

AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
HERITAGE OAKS GOLF & COUNTRY CLUB, INC.

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GOLF & COUNTRY CLUB, INC.,

THIS AMENDED AND RESTATED DECLARATION is made this 21st day of March, 2016, by Heritage Oaks Golf & Country Club Inc. (the "Club") on behalf of itself and its successors, grantees, and assigns.

P R E M I S E S:

WHEREAS, the Club owns certain real property located in Sarasota County, Florida, and there has been created thereon a residential planned development of single-family homes, multi-family structures and related recreational and other common facilities and amenities, to be known as "Heritage Oaks Golf & Country Club, Inc."; (the "Community"); and

WHEREAS, the real property is described in Exhibit "G-1" to this Declaration, as that Exhibit is amended from time to time (the "Lands"); and

WHEREAS, to preserve, protect and enhance the values of the property and amenities in the Club, and promote the general health, safety and welfare of the Owners and residents, the Club continues to deem it desirable to subject the Community to certain protective covenants, conditions, and restrictions; and

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, the Club has been incorporated; and

WHEREAS, the Club shall, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within or without the Community by deed, easement, or otherwise for the purposes of maintenance, landscaping, drainage, recreation, management, or other purposes for the use and benefit of the Members of the Club and their families, tenants, guests and invitees.

NOW, THEREFORE, the Club, and all other persons who own an interest in the subject property who consent to, or join in, the making of this Declaration, hereby declare that the Lands described in Exhibit G-1 hereto, as amended from time to time, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Lands and be binding on all parties having any right, title or interest in the Lands or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. Additional real property may be added to the Lands by the Club amending Exhibit "G-1," with the consent or joinder of all persons who have a record Ownership interest in the property being added. Nothing in these covenants, conditions and restrictions, shall be effective to invalidate or impair the lien of any mortgage or deed of trust encumbering property in the Club given in good faith and for fair value. Furthermore, the express intent of the Club is that the substantive contract and property rights created hereunder for the Club and its Members

shall not in any way be retroactively affected by legislation enacted subsequent to the recording of this Declaration.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, unless the context clearly requires another meaning.

1.1 "Architectural Review Committee" or "ARC" means the Architectural Review Committee as established and empowered in Section 6 of this Declaration.

1.2 "Assessment" or "Assessments" means a share of the funds required for the payment of the common expenses of the Club which from time to time is assessed uniformly against Members, including without limitation, annual assessments and special assessments, as authorized and further provided in Section 9 of this Declaration.

1.3 "Board" or "Board of Trustees" or "Trustee" means the Board of Trustees of the Club.

1.4 "Club" means Heritage Oaks Golf & Country Club, Inc., a Florida corporation not for profit, which has its principal place of business in Sarasota County, Florida, and its successors and assigns.

1.5. "Common Areas" means any and all real property and improvements thereon owned by, leased to, or dedicated to the Club for the use and benefit of some or all of its Members. Common Areas include "Common Areas" and "Club Common Areas," as defined in Sections 3.1 and 3.2 below.

1.6 "Community" means all real property comprising the Club, and the improvements thereon.

1.7 "County" or "the County" means Sarasota County, Florida.

1.8 "DOCC" means separately or collectively (depending on its context herein) either the Master Development Plan for the Community or the approval of that Master Plan as a "Development of Critical Concern" ("DOCC") by the Development Order contained in Sarasota County Ordinance 96.045, Public Records of Sarasota County, Florida, as it may be amended from time to time. As used herein, "DOCC" also includes Sarasota County Special Exception #1374, which permits a golf course use within the Community's RSF-1 zoning district

1.9 "Declarant" means the Developer of the Club, which, at the time of turnover, was U.S. Home Corporation, a Delaware corporation.

1.10 "Developer" means U.S. Home Corporation, a Delaware corporation, which developed Heritage Oaks Golf & Country Club. The Declarant was the Developer.

1.12 "Governing Documents" means the Amended and Restated Declaration, and all recorded exhibits, including the Amended and Restated Articles of Incorporation ("Articles") and Bylaws ("Bylaws"), and Amended and Restated Bylaws of the Club, and

Rules and Regulations (“Rules”), as may be amended from time to time. In the event of irreconcilable conflict between two of the Governing Documents, the Amended and Restated Declaration shall prevail over all other documents, and the Articles of Incorporation shall prevail over the Amended and Restated Bylaws and the Rules and Regulations shall be subject to all other Governing Documents.

1.13 Guest means any person who is physically present in, or resides in a Living Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

1.14 “Institutional Mortgagee” means:

(A) a lending institution having a first mortgage lien upon a Lot, Parcel or Tract, including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or

(B) a governmental, quasi-governmental or private agency that is engaged in the business of buying, selling, holding, guaranteeing or insuring residential mortgage loans (including without limitation the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration) and which holds, guarantees or insures a first mortgage upon a Lot or Living Unit; or

(C) An “Institutional Mortgage” is a mortgage held by an Institutional Mortgagee encumbering a Lot, Living Unit, Parcel or Tract.

1.15 “Lands” means the land described in Exhibit “G-1” to this Declaration, as it may be amended from time to time.

1.16 “Lease”, when used in connection with a Living Unit, means the grant by the Owner of the Unit of a temporary right of use of the Unit for consideration.

1.17 “Living Unit” or “Unit” or “Residence” means any residential structure, including a single family detached or attached dwelling unit or condominium unit, located within the Community and intended for occupancy by one family or household. If a Living Unit is a free-standing or attached single family home or villa located on a Lot, the use of “Living Unit,” “Unit” or “Residence” shall be interpreted as though it was followed immediately by the words “and the Lot on which it is located.”

1.18 “Lot” means one or more of the platted portions of land into which the Community has been subdivided, upon each of which a single Living Unit has been constructed. Unless the context clearly requires a different interpretation, the term “Lot” shall be interpreted as if it were followed by the words “and the Living Unit or Residence constructed thereon.”

1.19 “Member” means any or all of those persons who are entitled to Membership in the Club, as provided in the Governing Documents.

1.20 “Neighborhood” means a condominium, a group of single family homes or villas, or any other residential sub-area development within the Community, where all the Lots and Living Units are subject to a single common recorded declaration of neighborhood covenants.

1.21 “Neighborhood Homeowners Association” or “Neighborhood Association” means an incorporated condominium association as defined in Chapter 718, Florida Statutes, an incorporated homeowners association as defined in Chapter 720, Florida Statutes, as amended from time to time, or any other incorporated mandatory membership property owners association operating a Neighborhood, or operating facilities or property serving two or more Neighborhoods.

1.22 “Neighborhood Common Areas” means all real property and improvements owned or leased by, or dedicated by recorded plat to, a Neighborhood Association for the common use, enjoyment, or benefit of its Members. If a Neighborhood is a condominium, the term includes the common elements of the condominium as well as any real property owned or leased by the condominium association.

1.23 “Neighborhood Covenants” means any and all covenants, conditions, restrictions, and other provisions that are created by a recorded declaration or other instrument, and are applicable only to one or more specific Neighborhoods, including the Articles of Incorporation and Bylaws of the Neighborhood Association, as amended from time to time.

1.24 “Occupy”, when used in connection with a Living Unit, means the act of using a Living Unit as one’s residence on two or more consecutive days, including staying overnight. An “Occupant” is one who occupies a Living Unit.

1.25 “Owner” means the record Owner of legal title to any Lot or Living Unit.

1.26 “Rules and regulations” means the rules, regulations, resolutions and policies consistent with the Governing Documents governing use of the Common Area and the operation of the Club, as adopted, amended and rescinded from time to time by the Board.

1.27 SWFWMD” means Southwest Florida Water Management District.

1.28 “Service charge” means a charge against one or more Lots or Living Units for any service, material or combination thereof which is provided by the Club for the use and benefit of the Owner(s) of those Lots or Living Units, such as repairs, personal services, materials or maintenance. The amount paid or debt incurred by the Club shall be a service charge against the Lots or Living Units so benefitted. An Owner is deemed to have agreed to the charge by the act of subscribing to, requesting, or accepting the material or service, and if performed by the Club as a result of the Owner failing to do so. No agreement, consent or approval by the Owner is necessary in case of work performed, or costs

incurred, in enforcing any covenants or rules related to maintenance of the Lot or Living Unit.

1.29 “Structure” means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words “or part thereof.” The term includes, without limitation, all Living Units, swimming pools, spas, fences, flagpoles, antennas, basketball backboards, skateboard ramps, swing sets or other play equipment, and storage sheds.

1.30 “Tract” or “Parcel” refers to any or all platted portions of the Community other than the Lots.

1.31 “Voting group” means a group of Members who are entitled to vote in the election of one (1) or more Trustees of the Club, as more particularly described in Section 11.7 of this Declaration.

1.32 “Voting interests” means the arrangement established in Section 2 of the Amended and Restated Bylaws of the Club by which the Owner(s) of each Lot or Living Unit are entitled to one vote in the business affairs of the Club when a vote of the Members is required or permitted herein.

1.33 “Voting representative” means the representative selected by the Owners in each Neighborhood to cast the votes of the Lots or Living Units in the Neighborhood in all Club matters, other than the election of Trustees, where a vote of the Members is required or permitted.

2. **GENERAL DEVELOPMENT PLAN.** The Community is a residential development consisting of approximately 500 acres of land. The primary development objective was to cause to be constructed an 18 hole golf course and country club, together with approximately 850 single and multiple family dwelling units. The Club has the right, but not the obligation in its sole discretion, to further expand by adding additional land, units, lots, or recreational amenities.

3. **THE CLUB; PURPOSES AND POWERS.** The primary purposes of the Club are to hold title to, operate and maintain the Common Areas of the Club, including, without limitation, the golf course, tennis courts, clubhouse, recreation facilities, private roadways, preservation and conservation areas, the surface water management system and retention areas, and decoration entrance ways to the Community; to provide community-wide services such as cable television for the use and benefit of said Owners and residents; to enforce restrictive covenants applicable to the Community; to provide architectural and aesthetic control of future construction and improvements of existing property; and to take such other action as the Club is authorized or required to take with regard to the Community pursuant to the Governing Documents. The Club shall operate, insure, maintain and repair all property and related improvements primarily designated by the Club, and as may now be known as Common Areas, or Club Common Areas, regardless of whether legal title to property has been formally conveyed to the Club.

