

**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR SAWYER SOUND**

_____, 2015

Record and Return to:
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TABLE OF CONTENTS

ARTICLE I	DEFINITIONS	2
1.01	Articles or Articles of Incorporation	2
1.02	Assessment.....	2
1.03	Association.....	2
1.04	Benefited Expenses	2
1.05	Board or Board of Directors	2
1.06	By-Laws	2
1.07	Class “A” Members	2
1.08	Class “B” Member	3
1.09	Class “B” Control Period	3
1.10	Commencement Date	3
1.11	Common Area.....	3
1.12	Common Expense	3
1.13	Cost Sharing Agreement	3
1.14	County.....	3
1.15	Days	3
1.16	Design Guidelines	3
1.17	Development Period.....	4
1.18	Governing Documents	4
1.19	Guest	4
1.20	Lot	4
1.21	Majority.....	4
1.22	Member	4
1.23	Membership	5
1.24	Mortgage	5
1.25	Mortgagee	5
1.26	Occupant	5
1.27	Ordinance	5
1.28	Owner.....	5
1.29	Person.....	5
1.30	Public Records	5
1.31	Residence	5
1.32	Roadways.....	5
1.33	Rules and Regulations.....	6
1.34	State.....	6
1.35	Structure or Improvement.....	6
1.36	Subdivision Infrastructure.....	6
1.37	Supplemental Declaration.....	6
1.38	Surface Water Management System.....	6
1.39	Tenant	7
1.40	Turnover.....	7
ARTICLE II	PROPERTY RIGHTS	7
2.01	Common Area.....	7
2.02	Conveyance of Common Area.....	8
2.03	Lakes, Lagoons or Ponds	9
2.04	No Partition.....	9

2.05	Condemnation	9
2.06	Maintenance	10
2.07	Water Bodies Disclaimers.....	10
2.08	Zoning and Private Restrictions.....	10
ARTICLE III	MEMBERSHIP AND VOTING RIGHTS	11
3.01	Membership in the Association	11
3.02	Voting Rights	11
3.03	Board of Directors.....	12
3.04	Suspension of Membership.....	12
3.05	Termination of Membership	12
3.06	Voting Procedures.....	12
3.07	Control by Declarant.....	12
3.08	Veto.....	13
ARTICLE IV	RULES & REGULATIONS	14
4.01	Framework for Regulation.....	14
4.02	Rule-Making Authority of Board.....	14
4.03	Notice of Newly-Adopted Rules and Regulations.....	14
4.04	Relationship to Architectural Guidelines.....	14
4.05	Limitations on Rule-Making Authority	14
ARTICLE V	ASSESSMENTS.....	15
5.01	Creation of Assessments	15
5.02	Computation of General Assessments	16
5.03	Special Assessments	17
5.04	Benefited Assessments.....	18
5.05	Capital Improvements Assessment.....	18
5.06	Lien for Assessments	18
5.07	Date of Commencement of Assessments.....	20
5.08	Failure to Assess	20
5.09	Exempt Property	20
5.10	Reserve Funds.....	20
5.11	Initial Fee	21
5.12	Resale Fee	21
5.13	Use of Reserve Funds and Resale Funding.....	21
5.14	Annual Financial Report and Budget.....	21
5.15	Association Funds.....	22
5.16	Estoppel Certificates	23
5.17	Accumulation of Funds Permitted	23
5.18	Declarant's Responsibility for Reserves	23
5.19	Gated Community.....	23
5.20	Routine-Infrastructure-Maintenance Account	24
5.21	Use of the Routine-Infrastructure-Maintenance Account.....	24
5.22	Capital-Repair/Streets Account	24
5.23	Deposits into Capital-Repair/Streets Account	25
5.24	Capital-Repair/Drainage Pond Account	25
5.25	Deposits into Capital-Repair/Drainage Pond Account	26
5.26	Capital-Repair/Other Infrastructure Account	27

5.27	Deposits into Capital-Repair/Other Infrastructure Account	27
5.28	Storm Debris Removal Account	28
5.29	Deposits into Storm Debris Removal Account	28
5.30	Funding of Accounts	29
5.31	Engineering Services	29
5.32	Declarant Responsibility	30
5.33	Inspection Following Turnover.....	30
5.34	Required Assessments	31
5.35	Financial Reports and Other Requirements	31
5.36	Indemnification	31
5.37	No Rebate on Taxes	31
5.38	Disclosures	31
5.39	Remedy upon Default	32
5.40	Insurance Policy	32
5.41	Traffic Law Enforcement Agreement	32
5.42	Non-binding Mediation.....	32
5.43	Enforcement, Venue and Attorneys Fees.....	32
5.44	Annexation	33
5.45	Restriction on Transfers	33
5.46	Disclosure Statement	33
5.47	Multiple Lots.....	35
5.48	Effectiveness of Contracts	35
5.49	Financial Statements	35
5.50	Control	35
5.51	Conflict	35
ARTICLE VI	ARCHITECTURAL CONTROL COMMITTEE	35
6.01	Members of the Committee	35
6.02	Review of Proposed Construction	36
6.03	Meetings of the Committee.....	36
6.04	No Waiver of Future Approvals	36
6.05	Compensation for Members.....	37
6.06	Liability of the Committee.....	37
6.07	Inspection of Work	37
6.08	Declarant's Exemption	38
ARTICLE VII	MAINTENANCE, INSURANCE, REPAIR AND REPLACEMENT	38
7.01	Association's Responsibility.....	38
7.02	Owner's Responsibility.....	38
7.03	Cost Sharing Agreements	40
7.04	Required Insurance Coverage	40
7.05	Repair & Replacement of Improvements	41
ARTICLE VIII	USE RESTRICTIONS.....	41
8.01	Application.....	41
8.02	Restricted Use	41
8.03	Residential Use	42

8.04	Occupants Bound	42
8.05	Re-subdivision of Property	42
8.06	Leasing of Lots	42
8.07	Garbage Cans, Equipment, Etc.	43
8.08	Vehicle Parking, Storage, Maintenance & Repairs	44
8.09	Animals	45
8.10	Design Standards	45
8.11	Completion and Sale of Homes	45
8.12	Drainage and Grading	45
8.13	Irrigation	46
8.14	Laws and Ordinances	46
8.15	Security	46
8.16	Utility Lines	46
8.17	Rezoning	47
8.18	Mining	47
8.19	Combustible Liquid	47
8.20	Solid Waste	47
8.21	Nuisances	47
ARTICLE IX	EASEMENTS, ZONING REGULATIONS AND OTHER RESTRICTIONS	47
9.01	Common Area	47
9.02	Easements for Utilities	48
9.03	Easements Regarding Drainage	49
9.04	Public Easements	49
9.05	Easements for Lake & Pond Maintenance & Flood Water	49
9.06	Easements for Maintenance, Emergency & Enforcement	49
9.07	Surface Water Drainage and Management System	50
9.08	Zoning and Private Restrictions	51
9.09	Easement for Lateral Support	52
9.10	Wall, Landscape and Fence Easements	52
9.11	Future Easements	52
ARTICLE X	ENFORCEMENT	53
10.01	Right of Enforcement	53
10.02	Right of Abatement	54
10.03	Specific Performance	54
10.04	No Waiver	55
10.05	Hearing	55
10.06	Fines	55
10.07	Implied Rights; Board Authority	56
10.08	Indemnification of Directors, Officers & Others	56
10.09	Additional Services	56
10.10	Relationships with Other Property	57
10.11	Facilities & Services May be Opened to the Public	57
ARTICLE XI	DURATION AND AMENDMENT	57
11.01	Duration	57

11.02	Amendments by Declarant.....	57
11.03	Amendments by Association	58
11.04	Limitations on Amendments.....	59
ARTICLE XII	ANNEXATION AND FUTURE DEVELOPMENT	59
12.01	Annexation.....	59
12.02	Effect of Filing Supplemental Declaration	59
12.03	Acquisition of Additional Common Area.....	59
12.04	Withdrawal of Property.....	59
12.05	Amendment.....	60
ARTICLE XIII	ADDITIONAL RIGHTS RESERVED BY DECLARANT	60
13.01	Marketing & Sales Activities.....	60
13.02	Right to Develop	60
13.03	Improvements	60
13.04	Right to Assign Declarant Rights	60
13.05	Exclusive Right to Use Name of Community.....	61
13.06	Right to Notice of Design or Construction Claims	61
ARTICLE XIV	MISCELLANEOUS	61
14.01	No Reverter	61
14.02	Severability	61
14.03	Headings	61
14.04	Gender.....	61
14.05	Governing Law & Venue.....	61
14.06	Waiver of Trial by Jury.....	61
14.07	Attorneys' Fees	62
14.08	Notices	62
14.09	No Liability.....	62
14.10	Non-Condominium/Non-Cooperative	62
14.11	Priority of Governing Documents.....	62
14.12	Time is of the Essence	62
14.13	Security	63
14.14	Mold Prevention Measures	64
14.15	Property Taxes	64
ARTICLE XV	MORTGAGEE PROVISIONS.....	64
15.01	Notices of Action	64
15.02	Other Provisions for First-Priority Lien Holders	65
15.03	Amendments to Documents.....	65
15.04	No Priority to Condemnation or Insurance Proceeds	66
15.05	Notice to Association.....	66
15.06	Failure of Mortgagee to Respond	66
15.07	Construction of Article XV.....	66

Table of Exhibits

Exhibit	Subject Matter	
Exhibit A	Legal Description of Sawyer Sound	
Exhibit B	Site Plan	
Exhibit C	Articles of Incorporation of Sawyer Sound Homeowners Association, Inc.	
Exhibit D	By-Laws of Sawyer Sound Homeowners Association, Inc.	

DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR SAWYER SOUND

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SAWYER SOUND (hereinafter referred to as "Declaration") is made this ___ day of _____, 2015 by PHOENICIA DEVELOPMENT, LLC, a Florida limited liability company (hereinafter referred to as the "Initial Land Owner") and SAWYER SOUND PARTNERS, LLC, a Florida limited liability company (hereinafter referred to as "Declarant").

Recitals:

WHEREAS, the Initial Land Owner owns that certain parcel of land in Orange County, Florida (hereafter referred to as the "Property"), more particularly described on Exhibit "A", as that Exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article XII of this Declaration (or as otherwise required by law);

WHEREAS, Declarant owns an option to purchase all of the Lots in the Property along with the obligation to complete certain land development activities on the Property;

WHEREAS, Declarant desires to impose a common plan of development and enjoyment upon the Property to protect its value and desirability;

WHEREAS, Declarant intends to develop, or cause to be developed, the Property into a residential community that may consist of single family homes, parks, recreational facilities, utility sites, detention ponds and well sites (a graphic description of which is attached as Exhibit "B" to this Declaration), and that development shall be known as Sawyer Sound (hereinafter referred to as the "Community"). Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Community, the planned unit development made subject to this Declaration, and by the recording of this Declaration, as it may be amended from time to time;

WHEREAS, Declarant, in furtherance of such development plans, desires and this Declaration provides for the creation of Sawyer Sound Homeowners Association, Inc., a Florida not-for-profit corporation (hereinafter referred to as the "Association"), to own, operate and maintain certain common areas of the Association and to administer and enforce the provisions of this Declaration, and the By-Laws, rules and regulations and the design guidelines of the Association;

WHEREAS, Declarant and the Initial Land Owner hereby declare that all of the real property included, or to be included, within the Community shall be owned, sold and conveyed subject to this Declaration so as to enhance and protect the value, desirability and attractiveness of the Property. The covenants, conditions, restrictions and easements set forth herein shall run with the land within the Community, and shall, subject to this Declaration, be binding on all parties having or acquiring any right, title or interest in the Community or any part thereof, and shall inure to the benefit of the Declarant and each owner in the Community (hereinafter referred

to as "Owner"), its heirs, grantees, distributees, successors, and assigns and to the benefit of the Association (defined below).

NOW, THEREFORE, the Declarant and the Initial Land Owner hereby declare that all of the Property shall be owned, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are for the purpose of protecting the value and desirability of, and which shall run with said real property and be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I **DEFINITIONS**

The following words when used in this Declaration and the Exhibits attached hereto shall have the following meanings, except as otherwise specified herein or where the context so requires.

1.01 “Articles” or “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of Sawyer Sound Homeowners Association, Inc., a Florida not-for-profit corporation, as filed or to be filed with the Florida Secretary of State, as they may be amended from time to time, attached as Exhibit “C.”

1.02 “Assessment” shall mean the obligation of an Owner to pay a determined sum of money, or share thereof, levied by the Association in accordance with this Declaration and the By-Laws (hereinafter defined), in order to fund the expenses of the Association incurred on behalf of one or more Owners.

1.03 “Association” shall mean and refer to Sawyer Sound Homeowners Association, Inc., a Florida not-for-profit corporation, its successors and assigns, which has been or may be formed to govern the business affairs of any or all property within the Community, as provided herein.

1.04 “Benefited Expenses” shall mean the actual and estimated expenses of the Association that are incurred upon the request of the Owner of a Lot for specific items or services relating to the Lot, or that are incurred by the Association pursuant to this Declaration or the By-Laws for providing specific items or services relating to or benefiting one or more, but less than all, Lots within the Community.

1.05 “Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association, elected or appointed in accordance with the Governing Documents.

1.06 “By-Laws” shall mean and refer to the By-Laws of the Association, as they may be amended from time to time. The By-Laws are attached hereto as Exhibit “D.”

1.07 “Class “A” Members” shall mean and include all Owners of single family detached Lots but shall not include the Class “B” Member until the termination of the Class B control period.

1.08 “Class “B” Member” shall mean and include the Declarant, its successors and assigns.

1.09 “Class “B” Control Period” shall mean and refer to the period of time during which the Class “B” Member is entitled to appoint a majority of the members of the Board of Directors of the Association.

1.10 “Commencement Date” shall mean and refer to the date when the Declaration is recorded in the Public Records for Orange County, Florida.

1.11 “Common Area” shall mean and refer to all real property (together with any and all Improvements now or hereafter constructed thereon) and personal property within or outside of the Community, which the Association administers or maintains for the common use and enjoyment of all or a group of non-Members, if any, and Members, including, without limitation, any right of use established by agreement, lease, easement, license or otherwise (such as, but not limited to, easements for surface water collection) and including, but not limited to, the landscaping, specialty pavement, fountains, sculptures, lighting along the roads, designated drainage easements serving the Community, lakes, ponds, primary entrances, designated signage for primary entrances and any other such areas designated by Declarant in writing. Common Area includes subparts that are also Common Area but referred to separately in certain circumstances. "Subdivision Infrastructure" is a subpart of Common Area and shall have the meaning as set forth in Section 1.36.

1.12 “Common Expense” shall mean and refer to the actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including, without limitation, any reasonable reserve, as the Board may find necessary and appropriate to establish and maintain pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the term of the Development Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members holding a Majority of the total Class “A” votes or a Voting Delegate(s) representing a Majority of the Class “A” votes of the Association.

1.13 “Cost Sharing Agreement” shall mean and refer to any agreement, contract or covenant between the Association and an owner or operator of property adjacent to, in the vicinity of, or within the Property for the allocation of expenses for amenities and/or services that benefit both the Association and the owner or operator of such property.

1.14 “County” shall mean and refer to Orange County, Florida.

1.15 “Days” shall mean calendar days; provided, however, if the time period by which any action is required to be performed hereunder expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.16 “Design Guidelines” shall mean and include the design, architectural and construction guidelines and application and review procedures applicable to all or any portion of the Property promulgated and administered pursuant to Article VI (“Architectural Control

Committee”). The Declarant shall have and make available copies of the Design Guidelines in its office within the Property, subject to this Declaration and the other Governing Documents.

1.17 “Development Period” shall mean the period of time during which the Declarant is actively developing any property within the Community which is subject to this Declaration. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument in the Public Records. The Declarant shall remain responsible for the Subdivision Infrastructure in accordance with the Orange County Gated Community Ordinance ("Ordinance") until Turnover (hereinafter defined).

1.18 “Governing Documents” shall mean and include this Declaration, By-Laws, and Articles of Incorporation, the Rules and Regulations of the Association, any Cost Sharing Agreement and all additional covenants governing any portion of the Property or any of the above, as each may be amended from time to time and which shall be made available to prospective members by the Board, upon request.

1.19 “Guest” shall mean any Person who enters the Community at the invitation of an Owner or a Tenant, including the employees, patrons or other invitees of an Owner. The term “Guest” shall not include Tenants.

1.20 “Lot” means a portion of the Community, whether improved or unimproved, which may be separately owned and intended for development, use, and occupancy as a residence for a single family, and which is not Common Area. The term shall include the land, if any, which is part of the Lot as well as any Improvements constructed or to be constructed thereon.

In the case of a parcel of vacant land or land on which Improvements are under construction, the parcel shall be deemed to be a single Lot until such time as a recorded plat or site plan subdivides all or a portion of the parcel. Thereafter, the portion encompassed on such plat or site plan shall contain the number of Lots determined as set forth in the preceding paragraph. Any portion not encompassed on such plat or site shall continue to be treated in accordance with this paragraph.

Lots may be combined or further subdivided (upon proper approval by the County), and boundary lines of Lots may be changed, subject to the terms of this Declaration, only by the recording of a plat, site plan or other legal instrument further subdividing or re-subdividing the parcel of property (which subdivision shall be subject to such other restrictions as may be set forth in this Declaration or rules of the Association). Absent the recording of such a plat, site plan or other legal instrument, ownership of adjacent Lots by the same Owner shall not permit such Lots to be treated as a single Lot for purposes of voting and Assessments, notwithstanding that such Lots may be improved with a single dwelling.

1.21 “Majority” shall mean those votes of Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

1.22 “Member” shall mean and refer to a Person entitled to membership in the Association, as provided herein.

1.23 “Membership” shall mean and refer to the collective total of all Members of the Association.

1.24 “Mortgage” shall mean and refer to any mortgage or deed of trust, or other encumbrance of a Lot to secure the performance of an obligation, which encumbrance will be satisfied and cancelled upon the completion of such performance.

1.25 “Mortgagee” shall mean the holder of a Mortgage.

1.26 “Occupant” shall mean and refer to any Person occupying a Residence, as hereinafter defined, or Structure thereon that is located within the Community and subject to this Declaration for any period of time, regardless of whether such Person is an Owner, Tenant, guest, employee, invitee or licensee of such property.

1.27 “Ordinance” shall mean the Orange County Gated Community Ordinance, Orange County, Florida, Code of Ordinances, Chapter 34, Article VIII, in effect as of the date this Declaration is recorded. Notwithstanding anything to the contrary in this Declaration, all provisions of this Declaration shall be construed and constructed to make each and every provision comply with the Ordinance and requirements therein.

1.28 “Owner” shall mean and refer to one (1) or more Persons holding the record title to any Lot, which is part of the Community, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract for sale, and the contract specifically so provides, then the purchaser, rather than the fee owner, will be considered the Owner. If a Lot is subject to a lease with an initial term greater than five (5) years, and the lease specifically so provides, then upon the filing of a copy of the lease with the Board, the Tenant, rather than the fee owner, will be considered the Owner for the purpose of exercising all rights and privileges of Membership. If more than one (1) Person owns a Lot, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

1.29 “Person” shall mean and refer to a natural individual, a corporation or any other entity with the legal right to hold title to real property and convey it.

1.30 “Public Records” shall mean the Official Records of Orange County, Florida.

1.31 “Residence” shall mean and refer to the permanent improvements constructed within the boundaries of and situated upon a Lot intended for the use and occupancy as a single-family residence. A Structure together with the land owned as a part thereof (the “Lot”) shall not become a Residence until such time as a temporary or final certificate of occupancy shall have been issued by the appropriate governmental authorities as a prerequisite to the occupancy of such Residence. The Owner of a Residence shall notify the Association or its designee immediately upon the issuance of a (temporary or final) certificate of occupancy for the Residence.

