prior written consent of the Association, unless the planting is the replacement of existing landscaping that has died or otherwise requires replacement. The Association is hereby granted an easement over and across the Owner's Lot for the purpose of maintaining and cutting the grass, and the Owner shall not place any obstruction, fence, wall, tree or shrubbery on such ground without the consent of the Association, the said consent being conditioned on the Association having free access to the property for the purpose of maintaining and cutting the grass.

Section 4. Irrigation. It shall be the duty of the Association to maintain the irrigation system for the Community, including irrigation of Common Areas and Lots. Said irrigation system will run both on Lots and Common Area. Such maintenance of the irrigation system shall be performed at the Board's discretion and on such intervals as the Board may decide in its sole and

absolute discretion. The cost of such maintenance of the irrigation system on a Lot being assumed by the Association for the benefit of the entire Property as if same were Common Area, and such costs being considered with the budget as part of grounds' maintenance. The Association is hereby granted an easement over and across the Owner's Lot for the purpose of installing and maintaining the irrigation system, and the Owner shall not place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the consent of the Association. Each Owner shall be responsible for payment of any costs related to the repair and/or replacement necessary as a result of any damage done to the irrigation system, whether on the Owner's Lot or the Common Area, caused by Owner, any member of Owner's family, any guests, invitees, tenants, contractors, workers or agents of Owner. Each Owner shall be responsible for the cost of any damage or erosion caused by the operation of the drainage system installed on his or her Lot. Repair of such damage or erosion may be performed by the Association. Further, the Owner shall not place any obstruction, fence, wall, tree or shrubbery over the irrigation system without the written consent of the Association

Section 5. Landscaping. The Association shall be responsible for the maintenance of landscaping within any landscape buffer easement on the Common Areas or landscaping buffers originally installed by the Declarant or by the Association on the Common Areas to comply with applicable codes and permits. Such maintenance shall include routine trimming, weeding and pruning of the landscaping and all other necessary maintenance, repair and replacement to keep any landscape or landscape buffer in compliance with applicable codes or permits. Each Owner shall be solely responsible for all maintenance and replacement of any landscaping installed on the Lot by the Owner and to replace grass, trees, and shrubs. Owners hereby acknowledge the landscape material on the Property and within any landscape buffer easement is intended to fulfill requirements of governing jurisdictions and to provide landscape buffers to the adjacent properties and roadways. Owners shall not cut or remove any landscape materials on landscape easements, landscape materials installed by the Declarant or the Association or any landscape materials required to remain pursuant to a permit or other governmental regulation. Any Owner violating the restrictions of this section resulting in landscaping needing to be repaired or replaced will be charged the cost of such work as an Individual Assessment. In addition, in the event an Owner fails to replace landscaping materials as required herein, the Association has the right, after applicable notice to the Owner of the Owner's failure to replace landscaping, to replace the landscaping and charge the Owner the expense thereof as an Individual Assessment.

Section 6. Exterior Pressure Cleaning. Each Owner shall be responsible for pressure cleaning of the Home and improvements located on the Lot as required by the Association in accordance with this section. It is anticipated that the Association shall require the roof, exterior walls and patios of Homes to be pressured washed by the Owner of such Home at least every three (3) years and when such Home is to be painted in accordance with this Section or any other schedule adopted by the Board. Each Owner shall have the right to pressure wash more frequently than is required by the Association. The foregoing shall be performed at the Board's discretion and on such intervals as the Board may decide in its sole and absolute discretion. The Board shall convene a duly noticed meeting to determine when the pressuring washing shall be required for all Homes in the Community and each Owner shall have at least one hundred twenty (120) days to commence the work after the Association provides written notification of required cleaning. Notwithstanding the foregoing, by majority vote of the Members at a duly noticed meeting, the Association may enter into a contract for pressuring washing of all Homes in the Community, and

in such event the costs and charges thereof shall be shared equally by each Owner as part of the Operating Expenses. If any Owner fails or refuses to pressure wash its Home or other improvements as required herein, the Association may perform the work and charge the Owner the cost thereof as an Individual Assessment.

Section 7. Exterior Painting and Roof Replacement. Each Owner shall be responsible for repairing, insuring and maintaining the roof of his or her Home, replacing the roof at the end of the useful life of the roof of his or her Home and for periodic exterior painting of his or her Home. Each Owner shall be responsible for all other exterior maintenance and repairs of the Home and improvements on a Lot required by the Association in accordance with the Declaration. The Board shall determine, in the Board's sole discretion, when exterior painting of Homes is required; provided, however, in no event shall such exterior painting be performed less than every 7 years, unless approved by a majority of the Owners at a duly noticed meeting of the Association for the purpose approving exterior painting of the Homes. Each Owner shall have the right to paint or clean more frequently than required by the Association, provided that prior written approval of paint color is obtained from the Board or the ARC. Replacement of roofs due to casualty or negligence of an Owner or its tenants, guests or invitees shall be the responsibility of the impacted Owner.

Section 8. Insurance. Each Owner of a Lot shall obtain insurance coverage upon the Lot insuring the Home and any improvements located thereon in an amount equal to the maximum insurable replacement value. Such insurance shall be sufficient for necessary repair or reconstruction work, and/or shall cover the costs to demolish a damaged Home as applicable, remove the debris, and to re-sod and landscape land comprising the Lot. Such coverage shall afford protection against (i) loss or damage by fire, hurricane, tornado, wind-storm, or other hazards covered by a standard extended coverage endorsement, and (ii) such other risks as from time to time shall be customarily covered with respect to similar construction, location and use as the Home including but not limited to vandalism and malicious mischief. Such coverage shall name the Association as an additional insured party. The Owner shall furnish proof of insurance to the Association at the time of purchase of a Lot and shall furnish proof of renewal of such insurance on the anniversary date thereof, if requested by the Association. In addition, any Owner owning or keeping a pet on a Lot shall also obtain and maintain adequate homeowners' insurance to cover pet liability, naming the Association as an additional insured. In the event an Owner fails to obtain insurance coverage required to comply with this Declaration, and the Association incurs any expense related to bringing a Lot into compliance, the Association may force place the required insurance and charge the cost thereof to the Owner in violation hereof as an Individual Assessment. Notwithstanding anything to the contrary in this Section, the Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home.

Section 9. Requirement to Reconstruct or Demolish. In the event that any Home on a Lot is destroyed by fire or other casualty, the Owner of such Lot shall do one of the following: (i) the Owner shall commence reconstruction and/or repair of the Home ("**Required Repair**"), or (ii) the Owner shall tear the Home down, remove all the debris, and resod and landscape the property comprising the Home as required by the Board or the ARC, as applicable ("**Required Demolition**") to the extent permitted under law. If an Owner elects to perform the Required Repair, such work must be commenced within thirty (30) days of the Owner's receipt of the

insurance proceeds respecting such Home and the Required Repair must be completed within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion subject to extension if required by law. If an Owner elects to perform the Required Repair, such reconstruction and/or repair must be completed in a continuous, diligent, and timely manner. If an Owner elects to perform the Required Demolition, the Required Demolition must be completed, all debris must be removed from the Lot, and the entire Lot must be sodded within six (6) months from the date of the casualty or such longer period of time established by the Board in its sole and absolute discretion subject to extension if required by law. Notwithstanding anything contained herein to the contrary, in the event an Owner elects to perform the Required Demolition, the Association shall have the right to require such Owner to thereafter commence to rebuild the Home, and such reconstruction/rebuilding of the Home must be completed within one (1) year from the date from the date such Required Demolition is completed, or such longer period of time established by the Board in its sole and absolute discretion subject to extension if required by law. As to any such reconstruction of a destroyed Home or improvements, the same shall only be replaced as approved by the Board or the ARC, as applicable. The Association shall have the right to inspect the progress of all reconstruction and/or repair work. Without limiting any other provision of this Declaration or the powers of the Association, the Association shall have a right to bring an action against an Owner who fails to comply with the foregoing requirements. By way of example, the Association may bring an action against an Owner who fails to either perform the Required Repair or Required Demolition on his or her Home within the time periods and in the manner provided herein. Each Owner acknowledges that the issuance of a building permit or a demolition permit in no way shall be deemed to satisfy the requirements set forth herein, which are independent of, and in addition to, any requirements for completion of work or progress requirements set forth in applicable statutes, zoning codes and/or building codes. The standard for all demolition, reconstruction, and other work performed as required by this Section shall be in accordance with the Community Standards and any other standards established by the Association with respect to any casualty that affects all or a portion of the Community. If an Owner of a Lot refuses or fails, for any reason, to perform the Required Repair or Required Demolition as herein provided, then the Association, in its sole and absolute discretion, by and through its Board is hereby irrevocably authorized by such Owner to perform the Required Repair or Required Demolition. All Required Repair performed by the Association pursuant to this Section shall be in conformance with the original plans and specifications for the Home. The Association shall have the absolute right to perform the Required Demolition to a Home pursuant to this Section if any contractor certifies in writing to the Association that such Home cannot be rebuilt or repaired. The Board may levy an Individual Assessment against the Owner in whatever amount sufficient to adequately pay for Required Repair or Required Demolition performed by the Association, including any costs incurred with the management and oversight of any such Required Repair or Required Demolition performed by the Association. Notwithstanding anything to the contrary in this Section, the Association, its directors and officers, shall not be liable to any Owner should an Owner fail for any reason whatsoever to obtain insurance coverage on a Home sufficient for necessary repair or reconstruction work. Moreover, the Association, its directors and officers, shall not be liable to any person if the Association does not enforce the rights given to the Association in this Section.

Section 10. Water Intrusion. Florida experiences heavy rainfall and humidity on a regular basis. Each Owner is responsible for making sure his or her Home remains watertight including, without limitation, checking caulking around windows and seals on doors. Each Owner

acknowledges that running air conditioning machinery with windows and/or doors open in humid conditions can result in condensation, mold and/or water intrusion. The Declarant, Builders and the Association shall not have liability under such circumstances for any damage or loss that an Owner may incur in the event an Owner fails to maintain their Home in accordance with this provision. FURTHER, GIVEN THE CLIMATE AND HUMID CONDITIONS IN FLORIDA, MOLDS, MILDEW, TOXINS AND FUNGI MAY EXIST AND/OR DEVELOP WITHIN HOMES. EACH OWNER IS HEREBY ADVISED THAT CERTAIN MOLDS, MILDEW, TOXINS AND/OR FUNGI MAY BE, OR IF ALLOWED TO REMAIN FOR A SUFFICIENT PERIOD MAY BECOME, TOXIC AND POTENTIALLY POSE A HEALTH RISK. BY ACQUIRING TITLE TO A HOME AND/OR LOT, EACH OWNER, SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH MOLDS, MILDEW, TOXINS AND/OR FUNGI AND TO HAVE RELEASED THE DECLARANT, THE BUILDERS, THE DISTRICT AND THE ASSOCIATION FROM ANY AND ALL LIABILITY RESULTING FROM SAME.

Section 11. Water Mains, Utilities and Improvements within Lots. In the event Sarasota County or any of its subdivisions, agencies, and/or divisions must remove or damage any portion of a driveway, landscaping, or other improvements located on an Owner's Lot, or the right-of-way immediately adjacent to such Lot, in connection with Sarasota County's operation, maintenance or repair of any water line, sanitary sewer line or other utility facilities, if applicable, then the Owner of the Lot upon which such driveway, landscaping, or other improvements are located (or the Owner of the Lot immediately adjacent to the right-of-way upon which such damaged driveway, landscaping, or other improvements are located) shall be responsible to replace or repair such driveway, landscaping or other improvement (if such driveway, landscaping or other improvements is not repaired by Sarasota County) at such Owner's expense (if such expenses are not paid for by Sarasota County). In the event an Owner does not comply with this Section, the Association may, but shall not be obligated to, perform the necessary repair and/or replacement and charge the costs thereof to the non-complying Owner as an Individual Assessment. In the event that the Association is the prevailing party with respect to any litigation respecting the enforcement of compliance with this Section, it shall be entitled to recover all of its attorneys' fees and paraprofessional fees, and costs, at trial and upon appeal. Each Owner grants the Association an easement over its Lot for the purpose of ensuring compliance with the requirements of this Section.

## ARTICLE XII

### COVENANTS RELATING TO FIRST MORTGAGEES

Section 1. The following actions will require the prior written approval of two-thirds (2/3rds) of the holders of record of Institutional First Mortgages on Lots within the Property, (based upon one (1) vote for each Institutional First Mortgage holder): the abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area or improvements thereon by the Association, other than the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area; a material change in the method of determining the Assessments or other charges that may be levied against an Owner; the failure of the Association to maintain fire and extended coverage on any insurable improvements hereafter on the Common Area and any insurable improvements thereon in an amount that shall not be less than one hundred (100%) percent of the insurable value, based on the current replacement costs;

the use of the insurance proceeds paid to the Association for any loss to the Common Area, or the improvements thereon, for any purpose other than the repair, replacement or reconstruction of the Common Area or the improvements thereon; the amendment of the Declaration in any manner which materially affects or impairs the rights of an Institutional First Mortgagee; the conveyance, encumbrance or hypothecation in any manner of the Common Area.

Section 2. An Institutional First Mortgagee holding an Institutional First Mortgage encumbering any Lot in the Property may singly or jointly with other Institutional First Mortgagees: pay the taxes or other charges which are in default and which may or have become a charge against the Common Area; pay overdue premiums on hazard insurance policies for the Common Area; or secure new hazard insurance coverage for the Common Area after lapse of the existing coverage. In the event any Institutional First Mortgagee makes any of the aforementioned payments, such Institutional First Mortgagee shall be entitled to immediate reimbursement from the Association for the payments advanced, and such Institutional First Mortgagee shall be subrogated to the assessment and lien rights of the Association against the Owners for the repayment of such advance, and the expense of making such reimbursement to the Institutional First Mortgagee shall be deemed a common expense of the Association.

Section 3. No provision of this Declaration shall be interpreted to give an Owner, or any other party, priority over the rights of any Institutional First Mortgagee pursuant to the terms of its Mortgage on any Lot on the Property in the event of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 4. Any Institutional First Mortgagee who obtains title to a Lot pursuant to the remedies provided in said Institutional First Mortgagee's Institutional First Mortgage on that Lot, or obtains title by deed in lieu of foreclosure, shall not be jointly and severally liable with the prior owner for unpaid Assessments or charges accrued against said Lot prior to the acquisition of title to said Lot by such Institutional First Mortgagee; however, such Institutional First Mortgagee, or its successors or assigns as a subsequent holder of the first mortgage, acquiring title to a Lot by foreclosure or by deed in lieu of foreclosure, shall be liable for the unpaid Assessments that became due before the Institutional First Mortgagee's acquisition of title in the amount equal to the lesser of (i) the Lot's unpaid Assessments and Special Assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the Association; or (ii) one percent of the original mortgage debt on the Lot. The limitations on Assessment liability for Institutional First Mortgagees obtaining title through foreclosure provided by this paragraph apply only if the Institutional First Mortgagee filed suit against the Owner and initially joined the Association as a defendant in the mortgagee foreclosure action. Joinder of the Association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable. Institutional First Mortgagees shall be responsible for all Assessments on the Lot as of the date of acquisition, including any Special Assessment or Individual Assessment assessed or coming due after the date of acquisition of title to the Lot.

Section 5. The Institutional First Mortgagee of any Lot on the Property is entitled, upon request, to written notification from the Association of any default in the performance by the Owner of any of such Owner's obligations pursuant to the terms of this Declaration, which default is not cured after sixty (60) days' notice to such Owner.

Section 6. Any Institutional First Mortgagee who acquires title to any portion of the Property by way of foreclosure, deed in lieu of foreclosure, or otherwise, shall be entitled to any exemption from the restrictions on sales and leasing of Homes and Lots to the same extent that Declarant would be exempt from such restrictions.

### ARTICLE XIII

#### WATER MANAGEMENT SYSTEMS

Section 1. General. The Association shall be responsible for the maintenance of SWMS in the Community. All SWMS within the Community, excluding those areas (if any) normally maintained by Sarasota County or another governmental agency, will be the ultimate responsibility of the Association, whose agents, employees, contractors and subcontractors may enter any portion of the SWMS and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore property water management. The Association shall have the right to enforce the provisions of this Section. NOTWITHSTANDING THE FOREGOING, THE ASSOCIATION, THE DECLARANT AND BUILDERS SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DRAINAGE PROBLEMS OF ANY TYPE WHATSOEVER.

(a) Except as permitted by the Permit, no construction activities may be conducted relative to any portion of the SWMS without the prior written consent of the WMD. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the SWMS. To the extent there exists within the Community wetland mitigation areas or retention/detention areas, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the WMD. Construction and maintenance activities which are consistent with the design and permit conditions approved by the WMD in the Permit may be conducted without specific written approval from the WMD.

(b) No Owner or other person or entity shall unreasonably deny or prevent access to water management areas for maintenance, repair, or landscaping purposes by the Declarant, the Association, or any appropriate governmental agency that may reasonably require access. Nonexclusive easements therefor are hereby specifically reserved and created.

(c) No Lot, Common Area or any other portion of the Community shall be increased in size by filling in any retention/detention area that it abuts. No person shall fill, dike, rip-rap, block, divert or change the established retention/detention areas that have been or may be created without the prior written consent of the Association. No person other than the Declarant or the Association may draw water for irrigation or other purposes from any retention/detention areas, nor is any boating, wading, or swimming in such retention/detention areas allowed.

(d) All SWMS, excluding those areas (if any) maintained by Sarasota County or another governmental agency will be the ultimate responsibility of the Association. The Association may enter any Lot, the Common Area or any other portion of the Community and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper SWMS. The cost of such alterations, improvements or repairs shall be part of



the Operating Expenses. NO PERSON MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.

(e) Nothing in this Section shall be construed to allow any person to construct any new water management facility, or to alter any SWMS, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including the WMD, the Association and the Declarant, its successors and assigns.

(f) The WMD has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the SWMS.

(g) Any amendment of the Declaration affecting the SWMS or the operation and maintenance of the SWMS shall have the prior written approval of the WMD.

(h) If the Association ceases to exist, the SWMS shall be transferred to, accepted and maintained by an entity in accordance with Rule 62-330.310, Florida Administrative Code (2019), and the Environmental Resource Permit Applicant's Handbook Volume 1, Section 12.3, and be approved by the WMD prior to such termination, dissolution, or liquidation.

(i) No Owner may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the Permit and/or Plat or approved plans, unless prior approval is received from the WMD pursuant to environmental resource permitting.

(j) Each Owner within the Community at the time of the construction of a Home or structure shall comply with the construction plans for the SWMS approved and on file with the WMD.

(k) Owners shall not remove native vegetation (including cattails) that becomes established within the retention/detention areas abutting their property. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Owners shall address any questions regarding authorized activities within the retention/detention areas to the WMD.

Section 2. Proviso. Notwithstanding any other provision in this Declaration, no amendment of the Governing Documents by any person, and no termination or amendment of this Declaration, will be effective to change the Association's responsibilities for the SWMS, unless the amendment has been consented to in writing by the WMD. Any proposed amendment that would affect the SWMS must be submitted to the WMD for a determination of whether the amendment necessitates a modification of the Permit.

Section 3. Mitigation Area Monitoring. In the event the Community has onsite wetland mitigation (as defined in the regulations) that requires monitoring and maintenance by the Association, the Association shall perform all such wetland mitigation monitoring, if any, in accordance with all Permit conditions associated with such wetland mitigation, monitoring, and

maintenance, to the extent the Association is required to perform such monitoring and maintenance.

Section 4. Conservation Areas. The Property, including Lots and Common Areas, may contain or be adjacent to wetlands, wetland mitigation or preservation areas, upland buffers, upland and conservation areas and drainage easements, which may be dedicated by Plat and/or protected by a conservation or preservation easement (“**Conservation Areas**”). Conservation and preservation easements on the Property may be established or dedicated on the Plat, by a separate instrument and/or this Declaration. The Conservation Areas must be permanently retained in a natural state, and may not be altered from their present state, except as may be specifically authorized in writing by Sarasota County, the WMD or any governmental agencies having jurisdiction. Owners of Lots abutting Conservation Areas shall not remove native vegetation (including cattails) that becomes established within the Conservation Areas abutting their Lot. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. Owners shall address any questions regarding authorized activities within the Conservation Areas to the WMD, Surface Water Regulation Manager. NEITHER THE DECLARANT, BUILDERS, NOR THE ASSOCIATION MAKE ANY REPRESENTATION CONCERNING THE CURRENT OR FUTURE WATER LEVELS IN ANY OF THE CONSERVATION AREAS IN THE PROPERTY; PROVIDED, FURTHER, NEITHER THE DECLARANT, BUILDERS, NOR THE ASSOCIATION BEAR ANY RESPONSIBILITY TO ATTEMPT TO ADJUST OR MODIFY THE WATER LEVELS SINCE SUCH LEVELS ARE SUBJECT TO SEASONAL GROUNDWATER AND RAINFALL FLUCTUATIONS THAT ARE BEYOND THE CONTROL OF THE DECLARANT, BUILDERS, THE DISTRICT, AND THE ASSOCIATION. BY ACCEPTANCE OF A DEED TO A HOME OR LOT, EACH OWNER ACKNOWLEDGES THE WATER LEVELS OF ALL CONSERVATION AREAS MAY VARY. THERE IS NO GUARANTEE BY THE DECLARANT, BUILDERS, OR THE ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT.