3.1 **Common Areas.** The Club shall operate, maintain and hold record title to the Common Areas. The Common Areas are all portions of the Club that are not part of a Neighborhood. Common Areas include, but are not limited to, all swimming pools that are not part of a Lot, all private roads and travelway easements not within Neighborhood Common Areas, the Clubhouse (excluding the golf cart facility and pro shop), pools, tennis courts and related facilities, all wetlands and other preservation areas, surface water drainage and maintenance systems, and entranceway. The Board may promulgate reasonable rules and regulations regarding use of the Common Areas consistent with the Governing Documents. Use of Common Areas shall be available to all Members and their invitees, guests, family Members and tenants, subject to the rules, regulations and the Governing Documents. The costs of operating, maintaining, repairing, insuring and protecting the Common Areas and the facilities located thereon or connected therewith shall be assessed equally against all Lots and Living Units.

3.2 **Club Common Areas.** The Club shall operate, maintain and hold record legal title to the Club Common Areas. The Club Common Areas are the golf course, driving range, pro shop, golf cart facilities, and other facilities and property directly related to the operation of the golf course and designated by the Club as Club Common Areas. The Board may promulgate reasonable rules and regulations regarding use of the Club Common Areas consistent with the Governing Documents. Use of the Club Common Areas shall be available to all Members and their invitees, guests, family Members and tenants, on a non-exclusive basis subject to the rules, regulations and the Governing Documents. The golf driving range shall be operated only during daylight hours. The costs of operating, maintaining, repairing, insuring and protecting the Club Common Areas and the facilities located thereon, or connected therewith, shall be assessed against the Members. The Club shall have, without limitation, the following powers:

(A) To exercise the rights more particularly described in Section 4 below.

(B) The Board may determine whether and to what extent public use of the golf course and other Club facilities will be allowed.

3.3 **Management.** The Club may contract, employ and pay for the services of an entity or person to assist in managing its affairs and carrying out its responsibilities, and may employ other personnel as the Board shall determine to be necessary or desirable.

3.4 **Personal property.** The Club may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

3.5 **Insurance.** The Club at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary and as required in Section 12 below. The Club additionally shall cause all persons with access to Club funds to be insured or bonded with adequate fidelity insurance or bonds.

3.6 **Express and implied powers.** The Club may exercise any rights, power or privilege given to it expressly by the Governing Documents or by the law in effect at the time this

Amended and Restated Declaration is recorded, and every other right, power or privilege reasonably inferable therefrom and as permitted by Florida Statutes.

3.7 **Acts of the Club.** Unless the approval or affirmative vote of the Members is specifically made necessary by some provision of applicable law or the Governing Documents, all approvals or actions permitted or required to be given or taken by the Club may be given or taken by its Board, without a vote of the Members. The Officers and Trustees of the Club have a fiduciary relationship to the Members. A Member does not have the authority to act for the Club by reason of being a Member.

3.8 **Member pre-approval of certain litigation.** Notwithstanding any other provisions of the Governing Documents to the contrary, the Board must obtain the prior approval of at least two-thirds (2/3rds) of the voting interests of the Club prior to the payment of, or contracting for the payment of, legal fees in excess of \$100,000.00, to any person engaged by the Club for the purpose of commencing any lawsuit, other than for the following purposes:

- (A) the collection of assessments;
- (B) the collection of other charges which Members are obligated to pay;
- (C) The enforcement of the Governing Documents;
- (D) the enforcement of the Rules and Regulations of the Club;
- (E) in an emergency, when waiting to obtain the approval of the Members creates a substantial risk of irreparable injury to the Club or its Members; or
- (F) filing a compulsory counterclaim.

3.9 **Articles of Incorporation.** The Articles of Incorporation of the Club are attached as Exhibit "G-2", as may be amended from time to time.

3.10 **Bylaws.** The Amended and Restated Bylaws of the Club shall be the Amended and Restated Bylaws attached as Exhibit "G-3, as may be amended from time to time.

3.11 **Official records.** The official records of the Club shall be maintained within Sarasota County, Florida and must be open to inspection and available for photocopying by Members or their authorized agents at reasonable times and places within ten (10) business days, after receipt by the Club of a written request for access. This requirement may be complied with by having a copy of the official records available for inspection or copying within the Community. The Club may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The Club shall maintain an adequate number of copies of the

recorded Governing Documents, to ensure their availability to Members and prospective Members, and may charge its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

3.12 **Reclaimed or non-potable water for irrigation.** The Club, its successors or assigns, may confirm an agreement with the Sarasota County Utilities Department for the provision of reclaimed wastewater or treated effluent to be used for the irrigation of the golf course, other Common Areas, and the residential areas within the Community. The Club has also obtained a Water Use Permit from SWFWMD for the construction and use of an on-site groundwater well, to provide supplemental irrigation water for the Community at times when reclaimed water is not available from Sarasota County in sufficient volume for the Community's irrigation needs. The Club is responsible to provide all piping facilities from the County's point of delivery to the Community. Lake #8 within the Community, which is immediately north of the Gatehouse and the #8 Green on the golf course, has been planned to be used as an irrigation reservoir for the above reclaimed water and/or supplemental groundwater, to supply the irrigation needs of the Community. All Owners within the Community, by the act of course, and Lots with reclaimed water and/or supplemental groundwater), provided that the reclaimed water is received from an approved wastewater treatment plan with a current operating permit from the State of Florida, Department of Environmental Protection or other such agency with jurisdiction. The cost of the provision of such reclaimed water, and all administrative, operational, maintenance and support costs related to it are expenses of the Club.

3.13 **Enforcement power.** All development conditions, restrictions, requirements, commitments and impact-mitigating provisions of the DOCC Development Order may be enforced by the Club, by the Board, or by Sarasota County, by action at law or in equity; and if the Club, or the Board, or Sarasota County prevails in any such action at law or equity, the prevailing party shall be entitled to the award of all its costs of investigation and enforcement including staff time and attorney's fees incurred by or on behalf of the Club or the County.

4. **CLUB MEMBERSHIP; VOTING RIGHTS.** Each Living Unit shall have ~~two~~one Memberships appurtenant to the Living Unit, regardless of the number of Owners or the type of Ownership (natural persons, corporation, limited liability company, trust or other legal entity). If a Living Unit is owned by a married couple or cohabitating couple, the Membership shall be attributed to that couple. In that event, the Membership use shall extend to the couple and their children twenty-two (22) years of age or younger, residing in the Living Unit. Temporary and seasonal memberships may be created in the discretion of the Board. The rights, powers, duties and privileges of Membership shall be as set forth in this Amended and Restated Declaration, the Articles of Incorporation, Amended and Restated Bylaws, and Rules and Regulations, as may be amended from time to time. The Owner(s) of each ~~Lot or~~ Living Unit shall have one (1) indivisible vote in all matters upon which the Member are entitled to vote.

#### 4.1 **Occupancy and Membership Class**

(A) The Club will have one (1) class of Membership as follows:

(1) **Members.** If a Living unit is owned by one person, that person shall be a member and shall be entitled to designate one additional person who shall have full rights to use and enjoy the Club and Community Common Area facilities ("Use Rights Designee"). The designation of use rights to the Use Rights Designee may occur no more than twice in any calendar year, and the designated person cannot reside within one hundred (100) miles of the property. If a Living unit is owned by two persons, whether a married couple, a cohabitating couple or any other two persons, then the two persons who hold record legal title to the Living unit shall jointly own the Membership. If a Living unit is owned by three or more persons, the joint owners of the Living Unit shall jointly own the Membership and shall designate which two of the owners shall enjoy the right to use the Club and Community Common Area facilities. If a Living unit is owned by a corporation, limited liability company, trust or other legal entity, hereinafter ("Legal Entity"), the Legal Entity shall be a Member and may designate two persons as Use Rights Designees. If a Living unit is owned by two Legal Entities, the Membership shall be jointly owned by the Legal Entities and each Legal Entity shall be entitled to designate one Use Rights Designee. If a Living unit is owned by a Legal Entity and one person, the Membership shall be jointly owned by the Legal Entity and the person, who shall both be Members, and the Legal Entity shall be entitled to designate one Use Rights Designee. If a Living unit is owned by a combination of three or more persons and Legal Entities, the joint owners of the Living unit shall jointly own the Membership and shall designate two Use Rights Designees from among the Legal Entities and persons who own record legal title. All designations in favor of any Use Rights Designee may occur no more than twice in any calendar year, and the designated person cannot reside within one hundred (100) miles of the property. ~~Members shall be the Owners of Lots or Living Units within the Community to which two (2) Memberships have been made an appurtenance by the Amended and Restated Declaration, as limited by Section 4 above. Members shall have full rights to use both the Club and Community Common Areas Facilities. If a Living Unit is occupied by a married couple or cohabitating couple, the Membership shall be attributable to that couple. In that event, the Membership use shall extend to the couple and their children twenty two (22) years of age or younger. A single Owner may designate one person who is entitled to membership use rights. This designation may occur no more than twice in any calendar year, and the person cannot reside within one hundred (100) miles of the property.~~ Except for temporary delegations of use as provided in Section 4.3 below, a Membership shall not be assignable and/or transferable by any method other than the sale, lease or conveyance of record legal title to the ~~Lot or~~ Living unit to which it is appurtenant. Upon sale or other transfer of Ownership of a ~~Lot or~~ Living Unit to which a Membership is appurtenant, the transferor shall be deemed to have automatically assigned and transferred the Membership with ~~his~~ the Living Unit. A Member's right to use the golf course and other recreation facilities is limited as set forth in this Amended and Restated Declaration and in the Amended and Restated Bylaws. Any attempt to separate the Membership from the interest in real property upon which it is based shall be null and void.

4.2 **Association rights and easements.** Members in good standing have the non-exclusive right to use the Common Areas subject to:

- (A) The right of the Club to adopt the annual budget and to determine the annual assessments to be paid by Members, as determined by the Board;
- (B) The right of the Club to charge any admission, use, or other fees for any Common Areas as the Board may deem appropriate. The fees may be higher for non-Owners than for Owners;
- (C) The right of the Club to suspend a Member's right to use Common Areas for the period during which any assessment or charge against ~~the Member's Lot or the Member's~~ Member's Living Unit(s) remains unpaid and past due, and for a reasonable period during or after any infraction of the Club's rules and regulations or any breach of the covenants and/or unpaid Club or Neighborhood Association dues. If the same Member has one or more Living units for which assessments are unpaid and one or more Living units for which assessments are current, the suspension of use rights may be applied to all Living units owned by the Member.
- (D) The right of the Club to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority, or utility;
- (E) The right of the Club to grant easements over, across or through the Common Areas;
- (F) The right of others to use the golf course and driving facilities as determined by the Board from time to time; provided, however, that this right shall not allow the Club and its facilities to become a public facility.
- (G) The right of the Club, with the prior assent of a majority of the voting interests as set forth herein, to borrow money for the purpose of improving the Common Areas and in aid thereof, to mortgage Common Areas.
- (H) The rights of the Club to take steps reasonably necessary to protect the Common Areas.
- (I) The right of the Club to close or restrict access to use of the golf course or other Common Areas for limited periods of time to conduct special events or make repairs;
- (J) The right of the Club to regulate parking and traffic on the private roads within the Community, including, without limitation, the use of access gates or speed bumps;
- (K) The provisions of this Amended and Restated Declaration, the Articles of Incorporation and Amended and Restated Bylaws of the Club; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Board;
- (L) The right of the Club to dedicate or transfer Ownership or control of all or any part of the Common Areas to any governmental agency, public authority, or utility.