1.32 “Roadways” shall mean and refer to those certain tracts of land designated on the Plat and/or designated by Declarant for use as roads, drives and streets that are to be owned, operated, maintained, repaired and/or replaced by the Association. The term “Roadways” shall

also include all sidewalks and/or curbing that are to be owned, operated, maintained, and/or replaced by the Association. The term "Roadways" shall also include any gate and/or mechanism to restrict access to the Property. The term "Roadways" shall not include any driveways and/or paved surfaces of any kind that are located on any Lot. The Roadways shall be part of the Subdivision Infrastructure.

1.33 "Rules and Regulations" shall mean and refer to the rules and regulations of the Association adopted by the Board pursuant to the By-Laws, as such Rules and Regulations may be amended from time to time. Declarant reserves the right, in its sole discretion, to promulgate additional or amend, alter or modify the existing Rules and Regulations at a later time.

1.34 "State" shall mean the State of Florida.

1.35 "Structure or Improvement" shall mean and refer to:

(a) Any thing or object, the placement of which upon any Lot or the Community that may affect the appearance of such parcel, including, by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, dock, fence, curbing, paving, wall, tree, shrub (and all other forms of landscaping), walkway, sign, signboard, temporary or permanent living quarters (including any house trailer or other manufactured home or recreational vehicle) or any other temporary or permanent Improvement to such Lot;

(b) Any excavation, grading, fill, ditch, diversion, dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) Any change in the grade at any point on a Lot of more than five (5) inches, whether or not subsection (b) of this Section applies to such change.

1.36 "Subdivision Infrastructure" shall mean and refer to the Roadways, Surface Water Management Systems, sidewalks, curbing, bicycle paths (if any), pedestrian paths (if any), traffic control signage, stormwater conveyance systems, guardhouse and gates and any other infrastructure appurtenant to the Roadways and Surface Water Management Systems.

1.37 "Supplemental Declaration" shall mean and refer to an instrument recorded in the Public Records, which subjects and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in this or such other instrument.

1.38 "Surface Water Management System" shall mean the portion of the Community, including Improvements thereon, which are designed and constructed or implemented to control discharges, which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution, or otherwise affect the quantity and quality of discharges from such system as permitted pursuant to applicable law, including, but not limited to, all lakes, detention ponds, retention areas, culverts and related appurtenances and facilities.

1.39 “Tenant” shall mean any Person that leases a Lot or Residence thereon from an Owner or a Tenant. The term “Tenant” shall include all lessees, sublessees, holdovers, and other Persons in possession of a Lot or Residence thereon, but does not include “Guests.”

1.40 “Turnover” shall mean and refer to the date after the termination of the Development Period at which time Declarant no longer has the right to elect or appoint a majority of the Board of Directors, and the Owners shall assume control of the Association.

ARTICLE II **PROPERTY RIGHTS**

2.01 Common Area. Every Owner shall have a right and non-exclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with title to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to promulgate, adopt, amend, supplement, and repeal rules regulating the use and enjoyment of the Common Area, including, for example, rules limiting the number of guests who may use the Common Area and fees for the use of any facility situated upon or within the Common Area. However, such rules shall not limit the rights of an Owner to use the Subdivision Infrastructure, including the use of the streets or gate to access their Lot or the use of water, sewage, utilities, or drainage;
- (d) The right of the Board to suspend the right of an Owner to use any facilities within the Common Area pursuant to Section 3.04 of this Declaration (“Suspension of Membership”). However, such rules shall not limit the rights of an Owner to use the Subdivision Infrastructure, including the use of the streets or gate to access their Lot or the use of water, sewage, utilities, or drainage;
- (e) The right of the Board to permit the use of any facilities situated on the Common Area by Persons other than Owners, their families, lessees and guests; the Board may, but shall not be required to, establish reasonable fees for the use of such facilities and rules regulating the use and enjoyment of these facilities;
- (f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred. The Association may only pledge or encumber the Subdivision Infrastructure in accordance with Section 9.01; and
- (g) The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area, subject to any approval requirements set forth in the Governing Documents.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot and/or Residence, in accordance with Section 8.06 (“Leasing of Lots”) and any rules promulgated by the Board, shall be deemed to have assigned all such use rights to the Tenant of such Lot and/or Residence; provided however, the Owner shall remain jointly and severally responsible for payment of all Assessments and other charges that may come due with respect to such Lot.

2.02 Conveyance of Common Area.

(a) The Declarant may, from time to time, convey or cause to be conveyed any personal property and any improved or unimproved real property, leasehold, easement, license or other property interest in or to the Association or grant easements to the Association, in accordance with this Section 2.02 (“Conveyance of Common Area”) and, to the extent set forth in this Declaration, the general public. The Declarant shall, in its sole discretion, determine from time to time what Common Area or portion thereof, if any, will be conveyed to the Association. The Association hereby covenants, and agrees to accept from the Declarant all such conveyances of Common Area in their respective “as is/where is” conditions (except as otherwise required in this Declaration), subject to all taxes not then delinquent, applicable Plats, this Declaration, and any other restrictions, limitations, conditions, reservations, easements and other matters then of public record, and to maintain such Common Area for the benefit of all of its respective Members. However, the Subdivision Infrastructure will be properly maintained by the Declarant in accordance with the requirements set forth in the Ordinance until Turnover.

(b) During the Development Period, Declarant may, at Declarant’s sole discretion, modify, alter, increase, reduce and otherwise change the Common Area conveyed to the Association at any time and from time to time to fulfill that Common Area function by an alternative means in the Declarant’s discretion.

(c) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights and interests in, any or all portions of the Property owned by the Declarant or others and designated as Common Area or designated for public use shall be reserved to the Declarant until such time, if ever, as the same shall be conveyed to the Association or to any municipality or other government body, agency or authority.

(d) Stormwater retention and detention ponds may be included in the Common Area to be conveyed by Declarant and/or others and, if conveyed, will be accepted by the Association. The stormwater retention and detention ponds are part of the Subdivision Infrastructure and shall be maintained in accordance with the requirements of the Ordinance. Declarant shall not be required to make any Improvements whatsoever to the Common Area, which may, but shall not be required to, be conveyed by Declarant and/or others, and accepted by the Association or otherwise pursuant to this Article. Notwithstanding the foregoing and in accordance with the Ordinance, until Turnover, Declarant shall maintain the Subdivision Infrastructure in accordance with good property management practices and State, Federal, and local codes, statutes, and ordinances, which may include dredging.

2.03 Lakes, Lagoons or Ponds.

(a) Access to and use of the lakes, lagoons and ponds (individually a “Water Body” or collectively the “Water Bodies”) is strictly subject to the Rules and Regulations. Each Owner of a Lot acknowledges and agrees to strictly abide by and comply with any and all rules regulating Water Body use or access, as they may be amended at any time and from time to time. Any Person, including any Owner, using a Water Body, notwithstanding the outright prohibition to use the Water Body or any portion thereof for any purpose whatsoever shall exclusively assume the risk of such use and/or access. Under no circumstance shall the Declarant, the Association, the Architectural Control Committee ("ACC"), or any other Person acting on such Owner’s or Person’s behalf assume any liability for use of or quality of water within a Water Body by an Owner or Occupant or their respective invitees or licensees.

(b) No swimming, sailing, boating, water skiing, jet skiing or any other use shall be permitted in/on a Water Body, other than Little Lake Sawyer.

(c) Subject to the provisions above, the Association shall have an easement over, under and through the Water Bodies within the Community to perform any and all necessary maintenance to the Water Bodies or to any Structure permitted to be erected on or adjacent to the Water Bodies. Further, each Owner shall be permitted to access the Water Body, if any, adjacent to his Lot if access thereto is required to perform any necessary repairs or maintenance to the Lot, Residence or other Structure thereon.

2.04 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area that is the subject of such partition action has been withdrawn from the provisions of this Declaration. This Section shall not prohibit the Board from acquiring and disposing of real, mixed and personal property, which may or may not be subject to this Declaration.

2.05 Condemnation. During the Development Period, the Declarant shall be the sole representative with respect to condemnation proceedings concerning the Common Area and shall act as attorney-in-fact for all Owners. Thereafter, the Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in such matters. If and when any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members holding at least sixty-seven percent (67%) of the total Class “A” votes or Voting Delegate representing at least sixty-seven percent (67%) of the Class “A” votes in the Association and, during the Development Period, the affirmative vote or the written consent of the Class B Member, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds of such conveyance. The award made for such taking or proceeds of such conveyance shall be due and payable to the Declarant, during the Development Period, and if the Improvements have not been conveyed to the Association. After termination of the Development Period or if the Association owns the Common Areas, the award made for such taking or process of such conveyance shall be due and payable to the Association.

2.06 Maintenance. The Association shall maintain and keep in good repair the Common Area. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping, Improvements and Structures situated on or within the Common Area. The Association shall also have the right, but not the obligation, to maintain and provide services for other property not owned by the Association, whether located within or without the boundaries of the Community, and to enter into easements and Cost Sharing Agreements regarding such property where the Board has determined that this would benefit Owners. Declarant shall maintain the Subdivision Infrastructure until Turnover.

2.07 Water Bodies Disclaimers. NEITHER DECLARANT, ASSOCIATION NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, MEMBERS, MANAGERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY WATER BODY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY, OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY. ALL PERSONS USING OR DRINKING SAME WILL BE IN VIOLATION OF THIS DECLARATION AND IN ANY EVENT SHALL BE DOING SO AT THEIR OWN RISK.

ALL OWNERS AND OCCUPANTS OF ANY PORTION OF OR INTEREST IN THE COMMUNITY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH LOT TO HAVE AGREED TO RELEASE, DISCHARGE AND COVENANT NOT TO SUE THE LISTED PARTIES FOR, FROM AND AGAINST ANY AND ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH WATER BODIES.

ALL PERSONS ARE HEREBY NOTIFIED FROM TIME TO TIME OF ALLIGATORS AND OTHER WILDLIFE THAT MAY HABITATE ON OR ENTER INTO WATER BODIES WITHIN OR ADJACENT TO THE COMMUNITY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

2.08 Zoning and Private Restrictions. None of the covenants, conditions, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by the applicable Orange County Comprehensive Plan, zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

3.01 Membership in the Association. Every Owner shall be a Member of the Association. There shall be only one (1) Membership per Lot. If more than one (1) Person owns a Lot, all co-Owners shall share the privileges of such Membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.02 (“Voting Rights”) and the By-Laws. The Membership rights of an Owner that is not a Person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association.

3.02 Voting Rights. The Association shall have two (2) classes of Membership: Class “A” and Class “B”.

(a) Class “A” Members shall be entitled to one (1) equal vote for each Lot in which they hold the interest required for Membership under Section 3.01 hereof (“Membership in the Association”); provided however, there shall be only one (1) vote per Lot and no vote shall be exercised for any property that is exempt from Assessment under Section 5.09 (“Exempt Property”). Each Owner shall be entitled to personally cast the representative vote attributable to his or her Lot; and when there is more than one (1) Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken (fractional votes shall not be allowed, and the vote for each Lot shall be exercised, if at all, as a whole). Absent such timely advice, the representative vote attributable to a Lot shall be suspended if more than one (1) Person seeks to exercise it. All co-Owners, including, without limitation, any non-voting co-Owners, shall be jointly and severally responsible for all obligations imposed upon the jointly owned Lot(s) and said co-Owners shall be entitled to all benefits of ownership, except as expressly otherwise provided herein.

(b) The Declarant shall be the sole Class “B” Member and shall be entitled to the sole right to vote in Association matters until the expiration or earlier termination of the Development Period. The Class “B” Membership shall cease and be converted to Class “A” Membership at such time as Declarant no longer retains the right to appoint and remove the members of the Board and officers of the Association pursuant to Section 3.07 below (“Control by Declarant”) or as the Declarant voluntarily relinquishes such right in Declarant’s sole and absolute discretion.

(c) The Community may be composed of Lots to be developed in phases. Each such phase will be developed in accordance with this Declaration and the other Governing Documents. The Declarant shall notify the Association, in writing, when each phase of the Community has been developed. By acceptance of a deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of such notice, the total votes outstanding in the Association will automatically increase based upon the number of Lots in the phase(s) added; provided, however, nothing contained herein shall obligate the Declarant to develop any proposed phase or annex it to the Community unless such phase is subjected to this Declaration.

3.03 Board of Directors. A Board of Directors shall manage the affairs of the Association. After the Class B Control Period terminates, Class “A” members will be entitled to elect all members of the Board of Directors. Each Member of the Board of Directors shall have one vote in Association matters brought before the Board. The method of electing Directors shall be as set forth in the By-Laws, which are attached hereto as Exhibit “D.”

3.04 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of use and enjoyment of the Common Area of any Person who:

(a) Shall be subject to the Right of Abatement, as defined in Section 10.02 (“Right of Abatement”) by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Declaration or the other Governing Documents, including, *inter alia*, the Design Standards of the ACC within thirty (30) days after having received notice of the same pursuant to the provisions of this Declaration and the By-Laws;

(b) Shall be delinquent in the payment of any Assessment or portion thereof or interest fee or charge thereon, levied by the Association that is responsible for or has entered into a contract to maintain the Lot, any portion thereof, or any Common Area; or

(c) Shall be in violation of the Rules and Regulations of the Association.

Such suspension shall be for the balance of the period in which said Member or Person shall remain in violation, breach or default, as aforesaid, except that, in the case of a violation described in this subsection (c) of this Section, the suspension may be for a period not to exceed sixty (60) days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

3.05 Termination of Membership. Class “A” Membership shall cease only when a Person ceases to be an Owner. Class “B” Membership shall terminate as provided in Section 3.07 below (“Control by Declarant”).

3.06 Voting Procedures. The procedures for the election of directors of the Association and the resolution of such other issues as may be brought before the Membership of the Association shall be governed by this Declaration, the Florida Not-For-Profit Corporation Act (Chapter 617, Florida Statutes), the Articles and the By-Laws of the Association, as each shall at any time and from time to time be in force and effect.

3.07 Control by Declarant.

(a) Notwithstanding any other language or provision to the contrary in the Governing Documents, Declarant hereby retains the right to appoint and remove all members (except as specifically provided in the By-Laws) of the Board of the Association and all officers of the Association until fifteen (15) days after the first of the following events occur: (i) the expiration of twenty (20) years after the date of the recording of this Declaration; (ii) the date when Turnover is required to occur pursuant to Florida Statutes; or (iii) such earlier date as Declarant may, at its option, determine.

(b) Upon the expiration of the Control Period, Declarant's right to appoint and remove directors and officers of the Board pursuant to the provisions of this Section, shall automatically be relinquished and transfer to the Class "A" Members, and a special meeting of the Association shall be called at such time. At such special meeting the Class "A" Members shall elect a new Board, which new Board shall undertake the responsibilities of the Board. Within ninety (90) days of the date the Members are entitled to elect a majority of the Board, Declarant shall deliver the books, accounts, and records, if any, which Declarant has or caused to be kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession or as otherwise required by law.

(c) Nothing herein or in the By-Laws or Articles shall permit the Board, the Association or the Members, as applicable, to reduce, limit, reverse or alter any rights or privileges granted to the Declarant or any property owned by Declarant at any time after the Development Period.

(d) The Association, by contract or other agreement, may enforce county, city, state or federal laws and/or ordinances, and permit local and other governments to enforce ordinances on the Property for the benefit of the Association and its Members.

3.08 Veto. This Section 3.08 ("Veto") may not be amended without the express written consent of the Class "B" Member during the Development Period. So long as the Class "B" Membership exists, the Class "B" Membership shall possess a right to veto all actions of the Board, as is more fully provided in this Section. This veto power shall be exercisable only by the Class "B" Member, its successors and assigns who specifically take this power in a recorded instrument. Upon recordation, the Class "B" Member may exercise this veto right at any time and from time to time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. Any veto power shall not require any action or counteraction on behalf of any committee, the Board or the Association. The veto power shall be used as follows:

(a) No action authorized by the Board shall become effective, nor shall any action, policy, or program be implemented until and unless:

(i) The Class "B" Member shall have been given, in accordance with Section 14.08 hereof, a written notice of all meetings and proposed actions to be approved at meetings of the Board, as applicable, which notice sets forth in reasonable detail the agenda to be followed at said meeting; and,

(ii) The Class "B" Member shall be given the opportunity at any such meeting to join in or have its representative or agent join in the discussion from the floor of any prospective action, policy or program to be implemented by the Board, any committee thereof, or the Association. The Class "B" Member or its representative or agent shall make its concerns, thoughts, and suggestions known to the members of the subject committee or the Board.

(iii) The Class "B" Member shall have and is hereby granted veto power over any such action, policy, or program authorized by any committee or the Board and to be taken by such committee or Board or the Association or any Member of the Association, if Board, committee, or Association approval is necessary for such action to be effective.

ARTICLE IV
RULES AND REGULATIONS

4.01 Framework for Regulation. This Declaration establishes, as part of the general plan of development for the Community, a framework of covenants, conditions, restrictions and easements that govern the Community. This Declaration also provides for the promulgation, modification and expansion of the Rules and Regulations, which regulate the use of the Lots and the Residences and other Improvements thereon as well as the Common Areas, all in the interests of the health, safety and welfare of the Owners and other Occupants of the Residences, which Rules and Regulations shall complement the restrictive covenants. Within that framework, the Board of Directors and the Members shall have the flexibility to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technology.

4.02 Rule-Making Authority of Board. Subject to the limitations and procedural requirements of this Article IV (“Rules and Regulations”) and the Board of Directors’ duty to exercise business judgment and reasonableness on behalf of the Association and the Members, the Board may modify, cancel, limit, create exceptions to, or expand the Rules and Regulations. The Board shall send notice to all Owners concerning any proposed action regarding the Rules and Regulations at least fifteen (15) days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at the Board meeting prior to such action being taken. A Board action regarding the Rules and Regulations shall become effective after compliance with Section 4.03 below (“Notice of Newly-Adopted Rules and Regulations”), unless Members representing more than fifty percent (50%) of the total Class “A” votes and the Class “B” Member, if any, disapprove such action at a meeting of the Members. The Board shall have no obligation to call a meeting of the Members to consider such action, except upon receipt of a petition of the Members pursuant to the requirements for special meetings provided in the By-Laws. Upon receipt of such petition of the Members prior to the effective date of any Board action under this Section 4.02 (“Rule-Making Authority of Board”), the proposed action shall not become effective until after such meeting is held, and its effectiveness shall be subject to the approval or disapproval of the Members at such meeting.

4.03 Notice of Newly-Adopted Rules and Regulations. Prior to any action regarding the Rules and Regulations to be taken under this Article IV becoming effective, the Board of Directors shall cause a copy of the new Rule or Regulation or explanation of any changes to the existing Rules and Regulations to be sent to every Owner. The effective date of the new Rule or Regulation shall not be fewer than thirty (30) days following such distribution to the Owners. The Association shall provide, at no charge, a copy of the Rules and Regulations then in effect to any Owner or Mortgagee who requests it.

4.04 Relationship to Architectural Guidelines. No action taken under this Article IV (“Rules and Regulations”) shall have the effect of repealing, expanding or otherwise modifying the Architectural Guidelines or the other Governing Documents (other than the existing Rules and Regulations). In the event of a conflict between the Community’s Design Guidelines and the Rules and Regulations, the Design Guidelines shall control.

4.05 Limitations on Rule-Making Authority. Except as may be set forth in this Declaration, as it may be amended from time to time, or in the initial Rules and Regulations, all Rules and Regulations shall comply with the following provisions:

(a) Similar Treatment. In its adoption and enforcement of the Rules and Regulations, the Association shall treat similarly situated Owners in a similar manner.