Section 5. Use Restrictions for Conservation Areas. The Conservation Areas may in no way be altered from their natural or permitted state. These use restrictions may be defined on the Permit and/or the Plat(s) associated with the Property. Activities prohibited within the Conservation Areas include, but are not limited to, the following:

- (a) Construction of any structure or improvement;
- (b) Filling, excavation, dredging, prop-dredging, grading, paving, clearing, timbering, ditching, draining, contamination, or other development;
- (c) Any activity which would adversely affect or impair (i) endangered or threatened species of special concern as to nesting, reproduction, food source, habitat or cover or affect the vegetation itself; (ii) available habitat for fish and aquatic life or result in emigration from adjacent or associated ecosystems and macro habitats; (iii) existing biosystems or ecosystems; or (iv) recovery of an impaired system;
- (d) Discharging or placing within any Conservation Area organic or inorganic matter or deleterious substances or chemical compounds;

(e) Surface use except for purposes that permit the land or water area to remain predominately in its natural condition;

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat preservation or conservation;

(g) Acts or uses detrimental to such aforementioned retention and maintenance of land or water areas;

(h) Acts or uses detrimental to the preservation of any features or aspects of the property having historical, archeological or cultural significance;

(i) Construction or maintenance of any building, residence, or structure, or undertaking or performing any activity in the Conservation Areas described in the Permit and Plat of the Property or any portion thereof, including the wetlands, wetland mitigation area(s), buffer area(s), upland conservation area(s) and drainage easement(s), unless prior approval is received from the WMD; and

(j) Each Owner within the Community at the time of construction of a building, residence, or structure shall comply with the construction plans for the SWMS approved and on file with the WMD.

LOTS MAY CONTAIN OR ABUT CONSERVATION AREAS WHICH ARE PROTECTED UNDER RECORDED CONSERVATION EASEMENTS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE CONSERVATION EASEMENT, OR EXCEPT TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING, WITHOUT LIMITATION, MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. THE ASSOCIATION IS RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE PERMIT ISSUED BY THE WMD, WHICH MAINTENANCE SHALL BE PERFORMED TO THE GREATEST DEGREE LAWFUL BY THE ASSOCIATION.

Section 6. Littoral Areas. The ponds and wetlands within the Community may contain littoral areas which are required by State and Sarasota County regulations to be vegetated with native plants and maintained in perpetuity. Littoral areas aid in shoreline stabilization and nutrient uptake, and provide habitat for native animal species. The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the WMD. Removal includes dredging, the application of herbicide, cutting of and the introduction of grass carp. The Association shall be responsible for monitoring and maintenance, including removal, of exotic nuisance plant species which may be located within the SWMS in accordance with the Permit and the Sarasota County Code.

Section 7. Rights of Enforcement. The WMD, the Association, the Declarant and each Owner shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, monitoring, repair and replacement of the SWMS. Notwithstanding the foregoing, the WMD has the right to take enforcement action,

including a civil action for injunction and penalties, against the Association to compel it to correct any outstanding problems with the SWMS, comply with the mitigation or monitoring requirements of the Permit or other the responsibilities under the control of the Association.

Section 8. Retention/Detention Areas. THE COMMON AREAS MAY INCLUDE RETENTION/DETENTION AREAS. NEITHER THE DECLARANT, THE BUILDERS NOR THE ASSOCIATION MAKE ANY REPRESENTATION CONCERNING THE CURRENT OR FUTURE WATER LEVELS IN ANY OF THE RETENTION/DETENTION AREAS IN THE PROPERTY; PROVIDED, FURTHER, NEITHER THE DECLARANT, THE BUILDERS, NOR THE ASSOCIATION BEAR ANY RESPONSIBILITY TO ATTEMPT TO ADJUST OR MODIFY THE WATER LEVELS SINCE SUCH LEVELS ARE SUBJECT TO SEASONAL GROUNDWATER AND RAINFALL FLUCTUATIONS THAT ARE BEYOND THE CONTROL OF THE DECLARANT, THE BUILDERS AND THE ASSOCIATION. BY ACCEPTANCE OF A DEED TO A LOT, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL RETENTION/DETENTION AREAS MAY VARY. THERE IS NO GUARANTEE BY DECLARANT, THE BUILDERS, OR THE ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. DECLARANT, THE BUILDERS AND/OR THE ASSOCIATION SHALL NOT BE OBLIGATED TO ERECT FENCES, GATES, OR WALLS AROUND OR ADJACENT TO ANY RETENTION/DETENTION AREAS WITHIN THE PROPERTY. BY ACCEPTANCE OF A DEED TO A LOT, EACH OWNER ACKNOWLEDGES AND AGREES THE RETENTION/DETENTION AREAS WITHIN THE PROPERTY MAY BE EXPOSED TO, AMONG OTHER THINGS AND EVENTS, FLOODING, POTENTIALLY DANGEROUS WILDLIFE AND INSECTS AND ODOR FROM ALGAE BLOOMS.

Section 9. Retention/Detention Area Slopes. The rear yard of some Lots may contain slopes adjacent to the retention/detention areas (the “**Retention/Detention Area Slopes**”). All Retention/Detention Area Slopes will be regulated and maintained by the Association, except as otherwise provided in the Retention/Detention Area Slopes Maintenance Standards. The Declarant hereby grants the Association an easement of ingress and egress across all Lots adjacent to retention/detention areas for the purpose of regulating and maintaining such Retention/Detention Area Slopes, except as otherwise provided in the Retention/Detention Area Slopes Maintenance Standards, if any. The Association may establish from time to time standards for the Retention/Detention Area Slopes to be complied with by all Owners who own Lots adjacent to such areas (“**Retention/Detention Area Slopes Maintenance Standards**”). Such Retention/Detention Area Slopes Maintenance Standards may include requirements respecting compaction and strengthening of banks. The Association shall have the right to inspect such Retention/Detention Area Slopes to ensure that each Owner has complied with its obligations hereunder and under the Retention/Detention Area Slopes Maintenance Standards. Each Owner hereby grants the Association an easement of ingress and egress across his or her Lot to access all retention/detention areas for the purpose of ensuring compliance with the requirements of this provision and the Retention/Detention Area Slopes Maintenance Standards. For the purposes of this Declaration, each day that an Owner fails to comply with the requirements of this Section or any Retention/Detention Area Slopes Maintenance Standards shall be deemed a separate and independent violation of this Declaration.

Section 10. Rights of Sarasota County. In the event the Association, or any successor organization, shall fail to adequately maintain the SWMS in accordance with Sarasota County standards, Sarasota County shall have the right, but not the obligation, to enter the Community for the purpose of maintaining the SWMS. All expenses incurred by Sarasota County in maintaining the SWMS shall be assessed prorata against the Lots and shall be payable by the Owners within 60 days after receipt of a statement therefore. If any Owner fails to pay such assessment within such 60-day period, the assessment shall become a lien on such Owner's Lot which may be foreclosed by Sarasota County. The rights of Sarasota County contained in this restriction shall be in addition to any other rights Sarasota County may have in regulating the operation and development of the Community. In addition, changes to the SWMS shall have the prior written approval of the Sarasota County Engineer or its authorized designee.

## ARTICLE XIV

### INSURANCE AND HAZARD LOSSES

Section 1. Authority. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if available at commercially reasonable rates, for the Common Area and all insurable improvements owned by or dedicated to the Association ("**Association Property**"). If blanket all-risk coverage is not available at commercially reasonable rates, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. Insurance that shall be carried on the Association Property, to the extent provided in this Article XIV, shall be governed by the following provisions:

Section 2. Named Insured. All insurance policies upon the Association Property shall be purchased by the Association and shall be placed in a single agency or company, if possible, licensed by the State of Florida. The named insured shall be the Association. The Association has the authority to use their discretion in obtaining the coverage listed hereinafter, as some of the requirements may be or become unobtainable, or may be cost prohibitive.

Section 3. Coverage. The Association shall use its best efforts to maintain insurance covering the following:

(a) Casualty. The Association Property to be insured under the Association's policy(ies) and such improvements from time to time, together with all fixtures, building service equipment, personal property and supplies constituting the Common Areas or owned by the Association (collectively the "**Insured Property**"), shall be insured in an amount not less than 100% of the full insurance replacement value thereof, excluding foundation and excavation costs. Such policies may contain reasonable deductible provisions as determined by the Board of Directors. Such coverage shall afford protection against:

(b) Loss or Damage by Fire and Other Hazards covered by a standard extended coverage endorsement; and

(c) Such Other Risks as from time to time are customarily covered with respect to the Association Property and improvements similar to the Insured Property in construction, location and use, including, but not limited to, vandalism and malicious mischief.

(d) Flood Insurance. If any part of the Association Property is in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Association may maintain a master or blanket policy of flood insurance. The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program.

(e) Liability Insurance. If the policy does not include “severability of interest” in its terms, a specific endorsement must be obtained to preclude the insurer’s denial of an Owner’s claim because of negligent acts of the Association or of other Owners.

(f) Public Liability Insurance. The Association shall obtain public liability and property damage insurance covering all of the Association Property and insuring the Association and the Members as their interests appear in such amounts and providing such coverage as the Board of Directors may determine from time to time. The liability insurance shall include, but not be limited to, hired and non-owned automobile coverage.

(g) Workmen’s Compensation Insurance. The Association shall obtain workmen’s compensation insurance in order to meet the requirements of law, as necessary.

(h) Directors and Officers Liability Insurance. The Association shall obtain directors and officers liability insurance providing such coverage as the Board of Directors may determine from time to time.

(i) Other Insurance. The Board of Directors shall obtain such other insurance as they shall determine from time to time to be desirable.

Section 4. Subrogation Waiver. If available, the Association shall obtain policies which provide that the insurer waives its right to subrogation as to any claim against Members, the Association and their respective servants, agents and guests.

Section 5. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out any of the provisions of this Section shall be assessed against and collected as part of the Regular Assessments.

Section 6. Association’s Power to Compromise Claims. The Board of Directors is hereby irrevocably appointed agent for each Owner and for each holder of a mortgage or other lien, for the purpose of compromising and settling all claims arising under insurance policies purchased by the Association, and to execute and deliver releases upon payment of claims.

## ARTICLE XV

### GENERAL PROVISIONS

Section 1. Covenants Run With Land. All covenants, conditions, restrictions, reservations, easements, liens and charges contained in this Declaration shall constitute covenants running with the land, and all grantees, devisees, or mortgagees, their heirs, personal representatives, successors and assigns, and all parties claiming by, through or under such persons,

agree to be bound by the provisions of (a) this Declaration of Covenants, Restrictions, Conditions and Easements, and (b) the Articles of Incorporation and Bylaws of the Association. The restrictions and limitations of this Declaration are intended to be and shall be taken as consideration for any lease or deed of conveyance hereinafter made. The Association shall be the entity responsible for the operation and maintenance of the Common Area improvements.

Section 2. Enforcement. The Declarant or the Association shall have the right during the Development Period to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceedings at law or in equity. After the Development Period, the Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In any such legal or equitable proceedings to enforce any restriction, condition, covenant, reservation, lien or charge now or hereafter imposed by these covenants, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs including at all appellate levels.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

Section 4. Duration. The covenants, conditions, restrictions, reservations, easements, liens and charges provided for in this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless prior to the end of such thirty (30) year period, or each successive ten (10) year period, an instrument signed by an officer of the Association on behalf of eighty percent (80%) of the total voting interests of all Members agreeing to terminate this Declaration has been recorded in the Public Records of Sarasota County. Provided, however, that no such agreement to terminate the covenants, conditions and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change.

Section 5. Dissolution of Association.

(a) Generally. In the event of the dissolution of the Association without reinstatement within thirty (30) days thereafter, other than incident to a merger or consolidation, any Owner may petition the Circuit Court of the appropriate Judicial Circuit of the State of Florida for the appointment of a receiver to manage the affairs of the dissolved Association and to manage the Common Areas in the place and stead of the Association, and to make such provisions as may be necessary for the continued management of the affairs of the dissolved Association. In the event the Association ceases to exist, the SWMS shall be conveyed to the WMD or an appropriate agency of local government and, if not accepted by such agency, the SWMS must be transferred to and accepted by an entity which complies with Rule 62-330.310, Florida Administrative Code (2019), and the Environmental Resource Permit Applicant's Handbook Volume 1, Section 12.3, and be approved in writing by the WMD prior to such termination, dissolution, or liquidation.

(b) Applicability of Declaration after Dissolution. In the event of dissolution of the Association, the Community and each Lot therein shall continue to be subject to the provisions of this Declaration, including, without limitation, the provisions respecting Assessments specified in this Declaration. Each Owner shall continue to be personally obligated to the successors or assigns of the Association for Assessments to the extent that Assessments are required to enable the successors or assigns of the Association to properly maintain, operate and preserve the Common Areas (if any). The provisions of this Section only shall apply with regard to the maintenance, operation, and preservation of those portions of the Community that had been Common Areas and continue to be so used for the common use and enjoyment of the Declarant, Builders and other Owners.

Section 6. Amendment. So long as there is a Class B Member, Declarant reserves the right to amend this Declaration without the consent of the Owners or any other person or entity. Such amendments shall not require the consent of any Institutional First Mortgagee. No provisions related to the Declarant's rights may be amended without the consent of the Declarant. No provisions relating to the Builders' rights may be amended without the consent of the Builder(s) affected by such proposed amendment. Amendments made by the Declarant in accordance herewith, shall become effective when executed by Declarant and recorded in the Public Records of Sarasota County, Florida. After the Class B Membership ceases to exist, the covenants and restrictions of this Declaration may be amended by an affirmative vote of not less than thirty (30%) percent of the Owners at a duly noticed meeting for the purpose of voting on such amendment. Notwithstanding anything in this Declaration to the contrary, any amendment to the Declaration, Articles or Bylaws affecting any aspect of the surface water management system must receive prior written approval of the WMD and Association. Any amendments must be properly recorded in the Public Records of Sarasota County, in the State of Florida.

Section 7. Remedies for Violation. In addition to all other remedies, in the sole discretion of the Board of Directors, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) Notice: The Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of a committee of the Association seated for the purpose of hearing such violation matters, at which time the Owner shall present reasons why a fine(s) should not be imposed. At least fourteen (14) days' notice of such meeting shall be given.

(b) Hearing: The alleged non-compliance shall be presented to the committee after which the committee shall hear reasons why a fine(s) should not be imposed. A written decision of the committee shall be submitted to the Owner by not later than fifteen (15) days after the committee's meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) Amounts: The Board of Directors (if the committee's findings are made against the Owner) may impose Special Assessments against the Lot owned by the Owner as follows:



(1) First non-compliance or violation which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day not to exceed One Thousand and No/100 (\$1,000.00) Dollars in the aggregate.

(2) Second non-compliance or violations which are of a continuing nature: a fine not in excess of One Hundred and No/100 (\$100.00) Dollars per day without a limitation on the aggregate amount of the amount due.

(d) Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(e) Collection of Fines. Fines shall be treated as an assessment subject to the provisions for the collection of Assessments as set forth herein.

(f) Application of Proceeds. All monies received from fines shall be allocated as directed by the Board of Directors.

(g) Non-Exclusive Remedies. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

(h) Right of Entry. In addition to the foregoing rights, whenever (a) there shall have been built within the Property any structure which is in violation of this Declaration or in the event of any damage or destruction of any of the Property or portion thereof by an Owner or any of its guests, invitees, lessees or occupants, into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, or (b) any portion of the Property and/or Home owned by an Owner has fallen into disrepair and/or has not been maintained as required by this Declaration and/or any Rules, a duly authorized representative of the Association may enter upon the Property where such violation, damage or destruction exists and summarily abate, remove or correct the same at the expense of the Owner; provided, however, that the Association shall then make the necessary repairs, constructions, etc., to insure that the Property and improvements where such violation occurred is restored to the same condition in which it existed (or should have existed) prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass. All amounts expended by the Association, together with interest thereon at the rate of eighteen (18%) percent per annum from thirty (30) days after the date of notification of the violation and all costs and reasonable attorney's fees incurred by the Association shall be treated as an Assessment subject to the provisions for the collection of Assessments as set forth herein.

Section 8. Effect of Waiver of Violation. No waiver of a breach of or violation of any of the terms, provisions and covenants in this Declaration, or in the Articles or Bylaws, shall be construed to be a waiver of any succeeding breach or violation of the same term, provision or covenant of this Declaration, or the Articles or Bylaws.

Section 9. Instruments Governing Common Area and Owners of Lots; Governing Law. This Declaration and the Articles and Bylaws, and any lawful amendments thereto shall

govern the Common Area improvements and the rights, duties and responsibilities of the Owners of Lots. This Declaration shall be governed by the laws of the State of Florida and exclusive venue shall be in Sarasota County, Florida.

Section 10. Compliance with HUD, FHA, VA, FNMA, GNMA and WMD. Notwithstanding any provision of this Declaration to the contrary, as long as the Class B Membership exists, the Declarant shall have the right to amend this Declaration, from time to time, to make such changes, modifications and additions therein and thereto as may be requested or required by HUD, FHA, VA, FNMA, GNMA, the WMD, or any other governmental agency or body as a condition to, or in connection with, such agency's or body's regulatory requirements or agreement to make, purchase, accept, insure, guaranty or otherwise approve loans secured by mortgages on Lots. No approval or joinder of the Association, any Owner, or any other party shall be required or necessary to such amendment. After the expiration of Class B Membership, but subject to Article XV, Section 4 of this Declaration, the Board shall have the right to amend this Declaration, from time to time, to make such changes, modifications and additions therein and thereto as may be requested or required by HUD, FHA, VA, FNMA, GNMA, the WMD or any other governmental agency or body as a condition to, or in connection with such agency's or body's regulatory requirements or agreement to make, purchase, accept, insure, guaranty or otherwise approve loans secured by mortgages on Lots. No approval or joinder of the Owners, or any other party shall be required or necessary to any such amendments by the Board. Any such amendments by the Board shall require the approval of a majority of the Board.

Section 11. Agreements for Professional Management. Any agreement for professional management, or any other contract providing for services of the Declarant may not exceed three (3) years. Any such agreement must provide for the termination by either party without cause and payment of a termination fee on sixty (60) days or less written notice.

Section 12. Declarant's and Builders' Disclaimer of Representations. Notwithstanding anything to the contrary herein, neither Declarant nor any Builder makes any warranties or representations whatsoever that the plans presently envisioned for the development of the Property or surrounding land can or will be carried out, or that any real property now owned or hereafter acquired by the Declarant is or will be subjected to this Declaration, or that any such real property (whether or not is have been subjected to this Declaration) is or will be committed to or developed for a particular (or any) use, or that if such real property is once used for a particular use, such use will continue in effect. While neither Declarant nor any Builder has any reason to believe that any of the restrictive covenants and other provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, neither Declarant nor any Builder makes any warranty or representation as to the present or future validity or enforceability of any such restrictive covenant and other provisions. Any Owner acquiring a Lot in reliance on or more of such restrictive covenants and other provisions herein shall assume all risks of the validity and enforceability thereof and by accepting a deed to the Lot agrees to hold Declarant and Builders harmless therefrom.

Section 13. Notice to Owners. Whenever notices are required to be given hereunder, the same shall be sent to the Owner by United States First Class Mail, postage prepaid, at the address of the Home situated upon the Lot. Such notices shall be deemed given when deposited in the United States Mail. Any Owner may change his mailing address by written notice given to

the Declarant or the Association in the official records of the Florida Department of State, Division of Corporations, or the official address of the Association as it may be designated from time to time.

Section 14. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose.

Section 15. Grammatical Construction. Wherever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and the plural shall include the singular.

Section 16. Conflicts. In the event of any conflict between the provisions of this Declaration, the Articles and the Bylaws, the provisions of this Declaration, the Articles and the Bylaws shall control in that order.

Section 17. CABLE TELEVISION, INTERNET AND HOME SECURITY MONITORING SERVICES. THE ASSOCIATION IS NOT OBLIGATED TO BUT MAY ENTER INTO AN AGREEMENT WITH A CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY PURSUANT TO WHICH ALL OF THE OWNERS WILL BE PROVIDED CABLE TELEVISION AND/OR INTERNET SERVICE AND/OR HOME SECURITY MONITORING SERVICES WHICH WILL BE CHARGED AS ASSESSMENTS. THE ASSOCIATION MAY REFUSE ENTRY INTO THE PROPERTY BY ANY REPRESENTATIVE OF ANY CABLE TELEVISION COMPANY, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANIES OTHER THAN THE CABLE TELEVISION, INTERNET SERVICE PROVIDER AND/OR SECURITY MONITORING COMPANY WHICH HAS ENTERED INTO AN AGREEMENT WITH THE ASSOCIATION. IN THE EVENT SECURITY MONITORING IS PROVIDED TO THE OWNERS BY THE ASSOCIATION, DECLARANT, BUILDERS AND THE ASSOCIATION WILL HAVE NO LIABILITY OF ANY KIND OR NATURE DUE TO THE FAILURE OF THE SECURITY MONITORING COMPANY TO DETECT OR REACT TO FIRE, UNAUTHORIZED ENTRY, OR OTHER SECURITY PROBLEM IN ANY HOME.