4.3 **Delegation of use rights in Common Areas.** A Member may temporarily delegate his right to use the Common Areas to his non-resident guests if the guests are accompanied by the Member or to guests or tenants not accompanied by the Member while they are residing in the Member's Living Unit, but only to the extent provided in Section 2.6 of the Amended and Restated Bylaws. A fee may be imposed by the Club for such delegation, not necessarily limited by, or related to, the actual cost of processing the delegation, as set forth in the Rules and Regulations promulgated by the Board as may be amended from time to time.

4.4 **Temporary Occupancy of Living Unit.** An Owner may permit the temporary occupancy of a Living Unit by a person or persons not entitled to use rights in the Common Areas for short periods of time as determined by the Board in reasonable Rules and Regulations as may be amended from time to time. The purpose of the temporary occupancy is, by way of example, for a caretaker to look after the Living Unit during the Owner's absence. While the time period permitted for temporary occupancy will be as set forth in the Rules and Regulations referenced above, in no event will it be longer than thirty (30) days.

4.5 **Separation of Ownership.** ~~The Ownership of a Lot, and Membership in the Club is appurtenant to each Living Unit. The Ownership of the a Living Unit constructed thereon, may not be separated or separately conveyed from the Membership in the Club. Only persons who own a Living Unit in the community may hold a Membership in the Club. Persons and Legal Entities who own multiple Living Units, individually or jointly, shall hold one Membership for each Living Unit. nor may any person who does not own record legal title to at least one Lot, Living Unit, or Parcel hold a Membership in the Club.~~

4.7 **Credit.** The Club may implement a policy of not accepting cash payments, and may also require that each Member and resident guest open an account with a nationally recognized credit card, to which all purchase of goods and services from the clubhouse, pro shop, dining room and other facilities may be charged.

4.8 **Minimum purchases.** The Club may implement a policy that requires each Member to purchase at least a minimum amount of food or beverage from the Club, or be billed for the minimum amount. The Board may change the minimum amount as it deems necessary from time to time.

5. **GENERAL COVENANTS AND USE RESTRICTIONS.** The Community may be used for any and all purposes approved or permitted in the DOCC. The Club reserves the right and the power to assign and reassign various land uses within the Community in accordance with the DOCC, or any amendments thereto and to inaugurate and implement variations from modifications to, or amendments of, the DOCC and any or all other governmental plans, land development regulations, development orders and development permits applicable to the Community.

5.1 **Subdivision and regulation of land.** No Lot or Living Unit may be divided or subdivided without the express written consent of the Club. No Owner or Neighborhood Association shall initiate, undertake or attempt to inaugurate or implement any variation

from, modifications to, or amendment of the DOCC or any other governmental plans, land development regulations, development orders, or development permits applicable to the Community, or to any Lot, Tract or Parcel, without the prior written approval of the Board, which approval may be denied at the sole discretion of the Board. Nothing herein is intended to prohibit judicial partition of a Lot or Living Unit owned by two or more persons.

**5.2 Surface water management systems, lakes, and wet retention ponds** The Club shall be responsible for maintenance of all surface water management systems, lakes, and water retention ponds in the Community. Adequate drainage rights-of-way or easements which are necessary to construct, operate and maintain all facilities which constitute the Community's permitted surface water management system, shall be shown in the Community's several final Subdivision Plats, or else incorporated therein by reference, as these Plats are gradually recorded in the Public Records of Sarasota County for different portions of the Club

(A) The development of the Lands is subject to the requirements of Environmental Resource Permit No. 4313864.00, issued by SWFWMD. No Owner or Neighborhood Association may construct or maintain any building, residence or structure (including docks), or undertake any activity in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas or drainage easements described on the recorded Plats of the Community and in the Environmental Resource Permit from SWFWMD for the Community, unless prior written approval is received from both the Board and the Sarasota County Regulation Department of SWFWMD. Each Owner within the Community, at the time of construction of a building, Residence or structure, shall ensure that those structures' construction plans comply with the plans for the Community's surface water management system as approved by and on file with SWFWMD. No Owner or Neighborhood Association shall in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in any portion of the Community's surface water management system (including but not limited to lakes, ponds, swales, drainage ways and wet retention ponds or other areas intended for the accumulation of stormwater runoff) without the prior written approval of the Board and of SWFWMD. NO PERSON SHALL REMOVE LITTORAL ZONE VEGETATION FROM ANY STORMWATER MANAGEMENT SYSTEM. REMOVAL OF VEGETATION INCLUDES DREDGING, PULLING, CUTTING, APPLICATION OF HERBICIDES OR INTRODUCTION OF GRASS CARP.

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

(C) No Lot, Tract, Parcel or Neighborhood Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage area which it abuts. No person shall fill, dike, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent

of the Board and SWFWMD. No person other than the Club may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

(D) All stormwater management systems, excluding those areas (if any) maintained by the County, will be the ultimate responsibility of the Club. The Club may enter any Lot, Tract, Parcel or Neighborhood Common Area and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper surface water management. The Club shall be responsible for the management and maintenance of those portions of the stormwater system which lie outside the platted Lands, between upstream Coash Lane and the downstream Vegetable Relief Channel to the north. If the Club should fail to exercise these responsibilities, the Club shall undertake the appropriate management and maintenance of these portions of its stormwater system between Coash Lane and the Vegetable Relief Channel which lie outside the platted Lands. All of the stormwater management costs of these Club responsibilities shall be an expense of the Club.

**5.3 Preservation and conservation areas.** The Club shall be responsible for the maintenance and regulatory compliance of all Common Areas placed under the Club's jurisdiction, regardless of where located, in accordance with rules, regulations and permitting requirements set forth by the County and other permitting agencies, including SWFWMD. All on-site wetlands along with the required upland buffers around each wetland, and also all on-site mesic hammock areas, shall be maintained as preservation or enhancement areas, and shall be labeled as such on all plans for the Community. "Preservation" as used herein means the perpetual maintenance of habitats in their existing (or restored) condition. All preservation areas, whenever practical, shall be recorded as separate tracts on the Community's Subdivision Plats, unless otherwise approved by the Sarasota County Department of Natural Resources, "Conservation Areas" include other Common Areas in the community which are to be protected and maintained by the Club in compliance with the Community's Resource Management Plan (which is incorporated herein by reference), and with all plan approvals from Sarasota County and other governmental agencies. Within the Community, a minimum of 21.5 acres of pine prairie shall be conserved in native habitat to fulfill open space requirements of the Community's DOCC, and these conservation areas shall be depicted as such on all construction plans. Conservation Areas may allow for some passive recreational uses (for example, as nature trails, or as golf course rough areas outside the regular fairway corridors). The Community's Resource Management Plan (airway corridors). The Community's Resource Management Plan (which recognizes the Club as the entity responsible to maintain and oversee the Community's natural resources) includes:

(A) measure to remove and properly dispose of solid water debris prior to the initiation of any construction within the Community;

(B) replanting plans for any tree removal project intended to allow golf balls to cross wetland Preservation Areas, as part of the golf course design;

(C) measures to discourage golfers from entering wetland Preservation Areas (e.g., signage); and

(D) methods for removing nuisance and exotic plants.

All internal stormwater lakes and drainage swales shall be set aside as private drainage easements on the final Plats for the Community.

FILLING, EXCAVATING OR REMOVAL OF NATIVE VEGETATION IS NOT PERMITTED WITHIN THE PRESERVATION AND CONSERVATION AREAS, EXCEPT AS ALLOWED WITHIN THE APPROVED RESOURCE MANAGEMENT PLAN.

Lot Owners shall address any questions regarding authorized activities within the wet detention ponds to the Sarasota Service Office of SWFWMD, Surface Water Regulation Manager. Other prohibited activities within the Preservation and Conservation Areas include the placement or dumping of soil, trash or land clearing debris.

5.4 **Open space.** Any land subject to this Declaration and designated as open space, landscape buffer, preservation area, conservation area or words of similar import on any plat, declaration of covenants and restrictions, site plan, permit or other document shall be preserved and maintained as open space by its Owner. If the land on an easement over such land has been conveyed or dedicated to the Club or to a Neighborhood Association, the Club or Neighborhood Association shall preserve and maintain such land. No development may occur on such land except structures or improvements which promote the use and enjoyment of the land for open space purposes.

5.5 **Lawns, landscaping; irrigation systems.** Except for designated preservation or conservation areas, buffer zones, open space or other similar areas, all areas not covered by structures, walkways or paved parking facilities shall be maintained by their Owners as lawn or landscaped areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas. Stone, gravel, or paving may not be used as a substitute for grass in a lawn. Certain areas as determined by the Club or the DOCC shall remain in a natural or unimproved state. Lawns must be regularly cut and mulched areas regularly re-mulched. The main irrigation line shall be the responsibility of the Club. The components of the irrigation system serving each individual Neighborhood Common Area or Lot, including but not limited to the tap into the main line, timers, switching devices and heads shall be the responsibility of the Neighborhood Association or the Lot Owner. Each Owner of a Lot shall be required to tap into the Club's irrigation system, and the cost of such tap will be at the expense of the Lot Owner, payable to the Club. The Club shall have the right, at its sole discretion to adopt a schedule of irrigation times and duration of irrigation, subject to intervention by the SWFWMD. The Club shall also be responsible for irrigation of certain adjoining public roadway areas not owned by the Club, and the cost shall be a Community Common Area expense.

5.6 **Maintenance of premises.** Except for conservation areas and other areas designated by the Club or the DOCC to remain in a natural state, no high weeds, underbrush, high

grass or other unsightly vegetation shall be permitted to grow or remain upon any Lot or Neighborhood Common Area, and no refuse or waste shall be allowed to be placed or suffered to remain upon any Lot or Neighborhood Common Area. If an Owner or Neighborhood Association permits such weeds, high grass, underbrush or other unsightly growths, and fails to correct same after five (5) days' notice by the Club, the Club shall have the right to enter upon the premises and make such corrections and shall charge the Owner or Association for the cost of the corrections. Said charge, until paid, shall be a lien against the offending Lot or Neighborhood Common Area. All lawns, landscaping and sprinkler systems and all structures, improvements and appurtenances shall at all times be kept in a safe, and attractive condition, and all structures shall be maintained in a finished, painted and attractive condition.