(b) Religious, Holiday & Political Displays. The Owners shall have the absolute right to display, within their Residences, religious and holiday signs, symbols, and decorations of the kinds normally displayed in homes located in single-family residential neighborhoods, and such right may not be abridged by the Association; provided, however, that the Association may adopt Rules and Regulations that reasonably regulate the time, place, and manner in which signs and symbols are displayed, or otherwise visible from, outside a Residence. Likewise, the Owners shall have the absolute right to display political signs on behalf of candidates for public office, and the Association may not regulate the content of such political signs; provided, however, that the Association may adopt Rules and Regulations that reasonably regulate the time, place and manner of the posting of such signs, including their size and other design criteria.

(c) Property Previously in Compliance. The Association shall adopt no Rule or Regulation that requires any Owner to dispose of personal property that was placed within a Lot prior to the adoption of such Rule or Regulation, provided such personal property was in compliance with all Rules and Regulations previously adopted. This exemption shall apply only during the period of such Owner's ownership of the Lot, and shall not apply to subsequent Owners who take title to the Lot after adoption of the Rule or Regulation.

(d) Reasonable Rights to Develop. The Association shall adopt no Rule or Regulation that restricts or interferes with Declarant's right to develop, market and sell the Lots and/Residences within the Community.

The limitations in Paragraphs (a) through (d) of this Section 4.05 ("Limitations on Rule-Making Authority") shall only limit rule-making authority exercised pursuant to this Article IV; these limitations shall not apply to amendments to this Declaration adopted in accordance with Article XI ("Duration and Amendment").

ARTICLE V **ASSESSMENTS**

5.01 Creation of Assessments. There are hereby created Assessments for Association operating expenses as may at any time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article V ("Assessments"). There shall be four (4) types of Assessments: (a) General Assessments, as described in Section 5.02 ("Computation of General Assessments"); (b) Special Assessments, as described in Section 5.03 ("Special Assessments"); (c) Benefited Assessments, as described in Section 5.04 ("Benefited Assessments"); and (d) Capital Improvement Assessments, as described in Section 5.05 ("Capital Improvement Assessments"). Each of the four (4) types of Assessments are sometimes collectively referred to herein as "Assessments".

Each Owner, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Lot or any portion thereof or interest therein or Structure thereon (whether or not it shall be so expressed in such deed) or entering into a recorded contract of sale for any portion of the Community, is deemed to

covenant and agree to pay the Assessments, as applicable, commencing as of the date of the initial conveyance of such Lot to an Owner.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Each Owner, by acceptance of a deed to his or her Lot or any portion thereof or interest therein or Structure thereon, acknowledges that all General Assessments levied hereunder are annual Assessments due and payable in advance on the first day of each fiscal year; provided, the Board may, in its sole discretion, permit any General Assessment to be paid in two (2) semi-annual installments, four (4) quarterly installments (to be paid every three (3) months), or twelve (12) monthly installments. If any Owner is delinquent in paying any Assessments or other charges levied on his or her Lot or any portion thereof or interest therein or Structure thereon, or remits payment for such Assessments with a check drawn on an account with insufficient funds or stops payment on such check, the Board may revoke the privilege of paying in installments and/or by check and require Assessments to be paid by credit card or wire transfer and in-full immediately.

No Owner may waive or otherwise exempt itself from liability for the Assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the Lot or any portion thereof or interest therein or Structure thereon. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from, related to, or connected with the making of repairs or Improvements that are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental or quasi-governmental authority.

5.02 Computation of General Assessments. Subject to the requirements of the Ordinance pertaining to the Declarant, General Assessments shall be levied equally on all Lots in the Community.

All Assessments, together with interest (at a rate not to exceed the highest rate allowed by Florida law), as computed from the date when the delinquency first occurs, late charges, costs, and attorneys' fees and disbursements, whether suit is filed or not and through all levels of appeal, shall be a charge on the land and shall be a continuing lien upon the Lot and any Residence and Improvement situated thereon against which each Assessment is made until such Assessment and all late charges, costs and attorneys' fees and disbursements are paid in full and such funds have cleared. Each such Assessment, together with interest, late charges, costs, and reasonable attorneys' fees and disbursements, shall also be the personal obligation of the Person who was the Owner of such Lot or any portion thereof or interest therein or Residence and/or Structure thereon at the time the Assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof, as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid Assessments that accrued prior to such acquisition of title unless otherwise required or permitted by law.

The General Assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including, *inter alia*, any reserves. In determining the amount of the General Assessment, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to Assessments under Article V ("Assessments") on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated becoming subject to Assessments during the fiscal year. The Board shall include in the budget for the General Assessment expenses the Association will incur for maintenance of entry features and maintenance and repair of the Surface Water or Stormwater Management System owned or maintained by the Association, including, but not limited to, work within retention areas, drainage structures and drainage easements.

During the Development Period, the Declarant may (except to the extent required by the Ordinance and Sections 5.19 through and including 5.29) annually elect to pay either (a) an amount equal to the Assessments on all Lots in the Community not sold to an end purchaser; or (b) the difference between the amount of Assessments levied on all other Lots subject to Assessments and the amount of actual expenditures by the Association during the fiscal year. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years unless otherwise provided in a written agreement between the Association and the Declarant, and the treatment of such payment shall be made known to the membership prior to the beginning of the applicable fiscal year. In any event, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials, which may be treated as either a contribution or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any or no reason to determine the budget for any given fiscal year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the immediately preceding year, with adjustments for increases in real estate taxes, insurance premiums, labor rates and utility costs, shall continue for the current year.

5.03 Special Assessments.

(a) Entire Membership. The Association may levy Special Assessments at any time and from time to time. Any Special Assessment shall become effective unless disapproved at a meeting by at least sixty-seven percent (67%) of the total Class "A" votes and, during the Developmental Period, the affirmative vote or written consent of the Declarant. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members, as provided for special meetings in the By-Laws, which petition must be presented to the Board within twenty (20) days after delivery of the notice of such Special Assessment. Special Assessments pursuant to this Section 5.03(a) ("Entire Membership") shall be due and payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Members. The Association may levy Special Assessments against any Member individually and against such Member's Lot or any portion thereof or interest therein or Residence or Structure thereon to reimburse the Association for costs incurred in bringing a Member and his or her Lot and/or Residence and any and all Structures and Improvements thereon into compliance with the Governing Documents, as they may be amended from time to time, which Special Assessment may be levied upon the vote of the Board after notice to the applicable Member(s).

5.04 Benefited Assessments.

(a) General. The Board of Directors shall have the power to specifically assess Lots receiving benefits, items, or services not provided to all Lots within the Community. Expenses of the Association (1) that are incurred upon the request of the Owner of a Lot for specific items or services relating to his or her Lot; or (2) that are incurred by the Association pursuant to this Declaration, a Supplemental Declaration, or the By-Laws for providing specific items or services relating to or benefiting a particular Lot or Lots, shall be specifically assessed against the Lot or Lots benefited, in the amount of the cost of the benefit received or according to the method of equitably assessing the Lots set forth in this Declaration or the By-Laws to the extent permitted by law.

(b) Mandatory Benefited Assessments. At the time that the budget for Common Expenses is prepared by the Board, as required by Section 5.01 above ("Creation of Assessments"), the Board shall determine mandatory Benefited Assessments applicable to Lots for that fiscal year. Benefited Assessments may differ depending on the type or location of a Lot. For example, and by way of illustration and not limitation, a mandatory Benefited Assessment may be levied against all Lots that do not contain a Residence for cutting vegetation and cleaning up the unimproved Lot, and a mandatory Benefited Assessment may be levied upon Lots that contain a Residence for services such as cable television, garbage collection, landscape maintenance, and security monitoring.

5.05 Capital Improvements Assessment. In addition to the General Assessments, Special and Benefited Assessments, as authorized above, and in addition to the assessments described in Sections 5.19 through and including 5.29 below, the Board may levy and collect, in any fiscal year, a Capital Improvements Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, upgrade, removal and/or replacement of an Improvement, or other such addition, within the Community, including, *inter alia*, fixtures and personal property related thereto; provided that such Assessment in excess of the lesser of fifty thousand dollars (\$50,000) or ten percent (10%) of the total amount of the current operating budget of the Association, shall require the vote or written assent of a Majority of the Class "A" Members, except in the case of an emergency, fire, or other casualty where, in the reasonable judgment of the Board, such action is necessary to prevent further material damage or to protect against imminent bodily injury without taking the time necessary to obtain the approval of the Members. No action authorized in this Section 5.05 ("Capital Improvements Assessment") shall be taken during the Development Period without the prior written consent of the Declarant.

5.06 Lien for Assessments. Except as otherwise provided elsewhere herein, the Declarant (and each party joining in any Supplemental Declaration), for all Lots within the Community, hereby covenants and agrees, and each Owner of any Lot or any portion thereof or

interest therein or Residence or Structure thereon by acceptance of a deed therefor or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association Assessments and charges for the operation of, and for payment of expenses allocated or assessed to or through, the Association or otherwise, for the maintenance, management, operation and insurance of the Common Areas, including, without limitation, such reasonable reserves as the Association may deem necessary, General Assessments as provided in Section 5.02, Capital Improvements Assessments as provided for in Section 5.05, Special Assessments as provided in Section 5.03, any Benefited Assessments as described in Sections 5.04, and all other charges and Assessments hereinafter referred to or lawfully imposed by or on the Association, all such Assessments to be fixed, established and collected from time to time as herein provided.

The Association shall have the right to file a lien against each and every Lot within the Community to secure payment of delinquent Assessments and other charges, as well as interest at a rate to be set by the Board (subject to the maximum interest rate limitations of Florida law), late charges in such amount as the Board may establish (subject to the limitations of Florida law), costs of collection and attorneys' fees and disbursements. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid and delinquent Assessments, which shall bind such Lot of the then Owner, his heirs, personal representatives, successors and permitted assigns, and which shall be prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, and foreclosure or any other method permitted by applicable law. Except as otherwise provided herein to the contrary, the personal obligation of the then Owner to pay such Assessment shall pass to his successors-in-title and recourse may be had against either or both.

The Declarant, during the Development Period, or the Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, obtain equity or credit lines, and convey the same. During the period in which a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no Assessment shall be levied on it; and (c) each other Lot within the Community shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged and allocated to such Lot had it not been acquired by the Association as a result of foreclosure or deed in lieu thereof. Suit to recover a money judgment for unpaid Assessments, late charges, interest, costs, and attorneys' fees and disbursements shall be maintainable without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. To the extent that a first Mortgage is foreclosed upon and the lien for delinquent Assessments is extinguished, the unpaid Assessments and attorneys' fees and disbursements may be deemed to be a part of the Common Expenses collectible from Owners of all Lots subject to Assessment under Section 5.02 ("Computation of General Assessments"), including such acquirer, its successors and assigns.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration has been recorded shall be deemed to consent to the fact that such liens or encumbrances shall be inferior to future liens for Assessments, as provided herein, whether or not prior consent is

specifically set forth in the instruments creating such liens or encumbrances.

5.07 Date of Commencement of Assessments. Except as otherwise provided in this Declaration, the obligation to pay Assessments shall commence as to each Lot on the date that the Lot is conveyed to a Person other than Declarant. Declarant shall collect the pro rata portion for the month of closing at the time and place when that contemplated sale for said Lot(s) is consummated. The first annual General Assessment, if any, levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time Assessments commence on the Lot and shall be due and payable at closing.

5.08 Failure to Assess. Failure of the Board to establish Assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay Assessments.

5.09 Exempt Property. The following property shall be exempt from payment of Assessments:

(a) All Common Area and such portions of the property owned by the Declarant, as are included in the Area of Common Responsibility pursuant to Section 7.01 of this Declaration (“Association’s Responsibility”);

(b) Any property (or interest therein) dedicated or otherwise conveyed to and accepted by any governmental or quasi-governmental authority or public utility;

(c) Any property that is owned by a charitable non-profit corporation or public agency whose primary purposes include the acquisition and preservation of open space for public benefit and held by such agency or organization for such recreational or open space purposes;

(d) All property dedicated to, or owned by any stormwater management entity;

Any portion of the Property exempt from ad valorem taxation by the laws of the State, to the extent agreed to by the Association.

5.10 Reserve Funds. In addition to the reserves required pursuant to Sections 5.19 through and including 5.29 below, the Board may, in its sole discretion, annually prepare reserve budgets for common purposes that take into account the number and nature of replaceable assets and/or Improvements within the Common Area, the expected life of each asset, and the expected repair or replacement cost thereof. The Board shall include in the common budget reserve amounts sufficient to meet the projected needs of the Association. Reserve and operating funds of the Association shall not be commingled prior to the expiration of the Development Period except that the Association may jointly invest reserve funds in accordance with Section 5.15 of this Declaration (“Association Funds”); however, such jointly invested funds must be accounted for separately. Notwithstanding the foregoing, the Board shall not be obligated to establish any reserve fund except those required pursuant to Sections 5.19 through and including 5.29.

5.11 Initial Fee. In addition to the above, upon acquisition of record title to a Lot by the first Owner thereof other than the Declarant or a builder with the intention of selling a completed residence to a third party purchaser for value, the purchaser shall make an initial funding contribution to the Declarant in an amount equal to one fourth (1/4) of the estimated annual Assessments for the subject Lot for that year (the “Initial Funding Contribution”), which the Declarant may be able to use for any purpose, including but not limited to replacement of funds contributed by Declarant into the accounts described in Sections 5.19 through and including 5.29. This amount shall be in addition to, not in lieu of, any and all Assessments by the Association, and shall not be considered an advance payment of such Assessments. This amount shall be collected and disbursed to the Declarant at closing of the contemplated purchase and sale of a Lot to such Owner.

5.12 Resale Fee. Upon and at the closing of any resale of any Lot, the purchaser of the Lot shall make a resale funding contribution to the Association in an amount to be determined by the Board of Directors from time to time but not in excess of one fourth (1/4) of the then Annual General Assessment (“Resale Funding Contribution”), which the Association may be able to use for any purpose. The Resale Funding Contribution shall not be refundable to the purchaser and shall not be applied and/or considered as a credit or advance against any particular Assessment. Except to the extent required to fund the accounts described in Sections 5.20, 5.22, 5.24, 5.26, and 5.28, no Resale Funding Contribution shall be due and payable by the Declarant, the Association, or any builder purchasing one or more Lots.

5.13 Use of Reserve Funds and Resale Funding. The Association, both before and after the Development Period, may use the reserve funds described above in Section 5.10 (except as limited in Section 5.10) and all Resale Funding Contribution for any purpose associated with the operation of the Association, as the Board may, at any time and from time to time, determine, including, without limitation, start-up expenses of the Association and the cost of performing any maintenance or other work or covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents. However, such discretion is only applicable once all required deposits for Subdivision Infrastructure have been made and all such expenditures must be in accordance with the Ordinance. To the extent the Association makes any claim against the Declarant, its appointed Board, or Officers for Common Area conditions, any other conditions existing at Turnover, or prior acts or omissions by the Declarant, the Declarant’s appointed Board, or Officers, that do not relate to the Subdivision Infrastructure, the contributions remaining at Turnover, except for those accounts with funds required by the Ordinance (if any), together with amounts then in the capital reserve account, except for those accounts with funds required by the Ordinance (if any), and amounts owed to the Declarant shall be credited against any obligation of the Declarant or its appointed Board or Officers.

5.14 Annual Financial Report and Budget.

(a) Budget. The Board shall prepare an annual budget as described herein and in Chapter 720 of the Florida Statutes. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The Association shall provide each Member with a copy of the annual budget or written notice that a copy of the budget is available upon request at no charge to the Member. The copy of the budget must be delivered or made available to the Member within ten (10) days after receipt of a written request therefor. Delivery of a copy of the budget or amended budget to each Member shall not

affect the liability of any Member for any such Assessment; neither shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of such budget, and Assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board, at any time and from time to time, in its discretion, to levy additional Assessments in the event that the budget originally adopted shall appear to be insufficient to pay the costs and expenses of operation and management of the Association, or in the event of emergencies.

A copy of the budget and notice of the date of the Board meeting at which the budget is to be voted shall be delivered to all Members at least forty-five (45) days prior to the beginning of each fiscal year. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each Member. At a meeting scheduled at least thirty (30) days prior to the beginning of each fiscal year, the Board shall accept any input from the Members on the budget and shall approve the budget at this meeting for the coming fiscal year. Such budget and Assessment shall become effective unless disapproved at a meeting by at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-Laws, which petition must be delivered and presented to the Board within twenty (20) days after delivery of the notice of assessments. If a meeting is requested, Assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such Assessments shall be retroactive to the original effective date of the budget, if the budget is not disapproved at such meeting.

(b) Financial Report. The Board, in addition to the reports required in Section 5.14(a) of this Declaration ("Budget"), shall prepare an annual financial report within ninety (90) days after the close of the fiscal year. The Board shall provide each Member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the Member. The financial report must consist of either:

(i) Financial statements presented in conformity with generally accepted accounting principles; or

(ii) A financial report of actual receipts and expenditures, cash basis, which report must show:

(A) The amount of receipts and expenditures by classification; and

(B) The beginning and ending cash balances of the Association.

5.15 Association Funds. The portion of all General Assessments collected by the Association for a reserve for future expenses, and the entire amount of all Special and Capital Improvement Assessments, and any other Assessments permitted to be levied hereunder, shall be held by the Association, and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States government. However, any

amounts held by the Association pursuant to the Ordinance must be held in accordance with the terms of the Ordinance.

5.16 Estoppel Certificates. The Association shall, promptly after written demand (along with payment for the costs of issuing a certificate), deliver to any Owner liable for any type of Assessment a certificate, in writing, signed by an officer of the Association, stating that all Assessments (including charges, interest, late fees, penalties and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or if all Assessments, charges, interest, late fees, penalties and costs have not been paid, setting forth the amount then due and payable. Any such certificate, when duly issued by the Association as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question. The Association may require the advance payment of a processing fee for the issuance of each such certificate, which shall not exceed the greater of the highest amount permitted by law or one hundred dollars (\$100.00).

5.17 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Assessments in any succeeding year, but may carry forward from year to year such surplus, as the Board may deem to be necessary or desirable for the greater financial security of the Association and the effectuation of its purposes.

5.18 Declarant's Responsibility for Reserves. DECLARANT SHALL BE, EXCEPT AS SPECIFICALLY PROVIDED IN THIS DECLARATION AND BY THE ORDINANCE, UNDER NO OBLIGATION TO FUND OR PAY ANY RESERVE CONTRIBUTIONS. THE DECLARANT, EXCEPT AS SPECIFICALLY PROVIDED IN THIS DECLARATION, SHALL NOT BE OBLIGATED TO FUND CAPITAL EXPENDITURES, WHICH MAY REQUIRE A SPECIAL ASSESSMENT OF THE OWNERS.

5.19 Gated Community. The Property is a gated community, which means that the Roadways, Drainage Facilities and certain other infrastructure items are to be owned, operated, repaired, replaced and/or maintained by the Association as part of the Common Area. As such, each Owner by virtue of accepting a deed to a Lot and/or of any portion of the Property understands, acknowledges and agrees that the Roadways and Surface Water Management Systems and certain other infrastructure items are privately owned and after Turnover of the Subdivision Infrastructure by the Declarant the Association will ultimately be responsible for the operation, maintenance, ownership, repairs and/or replacement of those items from time to time as described in further detail below. The Roadways, Surface Water Management Systems, sidewalks, curbing, bicycle paths (if any), pedestrian paths (if any), traffic control signage, stormwater conveyance systems, guardhouse and gates and any other infrastructure appurtenant to the Roadways and Surface Water Management Systems shall be collectively referred to as the "Subdivision Infrastructure." Declarant is responsible to repair and maintain the Subdivision Infrastructure until Turnover in accordance with the Ordinance. Although the Subdivision Infrastructure is part of the Common Area, those provisions relating to the Common Area in general shall be limited, as to Subdivision Infrastructure, by the specific provisions applicable to the Subdivision

Infrastructure. The Association must create, deposit monies into, retain in perpetuity, and replenish from time to time the accounts described below.