Section 18. LIMITATION OF LIABILITY OF ASSOCIATION. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BYLAWS, ANY RULES OR REGULATIONS OF THE ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE ASSOCIATION (COLLECTIVELY, THE "**ASSOCIATION DOCUMENTS**"), THE ASSOCIATION SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER BE A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, RESIDENTS AND THEIR FAMILIES, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

(a) IT IS THE EXPRESS INTENT OF THE ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTY

HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTY AND THE VALUE THEREOF;

(b) THE ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF FLORIDA, SARASOTA COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) ANY PROVISIONS OF THE ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF HIS ACCEPTANCE OF TITLE TO HIS HOME) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING USE OF ANY PORTION OF THE PROPERTY (BY VIRTUE OF ACCEPTING SUCH INTEREST OF MAKING SUCH USES) SHALL BE BOUND BY THIS PROVISION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE ASSOCIATION HAS BEEN DISCLAIMED IN THIS PROVISION.

AS USED IN THIS SECTION, "ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF THE ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD OF DIRECTORS MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF THE DECLARANT, BUILDERS AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, MEMBERS AND AFFILIATES, WHICH SHALL BE FULLY PROTECTED HEREBY.

Section 19. CONSTRUCTION ACTIVITIES. ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT THE DECLARANT, BUILDERS, THE ASSOCIATION, AND/OR THEIR RESPECTIVE EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (THE "**LISTED PARTIES**") WILL BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE PROPERTY. SUCH EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE COMMUNITY MAY POSE RISKS TO PERSONS OR PROPERTY WITHIN THE COMMON AREAS OR LOTS. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, OR BY USING ANY PORTION OF THE PROPERTY, EACH SUCH

OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (I) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (II) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE PROPERTY WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (III) THAT ENTRY GATES AND OTHER ACCESS CONTROL SYSTEMS MAY BE OPEN DURING ANY PERIODS OF CONSTRUCTION AT ANY TIMES OR ALL TIMES IN THE SOLE DISCRETION OF THE DECLARANT, THE BUILDERS AND/OR THE ASSOCIATION (IV) THE LISTED PARTIES AND THEIR RESPECTIVE OFFICERS, DIRECTORS AND COMMITTEE MEMBERS SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (V) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (VI) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT AND BUILDERS TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTY.

Section 20. WATER BODIES AND WILDLIFE. THE SUBDIVISION MAY CONTAIN WATER BODIES SUCH AS LAKES, PONDS, CANALS, CREEKS, STREAMS, PRESERVES OR OTHER BODIES OF WATER IN OR IN THE VICINITY OF THE SUBDIVISION ("**WATER BODIES**"). SUCH WATER BODIES MAY POSE HEALTH AND SAFETY RISKS TO OWNERS, OCCUPANTS AND USERS OF THE PROPERTY IN AND AROUND THE SUBDIVISION, INCLUDING THE RISK OF DANGEROUS WILDLIFE. ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT THE LISTED PARTIES SHALL NOT BE LIABLE TO OWNERS, OCCUPANTS AND USERS OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR WATER LEVEL OF OR IN ANY WATER BODIES. ALL OWNERS, OCCUPANTS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY, TO HAVE RELEASED THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH WATER BODIES. FURTHER, THE LISTED PARTIES AND THEIR RESPECTIVE OFFICERS, DIRECTORS AND COMMITTEE MEMBERS ARE NOT RESPONSIBLE FOR MAINTAINING OR ASSURING SAFETY OF ANY OWNERS, OCCUPANTS OR USERS OF WATER BODIES OR AREAS IN OR AROUND SUCH WATER BODIES. NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO ANY WATER BODIES. ALL PERSONS USING OR ENJOYING WATER BODIES OR SURROUNDING AREAS OF THE WATER BODIES SHALL DO SO AT THEIR OWN RISK. ALL OWNERS, OCCUPANTS AND USERS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALL TYPES OF WILDLIFE, INCLUDING ALLIGATORS, SNAKES, PANTHERS, BEARS AND

OTHER ANIMALS, MAY LIVE, MIGRATE, CREATE HABITATS OR ENTER INTO WATER BODIES AND SURROUNDING PROPERTY AND MAY POSE A HEALTH AND SAFETY THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE. EACH OWNER, BY VIRTUE OF THEIR ACCEPTANCE OF A DEED TO A LOT, AGREES TO REVIEW AND COMPLY WITH THE WILDLIFE MANAGEMENT PLAN ATTACHED HERETO AS EXHIBIT "E" AND TO CAUSE ALL OCCUPANTS OF THEIR HOME TO COMPLY WITH SUCH WILDLIFE MANAGEMENT PLAN. NO PERSONS SHALL SWIM IN ANY WATER BODIES WITHIN THE COMMUNITY NOT SPECIFICALLY DESIGNATED FOR SWIMMING AND NO PERSONS IN THE COMMUNITY SHALL FEED ANY WILDLIFE IN OR AROUND THE COMMUNITY.

Section 21. Recreational Facilities.

(a) General Restrictions. Each Owner, its guests, invitees, tenants, and other persons entitled to use the recreational facilities and other Common Areas within the Community shall comply with following general restrictions:

(1) Minors. Minors are permitted to use the recreational facilities; provided, however, parents are responsible for the actions and safety of such minors and any damages caused by such minors. The Association may adopt reasonable regulations and restrictions from time to time governing minors' use of the recreational facilities, including, without limitation, requirements that minors be accompanied by adults while using the recreational facilities.

(2) Responsibility for Personal Property and Persons. Each Owner and tenant assumes sole responsibility for the health, safety and welfare of such Owner and/or tenant, his or her invitees and guests, and the personal property of all of the foregoing, and each Owner and tenant shall not allow any damage the recreational facilities or other Common Area, or interfere with the rights of other Owners hereunder. Neither Declarant, nor Builders, nor the Association shall be responsible for any loss or damage to any private property used, placed or stored on the recreational facilities. Further, any person entering the recreational facilities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions, including, without limitation, wallets, books and clothing left in the recreational facilities.

(3) Activities. Any Owner, tenant, guest, invitee or other person who, in any manner, makes use of the recreational facilities, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored either on or off the recreational facilities, shall do so at their own risk. Every Owner shall be liable for any property damage and/or personal injury at the recreational facilities, caused by such Owner or such Owner's tenant, invitee or guest.

(b) Indemnification. By the use of the Recreational Facilities and other Common Areas, each Owner, its tenants, occupants, guests and invitees agree to indemnify and hold harmless the Declarant, Builders and the Association, their officers, partners, agents,

employees, affiliates, directors and attorneys (collectively, “**Indemnified Parties**”) against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever (collectively, “**Losses**”) incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to use of the recreational facilities or other Common Areas by Owners or tenants, their occupants, invitees and their guests and/or from any act or omission of the any of the Indemnified Parties. Losses shall include the deductible payable under any of the Association’s insurance policies.

(c) Attorney’s Fees. Should any Owner, its tenants, occupants guests or invitees bring suit against the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, the Owner and/or its tenants, occupants, guests, or invitees shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys’ fees and paraprofessional fees at trial and upon appeal.

(d) Non-ADA Compliant Pool Disclosure. The community pool intended to be located within the Community is a private residential community pool that is limited to the exclusive use of residents and their guests and is not required to comply with ADA Requirements for Accessible Pools for persons with mobility disabilities. Accordingly, there is no ADA accessible means of entry intended to be constructed for the community pool, including no pool lifts, no sloped entries, no transfer systems nor any other ADA compliant accessible means to the pool. By acceptance of a deed to a Lot, each Owner acknowledges and agrees that the recreational facilities, including the community pool, are not compliant with the ADA Standards for Accessible Design.

Section 22. Conflicts. In the event of any conflict between the provisions of this Declaration, the Articles and the Bylaws, the provisions of this Declaration, the Articles and the Bylaws shall control in that order.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the Declarant has executed this Declaration, this 18<sup>th</sup> day of March, 2021.

Signed, sealed and delivered  
in the presence of:

[Signature]  
Print Name: Andre Carmack

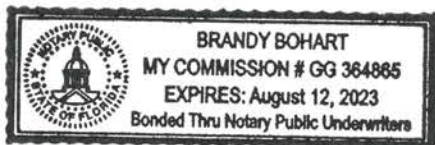
[Signature]  
Print Name: John M. Garrity

FORESTAR (USA) REAL ESTATE GROUP  
INC., a Delaware corporation

By: [Signature]  
Name: Anthony Squitieri  
Title: Division President

STATE OF FLORIDA  
COUNTY OF LEE HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 18<sup>th</sup> day of March, 2021, by Anthony Squitieri, as Division President of Forestar (USA) Real Estate Group Inc., a Delaware corporation, on behalf of the corporation, and he is ☒ personally known to me or ☐ has produced \_\_\_\_\_ as identification.



[SEAL]

[Signature]  
Signature of Notary Public

Brandy Bohart  
Notary Public Name (Typed or Printed)  
Notary Public, State of Florida at Large  
Commission No. GG 364865  
My commission expires: 8/12/2023



**JOINDER**

Palencia Community Association, Inc., a not-for-profit Florida corporation whose mailing address is 4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610, hereby approves and joins in the Declaration of Covenants, Conditions and Restrictions of Palencia and the Exhibits attached thereto and agrees to be bound by the terms thereof and will comply with and perform the terms and conditions of the Declaration.

**In Witness Whereof**, Palencia Community Association, Inc. has executed this Joinder on this 18th day of march, 2021.

Signed, sealed and delivered  
in the presence of:

Palencia Community Association, Inc., a Florida not-for-profit corporation

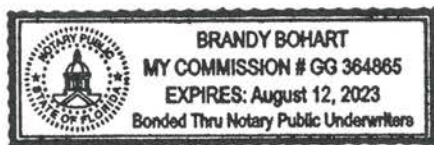
Print Name: Andre Carmack

By:   
Christian Cotter, President

Print Name: THOMAS M. GARRITY

STATE OF FLORIDA )  
COUNTY OF LEE )  
Hillsborough )  
: SS.

The foregoing instruction was acknowledged before me by means of ☒ physical presence or ☐ online notarization this 18th day of March, 2021, by Christian Cotter, as President of Palencia Community Association, Inc., a not-for-profit Florida corporation, on behalf of said Corporation. He/She is ☒ personally known to me or ☐ has produced as identification.



[SEAL]

Mandy Bont  
Signature of Notary Public

Brandy Bohart  
Notary Public Name (Typed or Printed)  
Notary Public, State of Florida at Large  
Commission No.: GG 364865  
My commission expires: 8/12/2023

## JOINDER OF MORTGAGEE

D.R. Horton, Inc., a Delaware corporation (“**Horton**”) hereby certifies that it is the holder of that certain Mortgage and Security Agreement dated September 28, 2020 and recorded as Instrument Number 2020133507 of the Public Records of Sarasota County, Florida (the “**Horton Mortgage**”), and does hereby join in, consent to, and subordinate the lien of the Horton Mortgage to the terms, conditions, and provisions of the Declaration of Covenants, Conditions and Restrictions of Palencia and the Exhibits attached thereto as the same may be amended from time to time. Horton agrees that the Declaration shall be binding upon such portions of the Property encumbered by the Horton Mortgage.

Dated this 22<sup>nd</sup> day of March, 2021.

Signed, sealed and delivered  
in the presence of:

Name: REBECCA SAEVER

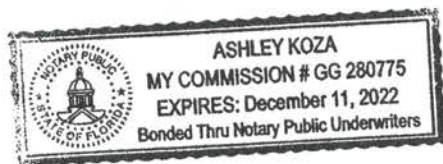
Name: Ashley Koza

D.R. Horton, Inc., a Delaware corporation-

By: \_\_\_\_\_  
Name: Justin Robbins  
Title: Vice President

STATE OF FLORIDA )  
 ) SS  
COUNTY OF LEE )

The foregoing instruction was acknowledged before me by means of [ 1 ] physical presence or [    ] online notarization this 22<sup>nd</sup> day of March, 2021, by Justin Robbins, as Vice President of D.R. Horton, Inc., a Delaware corporation, on behalf of said Corporation. The foregoing person is personally known to me.



  
 Name: Ashley Koza  
 My Commission Expires: 12/11/22  
 Notary Public, State of Florida at Large

EXHIBIT “A”

PROPERTY

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF SARASOTA, STATE OF FLORIDA, AND DESCRIBED AS FOLLOWS:

TRACTS 267 268, 269, 270, 271, 272, 273 AND 274, NORTH VENICE FARMS, ACCORDING TO MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 203, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

LESS AND EXCEPT THAT CERTAIN PARCEL ACQUIRED BY THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BY INSTRUMENT RECORDED IN OFFICIAL RECORDS BOOK 1202, PAGE 1127, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

LESS AND EXCEPT THOSE CERTAIN PARCELS ACQUIRED BY SARASOTA COUNTY, FLORIDA BY INSTRUMENT RECORDED UNDER CN 2004242187 AND CN 2006186450, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

LESS AND EXCEPT THAT CERTAIN PARCEL ACQUIRED BY THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION BY INSTRUMENT RECORDED UNDER CN 2008036088, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

SAID LANDS BEING MORE PARTICULARLY DESCRIBED AND SURVEYED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, ALSO BEING THE CENTER LINE INTERSECTION OF NORTH CLERMONT ROAD (66 FOOT RIGHT OF WAY) AND BORDER ROAD (RIGHT OF WAY VARIES) AS SHOWN ON SAID PLAT OF NORTH VENICE FARMS; THENCE SOUTH 89 DEGREES 39 MINUTES 40 SECONDS EAST ALONG THE CENTER LINE OF SAID BORDER ROAD ALSO BEING THE NORTH LINE OF SAID NORTHWEST QUARTER OF SAID NORTHEAST QUARTER A DISTANCE OF 33.00 FEET TO INTERSECT THE NORTH EXTENSION OF THE EAST RIGHT OF WAY OF SAID NORTH CLERMONT ROAD; THENCE SOUTH 00 DEGREES 34 MINUTES 21 SECONDS WEST A DISTANCE OF 46.58 FEET TO THE EXISTING SOUTH RIGHT OF WAY LINE OF BORDER ROAD AS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT NUMBER 2004242187, AS RECORDED IN THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, AND THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 51 MINUTES 20 SECONDS EAST

ALONG SAID SOUTH RIGHT OF WAY LINE AS MEASURED A DISTANCE OF 1609.84 FEET TO A POINT LYING 33 FEET SOUTH OF AT RIGHT ANGLES TO THE CENTER LINE OF SAID BORDER ROAD; THENCE SOUTH 89 DEGREES 39 MINUTES 40 SECONDS EAST ALONG SAID LINE A DISTANCE OF 988.15 FEET TO THE NORTHEAST CORNER OF SAID LOT 270, LYING ON THE WEST RIGHT OF WAY LINE OF JACARANDA BOULEVARD (RIGHT OF WAY WIDTH VARIES); THENCE SOUTH 00 DEGREES 30 MINUTES 40 SECONDS WEST ALONG SAID LINE ALSO BEING THE EAST LOT LINE OF SAID LOTS 270 AND 274 A DISTANCE OF 1255.16 FEET TO THE EXISTING SOUTHEAST CORNER OF SAID LOT 274; THENCE NORTH 89 DEGREES 44 MINUTES 03 SECONDS WEST ALONG THE SOUTH LOT LINES OF SAID LOTS 271 THRU 274, ALSO BEING THE NORTH RIGHT OF WAY LINE OF EWING DRIVE (66 FEET OF RIGHT OF WAY) A DISTANCE OF 2235.68 FEET TO THE EAST LIMITS OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS INSTRUMENT NUMBER 2008036088, AS RECORDED IN THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; THENCE ALONG THE EAST AND NORTH MONUMENTED LIMITS OF SAID LANDS THE FOLLOWING TWO CALLS; NORTH 00 DEGREES 15 MINUTES 11 SECONDS EAST A DISTANCE OF 202.28 FEET (201.78 FEET DEED) SOUTH 89 DEGREES 59 MINUTES 40 SECONDS WEST A DISTANCE OF 362.45 FEET (362.61 FEET DEED) TO THE EAST RIGHT OF WAY LINE OF SAID NORTH CLERMONT ROAD; THENCE NORTH 00 DEGREES 34 MINUTES 21 SECONDS EAST ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 1044.34 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

TRACT 279, NORTH VENICE FARMS, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 203, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA; LESS THE EASTERLY 17 FEET THEREOF.

ALSO LESS AND EXCEPTING THE FOLLOWING DESCRIBED PORTION FOR ROAD RIGHT OF WAY PURPOSES AS RECORDED IN OFFICIAL RECORDS BOOK 2449, PAGE 977, PUBLIC RECORD OF SARASOTA COUNTY, FLORIDA. SAID LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THE GRANTOR'S TRACT AS RECORDED IN O.R. 1258, PAGE 211, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, IN SECTION 3, TOWNSHIP 39 SOUTH, RANGE 19 EAST, THE SAME BEING A PORTION OF LOT 279, NORTH VENICE FARMS, AS RECORDED IN PLAT BOOK 2,

PAGE 203, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF LOT 279, NORTH VENICE FARMS, AS RECORDED IN PLAT BOOK 2, PAGE 203, SARASOTA COUNTY, FLORIDA, THENCE N.86°50'51"W., ALONG THE SOUTHERLY BOUNDARY OF SAID LOT, A DISTANCE OF 17.03 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE N.86°50'51"W., A DISTANCE OF 36.68 FEET TO A POINT ON A CURVE; THENCE 60.82 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 3650.00 FEET; A CENTRAL ANGLE OF 0°57'17", AND A CHORD OF 60.82 FEET WHICH BEARS N.6°40'19"W., THENCE N.7°08'57"W., A DISTANCE OF 157.05 FEET; THENCE N.82°51'03"E., A DISTANCE OF 20.00 FEET TO A POINT ON A CURVE; THENCE 311.12 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 3930.00 FEET, A CENTRAL ANGLE OF 4°32'09", AND A CHORD OF 311.04 FEET WHICH BEARS N.4°52'53"W., TO THE NORTHERLY BOUNDARY OF SAID LOT; THENCE S.89°37'39"E., ALONG SAID BOUNDARY A DISTANCE OF 75.31 FEET, THENCE S.0°35'20"W., A DISTANCE OF 530.21 TO THE POINT OF BEGINNING..

EXHIBIT “B”

ARTICLES OF INCORPORATION



February 11, 2021

FLORIDA DEPARTMENT OF STATE  
Division of Corporations

PALENCIA COMMUNITY ASSOCIATION, INC.  
10541 BEN C. PRATT SIX MILE CYPRESS  
PARKWAY  
FORT MYERS, FL 33966US

Re: Document Number N19000006249

The Amended and Restated Articles of Incorporation for PALENCIA COMMUNITY ASSOCIATION, INC., a Florida corporation, were filed on February 10, 2021.

The certification you requested is enclosed. To be official, the certificate for a certified copy must be attached to the original document that was electronically submitted under FAX audit number H21000057049.

Should you have any questions concerning this matter, please telephone (850) 245-6050, the Amendment Filing Section.

Yasemin Y Sulker  
Regulatory Specialist III  
Division of Corporations

Letter Number: 621A00003094



# State of Florida



## Department of State

I certify the attached is a true and correct copy of the Amended and Restated Articles of Incorporation, filed on February 10, 2021, for PALENCIA COMMUNITY ASSOCIATION, INC., a Florida corporation, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H21000057049. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below

The document number of this corporation is N19000006249.

Authentication Code: 621A00003094-021121-N19000006249-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Eleventh day of February, 2021



*Randy Bee*  
Secretary of State

**AMENDED AND RESTATED ARTICLES OF INCORPORATION FOR**

Palencia Community Association, Inc.

**(a corporation not-for-profit)**

Document No. N19000006249

WHEREAS, the Articles of Incorporation for Palencia Community Association, Inc., a Florida corporation not for profit (the “**Association**”), were filed with the Florida Secretary of State on June 19, 2019 (the “**Original Articles**”)

WHEREAS, pursuant to Article XIII of the Original Articles, so long as the Declarant (as defined in the Original Articles) has the right to appoint the entire Board of Directors of the Association, the Declarant or its successor or assign shall be permitted to unilaterally amend the Articles, and

WHEREAS, as of the date hereof, the Declarant has the right to appoint the entire Board of Directors of the Association; and

WHEREAS, Declarant does hereby wish to amend and restate the Original Articles in their entirety as hereinafter set forth and as approved by D.R. Horton, Inc., a Delaware corporation, as the Declarant and the sole Member of the Association; and

WHEREAS, notwithstanding any reference to “Declarant” in the Original Articles, Forestar (USA) Real Estate Group, Inc., a Delaware corporation, shall be the “**Declarant**” under these Amended and Restated Articles of Incorporation for Palencia Community Association, Inc. (the “**Articles**”) and the Declaration of Covenants, Conditions and Restrictions of Palencia (the “**Declaration**”) recorded, or to be recorded, among the Public Records of Sarasota County, Florida. Any reference to “Articles” in the Declaration or the Bylaws of the Association shall refer to these Articles.

NOW, THEREFORE, the Articles are hereby amended and restated as follows:

The undersigned, acting as Incorporator(s) of a corporation pursuant to Chapter 617, Florida Statutes, and Chapter 720, Florida Statutes, adopt(s) the following Articles of Incorporation:

**ARTICLE I. - NAME**

The name of the corporation shall be Palencia Community Association, Inc., a Florida not-for-profit corporation.

**ARTICLE II. – DEFINITIONS**

Except as otherwise defined herein, capitalized terms defined in the Declaration shall have the same meaning or definition as the meaning or definition ascribed thereto in the Declaration when used in these Articles.

**ARTICLE III. - PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS**

The principal place of business and mailing address of the corporation shall be 4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610.