5.7 **Litter.** In order to preserve the beauty of the Community, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept within the Club except in closed containers, dumpsters or other garbage collection facilities deemed suitable by the Board, or in proper-sized, closed plastic bags for curbside pickup as required and in accordance with Sarasota County Ordinances. All containers, dumpsters and other garbage collection facilities shall be screened from view, kept in a clean condition, and without noxious or offensive odors emanating.

5.8 **Walls, fences, hedges, etc.** Unless approved in writing by the Board, no wall, fence, hedge, or other divider shall be constructed or maintained at a height of more than six feet above the ground level of any adjoining Lot or neighborhood Common Area. No wall, fence or hedge shall be constructed on any Lot or Neighborhood Common Area unless its height, length, type, design, composition, material and location shall have first been approved in writing by the ARC. Height shall be measured from the finished grade of adjoining developed property. Any dispute as to height, length, type, design, composition or material shall be resolved by the ARC unless appealed to the Board, whose decision shall be final. Approval shall not be given for the construction of any wall, fence or hedge which materially interferes with the water view or golf course view of any Lot or Living Units.

5.9 **Driveways and parking areas.** Driveways and parking areas must be paved with concrete, paver blocks, or another hard surface approved by the Board. Maintenance and repair of all driveways, parking and other paved parking facilities (except driveways serving only one single family home) shall be the responsibility of the Club (if located in the Common Areas) or the responsibility of the Neighborhood Association (if located in a Neighborhood Common Area). Driveways must be kept clean and free from excessive oil, rust or other unsightly stain.

5.10 **Colors.** No exterior colors on any structure shall be permitted that, in the judgment of the ARC, which may be appealed to the Board, would be inharmonious, discordant or incongruous within the Community or a particular Neighborhood. The exterior color and design of structures shall be as approved by the ARC which may be appealed to the Board.

5.11 **Underground utilities.** No line or wires for communication or the transmission of electric current shall be constructed, or placed, or permitted to be placed, within the

Common Areas unless the same shall be protected cables; all such lines or wires which are not located in structures shall be constructed or placed and maintained underground, unless otherwise approved in writing by the Board. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained above the surface of the ground, except hoses and movable pipes used for irrigation purposes.

5.12 **Water supply; private wells; water rights.** Each Lot Owner is required to connect the water lines on his Lot to the lines of the utility providing service to the Club. No Owner may install or operate a private well. The Club, its heirs, successors or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Lands for any legal purpose, including the transport and use of such waters beyond the Lands, and the conveyance of any Lot or Living Unit by the Club does not include the right to develop or utilize any ground water or sub-surface water resources within such Lot or Living Unit.

5.13 **Temporary factory-built or existing structures.** No structure of any kind of what is commonly known as "factory-built", "modular", or "mobile home" type construction shall be erected without the prior written permission of the Board. No tent, trailer or temporary structure other than those used by the Club for activities shall be permitted unless its size, appearance and temporary location on the Lot have first been approved by the Board.

5.14 **Antennas and flagpoles.** No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or Tract or upon any improvements thereon, unless expressly approved in writing by the ARC, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part I, Subpart S, Section 1.4000, as amended, promulgated under the federal Telecommunications Act of 1996, as amended from time to time. The Club shall be empowered to adopt rules governing the types of antennae, and restrictions relating to safety, location and maintenance of antennae. The Club may adopt and enforce reasonable rules limiting installation of permissible satellite dishes or antennae to side or rear yard locations, not visible from the street or neighboring properties, and integrated with the Residence and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. A flagpole, for display of flags as permitted by Chapter 720, Florida Statutes, may be permitted if the design and location are first approved by the Club. An approved flagpole shall not be used to mount antennae. This provision is intended to protect residents from unreasonable interference with television reception, and the operation of electronic devices and home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment.

5.15 **Outdoor equipment.** All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool and spa equipment and housing and sprinkler pumps and other such

outdoor equipment must be underground, or placed in areas not readily visible from adjacent streets, or adequate landscaping must be used as screening around these facilities and maintained by the Owner or Neighborhood Association.

5.16 **Clothes drying area.** No outdoor clothes drying area shall be allowed except as permitted by Federal or Florida Statute.

5.17 **Lighting.** All permanent exterior lighting of structures or landscaping shall be accomplished in accordance with plans approved in writing by the Board. Except as may be initially installed or approved by the Board, no spotlights, floodlights or other high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on other Lots or the improvements thereon, or upon any Common Area or any part thereof, without the approval of the Board. Low intensity lighting, such as traditional and customary Christmas and other holiday decorations, which do not unreasonably disturb other Owners or occupants of the Community, shall be allowed.

5.18 **Air conditioners.** Wall or window air conditioning or heating units are not permitted.

5.19 **Solar collectors; roof vents.** Solar collectors, roof vents and other installations on the roofs of structures, shall be permitted only at locations approved in writing by the Board pursuant to Florida or Federal law, and may be required to be screened from view by landscaping or other suitable visual barrier.

5.20 **Signs.** No signs, banners, billboards or advertisements of any kind, including without limitation, those of Realtors, politicians, contractors or subcontractors, shall be erected or displayed anywhere in the Community, including on Lots or in windows and on motor vehicles. The Board shall have the right to erect signs as it, in their discretion, deem appropriate. [The Board shall have the right to allow open house signs by Members in compliance with rules and regulations promulgated by the Board. The Board shall have the right to allow the placement of a small plaque on the front wall of garages in compliance with rules and regulations promulgated by the Board.](#) If any sign is erected in violation of this provision, the Club, or a Neighborhood Association having jurisdiction shall have the right to enter the property on which the sign is located and remove it. The foregoing shall not apply to signs, banners, flags, billboards or advertisements used or erected by the Club, nor to entry and directional signs installed by the Club, and signs required by law.

5.21 **Trucks, commercial vehicles, recreational vehicles, motor homes, mobile homes, boats, campers, trailers and other vehicles.**

(A) No commercial vehicle of any kind shall be parked in the Community except for construction or service vehicles temporarily present on business.

(B) No boat, trailer, semitrailer, or house trailer of any kind, camper, mobile home, motor home, bus, truck, truck camper, pick-up truck or disabled, inoperative or unlicensed motor vehicle of any kind, whether said motor vehicle is used for

commercial or personal use, may be parked or kept in the Community unless it is kept fully enclosed inside a structure. For purposes of this paragraph only, an open carport shall not be deemed a structure. House trailers, semitrailers, campers, buses, motor homes, trucks, pick-up trucks, mobile homes, truck campers, and the like are permitted to be parked on a driveway of a Lot or parking lot temporarily for active loading and unloading purposes only, and then for a maximum of 12 hours. Parking for longer periods of time may be permitted, only with the prior written approval of the Board.

For the purposes of this section, "truck" and "pick-up truck" include any motor vehicle designed, used, or maintained for commercial use, or for transporting or delivering property or material, including any motor vehicle having space designed for and capable of carrying property, cargo, or bulk material and which space is not occupied by passenger seating. This definition is meant to exclude Sport Utility Vehicles from being considered a "truck" or "pick-up truck."

(C) No motor vehicles shall be parked anywhere other than on paved areas or other areas designated for that purpose, or in garages. Parking on lawns or landscaped areas is prohibited.

(D) No motor vehicles shall be used as a domicile or residence, either permanent or temporary.

(E) Paragraph (A) through (D) shall not be deemed to prohibit any temporary facility permitted by Section 5.13 above.

(F) Any vehicles parked in violation of this Section 5.21 are subject to being towed away at the Owner's expense.

5.22 **Living Units; residential use.** Permanent occupancy in Living Units shall be limited to two (2) persons per bedroom. Temporary occupancy shall be permitted on special occasions as set forth in reasonable Rules and Regulations promulgated by the Board, from time to time. Living Units shall be occupied by only one family at any time, as a residence and for no other purpose. No business, commercial activity or profession may be conducted from any unit, nor may the name of the Community or the address of any Living Unit be publicly advertised as the location of any business. The use of a Living Unit as a public lodging establishment shall be deemed a business or commercial use. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping his personal, business or professional records in his Living Unit, or from handling his personal, business or professional telephone calls or written correspondence in and from his Living Unit. Such uses are expressly declared customarily incident to residential use. This Section 5.22 is, however, intended to prohibit commercial or business activity by an Owner which would unreasonably disrupt the residential ambiance of the Community, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Community by persons making deliveries or pick-ups, by employees or other business associates, or by customers and clients.

5.23 **Leasing of Living Units.** No Living Unit may be leased or rented for a period of less than thirty (30) consecutive days. Neighborhood Covenants may establish stricter standards for particular Neighborhoods.

5.24 **Pets and animals.** Not more than two (2) commonly accepted household pets such as a dog or cat, and reasonable numbers of tropical fish or caged birds may be kept in a Living Unit, subject to other reasonable regulation by the Club or a Neighborhood Association having jurisdiction. All animals shall be leashed (if outdoors), or kept within the Living Unit or Lot and shall not be permitted to roam free. The Board, through reasonable Rules and Regulations promulgated from time to time, may restrict the walking of pets to certain areas. Pets are not permitted on the golf course at any time. Owners who walk or exercise their pets on Club, Community or Neighborhood Common Areas must clean up after their pets. Commercial activities involving pets, including without limitation, boarding, breeding, grooming and training, are not permitted. The ability to keep a pet is a privilege, not a right. If in the opinion of the Board, any pet becomes the source of unreasonable annoyance to others, or the Owner of the pet fails or refuses to comply with any of these restrictions or Rules and Regulations, the pet Owner, upon written notice, may be required to remove the pet from the Community. Pets may not be left unattended or leashed in yards or in garages or on porches, balconies, lanais, and other open areas. Any pet determined to be dangerous by any State, County or Local Municipality may be required to be removed from the Club by order of the Board.

5.25 **Nuisances.** Nothing may or shall be done which is, or may become, a source of unreasonable annoyance or nuisance to residences of any Neighborhood. Any question with regard to the interpretation of this Section shall be decided by the Board, whose decision shall be final.

5.26 **Correction of health and safety hazards.** Any conditions of the physical property which are reasonably deemed by the Board to be an immediate hazard to the public health or safety may be corrected as an emergency matter by the Club, and the cost thereof shall be charged to the responsible Owner or Association and the Lot shall have a lien placed on it as provided for in Section 9.