5.20 Routine-Infrastructure-Maintenance Account. The Association shall establish, assess for and maintain a reserve account with an amount sufficient for the routine maintenance, operation and/or repair of the Subdivision Infrastructure. The monies in this account, including any investment earnings, are to be used by the Association (or by Declarant with the prior written consent of the Association's Board of Directors) only for scheduled maintenance and/or for any unscheduled repair of the Subdivision Infrastructure. This account is to be kept separate and apart from all other funds and/or accounts of the Association, and the Association cannot commingle this account with any other account of the Association. Notwithstanding anything to the contrary in this Declaration, the Association may commingle the funds in this account for banking and investment purposes, and the monies in this account may be pooled with other monies of the Association in a common investment program, as long as the financial books and records of the Association account for the monies in this account separately and such monies are earmarked for the purpose of scheduled maintenance and/or unscheduled repair of the Subdivision Infrastructure.

5.21 Use of the Routine-Infrastructure-Maintenance Account. The monies in the Routine-Infrastructure-Maintenance Account may also be used for the scheduled maintenance and/or unscheduled repair of any gates, guardhouse and/or related facilities; provided, however, the maintenance and/or repair of the Roadways, Drainage Facilities, and other portions of the Subdivision Infrastructure referenced in the Ordinance shall take priority over the maintenance and/or repair of such other facilities. Any and all earnings from the investment of monies in this reserve account, if any, shall remain in this account. The Association shall deposit in this account each fiscal year the amount of money sufficient to perform all scheduled maintenance and/or unscheduled repair of the Subdivision Infrastructure. The amount deposited in this account each fiscal year, when added to any investment earnings of the account, must be no less than the amounts recommended by the engineer's reports described in greater detail in Sections 5.31 and 5.33 below.

5.22 Capital-Repair/Streets Account. The Association shall establish, assess for and maintain a reserve account with an amount sufficient for the major capital repair and/or replacement of the Roadways. The monies in this account, including any investment earnings, are to be used by the Association only for the resurfacing and/or related reconstruction of the Roadways, which generally is necessary every twelve (12) years. The Association shall not expend the monies on deposit in this account earlier than the twelfth (12th) anniversary of the issuance by the County of the certificate of completion for the Roadways, unless such expenditure has been approved by the affirmative consent by not less than a Majority of the Owners of platted Lots within the Property excluding the Declarant. Such consent may be obtained by the Association either in writing or by the vote of the necessary number of Owners of platted Lots at a duly called meeting of the Association's membership. Any such consent shall only be valid if control of the Roadways has been turned over to the Association. The monies in this account may not be expended in any manner prior to the turnover of control of the Association to its members by the

Declarant. This account is to be kept separate and apart from all other funds and/or accounts of the Association, and the Association cannot commingle this account with any other account of the Association. Notwithstanding anything to the contrary in this Declaration, the Association may commingle the funds in this account for banking and investment purposes, and the monies in this account may be pooled with other monies of the Association in a common investment program, as long as the financial books and records of the Association account for the monies in this account separately and such monies earmarked for the purposes of resurfacing and/or related reconstruction of the Roadways. Any and all earnings from the investment of monies in this reserve account, if any, shall remain in this account. Under no circumstances may the monies in the account be expended before the Declarant turns over control of the Subdivision Infrastructure to the Association.

5.23 Deposits into Capital-Repair/Streets Account. The Association shall deposit into this account each fiscal year an amount sufficient for the Roadways to be resurfaced and, as related to the resurfacing, reconstructed no less frequently than once every twelve (12) years. Deposits into this account shall begin in the year the County issues the certificates of completion for the Roadways and shall be fully funded no later than the twelfth (12th) anniversary of the issuance of the certificate of completion for the Roadways. Notwithstanding anything to the contrary in this Declaration, following the turnover of control of the Association, the schedule of deposits into this account may be altered such that one or more of the annual deposits is less than one-twelfth (1/12) of the estimate approved by the County, but only if a simple majority or more of the Owners of platted Lots consent in writing and/or approve such an alteration at a meeting of the Association's membership held to approve the alteration, to a different schedule of deposits and that revised schedule of deposits must still result in the aggregate amount of deposits during the applicable twelve (12) year period being equal to or greater than the estimate approved by the County. At the end of each twelve (12) year period, the Association shall review, revise, and update the estimated cost of resurfacing of the Roadways and, as related to the resurfacing, reconstructing the Roadways at the end of the twelve (12) year period. The Association shall take into consideration, as part of this review, actual costs incurred and all expected increases in road construction costs, and the Association shall adjust the amount of its annual deposits into this account accordingly. If for any reason expenditures are made from this account prior to the end of the applicable twelve (12) year period, the amount of deposits into this account by the Association for the remaining years shall be adjusted so as to ensure that the account contains an amount sufficient at the end of the applicable twelve (12) year period to pay the costs of all expected repairs, reconstruction and/or resurfacing requirements.

5.24 Capital-Repair/Drainage Pond Account. The Association shall establish, assess for and maintain a reserve account in an amount sufficient for the major capital repair and/or replacement of the Surface Water Management Systems. The monies in this account, including any investment earnings, may only be used by the Association for major repair and/or reconstruction of the Surface Water Management Systems, which generally would be necessary every ten (10) years after the certificate of completion has been issued by the County. The repairs to the Surface Water Management Systems shall include, but not be limited to, dredging and sediment removal. The Association shall not expend the

monies on deposit in this account earlier than the tenth (10th) anniversary of the issuance by the County of the certificate of completion for the Surface Water Management Systems, unless such expenditure has been approved by the affirmative consent of not less than a simple majority of the Owners of platted Lots within the Property excluding the Declarant. Such consent may be obtained by the Association either in writing or by the vote of the necessary number of Owners at a duly called meeting of the Association's membership. Any such consent shall only be valid if control of the Surface Water Management Systems has been turned over to the Association. The monies in this account may not be expended in any manner prior to turnover of control of the Association to its Members by the Declarant and turnover of the Subdivision Infrastructure to the Association. This account is to be separate and apart from all other funds and all other accounts of the Association, and the Association shall not commingle this account with any other account of the Association. Notwithstanding anything to the contrary in this Declaration, the Association may commingle the funds in this account for banking and investment purposes, and the monies in this account may be pooled with other monies of the Association in a common investment program, as long as the financial books and records of the Association shall account for the monies in this account separately and such monies earmarked for the purpose of major capital repair and/or replacement of the Surface Water Management Systems.

5.25 Deposits into Capital-Repair/Drainage Ponds Account. The Association must deposit into this account each fiscal year an amount sufficient for the Surface Water Management Systems to be restored and/or repaired no less frequently than once every ten (10) years, and the amount to be deposited each year shall be estimated by the Declarant and approved by the County before the certificate of completion for the Surface Water Management Systems shall be issued. The deposits into this account shall begin in the year in which the County issues its certificate of completion for the Surface Water Management Systems, and the account must be fully funded no later than the tenth (10th) anniversary of the issuance of the certificate of completion for the Surface Water Management Systems. The amount deposited each fiscal year by the Association must not be less than one tenth (1/10) of the estimate approved by the County. Notwithstanding anything to the contrary in this Declaration, following the turnover of control of the Association, the schedule of deposits into this account may be altered such that one or more of the annual deposits is less than one tenth (1/10) of the estimate approved by the County, but only if a Majority of the Owners of platted Lots consent in writing and/or approve such an alteration at a meeting of the Association's membership held to approve the alteration, to a different schedule of deposits and that revised schedule of deposits must still result in the aggregate amount of deposits during the applicable ten year period being equal to or greater than the estimate approved by the County. At the end of each ten (10) year period, the Association shall review, revise and update the estimated cost of restoring and/or repairing the Surface Water Management Systems at the end of the next ten (10) year period. The Association shall take into consideration, as part of this review, actual costs incurred and all expected increases in drainage system construction costs, and the Association shall adjust the amount of its annual deposits into this account accordingly. If for any reason expenditures are made from this account prior to the end of the applicable ten (10) year period, the amount of deposits into this account by the Association for the remaining years shall be adjusted so as to ensure that the account contains an amount sufficient at the end of the

applicable ten (10) year period to pay the costs of all expected major capital repair and/or replacement requirements. The monies in this account may not be expended in any manner prior to turnover of control of the Association to its Members by the Declarant and turnover of the Subdivision Infrastructure to the Association.

5.26 Capital-Repair/Other Infrastructure Account. The Association shall establish, assess for and maintain a reserve account for the major capital repair and/or replacement of other Subdivision Infrastructure, including without limitation, sidewalks, stormwater conveyance systems, curbing, and bicycle paths (if any). The monies in this account, including any investment earnings, are to be used by the Association only for the major repair, reconstruction, resurfacing and/or replacement of the other parts of the Subdivision Infrastructure related to, associated with and/or connected with the Roadways and/or Surface Water Management Systems. The monies on deposit in this account may also be used for the major repair, reconstruction and or replacement of any and all gates and/or related facilities located within the Property; provided, however, that the repair, reconstruction and/or replacement of the other parts of the Subdivision Infrastructure within the property related to, associated with and/or connected with the Roadways and/or Surface Water Management Systems shall take priority over the repair, reconstruction and/or replacement of any gates and/or related facilities to those gates. This account is to be kept separate and apart from all other funds and/or accounts of the Association, and the Association shall not commingle this account with any other account of the Association. Notwithstanding anything to the contrary in this Declaration, the Association may commingle the funds in this account for banking and investment purposes, and the monies in this account may be pooled with other monies of the Association in a common investment program, as long as the financial books and records of the Association account for the monies in this account separately and such monies earmarked for the purpose of resurfacing and/or related reconstruction of the Roadways, Surface Water Management Systems and other related Subdivision Infrastructure. Any and all earnings from the investment of monies in this reserve account, if any, shall remain in this account. The monies in this account may not under any circumstances be expended in any manner prior to turnover of control of the Association to its Members by the Declarant and turnover of the Subdivision Infrastructure to the Association.

5.27 Deposits into Capital-Repair/Other Infrastructure Account. The Association shall deposit into this account each fiscal year an amount sufficient for the other Subdivision Infrastructure items described herein to be reconstructed, repaired and/or replaced no less than once every fifty (50) years, and this amount must initially be approved by the County before it issues a certificate of completion for the improvements described herein. Deposits into this account by the Association must begin in the year in which the County issues its certificate of completion for the improvements described herein to include, but not be limited to, stormwater conveyance systems, sidewalks, curbing, and bikepaths (if any), and this account must be fully funded no later than the fiftieth (50th) anniversary of the applicable certificate of completion by the County. The amount deposited into this account each fiscal year by the Association must be no less than one fiftieth (1/50) of the estimate that was initially approved by the County. Notwithstanding anything to the contrary in this Declaration, following the turnover of control of the Association, the schedule of deposits into this account may be altered such that one or more

of the annual deposits is less than one fiftieth (1/50) of the estimate approved by the County, but only if a Majority of all Owners of platted Lots consent in writing and/or approve such an alteration at a meeting of the Association's membership held to approve the alteration, to a different schedule of deposits and that revised schedule of deposits must still result in the aggregate amount of deposits during the applicable fifty (50) year period being equal to or greater than the estimate initially approved by the County. At the end of each fifty (50) year period, the Association shall review, revise and update the estimated cost of reconstructing, repairing and/or replacing the improvements described herein for the next fifty (50) year period. The Association shall take into consideration, as part of this review, actual costs incurred and all expected increases in reconstruction, repair and/or replacement costs, and the Association shall adjust the amount of its deposits into this account accordingly. If for any reason expenditures are made from this account prior to the end of the applicable fifty (50) year period, the amount of deposits into this account by the Association for the remaining years shall be adjusted so as to ensure that the account contains an amount sufficient at the end of the applicable fifty (50) year period to pay the costs of all expected repair, reconstruction and/or resurfacing requirements. The monies in this account may not under any circumstances be expended in any manner prior to turnover of control of the Association to its Members by the Declarant and turnover of the Subdivision Infrastructure to the Association.

5.28 Storm Debris Removal Account. The Association shall establish, assess for and maintain a reserve account for the costs and/or expenses associated with, arising from and/or related to storm debris cleanup and/or removal. The monies in this account, including any investment earnings, shall be used by the Association only for the costs associated with, arising from and/or related to storm debris cleanup and/or removal, including without limitation the following: clearing downed trees, landscaping and/or other storm-created debris from the Association-owned Roadways, sidewalks and/or Surface Water Management Systems and removing such debris from the Property; transporting such debris to a landfill and/or another location or drop-off site that may be designated for that purpose by the County and/or other applicable governmental agency from time to time. This account is to be kept separate and apart from all other funds and/or accounts of the Association, and the Association cannot commingle this account with any other account of the Association. Notwithstanding anything to the contrary in this Declaration, the Association may commingle the funds in this account for banking and investment purposes, and the monies in this account may be pooled with other monies of the Association in a common investment program, as long as the financial books and records of the Association account for the monies in this account separately and such monies earmarked for the purpose of storm debris cleanup and/or removal. Any and all earnings from the investment of monies in this reserve account, if any, shall remain in this account.

5.29 Deposits into Storm Debris Removal Account. Declarant must deposit an initial amount into this account equal to Two Hundred Fifty Dollars (\$250) per acre of land in the platted Property (excluding any and all wetlands, conservation areas and/or natural water bodies). The Association must deposit into this account each fiscal year an amount equal to one fifth (1/5) of the initial amount deposited by the Declarant, until the account reaches a total equivalent to twice the initial deposit made by the Declarant plus the amount of the annual construction cost index published by the Engineering News Record.

The Association shall the make annual deposits into this account in an amount sufficient to maintain the balance at twice the initial deposit made by the Declarant plus the amount of the annual construction cost index published by the Engineering News Record. Any time the Association must expend funds from this account following a storm event, the Association shall fully replace those funds sufficiently to restore the debris removal account to the balance that existed prior to the expenditures plus the annual construction cost index published by the Engineering News Record, including by special assessment if necessary, not later than three (3) years from such expenditure.

5.30 Funding of Accounts. To help ensure the financial ability of the Association to maintain the Subdivision Infrastructure following turnover of control of the Subdivision Infrastructure, the accounts described in Section 5.20, Section 5.22, Section 5.24, Section 5.26 and Section 5.28 of this Declaration shall be initially created and funded by Declarant in the following amounts: (i) for the account described in Section 5.28, the Declarant shall fund the initial amount described in Section 5.29; and (ii) for the remaining four (4) accounts, the Declarant shall fund an amount equal to one year of assessments prior to the Plat being recorded in the public records of the County or prior to the issuance of certificates of completion for the Subdivision Infrastructure. The funds to be paid by Declarant in this Section 5.30 are in addition to any other assessments that Declarant is required to pay to the Association under the Ordinance.

5.31 Engineering Services. No earlier than one hundred eighty (180) days before turnover of control of the Association and/or the date of transfer of control of the Subdivision Infrastructure is to occur, the Association shall retain the services of a Florida registered engineer that is experienced in subdivision construction. The engineer retained by the Association must be different than the engineer of record for the Property determined as of the date of the County's approval of the Subdivision Infrastructure construction plans; and different from any engineers who are principals of, employed by and/or contractors of the same firm as the engineer of record of the Property. The engineer retained by the Association shall inspect the Subdivision Infrastructure in accordance with the existing approved plans (and any authorized revisions, changes and/or amendments thereto), and the Association shall have the engineer prepare a report: (i) recommending the amount of scheduled maintenance and/or unscheduled repair that likely will be needed for the Subdivision Infrastructure, that is in accordance with the standards that may be established and/or revised from time to time by the County's engineer or his or her designee; (ii) that recommends the amounts of money that the Association should deposit each year described in the Routine-Infrastructure-Maintenance Account; and (iii) determines what repairs, if any, are needed to the Subdivision Infrastructure prior to the turnover of control of the Association. The engineer's report must be signed and sealed by the engineer. The Association shall pay the cost of the engineer's inspection and report, and, notwithstanding anything to the contrary in this Declaration, the Association may pay the cost of such inspection and report by the engineer from the Routine-Infrastructure-Maintenance Account. A copy of such engineering report prepared for the Association shall be provided to each Owner by the Association and the County's engineer within fifteen (15) days following the completion of the engineering report. Any necessary repairs and/or replacements identified in the engineer's report must be completed by Declarant, at Declarant's sole expense, prior to either turnover of control of the Association to the

Owners other than the Declarant or transfer of control of the Subdivision Infrastructure from Declarant to the Association, whichever event occurs first. If turnover of control of the Association and/or transfer of control of the Subdivision Infrastructure occurs and the requirements of this Section 5.31 have not been fulfilled, the rights of the Association, any of the Association's members and/or any and all Owners of any portion of the Property to enforce the requirements of this Section 5.31 shall survive the turnover of control of the Association and the prevailing party in any such enforcement action shall be entitled to its attorneys' fees and costs from the non-prevailing party.

5.32 Declarant Responsibility. Until turnover of control of the Association and/or until transfer of control of the Subdivision Infrastructure from Declarant to the Association occurs, all maintenance and repair of the Subdivision Infrastructure is the responsibility of the Declarant. Prior to turnover of control of the Association occurring and/or until transfer of control of the Subdivision Infrastructure from the Declarant to the Association occurs, Declarant may expend monies from the Routine-Infrastructure-Maintenance Account for such maintenance and repairs, but only with the prior written consent of the Association's Board of Directors. Insufficiency of monies in the Routine-Infrastructure-Maintenance Account shall not act to relieve Declarant of any responsibility and/or obligation to maintain and/or repair of Subdivision Infrastructure properly prior to the turnover of control of the Association and/or transfer of control of the Subdivision Infrastructure.

5.33 Inspection Following Turnover. Following turnover of control of the Association or turnover of control of the Subdivision Infrastructure from Declarant to the Association, whichever event occurs first, the Association shall obtain an inspection of the Subdivision Infrastructure by a Florida registered engineer that is experienced in subdivision construction no less frequently than once every three (3) years following the Association's receipt of the initial engineer's report described in Section 5.31 above. The engineer retained by the Association shall use good engineering practice and shall act in accordance with any standards that may be established and/or revised from time to time by the County's engineer or his or her designee; or in accordance with such other standards as may be adopted from time to time by the Association; or such other standards as the Association's engineer may determine to be appropriate. The engineer retained by the Association shall: conduct an inspection to determine the level of maintenance and/or repair (both scheduled and unscheduled) necessary for the Subdivision Infrastructure; determine the amounts of funding necessary by the Association each year for the next three (3) fiscal years in the Routine-Infrastructure-Maintenance Account to pay for such maintenance and/or repair; and any repairs necessary to the Subdivision Infrastructure. The inspection must be reduced to writing in the form of a report and the engineer shall be required to submit that report to the Association. A copy of each such engineering report prepared for the Association shall be provided to each Owner by the Association no later than fifteen (15) days following completion of the engineering report. The Association shall then undertake and complete all remedial work identified and recommended by the engineer no later than one hundred eighty (180) days from the Association's receipt of each engineering report.

5.34 Required Assessments. The obligation to collect and pay assessments required for the accounts described in Sections 5.20, 5.22, 5.24, 5.26 and 5.28 shall commence as of the date on which the County issues its certificate of completion for the Roadways, Drainage System and other related Subdivision Infrastructure. However, if no plat has been recorded as of that date, the obligation to collect and pay assessments shall commence as of the date the plat is recorded in the Public Records of Orange County, Florida. The Association shall impose and collect assessments for the accounts described in Sections 5.20, 5.22, 5.24, 5.26 and 5.28 against each Lot in Sawyer Sound, including Lots owned by Declarant and by any builder, without exception. The assessments must be uniform and equitable and must be imposed and collected in amounts sufficient, when added to investment earnings and other available revenue of the Association, if any, to make all required deposits to each of the accounts described in Sections 5.20, 5.22, 5.24, 5.26, and 5.28. Notwithstanding the foregoing, if in the opinion of the County's engineer, the Subdivision Infrastructure has substantially deteriorated at the time the plat is approved, the County may require an additional payment of assessments by the Declarant to address the loss of useful life of the deteriorated Subdivision Infrastructure.