**ARTICLE IV. - PURPOSE(S)**

The corporation is organized as a corporation not-for-profit under Chapter 617 of the laws of the State of Florida, subject to the extent applicable, to Chapter 720 of the laws of the State of Florida. The specific purposes for which the corporation is organized are:

1. To own and maintain, repair and replace the Association Property and the Common Areas and other items, including landscaping, surface water management suystems, and other improvements in and/or benefiting said Association Property and Common Areas, for which the obligation to maintain and repair has been delegated and accepted.
2. To control the specifications, architecture, design, appearance, elevation and location of, and landscaping around, all buildings and improvements as provided in the Declaration, which may include walls, fences, sewers, drains, disposal systems or other structures constructed, placed or permitted to remain in the Property, as well as the alteration, improvement, addition or change thereto.
3. To operate without profit for the benefit of its Members.
4. To perform those functions granted to or reserved by the Association in the Declaration.

**ARTICLE V. - GENERAL POWERS**

The Association shall have all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws or the Declaration including, without limitation, the following:

1. To hold funds solely and exclusively for the benefit of the Members for the purposes set forth in these Articles of Incorporation.
2. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.
3. To delegate power or powers where such is deemed in the interest of the Association.
4. To affix assessments to be levied against Lots within the Property and the costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors, in its discretion, to enter into agreements with mortgage companies and other organizations for the collection of such assessments.
5. To pay taxes and other charges, if any, on or against the Association Property and the Common Area.

6. To have all express powers conferred upon the Association by the Declaration, Chapter 617 and Chapter 720, Florida Statutes, except as prohibited herein.

7. To engage in activities which will actively foster, promote and advance the common interests of all Owners of any portion of the Property, including contracting for services to be provided to the Association.

8. To own, convey, buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real, personal and mixed property of all kinds and any right or interest therein of the Association for purposes of advancing the common interests of all Owners of any portion of the Property.

9. To borrow money for any purpose subject to all limitations in the Declaration or Bylaws.

10. To sue and be sued.

11. To adopt, alter and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration.

12. To operate and maintain surface water management system facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplains compensation areas, wetlands and any associated buffers and wetland mitigation areas, preserve areas and conservation easements, as applicable and required by the Permit, and to contract for services to provide for such operation and maintenance.

13. To contract for services for the operation, maintenance, and management of Common Areas and Association Property and all other property dedicated to or maintained by the Association.

14. To mortgage or convey Common Area with the affirmative vote of at least two-thirds of the Class A Membership.

#### **ARTICLE VI. - MANNER OF ELECTION OF DIRECTORS**

Directors shall be elected or appointed in accordance with the provisions of the Bylaws of the Association.

#### **ARTICLE VII. - MEMBERS**

1. Every Owner of a Lot which is subject to Assessment shall be a Member of the Association and subject to the terms and conditions of the Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant and Builders (until the Class B membership ceases to exist) and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all

such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each of the votes held by all other Members of the Association; provided, however, that notwithstanding any provision to the contrary, the Declarant shall have the right to appoint the entire Board of Directors of the Association until such time as provided in the Declaration. At such time, the Declarant shall call a meeting in accordance with the provisions herein for Special Meetings, to provide for the turnover of control of the Board of Directors to the Members. The Declarant shall have the right, in its sole discretion, to appoint one member of the Board of Directors for so long as the Declarant owns at least five percent (5%) of the Lots within the Property. Further, pursuant to Section 720.307(2), Florida Statutes (2019), Members are entitled to elect one (1) member of the Board of Directors (a "**Pre-Turnover Director**") when fifty percent (50%) of all the Lots ultimately planned for the Community are conveyed to Members other than Declarant, provided such Members other than Declarant exercise this right. In the event the Members other than Declarant do not exercise the right to elect a Pre-Turnover Director, then a vacancy on the Board of Directors shall occur and the remaining members of the Board of Directors may fill such vacancy. The term of office for the Pre-Turnover Director shall end at the next annual Members meeting after the Pre-Turnover Director's election, or on the date the election after Declarant is no longer the Class B Member takes place, whichever occurs first.

#### ARTICLE VIII. - DIRECTORS

The Board of Directors of the Corporation shall be comprised of at least three (3) directors until Turnover, following which the Board of Directors shall be comprised of at least five (5) directors. The members of the initial Board of Directors and their street addresses are:

Christian Cotter	4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610
Mary Moulton	4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610
Rebecca Sarver	10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, FL 33966

Members of the Board of Directors appointed by the Declarant or its designated successor or assigns need not be Members of the Association and need not be residents of the State of Florida. All Directors appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed from office, and a successor Director may be appointed at any time by the Declarant.

At the Turnover meeting or the first annual election to the Board of Directors after the Declarant is no longer the Class B Member, the term of office of the elected Director receiving the highest plurality of votes shall be established at two (2) years, with the other elected Directors to serve for a term of one (1) year. Elections shall be by plurality votes. Directors appointed by the

Declarant shall serve until Turnover or until removed from office by the Declarant. All other Directors shall hold office until the election of new directors at the next annual meeting or resignation of said Director. Each year thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them.

#### **ARTICLE IX. - OFFICERS**

The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time, by resolution, create. Any two or more offices may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedures set forth in the Bylaws. The names of the Officers who are to manage the affairs of the Association until the next annual meeting of the Board of Directors and until their successors are duly elected and qualified are:

President:	Christian Cotter 4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610
Vice President:	Rebecca Sarver 10541 Ben C. Pratt Six Mile Cypress Parkway, Suite 100, Fort Myers, FL 33966
Secretary and Treasurer:	Mary Moulton 4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610

#### **- REGISTERED AGENT, MAILING ADDRESS AND STREET ADDRESS**

The street and mailing address of the Association's initial registered office is 1201 Hays St., Tallahassee, FL 32301 and the name of the initial Registered Agent at such address is Corporation Services Company.

#### **ARTICLE X.- CORPORATE EXISTENCE**

The Association shall have perpetual existence. If the Association is dissolved, the control or right of access to the property containing the surface water management system facilities and other dedicated property and related infrastructure shall be conveyed or dedicated to an appropriate governmental unit or public unit and that if not accepted, then the surface water management system facilities shall be conveyed to a non-profit corporation similar to the Association. In addition, if the Association is dissolved, property dedicated to the Association and corresponding

infrastructure will be conveyed or dedicated to a similar not-for-profit organization or entity for continued maintenance and operation.

#### **ARTICLE XI. - BYLAWS**

The Board of Directors shall adopt Bylaws consistent with these Articles.

#### **ARTICLE XII. - AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS**

For so long as Declarant is the Class B Member, but subject to the general restrictions on amendments which require approval of the SFWMD as set forth below, Declarant shall have the right to amend these Articles as it deems appropriate, without the joinder or consent of any person or entity whatsoever, except to the extent limited by applicable law as of the date the Declaration is recorded. From and after the expiration of Declarant's Class B membership, amendment of these Articles requires the approval of at least two-thirds of the membership votes. Notwithstanding the foregoing, (i) no amendment of these Articles shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant joins in the execution of the amendment and (ii) no provisions relating to the Builders' rights may be amended without the consent of the Builder(s) affected by such proposed amendment.

Such amendments shall be subject to the prior approval required by any appropriate governmental agency. Notwithstanding anything to the contrary herein contained, amendments for correction of scrivener's errors may be made by the Board of Directors of the Association alone without the need of consent of any other person. Notwithstanding the foregoing, matters stated herein to be or which are in fact governed by the Declaration may not be amended except as provided in such Declaration. Additionally, the provisions which are governed by the By-laws of this Association may not be amended except as provided in the By-laws.

Any amendment to these Articles that would alter the surface water management or drainage systems, conservation areas, preserve areas, easements related thereto or any water management areas of the Common Areas must have the prior approval of the SFWMD. Any such proposed amendments must be submitted to the SFWMD for a determination of whether the amendment necessitates a modification to the SFWMD Permit. If the proposed amendment necessitates a modification to the SFWMD Permit, the modification to the SFWMD Permit must be approved by the SFWMD prior to the amendment to these Articles.

#### **ARTICLE XIII. - INDEMNIFICATION OF OFFICERS AND DIRECTORS**

1. The Association hereby indemnifies any Director or Officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

a. Whether civil, criminal, administrative or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability or penalty on such person for any act alleged to have been committed by such person in his capacity of Director or Officer of the Association, or in his capacity as a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable

expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or Officer did not act in good faith in the reasonable belief that such action was in the best interests of the Association or that he had reasonable grounds for belief that such action was unlawful.

b. By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or Officer of the Association, or by reason of his being or having been a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

2. The Board of Directors shall determine whether amounts for which a Director or Officer seeks indemnification were properly incurred and whether such Director or Officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

3. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

#### **ARTICLE XIV. - TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

1. With the exception of Directors and Officers appointed by the Class B Members, any financial or familial interest of an Officer or Director in any contract or transaction between the Association and one (1) or more of its Directors or Officers, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Directors or Officers are directors or officers, or have a financial interest, shall be disclosed, and further shall not be voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction or solely because his or their votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.



2. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction, but must abstain from voting on the issue.

#### **ARTICLE XV. - DISSOLUTION**

The Association may be dissolved if three-fourths (3/4) of the votes cast at a duly held meeting of the Members of the Association vote in favor of dissolution. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

These Amended and Restate Articles are hereby executed as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by D.R. Horton, Inc., as the Declarant under the Original Articles and the sole member of the Association and joined by Forestar (USA) Real Estate Group Inc., a Delaware corporation, as the Declarant under the Articles.

D.R. Horton, Inc., a Delaware corporation

By: 

Name: Justin Robbins

Title: Vice President

Forestar (USA) Real Estate Group Inc., a  
Delaware corporation

By: 

Name: Nicolas Apancio

Title: Florida Region President

**REGISTERED AGENT**

The undersigned hereby accepts appointment as Registered Agent of Palencia Community Association, Inc. this 8th day of February, 2021.

Corporation Services Company

By: Tyler Ciminillo  
Name: Tyler Ciminillo  
Title: Secretary



June 19, 2019

FLORIDA DEPARTMENT OF STATE

Division of Corporations

PALENCIA COMMUNITY ASSOCIATION, INC.

10541 BEN C. PRATT SIX MILE CYPRESS

PARKWAY

FORT MYERS, FL 33966US

The Articles of Incorporation for PALENCIA COMMUNITY ASSOCIATION, INC. were filed on June 18, 2019, and assigned document number N19000006249. Please refer to this number whenever corresponding with this office.

This document was electronically received and filed under FAX audit number H19000190889.

To maintain "active" status with the Division of Corporations, an annual report must be filed yearly between January 1st and May 1st beginning in the year following the file date or effective date indicated above. It is your responsibility to remember to file your annual report in a timely manner.

A Federal Employer Identification Number (FEI/EIN) will be required when this report is filed. Apply today with the IRS online at:

<https://sa.www4.irs.gov/modiein/individual/index.jsp>.

Please be aware if the corporate address changes, it is the responsibility of the corporation to notify this office.

Should you have any questions regarding corporations, please contact this office at (850) 245-6052.

Sincerely,  
Nadira D McClees-Sams  
Regulatory Specialist II  
New Filings Section  
Division of Corporations

Letter Number: 019A00012269

Fax Audit Number: H19000190889 3

**ARTICLES OF INCORPORATION FOR  
PALENCIA COMMUNITY ASSOCIATION, INC.  
(a corporation not-for-profit)**

The undersigned, acting as Incorporator(s) of a corporation pursuant to Chapter 617, Florida Statutes, and Chapter 720, Florida Statutes, adopt(s) the following Articles of Incorporation:

**ARTICLE I - NAME**

The name of the corporation shall be the Palencia Community Association, Inc., a Florida corporation not for profit (the "**Association**").

**ARTICLE II - DEFINITIONS**

Each term used herein, except as otherwise defined herein, is defined in the Declaration of Covenants, Conditions, and Restrictions of Palencia (the "**Declaration**") recorded, or to be recorded, among the Public Records of Sarasota County, Florida by D.R. Horton, Inc., a Delaware corporation (the "**Declarant**") and shall have the same meaning or definition ascribed thereto in the Declaration.

**ARTICLE III - PRINCIPAL PLACE OF BUSINESS AND MAILING ADDRESS**

The principal place of business and mailing address of the corporation shall be 10541 Ben C. Pratt Six Mile Cypress Parkway, Fort Myers, Florida 33966.

**ARTICLE IV - PURPOSE(S)**

The corporation is organized as a corporation not-for-profit under Chapter 617 of the laws of the State of Florida, subject to the extent applicable, to Chapter 720 of the laws of the State of Florida. The specific purposes for which the corporation is organized are:

Section 1. To promote the health, safety and social welfare of the Owners of Property within the residential community of Palencia as described in the Declaration.

Section 2. To own and maintain, repair and replace the Association Property and the Common Areas and other items, including landscaping and other improvements in and/or benefiting said Association Property and Common Areas, for which the obligation to maintain and repair has been delegated and accepted.

Section 3. To control the specifications, architecture, design, appearance, elevation and location of, and landscaping around, all buildings and improvements in the Community as provided for in the Declaration, which may include walls, fences, swimming pools, sewers, drains, disposal systems or other structures constructed, placed or permitted to remain in the Property, as well as the alteration, improvement, addition or change thereto.

Fax Audit Number: H19000190889 3

4835-5471-3710.2  
49665/0091

4843-9731-3431v.2 149666/00198

Fax Audit Number: H19000190889 3

Section 4. To operate without profit for the benefit of its Members.

Section 5. To perform those functions granted to or reserved by the Association in the Declaration.

#### ARTICLE V - GENERAL POWERS

The Association shall have all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws or the Declaration including, without limitation, the following:

Section 1. To hold funds solely and exclusively for the benefit of the Members for the purposes set forth in these Articles of Incorporation.

Section 2. To promulgate and enforce rules, regulations, bylaws, covenants, restrictions and agreements to effectuate the purposes for which the Association is organized.

Section 3. To delegate power or powers where such is deemed in the interest of the Association.

Section 4. To affix assessments to be levied against Lots within the Property and the costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, and to authorize its Board of Directors, in its discretion, to enter into agreements with mortgage companies and other organizations for the collection of such assessments.

Section 5. To pay taxes and other charges, if any, on or against the Association Property and the Common Area.

Section 6. To have all express powers conferred upon the Association by the Declaration, Chapter 720, Florida Statutes, and to have all powers conferred upon a corporation by the laws of the State of Florida, including Chapter 617, except as prohibited herein.

Section 7. To engage in activities which will actively foster, promote and advance the common interests of all Owners of any portion of the Property, including contracting for services to be provided to the Association.

Section 8. To own, convey, buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real, personal and mixed property of all kinds and any right or interest therein of the Association for purposes of advancing the common interests of all Owners of any portion of the Property.

Section 9. To borrow money for any purpose subject to all limitations in the Declaration or Bylaws.

Section 10. To sue and be sued.

Section 11. To adopt, alter and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration.

Section 12. To operate and maintain surface water management system facilities, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplains compensation areas, wetlands and any associated buffers, if any, wetland mitigation areas, as applicable and required by the Permit, preserve areas, if any, and drainage easements and to contract for services to provide for such operation and maintenance.

Section 13. To contract for services for the operation, maintenance, and management of Common Areas and Association Property and all other property dedicated to or maintained by the Association.

Section 14. To mortgage or convey Common Area with the affirmative vote of at least two-thirds of the Class A Membership.

#### ARTICLE VI- MANNER OF ELECTION OF DIRECTORS

Directors shall be elected or appointed in accordance with the provisions of the Bylaws of the Association.

#### ARTICLE VII - MEMBERS

Section 1. Every Owner of a Lot shall be a Member of the Association and subject to the terms and conditions of the Declaration. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant (until the expiration of the Class B Membership) and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each of the votes held by all other Members of the Association plus one (1) vote; provided, however, that notwithstanding any provision to the contrary, the Declarant shall have the right to appoint the entire Board of Directors of the Association until three months after 90% of the Lots have been conveyed to Owners other than the Declarant or its designated successor or assigns, or at an earlier date at the sole discretion of the Declarant unless otherwise provided by applicable law ("Turnover"). At such time, the Declarant shall call a meeting in accordance with the provisions herein for Special Meetings, to provide for the turnover of control of the Board of Directors to the Owners. The Declarant shall have the right, in its sole discretion, to appoint one member of the Board of Directors for so long as the Declarant

Fax Audit Number: H19000190889 3

owns at least five percent (5%) of the Lots within the Property. Upon expiration of the Class B membership, the Declarant shall become a Class A Member for each Lot it still owns.

#### **ARTICLE VIII - DIRECTORS**

The Board of Directors of the Corporation shall be comprised of at least three (3) directors. The members of the Board of Directors and their street addresses are:

<u>Director:</u>	<u>Street Address:</u>
Debra Thomas	10541 Ben C. Pratt Six Mile Cypress Parkway, Fort Myers, Florida 33966
Rebecca Sarver	10541 Ben C. Pratt Six Mile Cypress Parkway, Fort Myers, Florida 33966
Michael Beckta_	10541 Ben C. Pratt Six Mile Cypress Parkway, Fort Myers, Florida 33966

As long as Declarant or its designated successor or assigns shall have the right to appoint the entire Board of Directors, Directors need not be Members of the Association and need not be residents of the State of Florida. All Directors appointed by the Declarant shall serve at the pleasure of the Declarant, and may be removed from office, and a successor Director may be appointed at any time by the Declarant.

At the first annual election to the Board of Directors where Directors are elected by the Members, the term of office of the elected Director receiving the highest plurality of votes shall be established at two (2) years, with the other elected Directors to serve for a term of one (1) year. Elections shall be by plurality votes. All Directors shall hold office until the election of new directors at the next annual meeting or resignation of said Director. Each year thereafter, as many Directors shall be elected and appointed, as the case may be, as there are regular terms of office of Directors expiring at such time, and the term of the Director so elected or appointed at each annual election shall be for two (2) years expiring at the second annual election following their election, and thereafter until their successors are duly elected and qualified, or until removed from office with or without cause by the affirmative vote of a majority of the Members which elected or appointed them.

#### **ARTICLE IX - OFFICERS**

The Officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time, by resolution, create. Any two or more offices may be held by the same person except the offices of President and Secretary. Officers shall be elected for one (1) year terms in accordance with the procedures set forth in the Bylaws. The names of the Officers who are to manage the affairs of

Fax Audit Number: H19000190889 3

the Association until the next annual meeting of the Board of Directors and until their successors are duly elected and qualified are:

President: Debra Thomas  
10541 Ben C. Pratt Six Mile Cypress Parkway,  
Fort Myers, Florida 33966

Vice President: Michael Beckta  
10541 Ben C. Pratt Six Mile Cypress Parkway,  
Fort Myers, Florida 33966

Secretary and  
Treasurer: Rebecca Sarver  
10541 Ben C. Pratt Six Mile Cypress Parkway,  
Fort Myers, Florida 33966

#### **ARTICLE X- REGISTERED AGENT, MAILING ADDRESS AND STREET ADDRESS**

The street and mailing address of the Corporation's initial registered office is 10541 Ben C. Pratt Six Mile Cypress Parkway, Fort Myers, Florida 33966 and the name of the initial Registered Agent at such address is D.R. Horton, Inc.

#### **ARTICLE XI - CORPORATE EXISTENCE**

The Association shall have perpetual existence. If the Association is dissolved, the control or right of access to the property containing the surface water management system facilities and other dedicated property and related infrastructure shall be conveyed or dedicated to an appropriate governmental unit or public unit and that if not accepted, then the surface water management system facilities shall be conveyed to a non-profit corporation similar to the Association.

#### **ARTICLE XII - BYLAWS**

The Board of Directors shall adopt Bylaws consistent with these Articles.

#### **ARTICLE XIII - AMENDMENTS TO ARTICLES OF INCORPORATION AND BYLAWS**

Amendment of these Articles requires the approval of at least two-thirds of the membership votes. Notwithstanding the foregoing; (a) for so long as the Declarant has the right to appoint the entire Board of Directors of the Association, the Declarant or its successor or assign shall be permitted to unilaterally amend these Articles; and (b) for so long as Declarant owns any portion of the Property, no amendment of these Articles shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant joins in the execution of the amendment.

Such amendments shall be subject to the prior approval required by any appropriate governmental agency. Notwithstanding anything to the contrary herein contained, amendments



Fax Audit Number: H19000190889 3

for correction of scrivener's errors may be made by the Board of Directors of the Association alone without the need of consent of any other person. Notwithstanding the foregoing, matters stated herein to be or which are in fact governed by the Declaration may not be amended except as provided in such Declaration. Additionally, the provisions which are governed by the By-laws of this Association may not be amended except as provided in the By-laws.

Any amendment to these Articles that would alter the Surface Water or Stormwater Management System, wet detention or any water management areas of the Common Areas must have the prior approval of the WMD. Any such proposed amendments must be submitted to the WMD for a determination of whether the amendment necessitates a modification to the WMD Permit. If the proposed amendment necessitates a modification to the WMD Permit, the modification to the WMD Permit must be approved by the WMD prior to the amendment to these Articles.

#### **ARTICLE XIV- INDEMNIFICATION OF OFFICERS AND DIRECTORS**

Section 1. The Association hereby indemnifies any Director or Officer made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

(a) Whether civil, criminal, administrative or investigative, other than one by or in the right of the Association to procure a judgment in its favor, brought to impose a liability or penalty on such person for any act alleged to have been committed by such person in his capacity of Director or Officer of the Association, or in his capacity as a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding or any appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such Director or Officer did not act in good faith in the reasonable belief that such action was in the best interests of the Association or that he had reasonable grounds for belief that such action was unlawful.