## 6. ARCHITECTURAL AND AESTHETIC CONTROL

6.1 **General.** No building, structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any structure, Lot, Living Unit, or Neighborhood Common Area without the prior written approval of the ARC. In obtaining said written approval, an Owner or any other person applying shall comply with all applicable requirements and procedures as promulgated by the ARC and approved by the Board.

6.2 **Architectural Review Committee.** The architectural and aesthetic review and control functions of the Club shall be administered and performed by the ARC. The ARC shall consist of not less than three (3) individuals, who need not be Members of the Club. The

term of office, composition, compensation (if any), qualifications and meeting procedures of the ARC shall be as provided in Section 6 of the Amended and Restated Bylaws.

6.3 **Powers.** The ARC shall have the power, subject to and limited by the guidelines of the approved DOCC Development Order, and other governmental agency permits, including SWFWMD Environmental Resource Permit No. 4313864.00 and reasonable regulations promulgated by the Board from time to time, to:

(A) Propose the adoption, modification or amendment by the Board, of written Design Review Guidelines which shall set forth such things as design requirements, permitted landscape materials, construction standards and colors and materials which the ARC finds acceptable. The Guidelines shall be consistent with this Amended and Restated Declaration, and shall not be effective until adopted by at least a majority of the whole Board at a meeting duly called and noticed. Notice of any adoption, modification or amendment of Design Review Guidelines, including a verbatim copy of the proposed modification or amendment thereof, shall be mailed to each Neighborhood Association at least thirty (30) days prior to the Board meeting at which such action is to occur;

(B) Require submission to the ARC of plans and specifications for any building, structure, or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color, or other work which materially alters the exterior appearance of any structure, Lot or Neighborhood Common Area. The ARC may also require submission of samples of building materials or colors proposed for use on any Lot, and may require such additional information as may reasonably be necessary for the ARC to fully evaluate the proposed work;

(C) Approve or disapprove the erection or material alteration of any building, structure or other improvement, or any grading, excavation, landscaping, change of exterior color, or other work which in any way perceptively alters the exterior appearance of any structure, Lot or Neighborhood Common Area. All decisions of the ARC shall be forwarded in writing to the Board. Any person aggrieved by a decision of the ARC shall have the right to make a written appeal to the Board within thirty (30) days after notification of the decision. The determination by the Board, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;

(D) Adopt procedures and a schedule of reasonable fees for processing requests for ARC review. Fees, if any, shall be payable to the Club, in cash or check, at the time the request is submitted to the ARC; or

(E) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.

6.4 **Enforcement.** All final, unappealable decisions of the ARC shall be enforced by the Neighborhood Association involved and the Club.

7. **EASEMENTS.** In addition to the easements created elsewhere herein, and those already of public record at the time this Declaration is recorded, the following easements are hereby provided for:

7.1 **Utilities, services and support.** Each Lot, Unit, Tract and Parcel and all Common Areas (except Preservation Areas) and Neighborhood Common Areas is and are hereby subjected to easements for public services, communications and telecommunications and utilities purposes including, but not limited to, fire, police protection, and emergency services, garbage and trash removal, potable and non-potable water, sewage, telephone, and electric service, lake maintenance, and cable television. The utilities and governmental agencies having jurisdiction, and their employees and agents, shall have the right of access to any Lot, Living Unit, Tract, or Parcel or any of the Common Areas in furtherance of such easements. The easement areas on any Lot, whether or not shown on any plat, shall at all times be properly maintained by the Owner, whether or not the utility or service company properly maintains the easement area.

(A) There is hereby reserved, for the purpose of installing, operating and maintaining governmental, public or private utility facilities, and for other purposes incidental to the development of the Community, those easements described herein and those shown upon the recorded plats of the Community, and there are also reserved such easements and rights-of-way for these or any other purposes as the Board in its sole discretion may in the future grant.

(B) Each Lot and Living Unit is subject to a permanent easement in favor of adjoining or adjacent Lots and Living Units for lateral and subjacent support.

7.2 **Cable TV and telecommunications systems.** The Club hereby reserves for itself and its successors, assignees and licensees the right, without obligation, to construct or install over, through, under, across and upon any portion of the Community for the use and benefit of the Owners and their permitted or authorized guests, invitees, tenants and family Members, one or more cable and/or telecommunications receiving and distribution systems and electronic surveillance systems, emergency, medical or surveillance monitoring or alarm systems (all or any part of which shall be referred to herein collectively as the "System"), the exact description, location and nature of which may have not yet been fixed nor determined. The Club shall have and hereby reserves to itself and its designees, successors, assignees and licensees a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (the scope, extent, size and location of which over, across, upon and through the Community shall be determined solely by the Club, its successors, designees and assigns) together with a perpetual and exclusive right and privilege of:

(A) Unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services

of the System including, without limitation, television and radio signals, electronic banking, surveillance, fire, police and emergency medical protection.

(B) Transmitting, the facilities and equipment of which, shall be owned and exclusively controlled by the Club, its successors and assigns or its designees.

7.3 **Contracts with service providers.** The Club shall have the right to enter into contracts for the exclusive provision of the System, as the Club shall deem, in its sole respective discretion, to be in the best interests of the Community. The Club may receive valuable consideration from a Contractual Designee for the grant of exclusive right to provide System services. As used herein, the term "Contractual Designee" means the service provider with which the Club contracts for the furnishing of System services.

7.4 **Collection of "System" assessments by Club.** Every Lot or Living Unit to which System service is available from any Contractual Designee(s) will be subject to a System service assessment, payable per Lot or Living Unit for System services, including without limitation cable television services. The Club shall bill the appropriate System service assessment to each Lot or Living Unit, along with other assessments for common expenses which may be due and payable at the same time, and shall collect same and remit payment to the Contractual Designee(s) providing the System services.

7.5 **Easements related to golf course.** The Declarant created blanket non-specific, non-exclusive easements, which are affirmed, for the benefit of users of the golf course over all Lots, Living Units, Neighborhood Common Areas, and Common Areas adjacent to the golf course, to permit every act necessary, incidental, or appropriate to the playing of golf. These acts include, without limitation, the flight of golf balls over and across such Lots, Living Units or Common Areas, and for golfers at reasonable times and in a reasonable manner to enter upon Lots or Common Areas of the Community to retrieve errant golf balls (provided, however, that if any portion of the Community is fenced or walled, the golfer must attempt to obtain the Owner's permission before entry). These acts also include the landing of errant golf balls upon the Lots, Living Units or Common Areas, the use of necessary and usual golf carts and maintenance equipment upon the golf course, the usual and common noises and other disturbances created by maintenance of the course and the playing of the game of golf, including occasional tournaments with galleries, together with all other common and usual occurrences normally associated with the existence and operation of a golf course. The Club shall not be liable for damage to personal or real property from errant golf balls, but the existence of this easement shall not relieve any golfer from such liability. The Declarant further created the following easements, which are affirmed:

(A) **Golf cart paths.** The golf course includes cart paths which cross or encroach upon Common Areas or Neighborhood Common Areas. No cart path may encroach upon any Lot. The Declarant granted and declared a non-exclusive easement for such cart paths and for their use by the Club and its Members and all other persons lawfully using the golf course, over and across those Common Areas and the Neighborhood Common Areas as are subsequently developed and improved for that purpose. Nothing shall be placed, constructed, erected, or

maintained within five (5) feet of any golf cart path which could or does interfere with utilization of the paths as a playable part of the golf course.

(B) Chemical treatments. All parts of the Community immediately adjacent to the golf course are hereby burdened with a non-exclusive easement in favor of the Club for overspray of water, fertilizer, weed killer, fungicide or pesticide from any maintenance activity or irrigation system serving the golf course. Under no circumstances shall the Club be held liable for any damage or injury resulting from accidental or negligent overspray.

7.6 No right to view. The Club neither guarantees nor represents that any particular view over and across the golf course or other Common Areas from any adjacent Lot or Living Unit will be preserved without impairment or change. The Club has no obligation to prune or thin trees or other landscaping, and has the right, in its sole discretion, to add trees and other landscaping to the Common Areas from time to time. In addition, the Club may, in its sole and absolute discretion, change the location, configuration, size and elevation of tees, bunkers, fairways and greens on the golf course from time to time. Any such additions or changes may diminish or obstruct the view from a Lot or Living Unit, and any express or implied easements for view purposes, or for the passage of light and air, are hereby expressly disclaimed.

## 8. COMMON AREAS: CONVEYANCE, USE AND MAINTENANCE.

8.1 Designation. Except for the Preservation Areas, and the Stormwater Management System, the Club shall have the right, and the power, in its sole discretion, to determine which parts of the Community shall be Common Areas, and to convey, lease or grant a license or other right to use real property within the Community, to the Club or any Neighborhood Association as Common Areas.

The foregoing notwithstanding, the Club shall own and maintain the surface water management system deeded to it as part of the Community Common Areas.

8.2 Preservation Areas. All preservation areas within the Community were and are hereby dedicated as Community Common Areas. It shall be the responsibility of the Club to maintain and protect these Preservation Areas in their natural (or restored) condition. As provided in Sections 3 and 5.2 above, the Club is the entity responsible to operate, protect and maintain all of the Community and Club Common Areas, including the Community's surface water management system. The Club has adopted a Best Management Practices Manual which may be amended from time to time by the Board, for the protection and preservation of native habitats prior to and during all construction activities on the Lands. This Best Management Practices Manual includes detailed requirements and measures for the protection of surface water quality during and after construction activities. Upon completion of the Community's surface water management system, the Club is required to maintain the appearance and function of all drainage facilities constructed in the Community, including retention ponds and drainage swales. The Club has also adopted an Operation and Maintenance Manual for the Community's surface water management system, which may be amended from time to time by the

Board. This Manual includes detailed maintenance provisions consistent with the DOCC for Lake Maintenance, Swale Maintenance, the Maintenance of Parking Facilities, and other operational guidelines for the Club's management of the surface water system. The Lake Maintenance section of this Manual includes appropriate mosquito control measures such as the removal of mosquito-conducive pest and nuisance plants such as cattails, primrose willow, water hyacinth, and water lettuce. The detailed measures in the Operation and Maintenance Manual implement and protect the Community's natural features and drainage systems consistent with the Community's Resource Management Plan described in Section 5.3 above.