5.35 Financial Reports and Other Requirements. Each year the Association shall cause a financial report of the required accounts described in Sections 5.20, 5.22, 5.24, 5.26 and 5.28 to be performed and prepared, and a copy of the report shall be submitted to each Owner within the time frame required under the "Financial Reporting" requirements of Chapter 720 of the Florida Statutes. At a minimum, the report shall confirm the existence of each of the five accounts described above and report the amount of deposits into and expenditures from each of those accounts during the period year, along with an itemization of the expenditures from those required Association accounts. Finally, the financial report shall disclose whether any of the required Association accounts has on deposit less than the amount required under this Declaration.

5.36 Indemnification. Declarant, for so long as Declarant retains control of the Association and/or elects a majority of the Association's Board of Directors, and the Association hereby expressly indemnify and hold the County and the County's officers and employees harmless from any cost of maintenance, repair, and reconstruction of, or tort liability or award of damages related to and/or arising in connection with the Roadways, Surface Water Management Systems and /or any other Subdivision Infrastructure.

5.37 No Rebate on Taxes. Each Owner hereby acknowledges, understands and agrees that no Owner is entitled to a discount, reduction and/or rebate in property and/or any other taxes of any kind by virtue of the Roadways and/or Surface Water Management Systems being privately owned by the Association.

5.38 Disclosures. Each initial purchaser of a Lot from Declarant for personal or family use shall receive a copy of this Declaration at the time of or prior to the sales contract being executed. Each such Owner shall also receive a copy of the then-current annual budget of the Association, including without limitation, a schedule disclosing the then-existing amounts of the annual assessments being collected for each of the accounts described in Sections 5.20 through and including 5.29 above. Such schedule of annual assessments shall contain a disclosure that the assessments related to the funding of the accounts described in Sections 5.20 through and including 5.29 above do not include any

assessments for the routine maintenance, operation, repair, replacement and/or the capital repair and replacement of the Association's property and/or facilities that are not related to and/or associated with the Subdivision Infrastructure. Each such Owner shall also receive a copy of the Association's most recent fiscal year-end financial statement. If the annual budget and financial statement do not exist, the Owner shall receive a good faith estimate of the Association's operating budget. Each Owner will also receive a form or receipt to be signed by that Owner acknowledging the Owner's receipt of a copy of this Declaration, the Association's budget, the financial statement or good faith estimate (as applicable). The original of the form acknowledging receipt of a copy of this Declaration is to be attached to the sales contract as an exhibit or appendix.

5.39 Remedy upon Default. Upon default by the Association and/or Declarant in any requirements of the County or Sections 5.19 through and including 5.50 of this Declaration, the County, at its sole option and after due notice of such default and after providing the Association and/or Declarant with a reasonable time to cure such default, may prohibit closure of the gates and, upon dedication or conveyance of the Roadways to the County, assume responsibility for the maintenance, operation, repairs and/or replacement. The County shall be entitled to use any and all monies of the Association that are on deposit in any of the accounts described in greater detail in Sections 5.20 through and including 5.29 above, or, if no monies exist and/or such amounts are insufficient, the County shall use such other revenues or financing methods as the County may elect to pursue, including without limitation, special assessments against the Lots.

5.40 Insurance Policy. Notwithstanding anything to the contrary in this Declaration, the Association shall carry an insurance policy that insures the Association from liability for damages related to, arising from, associated with and/or connected with the Subdivision Infrastructure. The minimum amount of such insurance shall be established by resolution of the County's Board of County Commissioners. Such insurance shall be part of the Common Expenses.

5.41 Traffic Law Enforcement Agreement. The Association shall enter into and maintain a traffic law enforcement agreement with the Orange County Sheriff's Office in order for the Orange County Sheriff's Office to enforce traffic laws within the Property. All costs of such traffic law enforcement and/or the expenses associated with such enforcement shall be the sole responsibility and obligation of the Association as part of the Common Expenses.

5.42 Non-binding Mediation. Each Owner hereby acknowledges, understands and agrees that by virtue of taking title to a Lot, any dispute between an Owner and Declarant, or between the Association and Declarant, with respect to the repair and/or maintenance of the Subdivision Infrastructure and/or the funding for such repair and/or maintenance shall be required to first be submitted to non-binding mediation in an attempt to resolve that dispute. Each Owner hereby acknowledges, understands and agrees that submission to and active participation in a non-binding mediation procedure is a condition precedent to any bringing, filing and/or pursuing a claim of any kind against Declarant.

5.43 Enforcement, Venue and Attorneys Fees. The Association, each Member of the Association and all Owners shall have the right to jointly and severally enforce against

Declarant the requirements of the Ordinance with respect to the private Subdivision Infrastructure and/or the provisions of Sections 5.19 through and including 5.50 of this Declaration. In addition, any Member of the Association and all Owners shall have the right to enforce against the Association the requirements of the Ordinance with respect to the private Subdivision Infrastructure and/or the provisions of Sections 5.19 through and including 5.50 of this Declaration. Venue for any such enforcement action shall be in the Ninth Judicial Circuit in and for Orange County, Florida. The prevailing party in any such enforcement action shall be entitled to recover its attorneys' fees and costs from the non-prevailing party.

5.44 Annexation. If the Property is annexed into a municipality, the rights and privileges inuring to the benefit of the County shall be deemed assigned to that municipality and shall inure automatically to that municipality's benefit.

5.45 Restriction on Transfers. Any transfer and/or conveyance of any portion of the Subdivision Infrastructure, including without limitation, the property on which the Subdivision Infrastructure may be located, to the County and/or any other governmental entity is strictly prohibited without the approval of not less than two thirds (2/3) of all of the Owners of platted Lots within the Property. Such approval may be obtained at a meeting of the Association's membership at which a quorum has been established.

5.46 Disclosure Statement. As the Property is a gated community, the County requires certain information to be disclosed. Please carefully review the following:

**GATED COMMUNITY COST
DISCLOSURE STATEMENT**

IF YOU ARE BUYING A LOT OR HOME IN A PRIVATE GATED COMMUNITY IN ORANGE COUNTY YOU SHOULD KNOW THESE BASIC FACTS:

- 1. ORANGE COUNTY IS PROHIBITED FROM PAYING TO MAINTAIN THE ROADS, SIDEWALKS AND DRAINAGE AND MAY NOT BE PERMITTED TO REMOVE STORM DEBRIS IN THIS COMMUNITY BECAUSE THE ROADS, SIDEWALKS, AND DRAINAGE ARE PRIVATE PROPERTY AND THE GENERAL PUBLIC CANNOT ACCESS THE COMMUNITY.**
- 2. ALTHOUGH THE COST OF PROPERLY MAINTAINING AND REPAIRING ROADS, SIDEWALKS AND DRAINAGE SYSTEMS CAN BE VERY HIGH, ONLY THE OWNERS OF HOMES AND LOTS IN THIS COMMUNITY WILL SHARE THESE EXPENSES. TAX DOLLARS WILL NOT BE USED. THE MEMBERS MUST ALSO PAY FOR THE COST OF LIABILITY INSURANCE AND TRAFFIC ENFORCEMENT ON THE COMMUNITY'S ROADS.**
- 3. UNDER FLORIDA LAW, NO REDUCTION IN YOUR TAX BURDEN WILL RESULT FROM LIVING IN THIS COMMUNITY.**
- 4. MEMBERS OF THIS COMMUNITY, THROUGH THEIR MANDATORY HOMEOWNERS' ASSOCIATION, MUST SET ASIDE ADEQUATE RESERVES TO**

PAY FOR STORM DEBRIS REMOVAL IN THE EVENT OF TORNADO, HURRICANE, OR OTHER MAJOR STORM EVENT, TO PROPERLY MAINTAIN, REPAIR AND REPLACE THE ROADS, SIDEWALKS AND DRAINAGE SYSTEM, AND MUST HAVE A PROFESSIONAL ENGINEER REGULARLY INSPECT THE ROADS, SIDEWALKS AND DRAINAGE SYSTEM AND REPORT WHAT WORK IS NECESSARY TO MAINTAIN AND/OR REPAIR THEM. THE MANDATORY HOMEOWNERS' ASSOCIATION IS OBLIGATED TO DO THE NECESSARY WORK REPORTED AND THE MEMBERS OF THE HOMEOWNERS' ASSOCIATION PAY FOR THE WORK THROUGH THEIR ASSESSMENTS.

- 5. THE EXTRA EXPENSES YOU INCUR TO MAINTAIN THE ROADS, SIDEWALKS AND DRAINAGE IN YOUR COMMUNITY ARE IN ADDITION TO OTHER EXPENSES CHARGED BY YOUR HOMEOWNERS' ASSOCIATION TO PAY FOR PRIVATE RECREATIONAL, SECURITY AND OTHER AMENITIES AND SERVICES THE COMMUNITY MAY OFFER, INCLUDING THE COMMUNITY'S GATES.**
- 6. AS WITH ANY ASSESSMENT, THE FAILURE OR INABILITY TO PAY MAY LEAD TO A LIEN BEING PLACED ON YOUR HOME. IF A LIEN IS PLACED AND FORECLOSED, YOU COULD LOSE YOUR HOME.**
- 7. THE HOMEOWNERS' ASSOCIATION IS ALSO REQUIRED TO MAINTAIN LIABILITY INSURANCE ADEQUATE TO PAY CLAIMS FOR INJURIES AND PROPERTY DAMAGE ARISING ON THE PRIVATE ROADWAY, SIDEWALKS, DRAINAGE PONDS, AND OTHER COMMON AREAS IN THE NEIGHBORHOOD.**
- 8. IF ORANGE COUNTY DETERMINES THAT THE COMMUNITY IS NOT MEETING ITS OBLIGATIONS, IT MAY REVOKE THE COMMUNITY'S PRIVILEGE TO CLOSE ITS GATES SO THAT THE ROADS IN THE COMMUNITY BECOME AVAILABLE FOR PUBLIC USE.**
- 9. IF THE COMMUNITY FAILS TO MAINTAIN ITS ROADS, SIDEWALKS AND DRAINAGE SYSTEM, THE COUNTY MAY REQUIRE THAT THE GATES BE REMOVED. IN THE EVENT THAT THE GATES ARE REMOVED, AND THE HOA DEDICATES THE ROADS AND OTHER INFRASTRUCTURE TO THE COUNTY, ALL COSTS AND EXPENSES WHICH ORANGE COUNTY INCURS FOR SUCH MAINTENANCE ARE RECOVERABLE FROM THE COMMUNITY. FUNDS WHICH HAVE BEEN SET ASIDE BY THE COMMUNITY MAY BECOME THE PROPERTY OF ORANGE COUNTY, AND THE ROADS IN YOUR COMMUNITY SHALL PERMANENTLY BECOME OPEN TO THE PUBLIC. ORANGE COUNTY WILL NOT MAINTAIN YOUR RECREATIONAL, SECURITY AND OTHER AMENITIES UNDER ANY CIRCUMSTANCES.**
- 10. BEFORE YOU SIGN A CONTRACT BE SURE THAT YOU RECEIVE WRITTEN INFORMATION ABOUT THE COSTS OF LIVING IN THIS COMMUNITY.**

11. I HAVE READ AND UNDERSTAND THE DISCLOSURES PROVIDED IN THIS DISCLOSURE STATEMENT PRIOR TO THE EXECUTION OF A CONTRACT TO PURCHASE ANY LOT IN THE SAWYER SOUND SUBDIVISION.

5.47 Multiple Lots. In the event where a Person purchases multiple Lots within the Property in a single transaction, that Person may only be required to execute one Gated Community Cost Disclosure Statement; provided, however, that all such Lots are listed on that Gated Community Cost Disclosure Statement either by legal description or by street address.

5.48 Effectiveness of Contracts. No contract or agreement for the purchase and sale of a Lot within the Property shall be effective until a Gated Community Cost Disclosure Statement has been provided to and executed by the purchaser.

5.49 Financial Statements. For each fiscal year, the Association shall cause a financial report of the accounts described in Sections 5.20 through and including 5.29 above to be performed and prepared, and a copy of that financial report is to be submitted to each Owner within the timeframe required under the "Financial Reporting" requirements of Chapter 720 of the Florida Statutes, as it may be amended and/or renumbered from time to time. At a minimum, this financial report shall confirm the existence of the accounts described in Sections 5.20 through and including 5.29 above and report the amount of deposits into and expenditures from any of these accounts during the fiscal year covered by that report, along with an itemization of the expenditures from any of the accounts described in Sections 5.20 through and including 5.29 above. The financial report shall also disclose whether any of the accounts described in Sections 5.20 through and including 5.29 above has on deposit less than the amount required by this Declaration.

5.50 Control. Notwithstanding anything to the contrary in this Declaration, the Declarant shall not turn over control of the Subdivision Infrastructure to the Association until at least seventy percent (70%) of all certificates of occupancy for all platted Lots within the Property have been issued by the County. Notwithstanding anything to the contrary in this Declaration, Declarant must turn over control of the Subdivision Infrastructure to the Association no later than the point in time when the County has issued certificates of occupancy for ninety percent (90%) of all platted Lots within the Property.

5.51 Conflict. In the event of any conflict between Sections 5.20 through and including 5.50 of this Declaration and any other portion of this Declaration, Sections 5.20 through and including 5.50 shall control.

ARTICLE VI
ARCHITECTURAL CONTROL COMMITTEE

6.01 Members of the Committee. The Architectural Control Committee, sometimes referred to in this Declaration as the "ACC", or "Committee", shall initially consist of one person who shall be designated by Declarant from time to time, which number of Committee members may be increased by Declarant at any time. The Committee member appointed by Declarant shall hold office until the expiration of the Development Period. Thereafter, the Committee shall

consist of three (3) members who shall be appointed by the Board from among the members of the Board and shall hold office until such time as they shall resign or be removed by the Board. Members of the Committee not appointed by Declarant may be removed by the Board at any time without cause.

6.02 Review of Proposed Construction. No Structure of any kind, including, but not limited to, a fence, wall or other addition, improvement, or equipment (including landscaping, antennas, awnings, flagpoles, garbage containers, oil and gas tanks, air conditioners, solar collectors and shutters) shall be installed, painted, erected, removed or maintained within the Project, 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, the Committee in accordance with the Design Guidelines. The Committee 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 Community and that the appearance of any Structure or other improvement affected thereby will be in harmony with the Design Guidelines and surrounding Structures. The Committee 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 Committee may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Committee 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. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval. The Committee shall have thirty (30) days after delivery of all required materials to approve or reject any such plans, and if not rejected within such 30-day period, said plans shall be deemed approved. Any approval of additional landscaping by the Committee may be made on the condition that such landscaping be maintained by and at the sole cost of the Owner of the affected Lot. 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 Dwelling Unit shall be further conditioned on compliance with County ordinances and the obtaining of applicable governmental approvals, if any.

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

6.04 No Waiver of Future Approvals. The approval of the Committee 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 Committee, 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 whatever subsequently or additionally submitted for approval or consent.

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

6.06 Liability of the Committee. No member of the Committee (or Declarant or the Board which appointed them or any representative designated by the Committee) 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 Committee members (and the Declarant and/or Board which appointed them and any representative designated by the Committee) harmless from any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and costs at all tribunal levels, arising out of the approval of any plans REGARDLESS OF THE NEGLIGENCE OF THE COMMITTEE MEMBERS, THEIR REPRESENTATIVE, OR APPOINTING ENTITY.

6.07 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 under this Article, the applicant for such approval ("Applicant") shall give written notice of completion to the Committee.

(b) Within sixty (60) days thereafter, the Committee or its duly authorized representative may inspect such completed work. If the Committee finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such noncompliance within such sixty (60) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

(c) If, upon the expiration of thirty (30) days from the date of such notification, the Applicant shall have failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. Upon proper notice and hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, 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 ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the noncomplying improvement or remedy the noncompliance (an easement therefor being hereby created), and the Applicant shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Applicant to the Association, the Board may levy an Individual Assessment against such Applicant for reimbursement.

(d) If for any reason the Committee fails to notify the Applicant of any noncompliance within sixty (60) 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.

6.08 Declarant's Exemption. Anything herein to the contrary notwithstanding, Declarant and all property owned by Declarant shall be exempt from the provisions of this Article. Declarant shall not be obligated to obtain Committee approval for any construction or changes in construction which Declarant may elect to make.

ARTICLE VII **MAINTENANCE, INSURANCE, REPAIR AND REPLACEMENT**

7.01 Association's Responsibility. Except for those areas that are the responsibility of the individual Members, the Association shall maintain and keep in good repair the Common Area, and such maintenance shall be funded as provided herein in Article V "Assessments." This maintenance obligation shall include, but need not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, Structures and Improvements, including all private streets, medians, sidewalks, street lights, boardwalks, gazebos, entry features and signage, and entry gates and gatehouses situated upon the Common Areas, as may be dedicated by this Declaration, or by a contract or agreement for maintenance thereof by the Declarant or the Association. In addition, the Common Area may include the Association's responsibility to maintain, repair and replace any sidewalks or fences located on Lots or within roadway rights-of-way within the Community, except as otherwise may be provided herein or in the other Governing Documents.

The Association may maintain other property, which it does not own, including, without limitation, property dedicated to the public, (a) if such maintenance is required by this Declaration, subdivision plat or other recorded instrument, (b) if the Board of Directors determines that such maintenance is necessary or desirable, or (c) if the Lot Owner requests such maintenance. In the latter event, the costs of such maintenance, if performed, shall be charged exclusively to the requesting Lot Owner as a Benefited Assessment.

7.02 Owner's Responsibility. Each Owner shall maintain his or her Lot and all Structures, parking areas and other Improvements comprising the Lot in a neat and attractive condition and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration, any Supplemental Declaration, Cost Sharing Agreement or other declaration of covenants applicable to such Lot or property. Each Owner shall also maintain the property outside his or her Lot from the Lot boundary to the edge of the asphalt of the street bounding the Lots. Each Owner shall be responsible for the replacement of any street tree(s) and the maintenance, repair, and replacement of any irrigation system and mailbox located on his or her Lot or within the roadway right-of-way bounding the Lot. If any Owner fails to properly perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner plus an administrative charge equal to fifteen percent (15%) of such costs; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

(a) Appearance During Construction, Debris. Each Owner acknowledges and agrees that any and all construction activities undertaken by or for Owner on any Lot within the Community shall be confined to and within the boundaries of the Lot, that all construction shall be undertaken with due care for the protection of neighboring Property and facilities, and that

any Lot and all construction thereon must at all times be maintained in a clean, neat and orderly manner in order to minimize the potential adverse impact of such construction activities on adjacent Lots and neighboring Property and facilities and upon the Community and the Property generally. Each Owner agrees to cause the slabs of any Residence and of the Improvements under construction to be swept on a weekly basis and to maintain the interior of any Residences and Structures under construction in as clean a condition as practical. Further, all debris, equipment and excess, surplus or remainder of construction materials, of whatever nature, shall be promptly cleared and removed from the Lot and adjoining street by or for Owner when construction is completed. Construction shall be deemed completed when the appropriate governmental authority issues a certificate of occupancy.