(b) By or in the right of the Association to procure a judgment in its favor by reason of his being or having been a Director or Officer of the Association, or by reason of his being or having been a Director, Officer, employee or agent of any other corporation, partnership, joint venture, trust or other enterprise which he served at the request of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the Association. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his duty to the Association unless and only to

Fax Audit Number: H19000190889 3

the extent that the court, administrative agency, or investigative body before which such action, suit or proceeding is held shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

Section 2. The Board of Directors shall determine whether amounts for which a Director or Officer seeks indemnification were properly incurred and whether such Director or Officer acted in good faith and in a manner he reasonably believed to be in the best interests of the Association, and whether, with respect to any criminal action or proceeding, he had no reasonable ground for belief that such action was unlawful. Such determination shall be made by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding.

Section 3. The foregoing rights of indemnification shall not be deemed to limit in any way the powers of the Association to indemnify under applicable law.

#### **ARTICLE XV - TRANSACTIONS IN WHICH DIRECTORS OR OFFICERS ARE INTERESTED**

Section 1. With the exception of Directors and Officers appointed by the Class B Members, any financial or familial interest of an Officer or Director in any contract or transaction between the Association and one (1) or more of its Directors or Officers, or between the Association and any other corporation, partnership, association or other organization in which one (1) or more of its Directors or Officers are directors or officers, or have a financial interest, shall be disclosed, and further shall not be voidable solely for this reason, or solely because the Director or Officer is present at or participates in the meeting of the Board or committee thereof which authorized the contract or transaction or solely because his or their votes are counted for such purpose. No Director or Officer of the Association shall incur liability by reason of the fact that he is or may be interested in any such contract or transaction.

Section 2. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorized the contract or transaction, but must abstain from voting on the issue.

#### **ARTICLE XVI - DISSOLUTION**

The Association is intended to exist in perpetuity; however, the Association may be dissolved if three-fourths (3/4) of the votes cast at a duly held meeting of the Members of the Association vote in favor of dissolution. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes. In the event of termination, dissolution, or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water or Stormwater Management System must be transferred to and accepted by an entity which

Fax Audit Number: H19000190889 3

complies with Rule 62-330.310, F.A.C., and Applicant's Handbook Volume I, Section 12.3, and be approved by the Agency prior to such termination, dissolution, or liquidation

### ARTICLE XVII – INCORPORATOR

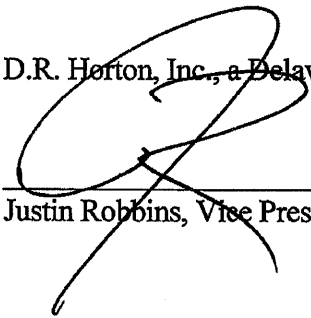
The name and address of the Incorporator is:

Name: D.R. Horton, Inc.

Address: 10541 Ben C. Pratt Six Mile Cypress Parkway, Fort Myers, Florida 33966

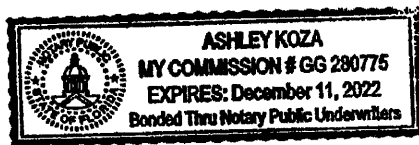
IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation as Incorporator thereof this 18<sup>th</sup> day of June, 2019.

D.R. Horton, Inc., a Delaware corporation

  
Justin Robbins, Vice President

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of June, 2019, by Justin Robbins as Vice President of D.R. Horton, Inc., who is personally known to me or who has produced a Florida driver's license as identification.



  
Notary Public

Name: Ashley Koza

Serial Number: GG 280775

Commission Expires: 12/11/22

Fax Audit Number: H19000190889 3

**REGISTERED AGENT**

The undersigned hereby accepts appointment as Registered Agent of Palencia Community Association, Inc. this 18<sup>th</sup> day of June, 2019.

D.R Horton, Inc., a Delaware corporation

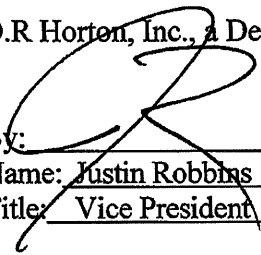
By:   
Name: Justin Robbins  
Title: Vice President

EXHIBIT "C"

BYLAWS

**BYLAWS OF  
PALENCIA COMMUNITY ASSOCIATION, INC.**

A corporation not-for-profit organized  
under the laws of the State of Florida

1. Identity. These are the Bylaws of PALENCIA COMMUNITY ASSOCIATION, INC., (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purpose of administering that residential Community known as Palencia located in Sarasota County, Florida (the "Property").
  - 1.1 Principal Office. The principal office of the Association shall be at 4042 Park Oaks Blvd., Suite 200, Tampa, Florida 33610, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office.
  - 1.2 Fiscal Year. The fiscal year of the Association shall be the calendar year.
  - 1.3 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida," the words "Corporation Not for Profit," and the year of incorporation.
2. Definitions. For convenience, these Bylaws shall be referred to as the "Bylaws" and the Articles of Incorporation of the Association as the "Articles." The other terms used in these Bylaws shall have the same definition and meaning as those set forth in that certain Declaration of Covenants, Conditions and Restrictions of Palencia (the "Declaration"), unless herein provided to the contrary, or unless the context otherwise requires.
3. Members. The members of the Association ("Members") shall be as specified in the Articles and Declaration.
  - 3.1 Annual Meeting. The annual Members' meeting shall be held on the date, at the place and at the time determined by the Board from time to time, provided that there shall be an annual meeting every calendar year. To the extent possible, the annual meeting shall be held during January, February or March and no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business authorized to be transacted by the Members, or as stated in the notice of the meeting sent to Members in advance thereof.
  - 3.2 Special Meeting. Special Members' meetings shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board. A special meeting must be called by the President or Secretary upon receipt of a written request from a majority of the Members of the Association. The business conducted at a special meeting shall be limited to the purposes stated in the notice of the meeting.
  - 3.3 Notice of Meeting; Waiver of Notice. Notice of a meeting of Members stating the

time and place and the purpose(s) for which the meeting is called shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place within the Property. The notice of the annual meeting shall be hand delivered or sent by mail to each Owner, unless the Owner waives in writing the right to receive notice of the annual meeting by signing a waiver of notice, in person or by proxy, either before or after the meeting. The delivery or mailing shall be to the address of the Member as it appears on the roster of Members described in Section 10 hereof. The posting and mailing of the notice shall be effected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of posting or hand delivery may be given by affidavit, and proof of mailing of the notice may be given by retention of post office receipts, or by affidavit. Notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called. Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

Notice of Member annual or special meetings may be waived before or after the meeting. The attendance of any Member (or person authorized to vote for such member) shall constitute such Member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

- 3.4 Quorum. Notwithstanding anything contained herein to the contrary, until the Turnover, a quorum shall be established by Declarant's presence, in person or by proxy, at any meeting. From and after the Turnover, a quorum at Members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast thirty percent (30%) of the votes of Members, unless a higher number is specifically provided elsewhere in the Declaration, the Articles or these Bylaws. If voting rights of any Member are suspended pursuant to the provisions of the Declaration or these Bylaws, the vote(s) of such Member shall not be counted for the purpose of determining the presence of a quorum and the total number of authorized votes shall be reduced accordingly during the period of such suspension.

3.5 Voting.

- (a) Classes of Voting Membership. The Association shall have two (2) classes of Members, each with voting rights as follows:

Class A. Class A Members shall be all Owners with the exception of the Declarant and Builders until the Class B Membership ceases to exist and is converted to Class A Membership as provided in Article IV of the Declaration. Builders shall not be considered Members until after the Class B Membership ceases to exist. Once the Class B Membership ceases to exist, Builders shall be Class A Members. Class A Members shall be entitled to one (1) vote for each Lot they own. When more than one (1) person or entity holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among

themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Once the Class B Membership ceases to exist, the Declarant and each Builder shall be a Class A Member.

Class B. The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each vote Class A Members are entitled to cast at any time, thus giving the Class B Member a three-fourths (3/4ths) majority of votes in the Association. The Class B Membership shall cease and be converted to Class A Membership within three (3) months of the occurrence of the following events, whichever occurs earliest, unless otherwise required by Florida law:

- (i) when ninety percent (90%) of the Lots in the Property that will ultimately be operated by the Association have been conveyed to Class A Members, which shall not include Builders until after the Class B Membership ceases to exist; or
- (ii) when the Declarant elects to terminate the Class B Membership in a written instrument signed by Declarant and delivered to the Secretary of the Association; or
- (iii) as otherwise required by Section 720.307, Florida Statutes (2019).

Notwithstanding the foregoing, after the Class B Membership ceases to exist, Declarant shall be entitled to appoint at least one (1) member of the Board of Directors of the Association as long as Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots within the Property. After the Class B Membership ceases to exist, Declarant may exercise the right to vote any Declarant-owned voting interest in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the Members of the Board of Directors.

- (b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Members for all purposes except where otherwise provided by law, the Declaration, the Articles or these Bylaws. As used in these Bylaws, the Articles or the Declaration, the terms "majority of the Members" and "majority of the Members" shall mean a majority of the votes of Members and not a majority of the Members themselves and shall further mean more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Members at which a quorum shall have been attained. Similarly, if some greater percentage of Members is required herein or in the Declaration or Articles, it shall mean such greater percentage of the votes of Members and not of the Members themselves.



- (c) Voting Owner. If a Lot is owned by one person, his right to vote shall be established by the roster of Members. If a Lot is owned by more than one person, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record Owners of the Lot according to the roster of Owners and filed with the Secretary of the Association. Such person need not be a Lot Owner, nor one of the joint owners. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote for a Lot may be revoked by any record owner of an undivided interest in the Lot. If a certificate designating the person entitled to cast the vote for a Lot is not on file or has been revoked, the vote of the Member(s) of such Lot shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed, except if the Lot is owned jointly by a husband and wife. If a Lot is owned jointly by a husband and wife, they may, without being required to do so, designate a voting Member in the manner provided above. Such designee need not be an Owner. In the event a husband and wife do not designate a voting member, the following provisions shall apply:
- (i) If both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting, and their vote shall not be considered in determining whether a quorum is present on that subject at the meeting (and the total number of authorized votes in the Association shall be reduced accordingly for such subject only).
  - (ii) If only one is present at a meeting, the person present shall be counted for purposes of a quorum and may cast the Lot vote just as though he or she owned the Lot individually, and without establishing the concurrence of the absent person.
  - (iii) If both are present at a meeting and concur, either one may cast the vote.
- (d) Corporation. If a Lot is owned by a corporation or other entity, the Chairman of the Board, President, Vice President, Secretary, or Treasurer of the Corporation holding such Membership in the Association, and any like officer of a foreign corporation whether for profit or not for profit, holding a Membership in the Association, shall be deemed by the Association to have the authority to vote on behalf of the Corporation and to execute proxies and written waivers and consents in relation thereto, unless before a vote is taken on a waiver of consent is acted upon it is made to appear by certified copy of the Bylaws or Resolution of the Board of Directors or executive committee of the Corporation that such authority does not exist or is vested in some other officer or person. In absence of

such certification, the person executing any such proxies, waivers or consents or presenting himself at a meeting as one of such officers of a Corporation shall be for the purposes of this Section conclusively deemed to be duly elected, qualified and acting as such officer and be fully authorized. In the case of conflicting representation, the corporate Member shall be deemed to be represented by its Senior Officer, in the order first stated in this subsection.

- 3.6 Proxies. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawfully adjourned and reconvened meetings thereof. Proxies shall not be used in the election of Directors. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be dated, must state the date, time, and place of the meeting for which it was given, and signed by the person authorized to cast the vote for the Lot (as above described) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies need not be Owners. If the proxy form expressly so provided, any proxy holder may appoint, in writing, a substitute to act in his place.
- 3.7 Adjourned Meetings. Adjournment of an Annual or Special meeting to a different date, time, or place must be announced at the meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to the notice provision of the Bylaws. If a new record date for the adjourned meeting is or must be fixed, notice of the adjourned meeting must be given to persons who are entitled to vote and are Members as of the new record date but were not Members as of the previous record date. If any proposed meeting cannot be organized because a quorum has not been attained, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Except as provided by law, proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.
- 3.8 Order of Business. If a quorum has been attained, the order of business at annual Members' meetings, and, if applicable, at other Members' meetings, shall be:
- (a) Call to order by President;
  - (b) Appointment by the President of a chairman of the meeting (who need not be a Member or a Director);
  - (c) Proof of notice of the meeting or waiver of notice;
  - (d) Reading of minutes;
  - (e) Reports of officers;

- (f) Reports of committees;
- (g) Appointment of inspectors of election;
- (h) Determination of number of Directors;
- (i) Election of Directors;
- (j) Unfinished business;
- (k) New business;
- (l) Adjournment.

Such order may be waived in whole or in part by direction of the chairman.

- 3.9 Minutes of Meeting. Minutes of all meetings of the Members of an Association must be maintained in written form or in another form that can be converted into written form within a reasonable time. The minutes of all meetings of Members shall be kept in a book available for inspection by Members or their authorized representatives or board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.
- 3.10 Delinquent Members. If any Assessment or portion thereof imposed against a Member remains unpaid for ninety (90) days following its due date, such Member's voting rights in the Association shall be automatically suspended until all past due Assessments and other sums then due are paid, whereupon the voting rights shall be automatically reinstated. Delinquent Members shall not be eligible to serve on the Board of Directors.
- 3.11 Action Without A Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action herein required to be taken at any annual or special meeting of Members, or any action which may be taken at any annual or special meeting of such Members, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken shall be signed by the Members (or persons authorized to cast the vote of any such Member as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of such Members at which a quorum of such Members (or authorized persons) entitled to vote thereon were present and voted.

Written consent shall not be effective to take the Association action referred to in the consent unless the consent is signed by the Members having the requisite number of votes necessary to authorize the action within sixty (60) days of the date of the earliest dated consent and is delivered in the manner required by this Section.

Any written consent may be revoked prior to the date that the Association receives the required number of consents to authorize the proposed action. A revocation is

not effective unless in writing and until received by the Association, or received by the Secretary or other officer or agent of the Association.

A consent signed under this Section has the effect of a meeting vote and may be described as such in any document. Whenever action is taken pursuant to this Section, the written consent of the Members consenting to such action or the written reports of inspectors appointed to tabulate such consents must be filed with the minutes of proceedings of the Members.

Within ten (10) days after obtaining such authorization by written consent, notice must be given to Members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

- 3.12 Recording. Any Member may tape record or videotape meetings of the Membership. The Board of Directors of the Association may adopt reasonable rules governing the taping of meetings of the Membership.

#### 4. Directors

- 4.1 Membership. The affairs of the Association shall be managed and governed by a Board of Directors (the "Board") of not less than three (3) prior to the Turnover; following which the Board shall be comprised of at least five (5) directors, the exact number initially to be as set forth in the Articles, and thereafter, except as provided herein, to be determined from time to time upon majority vote of the membership. In no instance shall the reduction of the number of Directors result in the removal of a Director prior to his or her term. The total number of Directors shall always be an odd number.

- 4.2 Election of Directors. The election of Directors shall be conducted in accordance with Chapter 720.306, Florida Statutes, and the following manner:

- (a) Election of Directors shall be held at the annual Members' meeting, except as provided herein to the contrary.
- (b) At least sixty (60) days before a scheduled election, the Association shall mail or hand-deliver to each Member entitled to vote, a first notice of the date of the election. Any Member or other eligible person desiring to be a candidate for the Board of Directors shall give written notice to the Association not less than forty (40) days before the scheduled election. Nominations from the floor at the annual meeting are prohibited. The Association shall thereafter, not later than fourteen (14) days before a scheduled election, mail or deliver a second notice of the election to all Members entitled to vote, together with a written notice, agenda, and a ballot which shall list all candidates in alphabetical order. Elections shall be decided by a plurality of ballots cast. There shall be no quorum requirement; however, at least twenty percent (20%) of the eligible voters must cast a ballot in order to have a valid election for the Board of Directors. There shall be no cumulative voting, and no Member shall permit any other

person to vote his or her ballot. Any improperly cast ballots will be deemed invalid.

- (i) Candidate Information Sheet. Upon request of a candidate, the Association shall include an information sheet, no larger than 8 ½ inches by 11 inches, which must be furnished by the candidate at least thirty-five (35) days before the election to be included with the mailing of the ballot. The costs associated with the copying, mailing, and delivery of each candidate information sheet shall be borne by the Association.
  - (ii) Assistance for Disability. Any Member who needs assistance with casting a ballot for reasons related to a blindness, an inability to read or write, or other disability may obtain assistance in casting his or her ballot.
  - (iii) Election Not Required. An election and balloting are not required unless more candidates file notices of intent to run than vacancies exist on the Board.
  - (iv) Holdover Directors. To the extent that an election is required and unable to be held due to failure to obtain enough ballots, the then Directors shall remain on the Board of Directors until the next scheduled election. At such election, and in order to provide for continued staggered terms, any such holdover Director's seat shall be for the remaining years left had the election been held when the original term expired. In order to determine the Directors elected to each seat, the candidates receiving the most votes at the election shall assume the longest term open for election. In the case of a tie vote the terms shall be determined by lot. The intent of this provision is to provide a procedure for determining the seats for each elected Director where such terms vary in length due to the inability at previous annual meetings to hold an election.
- (c) The Board of Directors shall be elected by ballot (written and/or electronic if approved by the Board and conducted in accordance with Chapter 720, Florida Statutes).
  - (d) All Members of the Association shall be eligible to serve on the Board of Directors unless otherwise provided by Florida law, and a Member may nominate himself as a candidate for the Board.

#### 4.3 Vacancies and Removal.

- (a) Except as to vacancies resulting from removal of Directors by Members, vacancies on the Board occurring between annual meetings of Members shall be filled by majority action of the remaining Director(s), provided that all vacancies in directorships to which Directors were appointed by the Declarant pursuant to the provisions of Section 4.17 hereof shall be filled by the Declarant without the necessity of any meeting.
- (b) Any Director elected by the Members may be removed from office with or without cause by the vote or agreement by a majority of all votes of the Membership. The vacancy in the Board so created shall be filled by the Members at the same meeting or at a meeting of the Membership shortly thereafter. The conveyance of all Lots owned by a Director in the Community who owned one or more Lots at the time he was elected or appointed (other than appointees of the Declarant) shall constitute the resignation of such Director.
- (c) Until a majority of the Directors are elected by the Members other than the Declarant, no Directors named by the Declarant shall be subject to removal by Members other than the Declarant. Directors appointed by the Declarant and Directors replacing them may be removed and replaced by the Declarant without the necessity of any meeting, and shall serve until Turnover or until removed from office by the Declarant.
- (d) If a vacancy on the Board of Directors results in there being no incumbent Directors, any Member may apply to the Circuit Court within whose jurisdiction the Property lies for the appointment of a receiver to manage the affairs of the Association. At least thirty (30) days prior to applying to the Circuit Court, the Member shall mail to the Association and post in a conspicuous place in the Property a notice describing the intended action and giving the Association an opportunity to fill the vacancy(ies) in accordance with these Bylaws. If, during such time, the Association fails to fill the vacancy(ies), the Member may proceed with the petition. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs and attorneys' fees. The receiver shall have all powers and duties of a duly constituted Board and shall serve until the Association fills the vacancy(ies) on the Board sufficient to constitute a quorum in accordance with these Bylaws.

4.4 Term. Except as provided herein to the contrary, the term of each Director's service shall extend until the annual meeting of the Members two years from the date of such Director's election and subsequently until his successor is duly elected and qualified as provided for in the Articles of Incorporation, or until he is removed in the manner elsewhere provided.

4.5 Organizational Meeting. The organizational meeting of newly-elected or appointed members of the Board shall be held within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting

at which they were elected or appointed, and no further notice to or by the Board of the organizational meeting shall be necessary.

- (a) All meetings of the Board must be open to all Members except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by attorney client privilege. Notices of all Board meetings must be posted in a conspicuous place in the Property at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Property, notice of each Board meeting must be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committees or other similar body, including anybody vested with the powers to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a Member.

- 4.6 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting. Regular meetings of the Board shall be open to all Members and notice of such meetings shall be posted conspicuously in the Community at least forty-eight (48) hours in advance for the attention of the Members of the Association, except in the event of an emergency. Members shall not be permitted to participate, and need not be recognized at any such meeting.
- 4.7 Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of two-thirds (2/3rds) of the Directors. Notice of the meeting shall be given personally by mail, telephone or telegraph to each Director, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than three (3) days prior to the meeting. Special meetings of the Board shall be open to all Members and notice of a special meeting shall be posted conspicuously in the Property at least forty-eight (48) hours in advance for the attention of the Members of the Association, except in the event of an emergency. Members shall not be permitted to participate, and need not be recognized, at any such meeting.
- 4.8 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business

because the meeting is not lawfully called.

- 4.9 Quorum. A quorum at Directors' meetings shall consist of a majority of the then incumbent Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these Bylaws.
- 4.10 Adjourned Meetings. If, at any proposed meeting of the Board, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.
- 4.11 Presiding Officer. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside).
- 4.12 Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:
- (a) Proof of due notice of meeting;
  - (b) Reading and disposal of any unapproved minutes;
  - (c) Reports of officers and committees;
  - (d) Election of officers;
  - (e) Unfinished business;
  - (f) New business;
  - (g) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

- 4.13 Minutes of Meetings. Minutes of all meetings of the Board of Directors must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each Director present at the Board meeting must be recorded in the minutes. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Members or their authorized representative or board member at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.
- 4.14 Recording. Any Member may tape record or videotape meetings of the Board of Directors. The Board of Directors of the Association may adopt reasonable rules



governing the taping of meetings of the Board of Directors.