**8.3 Maintenance and alteration.** The Club is responsible for the maintenance, repair, replacement, insurance, protection and control of all Community Common Areas in accordance with all applicable laws, and shall keep the same in good, safe, clean, attractive and sanitary condition, and in good working order at all times. There shall be no material alterations of or substantial additions to the Community Common Areas costing more than \$200,000.00, in the aggregate during any fiscal year unless first approved by a majority of the voting interests of Members of the Club, and there shall be no material alteration of or substantial additions to the Club Common Areas costing more than \$200,000.00, in the aggregate during any fiscal year unless first approved by a majority of the voting interests of the Members, in person or by proxy at a meeting called for the purpose of approving said material alteration at which a quorum is attained. However, if work that is reasonably necessary to meet the Club's obligations under the first sentence of this Section 8.3 also constitutes a material alteration or substantial addition, no prior Membership approval is required.

**8.4 Partition, subdivision and encumbrance.** Except as hereinafter provided, after legal title to the Common Areas, or any portion thereof, becomes vested in the Club, the Common Areas shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated, or otherwise encumbered, without first obtaining the approval of not less than a majority of the voting interests of the Members present in person or by proxy at a meeting called for the purpose of editing the Common Areas at which a quorum is attained. The foregoing shall not be construed to limit the authority of the Club through its Board to grant any and all easements over, across and through the Common Areas as it may deem necessary for the effective and efficient operation of the facilities, or for the general benefit of the Members. Nothing herein shall be construed to prohibit judicial partition of any Lot, Unit, Tract or Parcel owned in cotenancy.

**8.5 Expansion or modification of Common Areas.** Additions or modifications to the Common Areas may be made by Club if not inconsistent with the DOCC and any amendments thereto. The Club shall not be obliged, however, to make any additions or modifications. The Club further reserves the right to change the configuration or legal description of the Common Areas due to changes in development plans.

**8.6 Proviso.** No portion of the Club's private streets or stormwater management system shall be altered without the prior written authorization of the Sarasota County Engineer or his designee.

## 9. ASSESSMENTS AND OTHER FINANCIAL OBLIGATIONS OF OWNERS

9.1 **Creation of lien.** Each Owner, by acceptance of a deed to a Lot or Living Unit, covenants and agrees to pay to the Club or Neighborhood Association:

- (A) Annual assessments.
- (B) Special assessments.
- (C) Resale capital assessments, service charges, and all other fees or charges (including fines) imposed against one or more Lots, Living Units, Tracts or Parcels, as provided for elsewhere in this Amended and Restated Declaration, and in the Amended and Restated Bylaws of the Club.
- (D) System assessments.
- (E) Except as otherwise provided in Section 14 below as to first mortgages, no Owner may avoid or escape liability for the assessments or charges provided for herein by non-use or abandonment of his Lot, Living Unit, Tract, Parcel, or the Common Areas, or otherwise.
- (F) Assessments shall be fixed, levied, established and collected as provided herein, and in Section 7 of the Amended and Restated Bylaws.
- (G) The Owner of each Lot or Living Unit, regardless of how title was acquired, is liable for all assessments and charges coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 14 below, whenever title to a Lot or Living Unit is transferred for any reason, the new Owner is jointly and severally liable with the previous Owner for all assessments unpaid at the time of the transfer and any other monies due to the Club and/or Neighborhood Associations, regardless of when incurred, without prejudice to any right the new Owner may have to recover from the previous Owner any amounts paid by the new Owner.
- (H) No land within the Club that is owned by or dedicated to the County or any other governmental or quasi-governmental authority and used for a public purpose, and no Neighborhood Common Areas or Club Common Areas, shall be subject to assessment by the Club. Only Lots and Living Units shall be subject to Club assessments.
- (I) The Association dues, monies and assessments charged by a Neighborhood Association in which the Lot or Unit is located, to the Neighborhood Association.

9.2 **Purposes of assessments:**

- (A) To promote the recreation, health, safety, and welfare of the Owners and residents of the Club;
- (B) For the improvement, maintenance, protection and operation of the Club and Community Common Areas, the Club equipment and facilities, and the Stormwater Management System, and to establish and maintain adequate repair and replacement reserves;
- (C) To provide utility, cable television, and other systems of telecommunication services by bulk contract with third parties.
- (D) Where deemed desirable by the Board, to provide services of general benefit to the Owners and residents either on a community-wide basis or otherwise, including without limitation, cable television, transportation, security or other services.
- (E) To pay the operating expenses of the Club and to ensure the Club's financial viability; and
- (F) For such other purposes and uses as are authorized by the Governing Documents as amended from time to time.

9.3 **Imposition of annual assessments.** On the first day of each fiscal year, an annual assessment shall be assessed against each Lot or Living Unit.

9.4 **Amount of annual assessments.** The amount of the annual assessment based on the annual budget shall be the same for each Lot or Living Unit subject to assessment.

9.5 **Special assessments.** If the Board determines that Club revenues available to pay operating expenses for the current fiscal year are, or may become, inadequate to meet all operating costs for any reason, it shall determine the approximate amount of shortfall and levy a special assessment against each Lot or Living Unit, specifying the date or dates when due, and the purpose of the assessment. A special assessment may be added to and paid with installments of the annual assessments, or be otherwise payable at such time or times as are determined by the Board. Any special assessments levied by the Club's Board shall be assessed equally against all Lots and Living Units.

9.6 **Service charges.** Any other charge by the Club authorized by law or by the Governing Documents to be imposed non-uniformly on at least one (1), but less than all of the Lots or Living Units, including without limitation, the charges described in Section 1.28 above, shall not be deemed an assessment. Non-payment of the charge may be collected as set forth in Article 9.8.

9.7 **System service assessments.** Assessments for System services as described in Section 7.2 through 7.4 above, may be levied by the Board. Given their nature and purpose, such assessments may be levied on a non-uniform basis, notwithstanding the provisions of Section 9.5 above, and shall still be deemed "assessments." For example, if the Club enters

into a community-wide bulk contract for cable television services to be provided to all Living Units, but one or more Living Units is owned or occupied by a vision-impaired person who by law cannot be required to pay for such cable television services, the cost of the cable television service shall be shared equally by all other Living Units, and the amount each Living Unit pays shall still be deemed an "assessment" for all purposes hereunder.

9.8 **Lien.** The Club has a lien on each Lot and Living Unit for any unpaid past due assessments and charges, together with interest, late payment penalties and reasonable attorney's fees incurred by the Club in enforcing the lien. The lien relates back to the date of recording of the original Declaration in the Public Records of Sarasota County, Florida, and is perfected by recording a Claim of Lien in the public records of the County, which Claim of Lien shall state that the legal description of the property encumbered thereby, the name of the record Owner, the amounts then due and the dates when due. The Claim of Lien must be signed and acknowledged by an Officer or authorized agent of the Club. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The Claim of Lien shall secure all unpaid assessments and charges, interest at the maximum rate permitted by law, costs and attorney's fees which are due and which may accrue or come due after the recording of the Claim of Lien and up to the issuance of a clerk's deed. Upon full payment, the person making payment is entitled to a satisfaction of the lien.

9.9 **Foreclosure of lien.** Unless a different method is required by Florida law, as amended from time to time, the Club's lien may be foreclosed by the procedures and in the manner provided in Chapter 720, Florida Statutes, as it may be amended from time to time, for the foreclosure against any Owner liable for unpaid charges or assessments. The Club may also bring an action at law against any Owner liable for unpaid charges or assessments. In any such actions, the prevailing party shall be entitled to recover reasonable attorney's fees and costs in connection with said action or any appeal thereof.

9.10 **Priority of lien.** Unless otherwise required by Florida law as amended from time to time, the Club's lien for unpaid assessments and charges shall have the same priority with respect to first mortgagees holding mortgages on Lots and Living Units as provided in Chapter 720, Florida Statutes, as may be amended from time to time, has with respect to first mortgagees or other acquirers of title through the first mortgage. The Club's lien shall be superior to, and take priority over, all other mortgages, credit lines, etc., regardless of when recorded. Any lease of a Living Unit shall be subordinate and inferior to any Claim of Lien of the Club, regardless of when the lease was executed. The relative priority of the Club's lien to that of a Neighborhood Association shall be determined by the order of their recording in the official records of Sarasota County.

9.11 **Resale capital contribution.** The Club has the power, but not a duty, to levy a resale capital contribution upon the transferee in any conveyance of title to a ~~Lot or~~ Living Unit by a Member. The amount of the resale capital assessment and the manner of payment shall be as determined by resolution of the Board from time to time; provided, however, all ~~Lots or~~ Living Units similarly situated shall be assessed a uniform amount. The due date shall be the date of the closing of the conveyance. Payment of the resale

capital contribution shall be the legal obligation of the transferee. For purposes of this Section 9.11, the term "conveyance" shall mean any transfer of record legal title to a ~~Lot~~ ~~or~~ Living Unit by deed or other means of conveyance, with or without valuable consideration, and shall also refer to a transfer of possession and beneficial Ownership by means of an agreement for the deed or "land contract." It does not refer to a transfer of title (i) resulting from foreclosure of a lien, ~~or (ii) via~~ a deed in lieu of foreclosure, ~~or the death of the transferor, nor to a transfer of title (iii)~~ to a trustee, or a corporation, or the transferor's current spouse, without changing occupancy, solely for estate planning or other financial or tax reasons, or (iv) resulting from the death of a Member where title to the unit passes to one or more beneficiaries of a trust established by the deceased Member and in which title to the unit was vested on the date of the death of the Member who established the trust or where title to the unit was not in a trust and passes to one or more heirs at law from the intestate estate of a deceased Member or to one or more devisees of the testate estate of a deceased Member.

9.12 **Ownership of funds.** Assessments, resale capital contributions, and charges collected by or on behalf of the Club become Club property, and no Owner has the right to claim, assign or transfer any interest therein, except as an appurtenance to his Lot or Living Unit. No Owner has the right to withdraw or receive distribution of his share of the common surplus (including reserves), except as otherwise provided by law.

10. **COVENANT AND RULE ENFORCEMENT; DISPUTE RESOLUTION.** The Club and Members have the power to enforce all covenants, conditions, restrictions, rules and agreements applicable to any real property within the Community. The Board is further empowered to promulgate and enforce administrative rules and regulations governing the use of the Common Areas.

10.1 **Owner and Member compliance.** The protective covenants, conditions, restrictions and other provisions of the Governing Documents and the rules promulgated by the Club, shall apply to all Owners, as well as to any other person occupying any Living Unit, tenants, guests, ~~and~~ invitees and Use Rights Designees. Failure of an Owner to notify any person of the existence of the rules, or the covenants, conditions, restrictions and other provisions of the Governing Documents shall not in any way act to limit or divest the Club of the power to enforce these provisions. Each Owner shall be responsible for any and all violations by any Use Rights Designees and by his tenants, licensees, invitees or guests, and by the guests, licensees and invitees of his tenants, at any time.