(b) Landscaping. Each Owner shall keep and maintain each Lot and Structure owned by him, as well as all landscaping located thereon in good condition and repair, including, but not limited to: (i) the repairing and painting (or other appropriate external care) of all Structures; (ii) the seeding, watering and mowing of all lawns; and (iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. Notwithstanding the foregoing, the maintenance required hereunder shall also extend from the boundary of a Lot to the curbing of the right-of-way bordering said Lot. If in the opinion of the ACC any such Owner shall fail to perform the duties imposed by this Section, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall deliver written notice to the Owner to remedy the condition in question setting forth in reasonable detail and particularity the nature and extent of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within ten (10) days after the mailing of said written notice by certified mail, then the Association shall have the Right of Abatement as provided in Section 10.02 hereof, as well as any other right or remedy provided at equity, in law or otherwise. Guidelines relating to the maintenance of Structures and landscaping may be included in the Design Guidelines.

(c) Indemnity. Each Owner agrees to indemnify, defend (with counsel selected by each Indemnitee (defined below)), and hold Declarant, the Association, the ACC, and their respective Affiliates and each of their respective officers, directors, members, partners, shareholders, agents and employees and each of their respective Property (collectively, the "Indemnitees" and individually an "Indemnitee"), completely free and harmless from and against any and all losses, damages, costs or expenses suffered by any or all of the Indemnitees, on account of, in connection with or in any way arising out of or from Owner's or Owner's Affiliates' or their respective agent's and employee's failure to abide by and comply with the foregoing covenants of Owner set forth in this Section 7.02 ("Owner's Responsibility") herein. With respect to such indemnity, Owner hereby specifically agrees that Owner shall be responsible and liable to the Indemnitees for any and all damages directly or indirectly caused to their respective properties or facilities within or adjacent to the Community by Owner or its subcontractors, laborers or material suppliers. If any one or more losses, damages, costs or expenses suffered or incurred by any of the Indemnitees on account of Owner's direct or indirect breach of this Section, Declarant and/or the Association, as applicable, shall have, in addition to any other right it may have at law or in equity, the right to impose a lien upon the breaching

Owner and such Owner's Lot and shall be entitled to record in the Public Records a notice of such lien.

7.03 Cost Sharing Agreements. The Association may enter into one or more Cost Sharing Agreements with the owners or operators of any portion of the Common Area, Orange County, or the owner of any adjacent property to obligate:

(a) The owners or operators of such adjacent property to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of the Common Area, if any, which are used by or benefit jointly the owners or operators of such adjacent property; and/or

(b) The Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such adjacent property, if any, that are used by or benefit jointly the owners or operators of such adjacent property.

7.04 Required Insurance Coverage. The Association, acting through the Board of Directors or its duly authorized agent, shall, in addition to those required under Section 5.40 of this Declaration, obtain and maintain the following insurance policies and coverages, if reasonably available, or if not reasonably available, the most nearly equivalent coverages that are reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable Improvements within the Common Area to the extent that the Association has assumed the responsibility for the repair and replacement of such Improvements in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost value of the insured Improvements under current ordinances and building codes.

(b) Commercial general liability insurance with regard to the Common Area and the operations of the Association, insuring the Association and the Members for damage or injury caused by the negligence of the Association, any of the Members, or employees, agents, or contractors while acting on the Association's behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least one million U.S. Dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage; provided, however, that should additional coverage and higher limits be available, at a reasonable cost, that a reasonably prudent person would obtain and maintain, then the Association shall obtain and maintain such additional coverages or higher limits.

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by the laws of the State.

(d) Directors' and officers' liability coverage.

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds, in an amount determined in the Board's business judgment.

(f) Flood insurance, if and to the extent required by federal law.

(g) Such additional insurance as the Board, in the exercise of its business judgment, determines to be prudent.

Premiums for all insurance covering casualties to, or liability arising from, the Common Area shall be Common Expenses.

7.05 Repair & Replacement of Improvements. Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, each Owner's responsibility to maintain such Owner's Lot shall include the responsibility to repair and replace the Improvements constructed or installed within or upon such Lot in order to maintain the Lot in a manner consistent with the Community standards. By accepting a deed or other instrument conveying title to a Lot or any interest therein or Structure thereon, each Owner shall be deemed to have covenanted and agreed to carry property insurance for the full replacement cost of all insurable Improvements constructed or installed or to be constructed or installed within such Owner's Lot, less a reasonable deductible. Each Owner shall be further deemed to have covenanted and agreed that in the event of damage to or destruction of Residences and/or Structures constructed or installed within or upon such Owner's Lot, the Owner shall promptly repair, restore or replace such Residence and/or Structures in a manner consistent with the original construction or such other plans and specifications, as are approved in accordance with Article VI hereof ("Architectural Control Committee"). Alternatively, the Owner may clear the Lot and maintain it in a neat and attractive, landscaped condition. The Owner shall pay any and all costs and other fees, including, attorneys' fees and costs, not covered by insurance proceeds.

ARTICLE VIII **USE RESTRICTIONS**

8.01 Application. The Community and all Lots contained therein and Residences and other Structures thereon shall be owned, used and enjoyed subject to the following limitations and restrictions regarding the use of the land within the Community and the conduct of Persons set forth in this Article VIII ("Use Restrictions"), as well as the Rules and Regulations adopted pursuant to Article IV ("Rules and Regulations"), and hereby declares that the Association is authorized to enforce such Use Restrictions and Rules and Regulations pursuant to this Declaration and the other Governing Documents. Every Owner and occupant of a Lot within the Community, by its acceptance of a deed or other instrument conveying title to such Lot or any portion thereof or interest therein or Residence or Structure thereon, shall be deemed to have covenanted and agreed to comply with such Use Restrictions and Rules and Regulations, which are intended to and shall hereinafter run in perpetuity with the Community.

8.02 Restricted Use. The Community shall be used only for the purposes provided for in the development authorizations, as limited by this Declaration.

8.03 Residential Use. Subject to Section 8.02 (“Restricted Use”) and Article VI (“Architectural Control Committee”), no Person may use any Lot or Residence within the Community for any purpose other than the construction and occupation of a detached single-family residence and for ancillary business or home office uses. A business or home office use shall be considered ancillary so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residence; (b) the business activities conform to all governmental requirements; (c) the business activity does not involve Persons coming onto the Community who do not reside in the Community or door-to-door solicitation of residents of the Community; and (d) the business activity is consistent with the residential character of the Lot and does not constitute a nuisance or a hazard or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board. No other business, trade or similar activity shall be conducted upon a Lot without the prior written consent of the Board. The leasing of a Lot or Residence or Structure shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Community or any portion thereof or its use of any Lots that it owns within the Community.

8.04 Occupants Bound. All provisions of the Governing Documents regulating the conduct of Owners and establishing sanctions against Owners shall also apply to all Occupants and Tenants of a Residence or other Structure upon a Lot or any portion thereof even though Occupants are not specifically mentioned.

8.05 Re-subdivision of Property. No Lot may be split, divided or subdivided or its boundary lines changed without the prior written approval of the ACC. Notwithstanding the foregoing, nothing herein shall prevent Declarant or any Owner from combining two or more Lots into one Lot for construction of a single Residence thereon; provided, however, that such combined Lot may not be subdivided thereafter, except back to its original configuration, and, provided further, that the Owner of the Residence on such Lot shall be responsible for Assessments based upon the number of Lots combined into one Lot. Further, Declarant expressly reserves the right to replat or resurvey any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting or resurveying shall not be in violation of any applicable subdivision and zoning regulations.

8.06 Leasing of Lots.

(a) Definition. “Leasing,” for purposes of this Declaration, is defined as regular, exclusive occupancy of a Residence by any Person or Persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service or gratuity.

(b) Leasing Provisions. Residences may be Leased only in their entirety; no fraction or portion thereof may be Leased. There shall be no sub-Leasing of Residences or assignment of leases unless prior written approval is first obtained from the Board. All leases shall be in writing. The minimum lease term for any Residence within the Community is nine (9) months.

(c) Acknowledge Receipt. All leases shall require, without limitation, that the Tenant acknowledge receipt of a copy of this Declaration and the other Governing Documents. The lease shall contain a provision or be deemed to contain a provision obligating the Tenant to comply with this Declaration and the other Governing Documents, including the obligation to maintain the Lot and Residence to the same extent as the Owner and that failure to abide by the foregoing shall be deemed a material default under the terms of the lease.

(d) Enforcement. The Association shall have the right (and any lease shall be deemed to contain a provision entitling the Association) to enforce the terms of the lease as the agent of Owner, including the right to evict the Tenant for failure to comply with any of the Governing Documents and/or the subject lease. Notwithstanding the foregoing, an Owner who leases his Lot and/or Residence shall remain liable for all the obligations set forth in the Governing Documents.

(e) Rules and Regulations. The Association may adopt Rules and Regulations that further regulate Leasing activities, including, but not limited to, more particularly defining leasing activities, prescribing the form of written lease, or requiring the registration of the Tenant with the Association. The Association may promulgate rules restricting the right of a Lot Owner to use recreational facilities and amenities and Common Elements within the Community, if the Lot Owner granted the Tenant the right to use such facilities during the term of the lease. Indeed, regardless of whether or not expressed in the applicable lease, all Owners shall be jointly and severally liable with their Tenants to the Association for any amount which is required by the Association to effect repairs required to be made by the Association or its agent as a result of, connected with, or in any way arising out of the acts or omissions of a Tenant or to pay any claim for injury or damage to property caused by the negligence of the Tenant or for the acts and omissions of the Occupant(s) (whether or not subject to a lease), which constitute a violation of, or non-compliance with, the provisions of this Declaration and any of the other Governing Documents.

(f) Corporate Owner. For the purposes of this Section 8.06 (“Leasing of Lots”), a corporate Owner may allow its officers, directors, designees, and employees to use the Residence without it constituting a lease. This Section 8.06 (“Leasing of Lots”) may be amended only by the affirmative vote or written consent, or combination thereof, of ninety percent (90%) of all Owners in the Community and, during the Development Period, the affirmative vote or written consent of the Declarant.

(g) Lease Approval Fee. The Association may charge a lease approval fee not in excess of any amount provided for by law (as it may be amended from time to time), as a maximum amount for such fees, but no fee shall be charged in connection with the approval of an amendment, modification or extension of a previously approved lease.

(h) Exception. The Declarant and its successors and assigns are specifically excluded from the requirements and limitations of this Section 8.06 (“Leasing of Lots”).

8.07 Garbage Cans, Equipment, Etc. All equipment, garbage cans, and woodpiles will be kept screened by adequate planting or fences or facing a direction that conceals them from view by neighboring Residences and streets.

8.08 Vehicle Parking, Storage, Maintenance & Repairs. The parking, storage, maintenance and repair of all vehicles within the Community shall be subject to the following restrictions:

(a) Parking Generally. Every Owner and other Occupant shall park their vehicles completely within such Lot's garage or paved driveway when not in use. No one may park their vehicle elsewhere within the Community, including, but not limited to, within the rights of way of any street within the Common Area (except in Common Area parking areas designated for such purpose), or elsewhere within any Lot (except within such Lot's garage or paved driveway).

(b) Inoperable Vehicles. No one may park any inoperable vehicle, or any vehicle that lacks a current operating license, anywhere within the Community, except completely within a Lot's garage.

(c) Commercial & Service Vehicles. Service and delivery vehicles may be parked within the paved driveway of a Lot or the designated parking areas within the Common Area, during daylight hours, for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. No one may otherwise park any commercial vehicle anywhere within the Community.

(d) Construction Vehicles & Equipment. No one may park any construction or farm vehicle or equipment anywhere within the Community; provided, however, that construction vehicles and equipment may be parked within a Lot or the Common Area during the construction or installation of Improvements thereon, as is reasonably necessary to complete such improvements.

(e) Recreational Vehicles, Etc. No one may park any recreational vehicle, including, without limitation, travel trailers, mobile homes, towed campers, trucks with mounted campers, and all similar vehicles, anywhere within the Community; provided, however, that the Owner or other Occupant of a Lot may park a recreational vehicle on the paved driveway of a Lot for up to twenty-four (24) hours during any seven (7) day period, exclusively for the purposes of loading and unloading such vehicle. No one may sleep or otherwise reside in a recreational vehicle while it is present within or upon a Lot.

(f) Boats & Other Watercraft. No one may park any boat or other watercraft or their trailers anywhere within the Community, except that the Owner or other Occupant of Lot may park a boat or other watercraft and its trailer completely within such Lot's garage. No one may sleep or otherwise reside in a boat or other watercraft while it is present within or upon a Lot.

(g) Vehicle Maintenance & Repairs. No one may perform vehicle maintenance or repairs anywhere within the Community, except that the Owner or other Occupant of a Lot may perform such maintenance or repairs within such Lot's garage, after taking necessary and appropriate precautions for ventilation.

The Association may adopt Rules and Regulations that further regulate vehicle parking, or that provide temporary exceptions for vehicle parking for special occasions (such as parties,

receptions and other short-term social functions); provided, however, that the Association shall make no exception for overnight parking within the right-of-way of any of the streets within the Common Areas. The Board of Directors, or its designee, may cause any vehicle that is parked in violation of this Section 8.08 (“Vehicle Parking, Storage, Maintenance & Repairs”), or the Rules and Regulations adopted pursuant hereto, to be towed and removed from the Community.

8.09 Animals. No animals, wildlife, livestock, reptiles, or poultry of any kind shall be raised, bred, or kept on any portion of the Community, except that dogs, cats or other usual and common household pets may be permitted in reasonable numbers determined by the Board in its discretion, provided they are not permitted to roam the Community freely. All pets shall be controlled by their Owner at all times and shall be leashed when not on the Owner’s Lot and within an enclosed area. Those pets which, in the sole discretion of the Association, endanger the health of, make objectionable noise, or constitutes a nuisance to, the Owners of other Lots or the owner of any portion of the Community shall be removed upon request of the Board within three (3) days of written request, provided, however, if the Board determines an animal is a safety hazard, the Owner shall immediately remove the animal from the Community. No pets shall be kept, bred, or maintained on any Lots for commercial purposes. Pets shall not be permitted on the Common Area (except streets or walkways). All Persons shall be responsible for removing any solid waste of the pet.

8.10 Design Standards. The ACC and its designees may establish, from time to time, such other restrictions to insure conformity and harmony of external design and appearance within the Community and to insure and maintain the general quality of the Community.

8.11 Completion and Sale of Homes. No person shall interfere with the completion and sale of Residences within the Community. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT PICKETING AND POSTING OF SIGNS DEEMED BY THE BOARD OF DIRECTORS TO BE OFFENSIVE OR NOT IN THE BEST INTEREST OF THE COMMUNITY, OR WHICH WOULD EFFECT THE SALE OR ENJOYMENT OF LOTS AND RESIDENCES IN THE COMMUNITY ARE STRICTLY PROHIBITED AND, UPON NOTICE, SUCH SIGN SHALL BE PROMPTLY REMOVED. UPON NOTICE, THE ASSOCIATION HAS THE RIGHT TO REMOVE OFFENSIVE SIGNS, EVEN IF ON PRIVATE PROPERTY, THE EXERCISE OF WHICH SHALL NOT BE DEEMED A TRESPASS.

8.12 Drainage and Grading.

(a) Catch basins and drainage areas are for the purpose of natural flow of water only. No Improvements, Structures, obstructions or debris shall be placed in or upon these areas. No Owner or Occupant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

(b) Each Owner shall be responsible for maintaining all drainage areas located on its Lot. Required maintenance shall include, but shall not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

(c) Each Owner shall be responsible for controlling the natural and man-made water flow from his Lot. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Community with excessive water flow from his Lot. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Lots. Neither the Association nor the Declarant bears any responsibility for remedial actions to any Lot.

(d) No Person shall alter the grading of any Lot without prior written approval of the ACC pursuant to Article VI of this Declaration ("Architectural Control Committee"). Declarant hereby reserves, establishes, creates and promulgates for itself and the Association a perpetual easement across the Community for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the applicable Owner's consent.

8.13 Irrigation. Owners shall not install irrigation systems that draw down upon ground or surface waters nor from any pond, stream, lake, or other bodies of water within the Community. However, the Declarant and its designees shall have the right to draw water from, and upon such sources, from time to time, and at any time for the purpose of irrigating the Common Areas.

8.14 Laws and Ordinances. Every Owner and Occupant of any Lot or interest therein or any portion thereof or any Structure thereon, their Tenants, Guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, State and local governments applicable to the Community and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

8.15 Security. Each Owner and Occupant of a Dwelling, and their respective Guests and invitees, shall be responsible for their own personal safety and the security of their property in the Property. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measure, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such system or security measure undertaken within all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its Tenants and all Occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

8.16 Utility Lines. Each Owner, Occupant, Guest, and invitee acknowledges that neither the Association, the Board nor Declarant shall, in any way, be considered insurers or guarantors of health or safety within the Property and neither the Association, the Board, nor

Declarant shall be held liable for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations and further acknowledges that neither Declarant nor the Association (or their respective members, managers, agents or employees) have made any representations or warranties, nor has any Owner, Occupant, Guest, or invitee relied upon any representation or warranty, expressed or implied, relative to the condition or impact of utility lines or substations.

8.17 Rezoning. No Owner or any other Person may apply or join in an application to amend, vary or modify the Development Agreement and or any Master Planned Unit Development ("MPUD") or rezone or apply for any zoning variance or waiver as to all or any portion of the Community without the prior written consent of Declarant where such amendment, variance or modification will materially affect the development or uses of a Lot or Lots within the Community. Declarant may apply for such rezoning as to any portion of the Community owned by it at any time.

8.18 Mining. Oil, gas or mineral exploration; drilling, boring, development, refining, quarrying, or mining operations and all construction and equipment incident thereto; oil or gas wells and all related equipment and facilities; excavations for minerals and mine shafts are prohibited within the Community.

8.19 Combustible Liquid. There shall be no storage of gasoline, propane, heating or other fuels in the Community, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Lot for emergency purposes and operation of lawn mowers, barbecues, generators and similar tools or equipment and except as may be approved in writing by the ACC. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators, public works and similar equipment.

8.20 Solid Waste. Except during approved construction and as approved by the appropriate governmental authority, no Person shall store, dump or burn rubbish, garbage, lumber, metals, bulk material, hazardous or toxic substances or any other form of solid waste on any Lot or on, within, or adjacent to any portion of the Common Area.

8.21 Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot or part of the Community, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance, or which shall in any way interfere with the quiet enjoyment of each of the Owners of their respective Lots, or which shall in any way increase the rate of insurance for any other Lot or any portion of the Common Area. Each Owner shall be accountable to the Association, Owners and other Persons for the conduct and behavior of his Tenants, agents, Guests and employees; and any to the Common Area, personal property of the Association, or property of another Owner, caused by such Tenants, agents, Guests and employees shall be repaired at the sole cost and expense of the Owner employing such agents or employees, or renting to such Tenants, or entertaining such Guests.

ARTICLE IX

EASEMENTS, ZONING REGULATIONS AND OTHER RESTRICTIONS

9.01 Common Area. There is hereby created in favor of every Owner a non-exclusive easement of use, access and enjoyment in and to the Common Area, subject to the provisions of:

(a) the Governing Documents, as they may be amended from time to time; (b) any covenants, conditions, restrictions or easements set forth in any plat or deed conveying the Common Area to the Association, if any; and (c) the Board of Directors' right to: (i) adopt Rules and Regulations governing the use and enjoyment of the Common Area, including Rules and Regulations limiting the number of Guests who may use the Common Area; (ii) suspend an Owner's and/or Tenant's right to use certain facilities within the Common Area for (A) any period during which any Assessment or other charge against such Owner's Lot remains delinquent; and (B) a period not to exceed thirty (30) days for a single violation or for a longer period of time in the case of a continuing violation of the Governing Documents after Notice and Hearing pursuant to Section 10.05 herein ("Hearing") and in the By-Laws; (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements, as may be set forth in this Declaration; and (iv) subject to prior approval by a majority of Owners as to Subdivision Infrastructure, mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, and as subject to the approval requirements set forth herein. Any Owner may extend such Owner's right of use and enjoyment to the Owner's Tenants, licensees, and invitees, as applicable, subject to reasonable Rules and Regulations adopted by the Board of Directors. An Owner who leases such Owner's Lot or portion thereof or Structure thereon shall be deemed to have assigned all such rights to the Tenant(s) of such Lot for the term of the lease. Additionally, Declarant, during the Development Period, reserves the right, on behalf of the Association, to accept any easements in favor of the Association, over, under, across or through any portion of real property that abuts any portion of the Community and such easements shall be deemed Common Area to the extent of the easements created.