- 4.15 Committees. The Board of Directors by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in such resolution or in the Articles of Incorporation or the Bylaws, shall have and may exercise all of the authority of the Board of Directors, except that no such committee shall have the authority to:

- (a) Approve or recommend to members actions or proposals required by this act to be approved by members;
- (b) Fill vacancies on the Board of Directors or any committee thereof; or
- (c) Adopt, amend, or repeal the Bylaws.

The provisions of the Bylaws governing meetings, notice and waiver of notice, quorum and voting requirements of the Board of Directors shall apply to all committees and their members as well.

Each committee must have two or more members who serve at the pleasure of the Board of Directors. The Board, by resolution adopted, may designate one or more director(s) as alternative members of any such committee who may act in the place instead of any absent member at any meeting of such committee.

Neither the designation of any such committee, and delegation thereto of authority, nor action by such committee pursuant to such authority shall alone constitute compliance by any member of the Board of Directors not a member of the committee in question with his responsibility to act in good faith, in a manner he reasonably believes to be in the best interest of the Association, and with such care as an ordinary prudent person in a like position would use under similar circumstances.

- 4.16 Architectural Review Committee. As provided in the Declaration, the Board of Directors shall create an Architectural Review Committee ("ARC"), composed of not less than three (3) nor more than five (5) persons appointed by the Board, or, in the Board's discretion, the Board from time to time may constitute itself as the ARC. To the extent not inconsistent with the Declaration, the provisions of Section 4.15 shall apply to the ARC.

- 4.17 Declarant Control of Board; Turnover. So long as there shall be a Class B Membership as set forth in the Declaration, vesting voting control of the Association in the Declarant, the Declarant shall have the right to appoint and replace Directors and Officers. Pursuant to Section 720.307(2), Florida Statutes (2019) Owners are entitled to elect one (1) member of the Board of Directors (a "**Pre-Turnover Director**") when fifty percent (50%) of all the Lots ultimately planned for the Community are conveyed to Owners other than Declarant, provided

such Owners other than Declarant exercise this right. In the event the Owners other than Declarant do not exercise the right to elect a Pre-Turnover Director, then a vacancy on the Board of Directors shall occur and the remaining members of the Board of Directors may fill such vacancy. The term of office for the Pre-Turnover Director shall end at the next annual Members meeting after the Pre-Turnover Director's election, or on the date the election after the Turnover takes place, whichever occurs first.

Declarant shall be entitled to appoint at least one (1) member of the Board of Directors of the Association as long as Declarant holds for sale in the ordinary course of business at least five (5%) percent of the Lots in the Community. After Declarant relinquishes control of the Association, Declarant may exercise the right to vote any Declarant owned voting interest in the same manner as any other Member, except for purposes of reacquiring control of the Association or selecting the majority of the Members of the Board of Directors.

The Declarant shall turn over control of the Association to Members other than the Declarant as set forth in Section 3.5 above, by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Members other than the Declarant to elect Directors and assume control of the Association. Provided at least thirty (30) days' notice of Declarant's decision to cause its appointees to resign is given to Members, neither the Declarant, nor such appointees, shall be liable in any manner in connection with such resignations even if the Members other than the Declarant refuse or fail to assume control. Control of the Association shall be deemed "turned over" once (i) the Class B Membership ceases to exist and (ii) all Declarant-appointed Directors have resigned as Directors and Officers. Upon such turnover the Declarant shall retain all voting rights incident to its ownership of Lots.

Within a reasonable time after control of the Association is turned over to Members other than the Declarant, (but not more than ninety (90) days after such event) the Declarant shall deliver to the Association all property of the Members and of the Association held by or controlled by the Declarant, including, but not limited to, the following items, if applicable:

- (a) The original or a photocopy of the recorded Declaration, and all amendments thereto. If a photocopy is provided, the Declarant must certify by affidavit that it is a complete copy of the actual recorded Declaration;
- (b) A certified copy of the Articles of Incorporation for the Association;
- (c) A copy of the Bylaws of the Association;
- (d) The Minute Books, including all minutes, and other books and records of the Association;
- (e) Any rules and regulations which have been adopted;
- (f) Resignations of resigning officers and Board members who were appointed

by the Declarant;

- (g) The financial records, including financial statements of the Association, and source documents since the incorporation of the Association to the date of turnover. The records may be reviewed, at the Association's expense, by an independent certified public accountant;
- (h) Association funds or the control thereof;
- (i) All tangible personal property that is the property of the Association, and an inventory of such property;
- (j) Insurance policies;
- (k) Copies of any Certificates of Completion which may have been issued for the Common Areas;
- (l) Any other permits issued by governmental bodies applicable to the Common Areas in force or issued within one (1) year prior to the date the Members take control of the Association;
- (m) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective with respect to the Common Areas;
- (n) A roster of Members and their addresses and telephone numbers, if known, as shown on the Association's records;
- (o) Leases to which the Association is a party, if applicable;
- (p) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Members have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service; and,
- (q) All other contracts to which the Association is a party.
- (r) All deeds to the Common Areas owned by the Association.
- (s) A list of the names, addresses and telephone numbers of all contractors, subcontractors and others in the employ of the Association at the time the control of the Association is turned over to Members other than Declarant.

4.18 Official Records. The Association shall maintain each of the following items, when applicable, which constitute the Official Records of the Association:

- (a) Copies of any plans, specifications, permits, and warranties related to

improvements constructed on the Common Areas or other property that the Association is obligated to maintain, repair, or replace, if any;

- (b) A copy of the Bylaws of the Association and of each Amendment to the Bylaws;
- (c) A copy of the Articles of Incorporation of the Association and of each Amendment thereto;
- (d) A copy of the Declaration and a copy of each Amendment thereto;
- (e) A copy of the current Rules of the Association;
- (f) The minutes of all meetings of the Board of Directors and of the Members, which minutes must be retained for at least seven (7) years;
- (g) A current roster of all Members and their mailing addresses and parcel identification;
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least seven (7) years;
- (i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has an obligation or responsibility. Bids received by the Association for work to be performed must also be considered Official Records and must be kept for a period of one (1) year;
- (j) The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:
  - (i) Accurate, itemized, and detailed records of all records and expenditures.
  - (ii) A current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay assessments, the due date and the amount of each assessment or other charge against the Member, the date and amount of each payment on the account, and the balance due.
  - (iii) All tax returns, financial statements, and financial reports of the Association.
  - (iv) Any other records that identify, measure, record, or communicate financial information.

4.19 Inspection and Copying of Records. The Official Records shall be maintained within the State in accordance with Chapter 720, Florida Statutes, and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. This subsection may be complied with by having a copy of the Official Records available for inspection or copying in the Property.

- (a) The failure of the Association to provide access to the records within ten (10) business days after receipt of a written request creates a rebuttable presumption that the Association willfully failed to comply with this subsection.
- (b) A Member who is denied access to the Official Records is entitled to the actual damages or minimum damages for the Association's willful failure to comply with this subsection. The minimum damages are to be \$50.00 per calendar day up to ten (10) days, the calculation to begin on the eleventh (11th) business day after receipt of the written request.
- (c) The Association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspections, and may impose fees to cover the costs of providing copies of the Official Records, including, without limitation, the costs of copying so long as such costs are in accordance with the provisions of Chapter 720. The Association shall maintain an adequate number of copies of the recorded governing documents, to insure their availability to Members, and prospective members and may charge only its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

5. Powers and Duties. The Board shall have the powers and duties necessary for the management and administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board by the Members. Such powers and duties of the Board shall include, without limitation (except as limited elsewhere herein), the following:

- (a) Operating and maintaining the Common Areas and other property owned by the Association.
- (b) Determining the expenses required for the operation of the Association.
- (c) Collecting the Assessments for Common Expenses of the Association from all Owners.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Areas and other property owned by the Association.

- (e) Adopting and amending Rules concerning the details of the operation and use of the Property and any Association Property, subject to a right of the Members to overrule the Board as provided in Section 13 hereof.
- (f) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Purchasing, leasing or otherwise acquiring Lots or other property in the name of the Association, or its designee.
- (h) Purchasing Lots at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (i) Selling, leasing, mortgaging or otherwise dealing with Lots acquired by the Association.
- (j) Settling or compromising claims of or against the Association in which all Members have a common interest.
- (k) Obtaining and reviewing insurance for the Common Areas and other property owned by the Association.
- (l) Making repairs, additions and improvements to, or alterations of, the Common Areas in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (m) Enforcing obligations of the Members, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Property.
- (n) Levying fines against appropriate Members for violations of the Declaration or Rules established by the Association to govern the conduct of such Members.
- (o) Borrowing money on behalf of the Association when required in connection with the operation, care, upkeep and maintenance of the Common Areas or the acquisition of property, and granting mortgages on and/or security interests in Association owned property; provided, however, that the consent of the holders of at least two-thirds (2/3rds) of the votes of the Membership represented at a meeting of Members at which a quorum has been attained in accordance with the provisions of these Bylaws shall be required. If any sum borrowed by the Board on behalf of the Association pursuant to the authority contained in this subsection (o) is not repaid by the Association, any Member who pays to the creditor such portion thereof as his interest in the property owned by the Association bears, to the interest of all the Members in the property owned by the Association, shall be entitled to obtain from the creditor a release of any judgment or other lien

which said creditor shall have filed or shall have the right to file against, or which will affect, such Member's Lot. The Association shall take no action authorized in this subsection without the prior written consent of the Declarant as long as the Declarant owns any Lots.

- (p) Contracting for the management and maintenance of the Common Areas or other property owned by the Association and authorizing a management agent (who may be an affiliate of the Declarant) to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of Assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Areas or other Association property with funds as shall be made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties granted by the Declaration, including, but not limited to, the making of Assessments, promulgation of rules and execution of contracts on behalf of the Association.
- (q) At its discretion, authorizing Members or other persons to use portions of the Common Areas or other property owned by the Association for private parties and gatherings and imposing reasonable charges for such private use.
- (r) Exercising (i) all powers specifically set forth in the Declaration, the Articles, and these Bylaws, and (ii) all powers incidental thereto, and all other powers of a Florida corporation not for profit.
- (s) Imposing a lawful fee in connection with the approval of the transfer, lease, or sale of Lots, not to exceed the maximum amount permitted by law in any one case.
- (t) Contracting with and creating special taxing districts.
- (u) Adopt and appoint executive committees.

Anything herein to the contrary notwithstanding, no general funds of the Association shall be utilized for bringing, supporting, investigating, or otherwise abetting any legal action, claim or extra-judicial action except for (i) imposition, enforcement and collection of assessments, including lien rights, (ii) collecting of debts owed to the Association, (iii) bringing any contest or appeal of tax assessments relating to any property owned by the Association, (iv) actions brought by the Association to enforce the provisions of the Declaration, and (v) counterclaims brought by the Association in proceedings instituted against it, unless such legal action, claim or extra-judicial action shall be specifically approved for such purposes by seventy-five percent (75%) of the vote of the Members of the Association.

6. Officers.

- 6.1 Executive Officers. The executive officers of the Association shall be a President, Vice-President, a Treasurer and a Secretary, all of whom shall be elected by the Board and who may be peremptorily removed at any meeting at which a quorum of Directors is attained by concurrence of a majority of all of the present Directors. The President and Vice- President shall be Directors. A person may hold more than one office, except that the President may not also be the Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers need not be Members.
- 6.2 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
- 6.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as shall otherwise be prescribed by the Directors.
- 6.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Members. He shall attend to the giving of all notices to the Members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.
- 6.6 Declarant Appointees. No officer appointed by the Declarant may be removed except as provided in Section 4.17 hereof and by law.
7. Compensation. Neither Directors nor officers shall receive compensation for their services as such, but may be compensated for services performed outside the scope of their service as officers or Directors.
8. Resignations. Any Director or officer may resign his post at any time by written



resignation, delivered to the President or Secretary, which shall take effect upon its receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such later date unless withdrawn. The acceptance of a resignation shall not be required to make it effective. The conveyance of all Lots owned by any Director or officer (other than appointees of the Declarant or other Directors or officers who are not Owners when elected or appointed) shall constitute a written resignation of such Director or officer.

9. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

9.1 Budget.

(a) Adoption By Board; Items. The Board shall from time to time, and at least annually, prepare a budget for the Common Expenses, determine the amount of Assessments payable by the Members to meet the expenses of the Association, and allocate and assess such expenses among the Members, in accordance with the provisions of the Declaration.

The budgets must reflect the estimated revenues and expenses for the year and the estimated surplus or deficit as of the end of the current year including all fees and charges for exterior maintenance, landscaping, upkeep and insurance, if applicable, of Common Areas and structures thereon. In addition to the annual operating expenses, and to the extent applicable, the budgets may include reserves or other accounts for capital expenditures and/or deferred maintenance.

The adoption of the budgets for the Association by the Board shall comply with the requirements hereinafter set forth. A copy of the proposed budget shall be available for inspection by or mailed to each Member not less than fourteen (14) days prior to the meeting of the Board at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meeting. The Board shall have the power to adopt the budget at the duly noticed meeting by a majority vote.

(b) Adoption by Membership. In the event that the Board shall be unable to adopt a budget in accordance with the requirements of Subsection 9.1(a) above, the Board may call a special meeting of Members for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection. Alternatively, the Board may propose a budget in writing to all Members of the Association or a specified sub-group of Members, where applicable. If either such budget is adopted by a majority of the votes of Members to which the budget applies, present at such meeting, or receiving such written budget, upon ratification by a majority of the Board, it shall become the budget for such year.

- 9.2 Depository. The depository of the Association shall be such bank(s) or savings and loan association(s) as shall be designated from time to time by the Directors and in

which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors. All sums collected by the Association from Assessments or contributions to working capital or otherwise may be commingled in a single fund or divided into more than one fund, as determined by the Board.

- 9.3 Acceleration of Assessment Installments upon Default. If a Member shall be in default in the payment of an installment upon an Assessment for more than thirty (30) days, the Board or its agent may accelerate the remaining installments of the Annual Assessment upon written notice to such Member, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice or ten (10) days after mailing of the notice, whichever shall first occur.
- 9.4 Fidelity Bonds. Fidelity bonds may be required by the Board for all persons handling or responsible for Association funds in such amount as shall be determined by a majority of the Board, but no less than \$10,000 for each such person so bonded, if any. The premiums on such bonds shall be paid by the Association as a Common Expense.
- 9.5 Accounting Records and Reports. The Association shall maintain accounting records in the State of Florida, according to accounting practices normally used by similar associations or the manager under any applicable management contract. The records shall be open to inspection by Members or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Lot designating the name and current mailing address of the Member, the amount of each Assessment, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due.

Within ninety (90) days following the end of the fiscal year, the Association shall prepare or contract with a third party to prepare and complete a financial report for the previous twelve (12) months. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year, the Association shall provide each Member with a copy of the annual financial report or a written notice that a copy of the annual financial report is available upon request at no charge to the Member. The financial report shall be prepared in accordance with Chapter 720, Florida Statutes, and may consist of either financial statements presented in conformity with general accepted accounting principles or a financial report of actual receipts and expenditures, cash basis, which report must show the amounts of receipts by accounts and receipt classifications and may show the amounts of expenses by accounts and expense classifications, including, if and to the extent applicable, but not limited to, the following:

- (a) Professional and management fees and expenses;

- (b) Cost for Common Areas;
- (c) Taxes;
- (d) Expenses for refuse collection and utility services;
- (e) Expenses for lawn and landscape care;
- (f) Cost for building maintenance and repair;
- (g) Insurance costs;
- (h) Administrative and salary expenses; and
- (i) Beginning and ending cash balances of the Association.

9.6 Application of Payment. All payments made by a Member shall be applied as provided in these Bylaws and in the Declaration or as determined by the Board.

9.7 Notice of Meetings. Notice of any meeting where Assessments against Members are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such assessments.

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

10. Roster of Owners. The Association shall maintain current information regarding the title holders of all Owners. Such information shall be obtained by requiring each Member to file with the Association a copy of the deed or other document showing his ownership. The Association may rely upon the accuracy of any such information for all purposes until notified in writing of changes therein.

Only Members of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Members shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.

11. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these Bylaws.

12. Amendments. Except as otherwise provided in the Declaration, these Bylaws may be amended in the following manner:

12.1 A resolution for the adoption of a proposed amendment may be proposed either by

a majority of the Board or by not less than 1/3 of the votes of Members of the Association. A majority of the Board shall thereupon adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of the Members, which may be the annual or a special meeting.

- 12.2 Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each Member entitled to vote thereon within the time and in the manner provided in these Bylaws for the giving of notice of a meeting of the Members. If the meeting is an annual meeting, the proposed amendment or such summary may be included in the notice of such annual meeting.
- 12.3 At such meeting, a vote of the Members entitled to vote thereon shall be taken on the proposed amendment. The proposed amendment shall be adopted upon receiving the affirmative vote of at least a majority of the Members present in person or by proxy at the meeting (at which a quorum is attained).
- 12.4 Any number of amendments may be submitted to the Members and voted upon by them at any one meeting.
- 12.5 If all of the Directors and all of the Members eligible to vote sign a written statement manifesting their intention that an amendment to these Bylaws be adopted, then the amendment shall thereby be adopted as though the above requirements had been satisfied.
- 12.6 No amendment shall make any changes in the qualifications for membership nor in the voting rights of Members without approval by all of the Members and the joinder of all Institutional Mortgagees holding Institutional Mortgages upon the Lot(s). No amendment shall be made that is in conflict with the Declaration or the Articles. During the Development Period, no amendment shall make any changes which would in any way affect any of the rights, privileges, powers or options herein provided in favor of, or reserved to, the Declarant, unless the Declarant shall join in the execution of the amendment, including, but not limited to, any right of the Declarant to appoint Directors pursuant to these Bylaws. No provisions relating to the Builders' rights may be amended without the consent of the Builder(s) affected by such proposed amendment.
- 12.7 Upon the approval of an amendment to these Bylaws, the certificate of amendment shall be executed and a copy shall be recorded in the public records of the County.
- 12.8 Notwithstanding the foregoing, the Federal Housing Administration and the Veterans Administration shall have the right to veto any amendments to these Bylaws as long as there is a Class B membership if such amendments require the review and approval of either agency in accordance with applicable regulations and if such agencies are providing financing to Homes in the Community.
- 12.9 Notwithstanding the foregoing or anything contained herein to the contrary, until the Turnover, the Declarant shall have the right to unilaterally amend these

Bylaws without the consent of any other party, including any Owner, Builder or mortgagee, except that no provision relating to Builder rights may be amended without consent of the Builder(s) affected by such proposed amendment.

13. Rules and Regulations. The Declarant prior to Turnover, and thereafter the Board, may, from time to time, adopt, modify, amend or add to Rules concerning the use and operation of the Community, except that after the Turnover, Members of a majority of the Lots represented at a meeting at which a quorum is present may overrule the Board with respect to the adoption or modification of any Rules. Copies of such Rules shall be furnished by the Board to each affected Member not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Declarant.
14. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders. If any portion hereof shall be found by competent judicial authority to be unenforceable, then only that portion shall be deemed deleted and the remainder shall be given its nearest permissible meaning and effect.
15. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these Bylaws or the intent of any provision hereof.
16. Conflict. In the event there should be found any irreconcilable conflict among or between the Declaration, the Articles and/or these Bylaws and in the absence of any express language indicating which document controls the particular subject matter, then the provisions of the Declaration shall be paramount, the Articles next paramount and these Bylaws subordinate.
17. Indemnification of Officers and Directors. Subject to the further provisions of this Section, the Association shall indemnify and hold harmless all officers and Directors, (and members of a Committee or Tribunal, as provided in Section 18.3 hereof) past or incumbent, from and against all costs, claims, damages, expenses and liabilities of any kind whatsoever, including attorneys' fees and costs at all tribunal levels, arising out of the performance of such person's duties hereunder. Such indemnification and hold harmless provision shall (i) exist regardless of whether the Association itself is named as a party defendant or alleged to have any liability, (ii) include the payment of any settlements upon approval by the Board, and (iii) include indemnification of the estate and heirs of the indemnified party. Such indemnification and hold harmless provision shall not be applicable (i) to the extent the claim or liability is covered by insurance, or (ii) in the event a court of competent jurisdiction finally determines, after all appeals have been exhausted or not timely pursued, that the indemnified party did not act in good faith within what he reasonably believed to be the scope of his duty and/or authority and for purposes which he reasonably believed to be in the best interests of the Association or its Members generally and such court further specifically determines that indemnification should be denied. The provision of this Section may not be amended to terminate the effect hereof as to any persons who became officers or Directors while this Section was effective.