10.2 **Litigation.** Subject to Section 3.8 above, each Owner, Member, their tenants, guests, and invitees, and the Club, are governed by and must comply, where applicable, with Chapters 617 and 720, Florida Statutes, as amended from time to time, and to the extent not in conflict with the statutes, the Governing Documents of the Club. Enforcement actions for damages, or for injunctive relief, or both, as a result of any violation of the Governing Documents and Club rules may be brought by the Club or a Member against:

- (A) the Club;
- (B) a Member;

- (C) any occupant of a Living Unit;
- (D) any Trustee or Officer of the Club who willfully and knowingly fails to comply with these provisions; and
- (E) Any tenants, guests, or invitees occupying a parcel or using the Common Areas;
- (F) Any Neighborhood Association which fails to make a prompt and reasonable effort to enforce any restrictive covenants or affirmative obligations under provisions of this Declaration or the Neighborhood Covenants, where such failure has or threatens to have a material adverse impact on the appearance of the Community, or the operation of the Club.

The enforcement of covenants, conditions, restrictions and agreements applicable to the various subdivisions and developments within the Community is primarily the function and duty of the respective Neighborhood Homeowners Associations. It is intended that the Club exercise its covenant enforcement powers with respect to the Neighborhood Covenants only after the Neighborhood Homeowners Association primarily responsible for enforcement has had written notice of the violation and has, within a reasonable time thereafter, been unable or unwilling to resolve the problem in manner satisfactory to the Club.

10.3 **Damages and attorney's fees.** Damages shall not be conclusively deemed adequate relief for any breach or violation of the Governing Documents or the rules. Any person or entity entitled to enforce any provision thereof shall be entitled to relief by way of injunction, as well as any other available relief either at law or in equity. The prevailing party in a proceeding to enforce any provision of the Governing Documents, or to enjoin violation or breach of any provision hereof, or recover damages on account of such breach, against any person shall be entitled to recover reasonable attorney's fees and court costs (including those resulting from trial and appellate proceedings).

10.4 **Suspension of Common Area use rights; fines.** The Club may suspend, for a reasonable period of time, the Membership rights of a Member, and the use rights of ~~or the~~ Member's tenants, guests, ~~or~~ invitees, and Use Rights Designees, or all, to use Common Areas and golf course, tennis courts, swimming pool and all other facilities. The Club may also levy reasonable fines not to exceed the maximum amount allowed by law, against any Member, Use Rights Designee, or any tenant, guest, or invitee.

- (A) For the period of time during which the Club or Neighborhood Association's assessment against the ~~an~~ Member remains unpaid on any Living unit to which the membership is appurtenant more than ~~ninety-Sixty (9060)~~ days after the date it was due and payable. If the same Member(s) has one or more Living units for which assessments are unpaid and one or more Living units for which assessments are current, the suspension of use rights may be applied to all Living units owned by the Member; or

(B) For a reasonable period during or after any violation of the Club or Neighborhood Association Governing Documents by a member or by any person to whom he has expressly or impliedly delegated his use privileges;

(C) A fine or suspension may not be imposed without written notice of at least fourteen (14) days to the person sought to be fined or whose rights are to be suspended, and an opportunity for a hearing before a hearing panel of at least three (3), but not more than seven (7) members appointed by the Board, who are not officers, Trustees, agents or employees of the Club, and are not the spouse, parent, child, brother, or sister of an officer, Trustee, agent or employee. If the panel, by majority vote (which may be taken by secret ballot) does not approve a proposed fine or suspension, it may not be imposed.

(D) The requirements of this Section 10.4 do not apply to the imposition of suspensions or charges upon any member because of the failure of the member to pay assessments or other charges when due, if such action is authorized by the Governing Documents.

(E) Suspension of Common Area use rights shall not impair the right of an Owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(F) **Collection of fines.** A fine shall be treated as a special charge due to the Club ten (10) days after written notice from the Club to the Owner of the imposition of the fine. If not paid by the due date, the fine shall accrue interest at the highest rate allowed by law, and may itself be the subject of a late payment fee.

(G) **Application.** All monies received from fines shall become part of the common surplus.

(H) **Nonexclusive remedy.** Fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Club may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages that the Club may otherwise be entitled to recover at law from such Owner.

10.5 **Stormwater management system.** The beneficiaries of the stormwater management system shall have the right to enforce the provisions of the Governing Documents that require the drainage system, easements and rights-of-way to be continuously maintained.

## 11. NEIGHBORHOOD HOMEOWNERS ASSOCIATIONS.

11.1 **Enforcement of Covenants by the Club.** If any Neighborhood Association fails to enforce any provisions of its Neighborhood Covenants, or to perform any of its duties and responsibilities thereunder, the Club may, in its sole discretion, enforce such Neighborhood Covenants at the Neighborhood Association's expense, and perform such duties and responsibilities, including any and all maintenance provisions, and shall be

entitled to recover the costs and expenses (including reasonable attorney's fees) of such enforcement or maintenance pursuant to the provisions of Sections 9 and 10 or may file an injunction action against the Neighborhood Association requiring it to enforce its Governing Documents. In all such actions the prevailing party shall be entitled to recover its attorney's fees and costs at both the trial and appellate levels.

11.2 **Entry rights.** Each Neighborhood Association and each Owner shall permit the Club, or any authorized agent or employee of the Club, to enter upon a Neighborhood Common Area or the Owner's Lot at reasonable times, to carry out the provisions of the Governing Documents, and the entry shall not constitute a trespass. This provision shall not be construed as authorizing entry by the Club into any Living Unit that is owned by a person other than the Club, except in emergency.

11.3 **Maintenance of Neighborhood Common Areas.** The Club may contract with any Neighborhood Association to provide for the maintenance and management of its Neighborhood Common Areas.

11.4 **Neighborhood Covenants.** The documents establishing or governing a Neighborhood Association shall not be inconsistent with this Amended and Restated Declaration or its recorded exhibits, except they may establish restrictions on subjects related to the use and occupancy of the property within the Neighborhood, such as pets, parking, architectural controls, leasing and guest occupancy, that are more restrictive than those set forth in the Governing Documents.

11.5 **Neighborhood Association voting.** The Bylaws of each Neighborhood Association shall provide a procedure by which its Members who are entitled to cast votes as Members of the Club may cast their votes on Club matters with the Neighborhood Association. Except as otherwise provided in the Bylaws, each Neighborhood Association shall poll its Owners or collect and tabulate its Members' votes, and shall designate a voting representative to attend Club meetings and cast the votes of its Members at such meeting. The procedure, subject to any restrictions, limitations or conditions which may be imposed by the Neighborhood Covenants or by other recorded instrument, may provide for votes to be cast in a block, or in the same manner as originally cast by the Neighborhood Association's Members, or in any other manner that is fair, equitable, uniformly applied within that Association, and does not result in the casting of fractional votes. Nothing herein shall be construed to make it mandatory for a Neighborhood Association to poll its Members on every matter or any particular matter which may be voted upon by the Members of the Club.

11.6 **Voting ~~groups~~Districts.** In order to provide relatively equal representation on the Board for various neighborhoods having potentially dissimilar interests, and to avoid a situation in which the Voting Representatives representing similar neighborhoods are able, due to the number of units in such neighborhood, to elect a disproportionate number of Trustees or exclude representation of others, the Club establishes Voting ~~Groups~~Districts for the election of Trustees to the Board as follows:

VOTING GROUP-DISTRICT 1

<u>Heritage Oaks Homeowners Association Inc.</u>	<u>69 Lots</u>
<u>Heritage Oaks Patio Homes I, Inc.</u>	<u>38 Lots</u>
<u>Heritage Oaks Golf Villas Association, Inc.</u>	<u>165 Lots</u>
	<u>272 TOTAL</u>

<u>Heritage Oaks Homeowners I</u>	<u>22 Lots</u>
<u>Heritage Oaks Homeowners II</u>	<u>17 Lots</u>
<u>Heritage Oaks Homeowners III</u>	<u>20 Lots</u>
<u>Heritage Oaks Homeowners IV</u>	<u>10 Lots</u>
<u>Villas IV at Heritage Oaks</u>	<u>22 Lots</u>
<u>Villas V at Heritage Oaks</u>	<u>24 Lots</u>
<u>Villas VI at Heritage Oaks</u>	<u>27 Lots</u>
	<u>142 Total</u>

VOTING GROUP-DISTRICT 2

<u>Heritage Oaks Club Homes I, Inc.</u>	<u>28 Lots</u>
<u>Heritage Oaks Club Homes II, Inc.</u>	<u>28 Lots</u>
<u>Heritage Oaks Club Homes III, Inc.</u>	<u>28 Lots</u>
<u>Heritage Oaks Club Homes IV, Inc.</u>	<u>30 Lots</u>
<u>Heritage Oaks Club Homes V, Inc.</u>	<u>24 Lots</u>
<u>Heritage Oaks Club Homes VI, Inc.</u>	<u>22 Lots</u>
<u>Heritage Oaks Club Homes VII, Inc.</u>	<u>24 Lots</u>
<u>Heritage Oaks Club Homes VIII, Inc.</u>	<u>32 Lots</u>
<u>Heritage Oaks Club Homes IX, Inc.</u>	<u>30 Lots</u>
	<u>246 TOTAL</u>

<u>Club Homes I</u>	<u>28 Lots</u>
<u>Club Homes III</u>	<u>28 Lots</u>
<u>Club Homes VI</u>	<u>22 Lots</u>
<u>Club Homes VIII</u>	<u>32 Lots</u>
<u>Club Homes IX</u>	<u>30 Lots</u>
	<u>140 Total</u>

VOTING GROUP-DISTRICT 3

<u>Veranda I, at Heritage Oaks Association, Inc.</u>	<u>48 Lots</u>
<u>Veranda II, at Heritage Oaks Association, Inc.</u>	<u>36 Lots</u>
<u>Veranda III, at Heritage Oaks Association, Inc.</u>	<u>36 Lots</u>
<u>Veranda IV, at Heritage Oaks Association, Inc.</u>	<u>44 Lots</u>
<u>Veranda V, at Heritage Oaks Association, Inc.</u>	<u>36 Lots</u>

<u>Veranda VI, at Heritage Oaks Association, Inc.</u>	<u>32 Lots</u>
<u>Veranda VII, at Heritage Oaks Association, Inc.</u>	<u>52 Lots</u>
<u>Veranda VIII, at Heritage Oaks Association, Inc.</u>	<u>48 Lots</u>

332 TOTAL

<u>Club Homes II</u>	<u>28 Lots</u>
<u>Club Homes IV</u>	<u>30 Lots</u>
<u>Club Homes V</u>	<u>24 Lots</u>
<u>Club Homes VII</u>	<u>24 Lots</u>
<u>Patio Homes I</u>	<u>38 Lots</u>
	<u>144 Total</u>

VOTING GROUP 4

<u>Villas I</u>	<u>30 Lots</u>
<u>Villas II</u>	<u>30 Lots</u>
<u>Villas III</u>	<u>32 Lots</u>
<u>Veranda I</u>	<u>48 Units</u>
	<u>140 Total</u>

VOTING GROUP 5

<u>Veranda II</u>	<u>36 Units</u>
<u>Veranda III</u>	<u>36 Units</u>
<u>Veranda V</u>	<u>36 Units</u>
<u>Veranda VI</u>	<u>32 Units</u>
	<u>140 Total</u>

VOTING GROUP 6

<u>Veranda IV</u>	<u>44 Units</u>
<u>Veranda VIII</u>	<u>48 Units</u>
<u>Veranda VII</u>	<u>52 Units</u>
	<u>144 Total</u>

Voting ~~Groups~~ Districts will generally be composed of one or more neighborhoods of similar housing types, but the designation of such groups is as set forth herein. Each Voting ~~Group~~ District shall be entitled to elect the number of Trustee specified in the Amended and Restated Bylaws.