9.02 Easements for Utilities. Declarant hereby reserves unto itself, and on behalf of the Association, and the designees of each thereafter, blanket easements upon, across, over, and under any portion of the Community, for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, limited access and privacy assurance systems, roads, walkways, bicycle and golf cart pathways, lakes, ponds, wetlands, water bodies, drainage and water management systems, irrigation, street lights, signage, and the like as well as for all utilities, including, but not limited to, water, sewer, meter boxes, telephones, gas, and electricity; provided, the exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry into or upon any Lot shall be made only after reasonable notice to the Owner or Occupant thereof. Without limiting the generality of the foregoing, Declarant hereby reserves for the local water supplier easements across all Lots and the Common Area for ingress, egress, installation, reading, maintaining, repairing, removing, and replacing water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated in the Community, except as may be approved by the Association with the written consent during the Development Period of the Declarant.

Should any Person furnishing a service covered by the general easement provided herein request a specific easement by separate recordable document, the Declarant, during the Development Period, and the Association thereafter, shall have the right to grant such easement within the Community without conflicting with the terms hereof. The easements provided for in this Article IX ("Easements, Zoning Regulations and Other Restrictions") shall in no way adversely affect any other recorded easement within the Community.

The Board shall have, by an affirmative vote of at least a Majority of the then existing Class "A" Members the power to dedicate portions of the Common Area to any local, State, or federal governmental entity, subject to such approval requirements as may be contained in this Declaration. Declarant reserves the right, on behalf of the Association, to accept any easements in favor of the Association over, under, across or through any portion of real property which abuts any of the Community.

Anything to the contrary contained herein notwithstanding, no aboveground sewers, electrical lines, water lines or other utilities may be installed or relocated on the Community except as may be approved by the Declarant during the Development Period and the Association thereafter.

9.03 Easements Regarding Drainage. Subject to the restrictions contained in this Declaration, a perpetual, non-exclusive easement shall exist in favor of Declarant, the Association, South Florida Water Management District, and their employees or other designees, and the Owners for the use of water management systems and Water Bodies established in the Community and an easement for ingress, egress and access to enter any portion of the Community in order to construct, maintain, operate, repair, upgrade, remove, or replace, as necessary, any water management system and facilities thereon and appurtenances thereto. No Improvements, landscaping, or other material shall be placed or permitted to remain that may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through the water management system or otherwise interfere with any easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

9.04 Public Easements. Fire, police, health, sanitation and other public service personnel and vehicles shall have a non-exclusive permanent and perpetual easement for ingress and egress over and across the Community.

9.05 Easements for Lake & Pond Maintenance & Flood Water. Declarant and the Owners reserve for themselves and their successors, assigns and designees, and grant and declare for the Association and its successors, assigns and designees, the non-exclusive right and easement, but not the obligation, to enter upon bodies of water located within the Common Area to: (a) construct, install, operate, maintain, repair, reconstruct, remove, upgrade and replace pumps to supply irrigation water to the Common Area; (b) construct, maintain, operate and repair Structures and equipment used for retaining water; and (c) maintain such areas. Declarant, the Association, and their respective successors, assigns and designees shall have an access easement over and across any portions of the Community abutting or containing bodies of water to the extent reasonably necessary to exercise their rights under this Section. All Persons entitled to exercise these easements shall use reasonable care in the intentional exercise of such easements, and shall repair any damage resulting therefrom. Nothing in this Section shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

9.06 Easements for Maintenance, Emergency & Enforcement.

(a) Maintenance. Declarant and Owners grant to the Association easements over the Community as necessary to enable the Association to fulfill its maintenance responsibilities under this Declaration.

(b) Emergency & Enforcement. The Association shall also have the right, but not the obligation, to enter upon any Lot in a *bona fide* emergency, or for security and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Any member of the Board and the Board's duly authorized agents and assigns, and all emergency personnel in the performance of their duties, may exercise such right. Except in a *bona fide* emergency, entry upon a Lot or within a Residence or other Structure shall only occur during reasonable hours and after notice to the Owner.

(c) Construction and Sales Easements. There is hereby granted and reserved for the benefit of Declarant, together with the right to grant, assign and transfer the same to such builders, contractors, sales agents and other parties as Declarant may from time to time designate, an easement for construction activities upon the Property, an easement for sales and marketing activities and signs and flags on the Property, and an easement for construction and maintenance from time to time of various model homes, sales, business and construction offices and trailers on the Property from which Declarant, authorized builders, contractors, subcontractors, sales agents and other authorized personnel. The location of such activities and facilities may be changed from time to time by Declarant in its sole and absolute discretion. The Person availing itself of the benefits of this easement shall promptly repair at such Person's sole cost and expense any and all damage resulting therefrom.

9.07 Surface Water Drainage and Management System.

(a) All Owners acknowledge that the Community is located within the boundaries and jurisdiction of the South Florida Water Management District. Due to ground water elevations underneath the Property, priorities established by governmental authorities and natural or other causes outside of the reasonable control of the Declarant, the Association lake water levels may fluctuate at certain times during the year and such fluctuations may be material. Neither the Declarant, the Association, nor any officer, director, employee or agent thereof shall have any liability for aesthetic conditions, damage to littoral plantings or direct or consequential damages of any nature caused by the fluctuations of water levels.

(b) The Surface Water Management System shall be maintained by the Association, or its agents in compliance with all approval, codes and regulations of governmental authorities, including the County, and the South Florida Water Management District. Maintenance of the Surface Water Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the South Florida Water Management District and the County and shall specifically include, but not be limited to, maintenance of aquatic vegetation, lake beds, lake banks, littoral planting and lake maintenance easements which, pursuant to the terms of this Declaration or Plat, are not the responsibility of others, as well as water quality and wetland monitoring or testing. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approved by the South Florida Water Management District and the County.

(c) Neither the Association nor any Owner within the Property shall take any action which modifies the Surface Water Management System in a manner which changes the flow of drainage of surface water, except to the extent the same is approved by the Association, the County and any requisite governmental or quasi-governmental authorities.

(d) The Community shall be burdened by and subject to easements for drainage and flow of surface water in a manner consistent with the approved and constructed Surface Water Management System.

(e) The Association and all Owners shall have a right and easement to use the Surface Water Management System for its intended purpose, subject to this Declaration as it may be amended from time to time, and subject to all governmental permits and approvals and all restrictions or limitations imposed by law or in a recorded instrument or any deed conveying such property.

(f) The Declarant, the Association, the Orange County agencies and the South Florida Water Management District shall have a non-exclusive easement for ingress, egress and access to enter upon any portion of the Community in order to construct, maintain or repair, as necessary, any portion of the Surface Water Management System and any Improvement constructed or to be constructed thereon, provided such easement rights shall be exercised in a manner which does not unreasonably disturb any use or condition of the Community. However, the County shall not be constructing, maintaining, or repairing the Surface Water Management System.

(g) Any amendment of this Declaration which would affect the Surface Water Management System or the responsibility of the Community or the Association, or their agents, to maintain, or cause to be maintained, the Surface Water Management System must be approved by the County and the South Florida Water Management District for a determination of whether the amendment necessitates a modification of the surface water management permit. The amendment may not be finalized until any necessary permit modification is approved.

(h) The South Florida Water Management District, the County, 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 Surface Water Management System. Notwithstanding the foregoing, the South Florida Water Management District or the County 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 Surface Water Management System facilities or in mitigation or conservation areas under the responsibility or control of the Association.

9.08 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable Orange County Planned Unit Development zoning approval, Orange County Comprehensive Plan, zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by Declaration, the most restrictive provision shall govern and control.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns, the right to create perpetual easements in, on, over and under any part of the Community owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of stormwater drains, land drains, public and private sewers, irrigation systems, pipelines for supplying stormwater and heat and for any other public or quasi-public facility, service or function;

(iii) slope control purposes including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct, or retard drainage flow; and

(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature.

(b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Community unless such easement has been assigned by the Declarant to the Association.

9.09 Easement for Lateral Support. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every easement for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

9.10 Wall, Landscape and Fence Easements. There is hereby created, declared, granted to and reserved for the benefit of Declarant and the Association a non-exclusive perpetual easement over and upon all wall, fence and landscape easement areas and portions of the Common Areas shown on the Plat and/or development plans for Sawyer Sound, as they may be modified from time to time, for the purposes of erecting, constructing, installing, inspecting, maintaining, replacing and repairing and all security or screening walls or fences gates and similar facilities, and the installation, irrigation, replacement and maintenance of any landscaping and/or hardscape therein, which may be required by the County and/or deemed necessary or desirable by Declarant or the Association.

9.11 Future Easements. There is hereby reserved to Declarant and its successors and assigns the right, power and privilege to grant (without the necessity of the consent of the Association or any Owner) to itself, the Association, the County or any other parties, at any time and from time to time, such additional easements as may be reasonably necessary or desirable, in the sole and absolute discretion of Declarant, for the orderly development of the Property. No such easements shall unreasonably interfere with the presently contemplated or future use and development of a particular Lot as a single family residential home site.

ARTICLE X **ENFORCEMENT**

10.01 Right of Enforcement. This Declaration and the other Governing Documents shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as Declarant is an Owner, (ii) the Association, and (iii) each Owner, and such Owner's legal representatives, heirs, successors and assigns. The Association, by contract or other agreement, may enforce applicable County ordinances, and permit the County to enforce the provisions of the Governing Documents for the benefit of the Association and the Members.

Every Owner and Occupant of a Lot or any portion thereof or interest therein or Residence or other Structure thereon shall comply with the Governing Documents. The Board of Directors may impose sanctions on the Owner and Occupant of a Lot for a violation of the Governing Documents after Notice and Hearing in accordance with the procedures set forth in Section 10.05 ("Hearing") below.

Such sanctions may include, without limitation: (a) the imposition of reasonable monetary fines, as specified in a resolution of general application duly adopted by the Board, which fines shall be secured by the lien for Assessments upon the violator's Lot (in the event that any Occupant of a Lot, or the Tenant, Guest or invitee of the Owner or Occupant of a Lot, violates any of the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if such fine is not paid by the violator within the time period set by the Board, the Owner shall be responsible for the payment of the fine upon receipt of notice from the Board); (b) the suspension of an Owner's right to vote; (c) the suspension of the violator's right to use any facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress to or egress from a Lot; (d) the suspension of any services provided by the Association or its designee to an Owner or the Owner's Lot, if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association; (e) exercising self-help rights to abate any violation of the Governing Documents in a non-emergency situation, provided such self-help may be taken without a breach of the peace; (f) requiring an Owner, at such Owner's sole expense, to remove from the Owner's Lot any Structure or Improvement constructed or installed in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the Lot, remove such Structure or Improvement and restore the Lot to substantially the same condition as previously existed and any such action shall not be deemed to be a trespass; (g) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner or Occupant of a Lot or any portion thereof or interest therein or Residence or other Structure thereon who fails to comply with the Rules and Regulations, Article VIII ("Use Restrictions") or the Design Guidelines from continuing or performing any further activities in the Community and/or the Property; (h) levying one or more Special Assessments against the subject Lot to cover the costs incurred by the Association to bring the Lot into compliance with the Governing Documents together with an administrative charge equal to fifteen percent (15%) of the costs and expenses incurred by the Association; (i) exercising self-help rights in any *bona fide* emergency; or (j) bringing a suit at law to recover monetary damages, or in equity to enjoin any violation, or both.

In addition to any other enforcement rights, if an Owner fails to properly perform such Owner's maintenance responsibilities, the Association may record a notice of such violation or perform such maintenance responsibilities and levy all costs thereof plus an administrative charge equal to fifteen percent (15%) of the costs and expenses incurred by the Association against such Owner's Lot as a Special Assessment.

10.02 Right of Abatement.

(a) Except in the case of a *bona fide* emergency (where no notice is required) or where different notice provisions are provided in Section 7.02 ("Owner's Responsibility"), Section 14.09 ("Notices") or elsewhere in this Declaration or as otherwise required by law, in the event of a violation or breach of any restrictions contained in this Declaration, the Association shall deliver or cause the delivery of written notice by certified mail to the Owner, setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable and diligent steps to remedy such violation or breach within fifteen (15) days after the mailing of said notice, then the Association shall have the option to either call a Hearing to rule on the alleged violation, as described in Section 10.05 below ("Hearing") or the Association shall have the Right of Abatement (defined below).

(b) The Right of Abatement, as used in this Section and Section 3.04 ("Suspension of Membership") hereof, means the right of the Association, through its agents and employees, using such force as may be reasonably necessary to enter at all reasonable times upon any Lot or within any Residence or other Structure thereon, as to which a violation, breach or in the case of imminent damage to property or injury to person or other condition to be remedied exists, to take the actions specified in the notice to Owner, to abate, extinguish, remove, or repair such violation, breach or imminent damage or injury or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such action; provided that, such entry and such actions are carried out in accordance with the provisions of this Section 10.02 ("Right of Abatement"), and with the cost thereof including the costs of collection and reasonable attorneys' fees and disbursements together with interest thereon at the highest rate permitted by law or eighteen percent (18%) per annum, whichever is lower, to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by this Declaration, and (iii) any first Mortgages encumbering such Lot.

10.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure the damages accurately that will accrue to a beneficiary hereof, its transferees, successors or assigns by reason of a violation of or failure to perform any of the obligations contained within this Declaration, and therefore any beneficiary hereof shall be entitled to relief by way of injunction (temporary and/or permanent) or specific performance, as well as any other relief available at law or in equity, to enforce the provisions

hereof. All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, all court costs and reasonable attorneys' fees incurred prior to and in such action and any appeal taken therefrom.

10.04 No Waiver. The Board of Directors shall have the discretion to decide whether to take enforcement action in any particular case; provided, however, that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case that: (a) the Association's position is not strong enough to justify pursuing enforcement action; (b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources to pursue enforcement action; or (d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action. The failure of the Declarant, the Association, the ACC, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any of the covenants, conditions or restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

10.05 Hearing. If the alleged violator requests a hearing and timely delivers notice within fifteen (15) days prior to the date of the hearing or the Association calls for a hearing, the hearing shall be held before the enforcement committee, or if none has been appointed, the hearing shall be held before the Board of Directors in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard and may request a hearing for same. Prior to the effectiveness of any sanction being imposed hereunder, proof of proper notice shall be placed in the minutes of the meeting, which shall thereafter be filed in the minute book of the Association. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered in the minute book by the director, officer or agent who delivered or caused the delivery of such notice. The notice requirement shall be deemed satisfied (notwithstanding any other provision contained herein to the contrary), if the alleged violator or its representative appears at the meeting and fails to object to the adequacy of the notice prior to the commencement of said meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed or to be imposed. The Board may impose fines for violations of the Governing Documents provided the amounts of such fines shall be consistent with Florida law.

10.06 Fines. The Association, acting through the Board of Directors or a duly authorized enforcement committee, shall enforce this Declaration, the Rules and Regulations and all other Governing Documents in accordance with the Notice and Hearing requirements set forth in the By-Laws. The Association may impose those sanctions described in this Declaration, as well as the specific monetary fines set forth in the Rules and Regulations or an adopted fine schedule for violations of these covenants and the other Governing Documents. In addition to any other enforcement rights, if an Owner fails to properly perform such Owner's maintenance responsibilities, the Association may record a notice of such violation or perform

such maintenance responsibilities and levy all costs thereof together with an administrative fee or charge equal to fifteen percent (15%) of such costs against such Owner's Lot as a Specific Assessment.

10.07 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from, or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board of Directors without a vote of the Members, except where the Governing Documents or applicable laws of the State specifically require a vote of the Members. The Board may initiate, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Area, enforcement of the Governing Documents, or any other civil claim or action involving the Community. However, the Governing Documents shall not be construed as creating any independent legal duty to initiate litigation on behalf of or in the name of the Association or the Members. In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, the Board shall be subject to, and its actions shall be judged in accordance with, the standards set forth in the By-Laws.

10.08 Indemnification of Directors, Officers & Others. Subject to applicable laws of the State, the Association shall indemnify, defend (with counsel selected by the applicable director, officer, and/or committee member), and hold every director, officer and committee member harmless from and against any and all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such Person may be a party by reason of being or having been a director, officer or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles of Incorporation and applicable laws of the State. The directors, officers and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or actions taken in bad faith. The directors and officers shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such directors or officers may also be Members). The Association shall indemnify, defend (with counsel selected by the applicable director(s), officer(s), and/or committee member(s)) and hold each director, officer and committee member harmless for, from and against any and all liability to others on account of any such contract, commitment or action. This right to be indemnified shall not be exclusive of any other rights to which any present or former director, officer or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation in accordance with the Articles, if such insurance is reasonably available.

10.09 Additional Services. The Association may provide additional services and facilities for the Members and their Lots, and shall be authorized to enter into and terminate contracts or agreements with other Persons or entities, including Declarant, to provide such additional services and facilities. The Board of Directors may, by a duly adopted resolution of general application, establish and charge user or service fees for any such additional services and

facilities provided, or may include the costs thereof in the Association's budget as a Common Expense if the additional services or facilities are provided to all Lots within the Community. Such additional services and facilities may include, without limitation, landscape maintenance, pest control, cable television, security, caretaker, transportation, fire protection, utilities, and similar services and facilities. Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, additional services or facilities may be provided. In addition, the Board shall be permitted to modify or cancel existing contracts or agreements for additional services or facilities, in its sole discretion, unless it is otherwise required to provide such services or facilities by the Governing Documents. No Owner shall be exempt from the obligation to pay such Owner's share of the costs of such additional services or facilities, as a Common Expense, by refraining from the use of any services or facilities provided to all Owners or Lots.

10.10 Relationships with Other Property. The Association may enter into contractual agreements or covenants to share costs with the owner of any adjacent property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of maintenance for the Common Area.

10.11 Facilities & Services May be Opened to the Public. The Association may permit certain facilities and land within the Common Area to be opened for the use and enjoyment of the general public. Such Common Area facilities and lands may include, without limitation: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, the rights-of-way of the Private Streets and the medians within them, and sidewalks. Declarant may designate such facilities and lands as open to the general public at the time Declarant declares such facilities and areas a part of the Common Area, or the Board of Directors may make such designation at any time thereafter. Nothing set forth in this subsection shall be interpreted, construed, or otherwise regarded as the County assuming any liability or responsibility as it relates to the Subdivision Infrastructure or the maintenance thereof.

ARTICLE XI

DURATION AND AMENDMENT

11.01 Duration. This Declaration shall run with and bind the Community for a period of thirty (30) years from and after the date when this Declaration is recorded in the Public Records of Orange County, Florida, after which time this Declaration shall be automatically renewed for successive periods of ten (10) years; provided, however, that after the end of the said thirty (30) year period and during any ten (10) year renewal period (but only during such renewal period), this Declaration may be terminated by an instrument executed by the proper Association officers; and recorded in the Public Records, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approving such termination which is approved by a two-thirds (2/3) vote of those Class "A" Members of the Association which are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association. In the event the Declaration is terminated the Owners shall remain responsible for compliance with the requirements set forth in the Ordinance, as long as the community remains gated.