18. Suspension of Privileges; Fines. In the event of an alleged violation of the Declaration, the Articles, these Bylaws or the Rules adopted hereunder, and after written notice of such alleged failure is given to the Member in the manner herein provided, the Board shall have the right, after the alleged violator has been given an opportunity for an appropriate hearing and upon an affirmative vote of the Board, to suspend or condition said Member's and his family's, guests' and tenants' right to the use of the Common Areas (except for the portions thereof which are necessary as a means of ingress and egress) and to fine such Member. Any such suspension shall be for a period of not more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any Assessment after the same becomes delinquent) the suspension may be imposed for so long as the violation continues. No fine shall exceed the sum of \$100.00 per violation. Repair or replacement costs shall not be deemed fines subject to the foregoing limitation. Any continuing violation shall be a separate violation for each day it continues. The failure of the Board to enforce the Rules, these Bylaws, the Articles or the Declaration shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth above and otherwise provided by these Bylaws or by law shall be cumulative and none shall be exclusive. However, any individual must exhaust all available internal remedies of the Association prescribed by these Bylaws, or by any rules and regulations adopted by the Association, before that Member may resort to a court of law for relief from any provision of the Declaration, the Articles, these Bylaws or the Rules. The rights of the Association to suspend voting rights, to impose interest charges, accelerate Assessment payments, or to otherwise enforce the payment of Assessments, as elsewhere provided in the Declaration and these Bylaws, shall not be subject to the provisions of this Section or require the notice and hearing provided for herein.
- 18.1 Written Complaint. A hearing to determine whether a right or privilege of a Member or any of his family or tenants ("Respondent") under the Declaration or these Bylaws should be suspended or conditioned or a fine imposed shall be initiated by the filing of a written Complaint by any Member or by any officer or Director with the President or Secretary of the Association. The Complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Respondent is charged, to the end that the Respondent will be able to prepare his defense. The Complaint shall specify the specific provisions of the Declaration, the Articles, these Bylaws or the Rules which the Respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such provisions without supporting facts.
- 18.2 Discovery. After initiation of a proceeding in which the Respondent is entitled to a hearing, the Respondent and the individual filing the Complaint, upon written request made to the other party, prior to the hearing and within fifteen (15) days after service by the Board of Directors of the Complaint or within ten (10) days after service of any amended or supplemental Complaint, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, and (2) inspect and make a copy of any statements, writings and investigative reports relevant to the subject matter of the hearing. Nothing in this Section, however, shall authorize the inspection or copying of any writing or thing which is privileged from

disclosure by law or otherwise made confidential or protected as work product.

- 18.3 Tribunal. The Board shall appoint a Tribunal of at least three Members where applicable upon receipt of a written Complaint. No member of the Tribunal shall be a Director, Officers or employee of the Association, nor shall any member of the Tribunal be involved in any prior investigation of the matter on behalf of the Board nor related by blood or marriage to either the complaining party or the Respondent. In appointing the members of the Tribunal, the Board should make a good faith effort to avoid appointing any Members who are witnesses to the alleged violation giving rise to the Complaint or otherwise biased. The decision of the Board shall be final, except that the Respondent may challenge any member of the Tribunal for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence of the hearing. In the event of such a challenge, the Board shall meet to determine the sufficiency of the challenge, without the President voting. If such challenge is sustained, the President shall appoint another Member to replace the challenged member of the Tribunal. All decisions of the Board in this regard shall be final. The Tribunal shall elect a Chairman. The Tribunal shall exercise all other powers relating to the conduct of the hearing. If the Tribunal, by majority vote does not approve a proposed fine or suspension, it may not be imposed.
- 18.4 Notice of Hearing. The Tribunal shall serve a notice of hearing, as provided herein, on all parties at least fourteen (14) days prior to the hearing.
- 18.5 Hearing.
- (a) Whenever the Tribunal has commenced to hear the matter and a member of the Tribunal is forced to withdraw prior to a final determination by the Tribunal, the remaining members shall continue to hear and decide the case. Oral evidence shall be taken only on oath or affirmation administered by an officer of the Association. The use of affidavits and written interrogatories in lieu of oral testimony shall be encouraged by the Tribunal.
  - (b) Each party shall have the right to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If the Respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.
  - (c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for



the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

- (d) Neither the accusing Member nor the allegedly defaulting Member must be in attendance at the hearing. The hearing shall be open to attendance by all Members where applicable. In rendering a decision, official notice may be taken at any time of any generally accepted matter within the Declaration, the Articles, these Bylaws, the rules and regulations or the workings of the Association.


18.6 Decision. The Tribunal will prepare written findings of fact and recommendations for consideration by the Board of Directors. The Tribunal shall make its determination only in accordance with the evidence presented to it and in accordance with these Bylaws. After all testimony and documentary evidence has been presented to the Tribunal, the Tribunal shall vote by secret written ballot upon the matter, with a majority of the entire Tribunal controlling. A copy of the findings and recommendations of the Tribunal shall be served by the President on each party in the matter and his attorney, if any. Disciplinary action and fines under the Declaration, these Bylaws or the Rules shall be imposed only by the Board, and based upon the findings and recommendations of the Tribunal. The Board may adopt the recommendations of the Tribunal in their entirety, or the Board may reduce the proposed penalty and adopt the balance of the recommendations. In no event shall the Board impose more stringent disciplinary action than recommended by the Tribunal. The decision of the Board shall be in writing and shall be served in the same manner as the findings and recommendations of the Tribunal. The decision of the Board shall become effective ten (10) days after it is served upon the Respondent, unless otherwise ordered in writing by the Board. The Board may order reconsideration at any time within fifteen (15) days following service of its decision on the parties on its own motion or upon petition by a party.

18.7 Suspension of Privileges for Failure to Pay Assessments. The Association may, without notice of a hearing, or an opportunity for a hearing, impose a suspension upon any Member because of the failure of the Member to pay assessments or other charges when due. However, in no event shall a suspension of common area use rights impair the right of an Owner or tenant of a Lot to have vehicular and/or pedestrian ingress to and egress from the Lot, including, but not limited to the right to park.

The foregoing was adopted as the Bylaws of PALENCIA COMMUNITY ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, at its first meeting of the Board of Directors on the 9th day of February, 2020.

Approved:





\_\_\_\_\_  
President

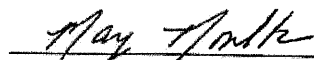
  
\_\_\_\_\_  
Attest/Secretary

EXHIBIT “D”

PERMIT



## Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: WaterMatters.org

An Equal  
Opportunity  
Employer

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240-9770  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

November 16, 2020

Forestar (USA) Real Estate Group, Inc.  
Attn: Anthony Squitieri  
4042 Park Oaks Blvd., Ste. 200  
Tampa, FL 33610

Subject: **Notice of Intended Agency Action - Approval  
ERP Minor Modification**

Project Name:	Palencia
App ID/Permit No:	813214 / 43042985.003
County:	Sarasota
Letter Received:	October 22, 2020
Expiration Date:	November 16, 2025
Sec/Twp/Rge:	S03/T39S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) has completed its review of the application for Environmental Resource Permit modification. Based upon a review of the information you have submitted, the District hereby gives notice of its intended approval of the application.

The File of Record associated with this application can be viewed at <http://www18.swfwmd.state.fl.us/erp/erp/search/ERPSearch.aspx> and is also available for inspection Monday through Friday, except for District holidays, from 8:00 a.m. through 5:00 p.m. at the District's Tampa Service Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

If you have any questions or concerns regarding the application or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

cc: Timothy Roane, P.E., DMK Associates, Inc.



An Equal  
Opportunity  
Employer

## Southwest Florida Water Management District

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240-9770  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: [WaterMatters.org](http://WaterMatters.org)

November 16, 2020

Forestar (USA) Real Estate Group, Inc.  
Attn: Anthony Squitieri  
4042 Park Oaks Blvd., Ste. 200  
Tampa, FL 33610

Subject: **Notice of Agency Action - Approval  
ERP Minor Modification**

Project Name: Palencia  
App ID/Permit No: 813214 / 43042985.003  
County: Sarasota  
Letter Received: October 22, 2020  
Expiration Date: November 16, 2025  
Sec/Twp/Rge: S03/T39S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) is in receipt of your application for the Environmental Resource Permit modification. Based upon a review of the information you submitted, the application is approved.

This modification to Environmental Resource Permit (ERP) No. 43042985.001 authorizes the following:

1. Transfer of ownership to Forestar (USA) Real Estate Group, Inc.
2. All other terms and conditions of Construction Permit No. 43042985.001, issued September 4, 2020 and entitled Palencia, apply.

Please refer to the attached Notice of Rights to determine any legal rights you may have concerning the District's agency action on the permit application described in this letter.

If approved construction plans are part of the permit, construction must be in accordance with these plans. These drawings are available for viewing or downloading through the District's Application and Permit Search Tools located at [www.WaterMatters.org/permits](http://www.WaterMatters.org/permits).

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notices of agency action, as well as a noticing form that can be used, are available from the District's website at [www.WaterMatters.org/permits/noticing](http://www.WaterMatters.org/permits/noticing). If you publish notice of agency action, a copy of the affidavit of publication provided by the newspaper should be sent to the District's Tampa Service Office for retention in this permit's File of Record.

If you have any questions or concerns regarding your permit or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

Enclosures: Notice of Rights  
cc: Timothy Roane, P.E., DMK Associates, Inc.

## Notice of Rights

### **ADMINISTRATIVE HEARING**

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.
2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of state-owned submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.
3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.
4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.
5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended or proposed action is not available prior to the filing of a petition for hearing.
6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A request or petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C. can be viewed at [www.flrules.org](http://www.flrules.org) or at the District's website at [www.WaterMatters.org/permits/rules](http://www.WaterMatters.org/permits/rules).
7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 367-9776. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at [www.WaterMatters.org/about](http://www.WaterMatters.org/about).

## JUDICIAL REVIEW

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.
2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.

---

## Request to Transfer Environmental Resource Permit

---

Instructions: To be completed, executed, and submitted by the new owner to the Agency within 30 days after any transfer of ownership or control of the real property where the permitted activity is located.

Use of this form is not required when a valid permit is in the operation and maintenance phase. In such case, the owner must notify the Agency in writing within 30 days of a change in ownership or control of the entire real property, project, or activity covered by the permit. The notification may be by letter or e-mail, or through use of this form, and must be sent to the office that issued the permit. A processing fee is not required for this notice. The permit shall automatically transfer to the new owner or person in control, except in cases of abandonment, revocation, or modification of a permit as provided in Sections 373.426 and 373.429, F.S. (2013). If a permittee fails to provide written notice to the Agency within 30 days of the change in ownership or control, or if the change does not include the entire real property or activity covered by the permit, then the transfer must be requested using this form.

Permit No: 43042985.001

Application 794873  
No(s):

Acres to be Transferred: 80.00

Permitted Project: Palencia

Proposed Project Name (if different): NA

Phase of Project (if applicable): NA

I hereby notify the Agency that I have acquired ownership or control of the land on which the permitted system is located through the sale or other legal transfer of the land. By signing below, I hereby certify that I have sufficient real property interest or control in the land in accordance with subsection 4.2.3(d) of Applicant's Handbook Volume I; attached is a copy of my title, easement, or other demonstration of ownership or control in the land, including any revised plats, as recorded in the Public Records. I request that the permit be modified to reflect that I agree to be the new permittee. By so doing, I acknowledge that I have examined the permit terms, conditions, and drawings, and agree to accept all rights and obligations as permittee, including agreeing to be liable for compliance with all of the permit terms and conditions, and to be liable for any corrective actions required as a result of any violations of the permit after approval of this modification by the Permitting Agency. Also attached are copies of any recorded restrictive covenants, articles of incorporation, and certificate of incorporation that may have been changed as a result of my assuming ownership or control of the lands. As necessary, I agree to furnish the Agency with demonstration that I have the ability to provide for the operation and maintenance of the system for the duration of the permit in accordance with subsection 12.3 of Applicant's Handbook Volume I.

Name of Proposed Permittee: Forestar (USA) Real Estate Group, Inc.

Mailing Address: 4042 Park Oaks Boulevard, Suite 200

City: Tampa

State: Florida

Zip: 33610

Telephone:

E-mail:

10/21/2020

  
Signature of Proposed Permittee

Date:

Anthony Squitieri, Division President

Name and Title





Enclosures:

- ☒ Copy of title, easement, or other demonstration of ownership or control in the land, as recorded in the Public Records
- ☐ Copy of current plat(s) (if any), as recorded in the Public Records
- ☐ Copy of current recorded restrictive covenants and articles of incorporation (if any)
- ☐ Other



## Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)

On the Internet at: WaterMatters.org

An Equal  
Opportunity  
Employer

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240-9770  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

October 28, 2020

DR Horton, Inc.  
Attn: J. Wayne Everett  
10541 Six Mile Cypress  
Ft. Myers, FL 33966

Subject: **Notice of Intended Agency Action - Approval  
ERP Minor Modification**

Project Name: Palencia - Amenity Center  
App ID/Permit No: 811881 / 43042985.002  
County: Sarasota  
Letter Received: October 02, 2020  
Expiration Date: October 28, 2025  
Sec/Twp/Rge: S03/T39S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) has completed its review of the application for Environmental Resource Permit modification. Based upon a review of the information you have submitted, the District hereby gives notice of its intended approval of the application.

The File of Record associated with this application can be viewed at <http://www18.swfwmd.state.fl.us/erp/erp/search/ERPSearch.aspx> and is also available for inspection Monday through Friday, except for District holidays, from 8:00 a.m. through 5:00 p.m. at the District's Tampa Service Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

If you have any questions or concerns regarding the application or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

cc: Timothy E. Roane, P.E., DMK Associates



An Equal  
Opportunity  
Employer

## Southwest Florida Water Management District

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240-9770  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: [WaterMatters.org](http://WaterMatters.org)

October 28, 2020

DR Horton, Inc.  
Attn: J. Wayne Everett  
10541 Six Mile Cypress  
Ft. Myers, FL 33966

Subject: **Notice of Agency Action - Approval  
ERP Minor Modification**

Project Name: Palencia - Amenity Center  
App ID/Permit No: 811881 / 43042985.002  
County: Sarasota  
Letter Received: October 02, 2020  
Expiration Date: October 28, 2025  
Sec/Twp/Rge: S03/T39S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) is in receipt of your application for the Environmental Resource Permit modification. Based upon a review of the information you submitted, the application is approved.

This modification Environmental Resource Permit (ERP) No. 43042985.001 authorizes the following:

1. The construction of approximately 33,392 square feet of impervious surface, including an amenity center, pool area, shade structures, and parking. The EOR has demonstrated that the proposed curve number of 88 will not exceed the previously approved curve number of 90. No changes to the previously approved water quality treatment or quantity attenuation design are required.
2. The Permittee shall commence and complete construction of all aspects of the stormwater management system for Permit No. 43042985.001, entitled 'Palencia', prior to, or concurrent with, the construction of the stormwater management system for this project. The Permittee shall not have beneficial occupancy of the proposed improvements until all aspects of the stormwater management system authorized under Permit No. 43042985.001 have been transferred to the operation phase.
3. All other terms and conditions of Permit No. 43042985.001, issued September 4, 2020 and entitled 'Palencia', apply.

Please refer to the attached Notice of Rights to determine any legal rights you may have concerning the District's agency action on the permit application described in this letter.

If approved construction plans are part of the permit, construction must be in accordance with these plans. These drawings are available for viewing or downloading through the District's Application and Permit Search Tools located at [www.WaterMatters.org/permits](http://www.WaterMatters.org/permits).

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notices of agency action, as well as a noticing form that can be used, are available from the District's website at [www.WaterMatters.org/permits/noticing](http://www.WaterMatters.org/permits/noticing). If you publish notice of agency action, a copy of the affidavit of publication provided by the newspaper should be sent to the District's Tampa Service Office for retention in this permit's File of Record.

If you have any questions or concerns regarding your permit or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

Enclosures: Notice of Rights  
cc: Timothy E. Roane, P.E., DMK Associates

## **Notice of Rights**

### **ADMINISTRATIVE HEARING**

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.
2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of state-owned submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.
3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.
4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.
5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended or proposed action is not available prior to the filing of a petition for hearing.
6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A request or petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C. can be viewed at [www.flrules.org](http://www.flrules.org) or at the District's website at [www.WaterMatters.org/permits/rules](http://www.WaterMatters.org/permits/rules).
7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 367-9776. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at [www.WaterMatters.org/about](http://www.WaterMatters.org/about).

## **JUDICIAL REVIEW**

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.
2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.



## Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)

On the Internet at: WaterMatters.org

An Equal  
Opportunity  
Employer

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240-9770  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

September 04, 2020

DR Horton, Inc.  
Attn: J. Wayne Everett  
10541 Six Mile Cypress  
Ft. Myers, FL 33966

Subject: **Notice of Intended Agency Action - Approval  
ERP Individual Construction**

Project Name: Palencia  
App ID/Permit No: 794873 / 43042985.001  
County: Sarasota  
Sec/Twp/Rge: S03/T39S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) has completed its review of the application for Environmental Resource Permit. Based upon a review of the information you have submitted, the District hereby gives notice of its intended approval of the application.

The File of Record associated with this application can be viewed at <http://www18.swfwmd.state.fl.us/erp/erp/search/ERPSearch.aspx> and is also available for inspection Monday through Friday, except for District holidays, from 8:00 a.m. through 5:00 p.m. at the District's Tampa Service Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

If you have any questions or concerns regarding the application or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

cc: Dex Bender Environmental Consulting  
Timothy E. Roane, P.E., DMK Associates, Inc.



An Equal  
Opportunity  
Employer

## Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)

On the Internet at: [WaterMatters.org](http://WaterMatters.org)

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240-9770  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

September 04, 2020

DR Horton, Inc.  
Attn: J. Wayne Everett  
10541 Six Mile Cypress  
Ft. Myers, FL 33966

Subject: **Notice of Agency Action - Approval  
ERP Individual Construction**

Project Name: Palencia  
App ID/Permit No: 794873 / 43042985.001  
County: Sarasota  
Sec/Twp/Rge: S03/T39S/R19E

Dear Permittee(s):

The Southwest Florida Water Management District (District) is in receipt of your application for the Environmental Resource Permit. Based upon a review of the information you submitted, the application is approved.

Please refer to the attached Notice of Rights to determine any legal rights you may have concerning the District's agency action on the permit application described in this letter.

If approved construction plans are part of the permit, construction must be in accordance with these plans. These drawings are available for viewing or downloading through the District's Application and Permit Search Tools located at [www.WaterMatters.org/permits](http://www.WaterMatters.org/permits).

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notices of agency action, as well as a noticing form that can be used, are available from the District's website at [www.WaterMatters.org/permits/noticing](http://www.WaterMatters.org/permits/noticing). If you publish notice of agency action, a copy of the affidavit of publication provided by the newspaper should be sent to the District's Tampa Service Office for retention in this permit's File of Record.



If you have any questions or concerns regarding your permit or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

David Kramer, P.E.  
Bureau Chief  
Environmental Resource Permit Bureau  
Regulation Division

Enclosures:    Approved Permit w/Conditions Attached  
                  [As-Built Certification and Request for Conversion to Operation Phase](#)  
                  Notice of Authorization to Commence Construction  
                  Notice of Rights  
cc:              Dex Bender Environmental Consulting  
                  Timothy E. Roane, P.E., DMK Associates, Inc.

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
INDIVIDUAL CONSTRUCTION  
PERMIT NO. 43042985.001**

**EXPIRATION DATE:** September 04, 2025

**PERMIT ISSUE DATE:** September 04, 2020

This permit is issued under the provisions of Chapter 373, Florida Statutes, (F.S.), and the Rules contained in Chapter 62-330, Florida Administrative Code, (F.A.C.). The permit authorizes the Permittee to proceed with the construction of a surface water management system in accordance with the information outlined herein and shown by the application, approved drawings, plans, specifications, and other documents, attached hereto and kept on file at the Southwest Florida Water Management District (District). Unless otherwise stated by permit specific condition, permit issuance constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341. All construction, operation and maintenance of the surface water management system authorized by this permit shall occur in compliance with Florida Statutes and Administrative Code and the conditions of this permit.

**PROJECT NAME:** Palencia

**GRANTED TO:** DR Horton, Inc.  
Attn: J. Wayne Everett  
10541 Six Mile Cypress  
Ft. Myers, FL 33966

**OTHER PERMITTEES:** N/A

**ABSTRACT:** This permit authorization is for the construction of a new stormwater management system, serving a single-family residential development, as named above and as shown on the approved construction drawings. The proposed activities include the construction of 203 residential units with associated utility and roadway infrastructure and the creation of a man-made wet detention stormwater management system (Ponds A and B) from the two existing borrow pits. The wet ponds will provide treatment and attenuation of the runoff from the project area to meet water quality and quantity requirements. A permit modification will be required for the construction of the future amenity tract area. The project site is located south of Border Road and west of Jacaranda Boulevard in Sarasota County. Information regarding the stormwater management system, 100-year floodplain, wetlands and/or surface waters is stated below and on the permitted construction drawings for the proposed project.

**OP. & MAIN. ENTITY:** Palencia Community Association, Inc.

**OTHER OP. & MAIN. ENTITY:** N/A

**COUNTY:** Sarasota

**SEC/TWP/RGE:** S03/T39S/R19E

**TOTAL ACRES OWNED  
OR UNDER CONTROL:**

80.00

**PROJECT SIZE:** 80.00 Acres

**LAND USE:** Residential

**DATE APPLICATION FILED:** November 26, 2019

**AMENDED DATE:** N/A

### I. Water Quantity/Quality

POND No.	Area Acres @ Top of Bank	Treatment Type
Pond A	8.96	MAN-MADE WET DETENTION
Pond B	8.61	MAN-MADE WET DETENTION
	Total: 17.57	

#### Water Quantity/Quality Comments:

Water quality treatment and water quantity attenuation are to be provided in two wet detention ponds. The stormwater management system has been designed to cause the net improvement to the receiving waterbody (WBID 2009C) for Nutrients (Macrophytes), pursuant to Subsection 4.1(g) of the District's Applicant Handbook Vol. II, and to also limit the post-development 25-year, 24-hour discharge rate to the peak pre-development 25-year, 24-hour rate. The Engineer-of-Record has provided ICPR calculations that demonstrate the proposed construction will not cause any adverse impacts off-site or on-site. Water quality certification is waived as a condition of this permit. The vertical datum associated with this project is NAVD88.