**12. INSURANCE, RECONSTRUCTION AFTER CASUALTY.**

12.1 **Duty to insure, and to reconstruct or clean up.** Each Owner or Neighborhood Association shall at all times maintain adequate property insurance on the Living Units

and structures containing Living Units, and all other insurable improvements, in amounts equal to the replacement cost thereof. If any Living Unit or other improvements located on any Lot, Neighborhood Common Area, Tract or Parcel are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner or Neighborhood Association shall:

(A) Cause repair or replacement to be commenced within six (6) months after the date such damage or destruction occurred, and complete the repair or replacement within six (6) months thereafter. Unless changes are approved by the ARC, the Owner or Neighborhood Association must restore the property to substantially the same configuration as existed before the casualty, and structurally and architecturally compatible with any adjoining improvements which share a party wall; or

(B) Promptly cause all debris, damaged improvements, and other unsightly materials to be removed from the site.

12.2 **Failure to rebuild or reconstruct.** If any Owner or Neighborhood Association fails to comply with Section 12.1 above within the time periods provided, that Owner or Neighborhood Association shall be deemed to have irrevocably designated the Club as his or its agent with authority to either commence and complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements, or to remove the damaged improvements completely. If the Club exercises the rights afforded to it by this Section, the Owner or Neighborhood Association shall be deemed to have assigned to the Club any right he or it may have to insurance proceeds that may be available because of the damage or destruction. The Club shall have the right to recover from the Owner or Neighborhood Association any costs not paid by insurance, and shall have a lien on the Lot or Living Unit to secure payment.

12.3 **Flood Insurance.** The Club may, in the discretion of the Board, maintain flood insurance to cover buildings and any other property in designated hazard areas, if any, up to the full insurable value or maximum coverage available. The purchase of flood insurance is discretionary unless the law expressly provides otherwise.

12.4 **Property insurance.** The Club shall maintain replacement cost property insurance coverage on all structures, improvements, and fixtures which are part of the Common Areas.

12.5 **Liability insurance.** The Club shall maintain adequate public liability insurance coverage for all Common Areas.

12.6 **Bonding.** The Club shall maintain adequate fidelity bond coverage for all individuals having control of, or access to, Club funds, including all persons who are authorized to sign checks.

12.7 **Club's right of entry.** For the purpose of performing the duties authorized by this Section 12, the Club, through its duly authorized agents and employees, shall, upon reasonable notice unless in an emergency, have the right to enter upon any Living Unit or Lot at reasonable hours and perform such duties.

13. **RIGHTS OF MORTGAGEES.**

13.1 **Notice of casualty or condemnation.** In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of any significant portion of the Common Areas, the record holder of any first mortgage on the Common Areas who has requested such notice in writing, shall be entitled to written notice.

13.2 **Mortgage foreclosure.** Except as otherwise provided by Florida law as amended from time to time, if an Institutional Mortgagee which is a first mortgagee, acquires title to a Lot, Living Unit, Tract or Parcel as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such mortgagee shall not be liable for the Club assessments or charges attributable to the Lot, Living unit, Tract or Parcel, or chargeable to the former Owner, which came due prior to the Institutional Mortgagee's acquisition of title except as provided in Chapter 720, Florida Statutes. Any unpaid assessment or charges for which such acquirer is exempted from liability becomes an expense collectible from all Owners, including such acquirer and his successors and assigns. No Owner or acquirer of title to a Lot, Living Unit, Tract or Parcel by foreclosure (or by a deed in lieu of foreclosure) may, during the period of his Ownership, be excused from the payment of any assessments or charges coming due during the period of such Ownership.

13.3 **Right to inspect documents and books.** The Club shall make available to Institutional Mortgagees requesting same the current Governing Documents and rules and regulations of the Club and the financial statements of the Club. "Available" shall mean ready for inspection, upon written request with reasonable notice, during normal business hours, or under other reasonable circumstances. Photocopies shall be at the expense of the Mortgagee requesting same.

14. **FUNDS PAID AT CLOSING.** All dues, assessments, monies and charges levied by the Club or Neighborhood Associations shall be paid in full by the Buyer or Seller, of any lot or living unit prior to or at closing of the Unit.

15. **DURATION OF COVENANTS; AMENDMENT.**

15.1 **Duration of Covenants.** The covenants, conditions, easements and restrictions in this Amended and Restated Declaration shall run with and bind the property within the Club and shall inure to the benefit of and be enforceable by the County, the Club, and any Owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the thirtieth (30<sup>th</sup>) anniversary of the date of recording of the original Declaration in the Public Records of Sarasota County, Florida, upon the expiration of said initial period, or any document deemed to extend the term as provided in Chapter 712, Florida Statutes, as may be amended from time to time.

15.2 **Termination.** This Amended and Restated Declaration may be terminated at any time after the initial period if not less than eighty percent (80%) of the voting interests of the Members of the Club vote in favor of terminating this Amended and Restated Declaration. Written notice of any meeting at which a proposal to terminate this Amended and Restated Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Amended and Restated Declaration, the President and Secretary of the Club shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Club at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall be recorded in the public records of Sarasota County, and may be relied upon for the correctness of the facts contained therein as they related to the termination of this Amended and Restated Declaration. The termination shall be effective on the date the certificate is recorded in the public records.

15.3 **Amendments.** This Amended and Restated Declaration may be amended at any time. Except as otherwise specifically provided, amendments to this Declaration may be proposed by the Board or by written petition to the Board signed by at least one-fourth (1/4<sup>th</sup>) of the voting interests.

15.4 **Procedure.** Upon any amendment or amendments to this Amended and Restated Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

15.5 **Vote required.** Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Amended and Restated Declaration shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests of Members present in person or by proxy and voting at an annual or special meeting called for the purpose, provided that the text of each proposed amendment was sent to the Members with notice of the meeting.

15.6 **Certificate; recording.** A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Amended and Restated Declaration, which certificate shall be executed by the President or Vice President of the Club. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.

15.7 **Exceptions.** Wherever in this Amended and Restated Declaration the consent, approval, or affirmative vote of two-thirds (2/3rds) or more of the voting interests of the Members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action.

15.8 **Limitations.** No amendment to any of the Governing Documents shall be effective to change this Section 15.8, nor shall any amendment diminish or adversely affect the voting rights, or Common Area use rights of any Member as stated in Section 4 above, or the provisions of Sections 9.5 or 9.6 above. No amendment to the Governing Documents which would affect the Community's private streets or stormwater management system shall be effective without first obtaining the prior written approval of Sarasota County.

## 16. GENERAL AND PROCEDURAL PROVISIONS.

16.1 **Other documents.** The Club and the Neighborhood Associations shall have such rights, powers, duties, and privileges as are provided by law and set forth in the Governing Documents and Neighborhood Covenants, but this Amended and Restated Declaration and its recorded exhibits shall prevail over the Neighborhood Covenants in all events of conflict.

16.2 **Severability.** If any covenant, condition, restriction or other provision of this Amended and Restated Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, the holding shall in no way affect the validity of the remaining provisions of this Amended and Restated Declaration, all of which shall remain in full force and effect.

16.3 **Merger or consolidation of associations.** In the event of a merger or consolidation of the Club with another corporation, the Club's rights, obligations and property may, by operation of law, be transferred in part or whole to another entity as the surviving or consolidated corporation, or may remain the rights, obligations and property of the Club as the surviving corporation. The surviving or consolidated corporation may administer this Amended and Restated Declaration within the existing property together with the covenants and restrictions established upon any other property, as one common scheme.

16.4 **Dissolution.** If the Club is dissolved other than by a merger or consolidation as provided for above, each Lot, Living Unit, Tract and Parcel shall continue to be subject to the assessments provided for in Section 9 above, and each Owner shall continue to be personally obligated to the Club or to the successors or assigns of the Club (as the case may be) for such assessments to the extent that the assessments are reasonably necessary to enable the Club, or any such successors or assigns acquiring any real property previously owned by the Club to properly maintain, operate and preserve it.

16.5 **Gender; number.** Wherever in this Amended and Restated Declaration the context so requires, the singular number shall include the plural, and the converse, and the use of any gender shall be deemed to include all genders.

16.6 **Notices.**

(A) **To the Club.** Notices to the Club shall be in writing and delivered or mailed to the Club at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated in writing by the Club.

(B) **To Members.** Notices to any Members as may be required herein shall be in writing and shall be delivered or mailed to the Owner at his last known address, or at the address shown on the deed recorded in the public records of Sarasota County.

16.7 **Construction.** The provisions of this Amended and Restated Declaration shall be liberally interpreted and construed to provide maximum flexibility consistent with the general development plan and the purposes set forth herein.

16.8 **Captions, headings and titles.** Captions, headings, capitalization of certain words, and titles inserted throughout the Governing Documents are for convenience only, and in no way shall they affect the terms and provisions of the Governing Documents.

16.9 **Interpretation.** The Board of the Club shall be responsible for interpreting the Governing Documents. The Board's interpretations shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Club legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

16.10 **Applicable Statutes.** The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, as they exist on the date of recording this Amended and Restated Declaration. [The provisions of Chapter 720, Florida Statutes, as presently existing, or as may be amended from time to time, are adopted and included herein by express reference. To the extent any provision in this Declaration of Covenants conflicts with Chapter 720, Florida Statutes, as presently existing, or as may be amended from time to time, the provisions of Chapter 720 shall control.](#)