11.02 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend

this Declaration, including the Rules and Regulations, by an instrument in writing filed and recorded in the Public Records of Orange County, Florida, without the approval of any Member or mortgagee; provided, however, that: (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Members affected thereby, or (ii) in the event that such amendment would materially and adversely affect the lien priority and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this Section shall be certified by Declarant as having been duly approved by Declarant, and such Members and mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Notwithstanding the foregoing, the Declarant, during any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, specifically reserves the absolute and unconditional right (subject to FHA or VA approval) to amend this Declaration without the consent or joinder of any party: (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or continuity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration, (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration. Notwithstanding anything to the contrary contained herein, no amendment shall alter the subordination provisions of this Declaration without the prior written consent of any institutional mortgagee enjoying such protection.

11.03 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 11.02 ("Amendments by Declarant") hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by at least a Majority of the Members eligible to vote, provided, however that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee.

(c) The agreement of the required percentage of the Owners and, where required, the Declarant and any mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the

President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the Amendment itself.

11.04 Limitations on Amendments. No portion of this Declaration relating to the Subdivision Infrastructure, as that term is defined in Section 1.36 of this Declaration, or the requirements of the Ordinance may be changed, altered, amended and/or modified in any fashion without the prior written consent and approval of the County.

ARTICLE XII

ANNEXATION AND FUTURE DEVELOPMENT

12.01 Annexation. During the Development Period, Declarant may, but shall not be obligated to, annex other real property to the Community without the consent of the Class “A” Members. Such annexation shall, subject to the required approval by the County, be accomplished by filing in the Public Records an approved subdivision plat or site plan describing the real property to be annexed to the Community and, by including on such subdivision plat or site plan, a statement that expressly sets forth the Declarant’s intention to make such annexed real property subject to the provisions of this Declaration, or by filing a Supplemental Declaration (which has been consented to by the owners of the real property to be annexed if such real property is owned by someone other than Declarant). After the Development Period, no real property may be annexed to the Community unless such annexation is approved by a two-thirds (2/3) vote of the Class “A” Members of the Association who are present in person or by proxy at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association.

12.02 Effect of Filing Supplemental Declaration. A Supplemental Declaration shall be effective upon its recording in the Public Records, unless a later effective date is specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional land subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration. A Supplemental Declaration shall comply with the Ordinance and requires County approval prior to recording in order to be effective.

12.03 Acquisition of Additional Common Area. Subject only to County approval, Declarant may convey to the Association additional real estate, improved or unimproved, located within the Property which, upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

12.04 Withdrawal of Property. Subject to approval by the County, Declarant reserves the right to unilaterally amend this Declaration at any time, without prior written notice and without the consent of any Person, for the purpose of removing certain portions of the Community then owned by the Declarant or its Affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally

contrary to the overall, uniform scheme of development for the Community. Except as provided herein, no property subject to this Declaration shall be otherwise removed from this Declaration without the consent of the Owners holding sixty percent (60%) of the eligible Voting Interests in the Association.

12.05 Amendment. This Article XII (“Annexation and Future Development”) shall not be amended during the Development Period without prior written consent of Declarant, which may be withheld or denied for any or no reason.

ARTICLE XIII **ADDITIONAL RIGHTS RESERVED BY DECLARANT**

13.01 Marketing & Sales Activities. Declarant and such other Persons authorized by Declarant, may construct and maintain upon portions of the Common Area such facilities and conduct such activities as, in Declarant’s sole opinion, may be reasonably required, convenient, or incidental to the construction, sale and/or leasing, as permitted, of Lots, including, but not limited to, construction trailers and offices, business offices, signs, model homes, flags and sales offices. Declarant and such other Persons authorized by Declarant shall have easements for access to and use of such facilities at no charge except as otherwise agreed to by and between such parties.

13.02 Right to Develop. Declarant may maintain and carry on such activities as, in the sole opinion of Declarant, may be reasonably required, convenient or incidental to the development of the Community and/or construction or sale of Lots, including, without limitation, sales activities and other promotional events. During such activities and events the Declarant may restrict Members from using the Common Area. However, such activities will be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Member’s use and enjoyment of the Common Area and shall not unreasonably interfere with or impede any Owner's use of, or access to, the Subdivision Infrastructure. In the event that such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive days. The Declarant shall have easements over the Community for access to and egress from such locations where such activities are being conducted.

13.03 Improvements. Declarant, and its employees, agents, and designees, shall have a right of access to and use of and an easement over and upon all of the Common Area for the purpose of constructing and installing such Improvements to the Common Area as Declarant deems appropriate, in its sole discretion.

13.04 Right to Assign Declarant Rights. Any or all of Declarant’s special rights and obligations set forth in this Declaration or the other Governing Documents may be assigned in whole or in part to other Persons; provided, however, such assignment shall not reduce an obligation nor enlarge a right beyond that which Declarant has been granted under this Declaration or the other Governing Documents. No such assignment shall be effective unless and until it is set forth in a written instrument executed and recorded by Declarant. Notwithstanding the foregoing sentence, Declarant may permit other Persons to exercise, on a one-time or other limited basis, any right reserved to Declarant in this Declaration when Declarant does not intend to assign such right permanently, and, in such case, Declarant shall not be required to record a written assignment unless it is necessary to evidence Declarant’s consent

to such exercise. To the extent any assignment affects the rights or obligations of the Declarant with regards to the Subdivision Infrastructure or the Ordinance, such assignment must be approved by the County prior to assignment.

13.05 Exclusive Right to Use Name of Community. No one may use the name “Sawyer Sound” or any derivative of such name in any logo, depiction or printed or promotional material without Declarant’s prior review and written consent. However, the Owners may use the name “Sawyer Sound” in printed or promotional material where such term is used solely to specify that particular parcels of land are located within the Community, and the Association shall be entitled to use the words “Sawyer Sound” in its name.

13.06 Right to Notice of Design or Construction Claims. No Owner, or any agent of an Owner, shall retain an expert for the purpose of inspecting the design or construction of any Improvements within the Community in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction, unless Declarant, has been first notified in writing and given an opportunity to meet with the Owner to discuss the Owner’s concerns and conduct its own inspection.

ARTICLE XIV
MISCELLANEOUS

14.01 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

14.02 Severability. A determination by a court that any word, sentence, paragraph, subsection, Section or Article hereof is invalid for any reason shall not affect the meaning of any other word, sentence, paragraph, subsection, Section or Article hereof.

14.03 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

14.04 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

14.05 Governing Law & Venue. This Declaration and the other Governing Documents shall be governed by, enforced and interpreted in accordance with the laws of the State. The proper venue for the resolution of any litigation, arbitration or mediation arising from this Declaration or the subject matter hereof shall be the Ninth Judicial Circuit, in and for Orange County, Florida.

14.06 WAIVER OF TRIAL BY JURY. ALL LITIGATION BETWEEN OR AMONG ANY OF DECLARANT, THE ASSOCIATION, AND ONE OR MORE OWNERS SHALL BE DETERMINED BY A JUDGE OF COMPETENT JURISDICTION, AND NOT A JURY, AND EVERY OWNER OR OCCUPANT OF A LOT, BY ACCEPTANCE OF A DEED CONVEYING TITLE OR OTHER INSTRUMENT GRANTING ANY INTEREST IN A LOT, SHALL BE DEEMED TO HAVE WAIVED ANY RIGHT TO A TRIAL BY JURY REGARDING SUCH MATTERS.

14.07 Attorneys' Fees. The prevailing party in any dispute between or among any of Declarant, the Association, and one or more Owners shall be entitled to recover the prevailing party's court costs and reasonable attorneys' fees and disbursements from the non-prevailing party.

14.08 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the ACC, the Owner, or any other person, shall be in writing. All such writing shall be sufficient only if deposited in the United States Mail, with sufficient postage, and sent to the Lot or the last known address of the person who appears as Owner of the Lot on the records of the Association, if different.

Any written communication transmitted in accordance with this Section shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail.

14.09 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability. If a building is constructed by a person or entity other than the Declarant, the Declarant shall have no liability whatsoever for such builder's activities, whether direct or indirect, including, without limitation, marketing or construction of the building or actions of any principal, officer, trustee, partner, agent or subcontractor of such builder.

14.10 Non-Condominium/Non-Cooperative. The Association created pursuant to this Declaration and the Articles of Incorporation of the Association do not, and are not intended to, constitute a condominium association or a cooperative association. The Community is not intended to be condominium property or cooperative property under applicable law, except as otherwise specifically provided in a declaration of condominium or cooperative if executed and recorded by Declarant or by a condominium or cooperative site buyer with Declarant's written approval. This Declaration is not part of the common elements of any condominium or cooperative, unless subjected to a declaration of condominium or cooperative encumbering any such property.

14.11 Priority of Governing Documents. It is the intent of the Declarant that all documents be read in unison; however, in the event of a conflict between a provision of this Declaration and a provision of one of the other Governing Documents, the more restrictive provision shall control. Likewise, the provisions of the Articles of Incorporation shall control over those conflicting provisions of the By-Laws, and the Rules & Regulations; the provisions of the By-Laws shall control over those conflicting provisions of the Rules & Regulations.

14.12 Time is of the Essence. Time shall be of the essence in the performance of each and every obligation imposed by a provision of this Declaration upon an Owner. Notwithstanding the preceding sentence, if the deadline set for such performance falls on a

Saturday, Sunday or legal holiday recognized by the State, such deadline shall be deemed to have been extended until 5:00 p.m. on the next day that is not a Saturday, Sunday or legal holiday.

14.13 Security. The Association may, but shall not be obligated to, maintain or support, certain activities within the Community designed to make the Community safer than it otherwise might be. Any Person shall not in any way or manner hold Declarant liable or responsible for any violation of this Declaration as it relates to Security. ADDITIONALLY, NEITHER DECLARANT NOR THE ASSOCIATION SHALL MAKE ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE COMMUNITY OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE. ALL OWNERS AND OCCUPANTS AGREE TO HOLD DECLARANT AND THE ASSOCIATION HARMLESS FOR, FROM AND AGAINST ANY LOSS OR CLAIM ARISING FROM, RELATED TO, OR IN ANY WAY CONNECTED WITH THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR OR ASSIGN OF DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMUNITY. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR OR ASSIGN OF DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL MEMBERS, OWNERS AND OTHER OCCUPANTS OF ANY RESIDENCE OR OTHER STRUCTURE UPON A LOT OR ANY PORTION THEREOF, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT AND THE ACC DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY, DESIGNED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE ACC MAY NOT BE COMPROMISED OR CIRCUMVENTED, THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR ANY PORTION THEREOF OR INTEREST THEREIN OR RESIDENCE OR OTHER STRUCTURE THEREON, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND THE COMMITTEES THEREOF, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT OR ANY PORTION THEREOF OR INTEREST THEREIN OR RESIDENCE OR OTHER STRUCTURE THEREON AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO RESIDENCE, TO STRUCTURE AND TO LOT AND TO ALL IMPROVEMENTS THEREON AND ALL CONTENTS THEREIN AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND THE ACC, AND ANY OTHER COMMITTEES THEREOF, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO

REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE COMMUNITY.

14.14 Mold Prevention Measures. Each Owner, by acceptance of a deed conveying fee-simple title to a Lot, or of any other instrument transferring an ownership interest in a Lot, acknowledges that South Florida is a warm and humid sub-tropical environment in which mold and mildew are commonly occurring natural phenomena. In recognition of the potential for damage to property and injury to the health of Persons arising from mold and mildew, the Association is authorized to adopt Rules and Regulations that impose further restrictions on the use of the Common Areas and impose further affirmative obligations on the Owners to inhibit the growth of mold and mildew, including, but not limited to, prescribing the minimum and maximum air-conditioned or heated temperatures that Owners may not exceed within their Residences in order to minimize the condensation of moisture within the insulation, the gypsum drywall, and the heating, ventilation and air-conditioning ductwork of a Residence or other Structure.

14.15 PROPERTY TAXES. NO OWNER SHOULD RELY ON THE CURRENT PROPERTY TAXES OF THE LOT AS THE AMOUNT OF PROPERTY TAXES THAT THE OWNER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS RE-ASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.

ARTICLE XV **MORTGAGEE PROVISIONS**

The following provisions are for the benefit of the holders, insurers, and guarantors of first priority Mortgages that encumber one or more Lots within the Community. Notwithstanding any other provisions of this Declaration or the By-Laws, the provisions of this Article shall govern the rights of such holders, insurers, and guarantors of first-priority Mortgages.

15.01 Notices of Action. Any institutional holder, insurer, or guarantor of a first-priority Mortgage, that delivers to the Association a written request stating the name and address of such holder, insurer, or guarantor, and the street address of the Lot that its Mortgage encumbers, shall qualify as an "Eligible Holder" under this Section. The Association shall provide timely notice to each Eligible Holder of the following occurrences:

(a) Any taking or condemnation, or conveyance in lieu thereof, that affects a material portion of the Common Area, or that affects any Lot encumbered by a first-priority Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any casualty loss that affects a material portion of the Common Area, or that affects any Lot encumbered by a first-priority Mortgage held, insured, or guaranteed by such Eligible Holder;

(c) Any delinquency of sixty (60) or more Days in the payment of Assessments or other charges against a Lot encumbered by the first-priority Mortgage held, insured or guaranteed by such Eligible Holder;

(d) Any non-monetary violation of the Governing Documents regarding a Lot encumbered by the first-priority Mortgage held, insured or guaranteed by such Eligible Holder, or regarding the Owner or Occupant of such Lot or Residence or other Structure, that is not cured within sixty (60) days after delivery of notice thereof to the Owner of such Lot; or

(e) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

15.02 Other Provisions for First-Priority Lien Holders. To the extent not inconsistent with applicable laws of the State:

(a) Any restoration, repair or replacement of the Common Area, or the Improvements constructed or installed thereon, after a partial taking, condemnation, conveyance in lieu thereof, or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless the approval is obtained of the Eligible Holders of first-priority Mortgages encumbering Lots to which at least fifty percent (50%) of the votes of Lots encumbered by the first-priority Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after the substantial destruction of the Improvements constructed or installed within the Common Area, or a substantial taking, condemnation, or conveyance in lieu thereof, of the Common Area shall require the approval of the Eligible Holders of first-priority Mortgages on Lots to which at least fifty percent (50%) of the votes of Lots encumbered by the first-priority Mortgages held by such Eligible Holders are allocated.

15.03 Amendments to Documents. The following provisions apply to amendments to the Governing Documents.

(a) The consent of at least a Majority of the Class “A” votes, and of the Declarant during the Development Period and the approval of the Eligible Holders of first-priority Mortgages on Lots to which at least sixty-seven percent (67%) of the votes of Lots encumbered by a Mortgage, shall be required to terminate the Association.

(b) The consent of at least a Majority of the Class “A” votes, and of the Declarant, during the Development Period and the approval of Eligible Holders of first-priority Mortgages encumbering Lots to which more than fifty percent (50%) of the votes of Lots subject to a Mortgage appertain, shall be required to materially amend any provisions of the Declaration, the Articles of Incorporation, the By-Laws or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following: (i) voting rights and procedures;

(ii) Assessments, liens for Assessments, or the subordination of such liens; (iii) reserves for the maintenance, repair, and replacement of the Common Area and Improvements constructed or installed thereon; (iv) insurance or fidelity bonds; (v) rights to use the Common Area; (vi) responsibility for maintenance and repair of the Common Area; (vii) expansion or contraction of the Community or the addition, annexation, or withdrawal of land to or from the jurisdiction of the Association; (viii) boundaries of any Lot; (ix) leasing of Lots; (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, convey, or otherwise transfer such Owner's Lot; (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first-priority Mortgages encumbering the Lots.

(c) Any amendments to the Declaration shall comply with the Ordinance and to the extent an amendment would affect the requirements under the Ordinance, the amendment would require approval by the County.

15.04 No Priority to Condemnation or Insurance Proceeds. No provision of this Declaration or in any of the other Governing Documents provides, or shall be construed as providing, any Owner, or other Person, with priority over any rights of the first-priority Mortgagee of any Lot in the case of a distribution to such Owner of insurance proceeds from a casualty regarding the Improvements constructed or installed within the Common Area, or a distribution of the proceeds from a taking, condemnation, or deed in lieu thereof, of all or any portion of the Common Area.

15.05 Notice to Association. Upon receipt of a request from the Association, each Owner shall provide the name and address of the holder of any Mortgage encumbering such Owner's Lot.

15.06 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Association to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within fifteen (15) days after the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered U.S. mail, return receipt requested, in accordance with Section 14.08 ("Notices").

15.07 Construction of Article XV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Articles of Incorporation, the By-Laws, or applicable law for any of the acts set forth in this Article XV.

IN WITNESS WHEREOF, the Declarant and the Initial Land Owner have caused this Declaration to be executed, all on the day and year first above written.

DECLARANT:

SAWYER SOUND PARTNERS, LLC

By: _____
Name: _____
Its: _____

INITIAL LAND OWNER:

PHOENICIA DEVELOPMENT, LLC

By: _____
Name: _____
Its: _____

ASSOCIATION:

**SAWYER SOUND HOMEOWNERS
ASSOCIATION, INC.**

By: _____
Name: _____
Its: _____

STATE OF FLORIDA)
) SS:
COUNTY OF ORANGE)

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to take acknowledgments, _____, as _____ of Sawyer Sound Partners, LLC, a Florida limited liability company, to me known to be the person who signed the foregoing instrument as _____, and he acknowledged that the execution thereof was his free act and deed as _____ for the uses and purposes therein expressed and that the said instrument is the act and deed of said limited liability company. He is personally known to me and did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2015.

Name: _____
Notary Public, State of Florida

STATE OF FLORIDA)
) SS:
COUNTY OF ORANGE)

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to take acknowledgements, _____, as _____ of Phoenicia Development, LLC, a Florida limited liability company, to me known to be the person who signed the foregoing instrument as _____, and he acknowledged that the execution thereof was his free act and deed as _____ for the uses and purposes therein expressed and that the said instrument is the act and deed of said limited liability company. He is personally known to me and did not take an oath.

WITNESS my hand and seal in the County and State last aforesaid this ____ day of _____, 2015.

STATE OF FLORIDA)
) SS:
COUNTY OF ORANGE)

I HEREBY CERTIFY that on this day personally appeared before me, an officer duly authorized to take acknowledgments, _____, the President of Sawyer Sound Homeowners Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation, to me known to be the person who signed the foregoing instrument as such officer, and he acknowledged that the execution thereof was his free act and deed as such officer for the uses and purposes therein expressed and that the said instrument is the act and deed of said corporation. He is personally known to me and did not take an oath.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2015.

Name: _____
Notary Public, State of Florida

CONSENT OF MORTGAGEE
Regarding
Sawyer Sound Community Declaration

KNOW ALL MEN BY THESE PRESENTS:

_____, (the "Mortgagee"), the holder of that certain _____, dated _____ and recorded in Official Records Book ____, Page ____, of the Public Records of Orange County, Florida (the "Mortgage"), which Mortgage constitutes a lien upon the real property described in the foregoing Declaration of Covenants, Conditions, Restrictions and Easements for Sawyer Sound (the "Declaration"), hereby consents to _____ ("Declarant") and Phoenicia Development, LLC, (the Initial Land Owner") and those joining in and consenting hereto, subjecting the lands described therein to the provisions of the Declaration and agrees that the lien and encumbrance of the Mortgage shall be subordinate to the Declaration.

The subordination set forth herein is limited strictly to the rights of Declarant and the Initial Land Owner, their respective successors and assigns, created by the Declaration and this subordination shall not constitute a subordination to the rights of any other person or entity that holds any interest in the Community, as defined in the Declaration.

Dated this _ day of _____, 2015.

Name: _____
Title: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this ___ day of _____, 2015, by _____, _____ of _____, who is personally known to me or presented as evidence thereof _____.

Notary Public
Print Name: _____
My Commission Expires: _____