A mixing zone is not required.

A variance is not required.

### II. 100-Year Floodplain

Encroachment (Acre-Feet of fill)	Compensation (Acre-Feet of excavation)	Compensation Type	Encroachment Result* (feet)
22.11	0.00	Storage Modeling	N/A

#### Floodplain Comments:

Sarasota County's Roberts Bay Watershed Model indicates that portions of the site are located in a 100-year floodplain. The 100-year floodplain elevations were established at elevations between 10 and 12.6 feet NAVD 88 per the model. The proposed project will result in 22.11 acre-feet of 100-year floodplain encroachment. The Engineer of Record has demonstrated that these impacts will be compensated for by the use of Storage Modeling.

\*Depth of change in flood stage (level) over existing receiving water stage resulting from floodplain encroachment caused by a project that claims Minimal Impact type of compensation.

### III. Environmental Considerations

#### Wetland/Other Surface Water Information

Wetland/Other Surface Water Name	Total Acres	Not Impacted Acres	Permanent Impacts		Temporary Impacts	
			Acres	Functional Loss*	Acres	Functional Loss*
Wetland A	1.90	0.00	1.90	0.70	0.00	0.00
Wetland B	2.06	0.00	2.06	1.00	0.00	0.00
Wetland (mitigation for ERP No. 25090.000)	1.57	1.57	0.00	0.00	0.00	0.00
Other Surface Water A	7.25	0.00	7.25	0.00	0.00	0.00
Other Surface Water B	7.73	0.00	7.73	0.00	0.00	0.00
Other Surface Water E	0.35	0.35	0.00	0.00	0.00	0.00
Other Surface Water G	0.02	0.00	0.02	0.00	0.00	0.00
Total:	20.88	1.92	18.96	1.70	0.00	0.00

\* For impacts that do not require mitigation, their functional loss is not included.

Wetland/Other Surface Water Comments:

There are 5.53 acres of wetlands (FLUCCS 631 and 641) located within the project area for this ERP. Permanent dredging and filling impacts to 3.96 acres of wetlands will occur for construction of the project. Permanent dredging and filling impacts to 3.96 acres of qualifying wetlands were evaluated using the Uniform Mitigation Assessment Method (UMAM) as required pursuant to Chapter 62-345, F.A.C. The results of the UMAM analysis indicate a functional loss of 1.70 units due to the permanent impacts proposed.

There are 15.35 acres of surface waters (FLUCCS 510 and 534) located within the project area for this ERP. Permanent dredging and filling impacts to 15.00 acres of surface waters will occur for construction of the project.

**Mitigation Information**

Name	Creation		Enhancement		Preservation		Restoration		Enhancement +Preservation		Other	
	Acres	Functional Gain	Acres	Functional Gain	Acres	Functional Gain	Acres	Functional Gain	Acres	Functional Gain	Acres	Functional Gain
Wetland Creation	3.00	1.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Conservation Easement	0.00	0.00	0.00	0.00	2.40	0.53	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total:</b>	<b>3.00</b>	<b>1.17</b>	<b>0.00</b>	<b>0.00</b>	<b>2.40</b>	<b>0.53</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

Mitigation Comments:

Wetland mitigation for permanent dredging and filling impacts will be provided by the onsite creation of 3.00 acres of wetlands (FLUCCS 631 and 641) and the onsite preservation of 2.40 acres of uplands, totaling 5.40 acres of combined wetland mitigation. The results of the UMAM analysis indicate a functional gain of 1.70 units which offsets the 1.70 units of functional loss proposed to wetland habitat.

Mitigation will not be required for permanent dredging and filling impacts to 15.00 acres of surface waters pursuant to Subsection 10.2.2 of the ERP Applicant's Handbook Vol. I. Under this Section, wetland mitigation is not required for impacts that have been determined to be de minimis to fish, wildlife and listed species.

A conservation easement granted to the Southwest Florida Water Management District for the purpose of mitigation is required by the Environmental Resource Permit.

Land Resources Parcel Number 21-118-251 has been assigned to the conservation easement that will be granted to the Southwest Florida Water Management District.

## Specific Conditions

1. If the ownership of the project area covered by the subject permit is divided, with someone other than the Permittee becoming the owner of part of the project area, this permit may be terminated, unless the terms of the permit are modified by the District or the permit is transferred pursuant to Rule 40D-1.6105, F.A.C. In such situations, each land owner shall obtain a permit (which may be a modification of this permit) for the land owned by that person. This condition shall not apply to the division and sale of lots or units in residential subdivisions or condominiums.
2. The Permittee shall retain the design professional registered or licensed in Florida, to conduct on-site observations of construction and assist with the as-built certification requirements of this project. The Permittee shall inform the District in writing of the name, address and phone number of the design professional so employed. This information shall be submitted prior to construction.

3. **WETLAND MITIGATION SUCCESS CRITERIA MITIGATION AREA (3.00 acres)**

Mitigation is expected to offset adverse impacts to wetlands and other surface waters caused by regulated activities and to achieve viable, sustainable ecological and hydrological wetland functions. Wetlands constructed for mitigation purposes will be considered successful and will be released from monitoring and reporting requirements when the following criteria are met continuously for a period of at least one year without intervention in the form of irrigation or the addition or removal of vegetation.

a. The mitigation area can reasonably be expected to develop into a combination of a wetland scrub (FLUCCS 631) and freshwater marsh (FLUCCS 641) as determined by the Florida Land Use and Cover and Forms Classification System (third edition; January 1999).

b. Topography, water depth and water level fluctuation in the mitigation area are characteristic of the wetlands/surface water type specified in criterion "a."

c. Planted or recruited herbaceous or shrub species (or plant species providing the same function) shall meet the criteria specified:

**Zone: 1**

**Percent Cover: 80**

**Species:** *Ilex cassine*, *Pinus elliotii*, *Quercus laurifolia*, *Sabal palmetto*, *Amphicarpum muhlenbergianum*, *Andropogon sp.*, *Eragrostis elliotii*, *Juncus effusus*, *Panicum hemitomon*, *Rynchospora sp.*, *Spartina bakeri*

**Zone: 2**

**Percent Cover: 80**

**Species:** *Amphicarpum muhlenbergianum*, *Andropogon sp.*, *Eragrostis elliotii*, *Juncus effusus*, *Panicum hemitomon*, *Rynchospora sp.*, *Spartina bakeri*

**Zone: 3**

**Percent Cover: 80**

**Species:** *Eleocharis sp.*, *Panicum hemitomon*, *Pontederia cordata*, *Sagittaria sp.*

**Zone: 4**

**Percent Cover: 80**

**Species:** *Eleocharis sp.*, *Pontederia cordata*, *Sagittaria sp.*, *Scirpus sp.*

d. Planted or recruited tree species that are greater than or equal to 12 feet in height and established for more than 5 years shall meet the criteria specified:

**Zone: 1**

**Density (#/Acre): 110/acre**

**Species:** *Ilex cassine*, *Pinus elliotii*, *Quercus laurifolia*, *Sabal palmetto*

e. Species composition of recruiting wetland vegetation is indicative of the wetland type specified in criterion "a."

f. Coverage by nuisance or exotic species does not exceed 5 percent at any area within the mitigation site and 5 percent for the entire mitigation site.

g. The wetland mitigation area can be determined to be a wetland or other surface water according to Chapter 62-340, F.A.C.

The mitigation area may be released from monitoring and reporting requirements and be deemed successful at any time during the monitoring period if the Permittee demonstrates that the conditions in the mitigation area have adequately replaced the wetland and surface water functions affected by the regulated activity and that the site conditions are sustainable.

4. The Permittee shall monitor and maintain the wetland mitigation area until the criteria set forth in the Wetland Mitigation Success Criteria Condition above are met. The Permittee shall perform corrective actions identified by the District if the District identifies a wetland mitigation deficiency.
5. The Permittee shall undertake required maintenance activities within the wetland mitigation area as needed at any time between mitigation area construction and termination of monitoring, with the exception of the final year. Maintenance shall include the manual removal of all nuisance and exotic species, with sufficient frequency that their combined coverage at no time exceeds the Wetland Mitigation Success Criteria Condition above. Herbicides shall not be used without the prior written approval of the District.
6. The permittee, prior to beneficial use of the site must submit an as-built survey of the wetland mitigation areas certified by a registered surveyor or professional engineer showing dimensions, grades, ground elevations, water surface elevations, and species composition, numbers and densities. Upon District inspection and approval of the mitigation area, the monitoring program shall be initiated with the date of the District field inspection being the construction completion date of the mitigation area. Monitoring events shall occur between March 1 and November 30 of each year. An Annual Wetland Monitoring Report shall be submitted upon the anniversary date of District approval to initiate monitoring.

Annual reports shall provide documentation that a sufficient number of maintenance inspection /activities were conducted to maintain the mitigation area(s) in compliance according to the Wetland Mitigation Success Criteria Condition above. Note that the performance of maintenance inspections and maintenance activities will normally need to be conducted more frequently than the collection of other monitoring data to maintain the mitigation area in compliance with the Wetland Mitigation Success Criteria Condition above. Monitoring Data shall be collected annually.

7. Termination of monitoring for the wetland mitigation area shall be coordinated with the District by:
  - a. notifying the District in writing when the criteria set forth in the Wetland Mitigation Success Criteria Condition have been achieved;
  - b. submitting documentation, including the date, that all maintenance activities in the wetland mitigation area have been suspended including, but not limited to, irrigation and addition or removal of vegetation; and
  - c. submitting a monitoring report to the District one year following the written notification and suspension of maintenance activities.

Upon receipt of the monitoring report, the District will evaluate the wetland mitigation site to determine if the Mitigation Success Criteria Condition have been met and maintained. The District will notify the Permittee in writing of the evaluation results. The Permittee shall perform corrective actions for any portions of the wetland mitigation area that fail to maintain the criteria set forth in the Wetland Mitigation Success Criteria Condition.

8. Following the District's determination that the wetland mitigation has been successfully completed, the Permittee shall operate and maintain the wetland mitigation area such that they remain in their current or intended condition for the life of the system. The Permittee must perform corrective actions for any portions of the wetland mitigation area where conditions no longer meet the criteria set forth in the Wetland Mitigation Success Criteria Condition.
9. The Permittee shall commence construction of the mitigation area within 30 days of wetland impacts, if wetland impacts occur between February 1 and August 31. If wetland impacts occur between September 1 and January 31, construction of the mitigation area shall commence by March 1. In either case, construction of the mitigation area shall be completed within 120 days of the commencement date unless a time extension is approved in writing

by the District.

10. Wetland buffers shall remain in an undisturbed condition except for approved drainage facility construction/maintenance. No owner of property within the subdivision may perform any work, construction, maintenance, clearing, filling or any other type of activities within the wetlands, wetland mitigation area, wetland buffers, upland conservation area, and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District.
11. The following boundaries, as shown on the approved construction drawings, shall be clearly delineated on the site prior to initial clearing or grading activities:
  - a. wetland and surface water areas
  - b. wetland buffers
  - c. upland preservation
  - d. limits of approved wetland impacts

The delineation shall endure throughout the construction period and be readily discernible to construction and District personnel.

12. The following language shall be included as part of the deed restrictions for each lot:

"No owner of property within the subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, wetland mitigation area, buffer areas, upland conservation area and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the Southwest Florida Water Management District."

13. Rights-of-way and easement locations necessary to construct, operate and maintain all facilities, which constitute the permitted stormwater management system, and the locations and limits of all wetlands, wetland buffers, upland buffers for water quality treatment, 100-year floodplain areas and floodplain compensation areas, shall be shown on the final plat recorded in the County Public Records. Documentation of this plat recording shall be submitted to the District with the As-Built Certification and Request for Conversion to Operational Phase Form, and prior to beneficial occupancy or use of the site.

14. Copies of the following documents in final form, as appropriate for the project, shall be submitted to the Regulation Division:
  - a. homeowners, property owners, master association or condominium association articles of incorporation, and
  - b. declaration of protective covenants, deed restrictions or declaration of condominiumThe Permittee shall submit these documents with the submittal of the Request for Transfer of Environmental Resource Permit to the Perpetual Operation Entity form.

15. The following language shall be included as part of the deed restrictions for each lot:

"Each property owner within the subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the stormwater management system approved and on file with the Southwest Florida Water Management District."

16. Certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341 is waived.
17. For the area shown on the construction drawings as Future Amenity Tract, a permit modification shall be obtained for any construction in this area.
18. If limestone bedrock is encountered during construction of the stormwater management system, the District must be notified and construction in the affected area shall cease.
19. The Permittee shall notify the District of any sinkhole development in the stormwater management system within 48 hours of discovery and must submit a detailed sinkhole evaluation and repair plan for approval by the District within 30 days of discovery.

20. The Permittee shall execute the final draft financial responsibility instrument approved by the District prior to initiating activities authorized by this permit. The final draft financial responsibility instrument shall be consistent with the draft instrument submitted with the permit application and approved by this permit.
21. The Permittee shall submit the original executed financial responsibility instrument to the District's Environmental Compliance Manager, at the Tampa Service Office.
22. The Permittee shall provide the financial responsibility required by Rule 62-330.301(5), Florida Administrative Code until the District determines that the specific success criteria contained in this permit have been met; or the District approves a request to transfer the permit to a new owner and receives an acceptable substitute financial responsibility mechanism from the new owner.
23. The Permittee may request, in writing, a release from the obligation to maintain certain amounts of the financial assurance required by this permit as phases of the mitigation plan are successfully completed. The request shall include documentation that the mitigation phase or phases have been completed and payment for their completion has been made. Following the District's verification that the phase or phases have been completed in accordance with the mitigation plan, the District will authorize release from the applicable portion of the financial assurance obligation.
24. The District will notify the Permittee within 30 days of its determination that the specific success criteria contained in this permit have been met. Concurrent with this notification, the District will authorize, in writing, the appropriate entity to cancel or terminate the financial responsibility instrument.
25. The Permittee's failure to comply with the terms and conditions of this permit pertaining to the successful completion of all mitigation activities in accordance with the mitigation plan shall be deemed a violation of Chapter 62-330, Florida Administrative Code. In addition to other remedies that the District may have, the District may draw upon the financial responsibility instrument for any funds necessary to remedy a violation, upon such notice to the Permittee as may be specified in the financial responsibility instrument or if none, upon reasonable notice.
26. In the event of bankruptcy or insolvency of the issuing institution; or the suspension or revocation of the authority of the issuing institution to issue letters of credit or performance bonds, the Permittee shall be deemed without the required financial assurance and shall have 60 days to reestablish the financial assurance required by Rule 62-330.301(j), Florida Administrative Code.
27. The Permittee, "DR Horton, Inc.," has obtained a contract to purchase the property covered by this permit. Failure to transfer ownership of the project site to the Permittee will render this permit null and void.
28. Within 60 days of permit issuance and/or prior to construction of wetland impacts, the Permittee shall submit an original recorded conservation easement and legal description approved by the District to the District's Environmental Compliance Manager at the Tampa Service Office. The conservation easement should identify the District as the grantee and should cover the 2.40-acre upland preservation area.
29. If the wetland impacts authorized by this permit and for which the conservation easement is intended to provide mitigation do not occur the Permittee may request that the District release the conservation easement by submitting an application to modify the permit.
30. The Permitted Plan Set for this project includes the set received by the District on July 22, 2020.
31. In the event an encumbrance or title defect is listed as an exception on the final policy, and it was not disclosed previously on the "pro-forma" or marked up title commitment, the District will determine whether the new exception could negatively impact the preservation value of the conservation easement. If it is determined that the new exception has a potential negative impact such that authorized wetland impacts are no longer offset, the permit will be designated as non-compliant, and the Permittee must work with the District's Office of General Counsel to correct the encumbrance or title defect. If the encumbrance or title defect cannot be corrected, the proposed wetland impacts are not authorized until the permit is modified to include sufficient alternative mitigation. If the proposed wetland impacts are conducted without modification of the permit, the Permittee is in violation of the permit and subject to enforcement action by the District.
32. The operation and maintenance entity shall provide for the inspection of the permitted project after conversion of the permit to the operation and maintenance phase. For systems utilizing retention or wet detention, the inspections shall be performed five (5) years after operation is authorized and every five (5) years thereafter.



The operation and maintenance entity must maintain a record of each inspection, including the date of inspection, the name and contact information of the inspector, whether the system was functioning as designed and permitted, and make such record available upon request of the District.

Within 30 days of any failure of a stormwater management system or deviation from the permit, an inspection report shall be submitted using Form 62-330.311(1), "Operation and Maintenance Inspection Certification" describing the remedial actions taken to resolve the failure or deviation.

33. District staff must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the permit application or submitted to the District as a permit prior to the dewatering event as a permit modification. A water use permit may be required prior to any use exceeding the thresholds in Chapter 40D-2, F.A.C.
34. Off-site discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operating schedules satisfactory to the District.
35. The permittee shall complete construction of all aspects of the stormwater management system, including wetland compensation (grading, mulching, planting), water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system.
36. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:
  - a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
  - b. Any existing septic tanks on site shall be abandoned at the beginning of construction.
  - c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction.
37. All stormwater management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runoff from the property and to minimize dewatering of offsite property.
38. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.
39. This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the District, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.
40. Issuance of this authorization also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.
41. This permit does not authorize the Permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to [FWCConservationPlanningServices@MyFWC.com](mailto:FWCConservationPlanningServices@MyFWC.com).

42. A "Recorded Notice of Environmental Resource Permit," Form No. 62-330.090(1), shall be recorded in the public records of the County(s) where the project is located.

**GENERAL CONDITIONS**

1. The general conditions attached hereto as Exhibit "A" are hereby incorporated into this permit by reference and the Permittee shall comply with them.

**David Kramer, P.E.**

---

Authorized Signature

## EXHIBIT A

### GENERAL CONDITIONS:

1. The following general conditions are binding on all individual permits issued under this chapter, except where the conditions are not applicable to the authorized activity, or where the conditions must be modified to accommodate, project-specific conditions.
  - a. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with Rule 62-330.315, F.A.C., or the permit may be revoked and the permittee may be subject to enforcement action.
  - b. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
  - c. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, which are both incorporated by reference in subparagraph 62-330.050(8)(b)5, F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
  - d. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice,"[effective date], incorporated by reference herein (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505> ), indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
  - e. Unless the permit is transferred under Rule 62-330.340, F.A.C., or transferred to an operating entity under Rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms and conditions of the permit for the life of the project or activity.
  - f. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
    1. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex - "Construction Completion and Inspection Certification for Activities Associated with a Private Single-Family Dwelling Unit" [Form 62-330.310(3)]; or
    2. For all other activities - "As-Built Certification and Request for Conversion to Operation Phase" [Form 62-330.310(1)].
    3. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
  - g. If the final operation and maintenance entity is a third party:

1. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as- built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.4 of Volume I) as filed with the Department of State, Division of Corporations and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
  2. Within 30 days of submittal of the as- built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity" [Form 62-330.310 (2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
- h. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
- i. This permit does not:
1. Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
  2. Convey to the permittee or create in the permittee any interest in real property;
  3. Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
  4. Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
- j. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.
- k. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any project authorized by the permit.
- l. The permittee shall notify the Agency in writing:
1. Immediately if any previously submitted information is discovered to be inaccurate; and
  2. Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
- m. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
- n. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving

subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S. (2012).

- o. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 62-330.201, F.A.C., provides otherwise.
  - p. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
  - q. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
  - r. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.
2. In addition to those general conditions in subsection (1) above, the Agency shall impose any additional project-specific special conditions necessary to assure the permitted activities will not be harmful to the water resources, as set forth in Rules 62-330.301 and 62-330.302, F.A.C., Volumes I and II, as applicable, and the rules incorporated by reference in this chapter.

SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT

**NOTICE OF  
AUTHORIZATION**  
TO COMMENCE CONSTRUCTION

Palencia  
PROJECT NAME

Residential  
PROJECT TYPE

Sarasota  
COUNTY

S03/T39S/R19E  
SEC(S)/TWP(S)/RGE(S)

DR Horton, Inc.  
PERMITTEE

See permit for additional permittees

APPLICATION ID/PERMIT NO: 794873 / 43042985.001

DATE ISSUED: September 04, 2020



David Kramer, P.E.

Issuing Authority

**THIS NOTICE SHOULD BE CONSPICUOUSLY  
DISPLAYED AT THE SITE OF THE WORK**

## Notice of Rights

### ADMINISTRATIVE HEARING

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.
2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of state-owned submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.
3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.
4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.
5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended or proposed action is not available prior to the filing of a petition for hearing.
6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A request or petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C. can be viewed at [www.flrules.org](http://www.flrules.org) or at the District's website at [www.WaterMatters.org/permits/rules](http://www.WaterMatters.org/permits/rules).
7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 367-9776. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at [www.WaterMatters.org/about](http://www.WaterMatters.org/about).

## **JUDICIAL REVIEW**

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.
2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.