

**AMENDED AND RESTATED**  
**DECLARATION OF**  
**NEIGHBORHOOD COVENANTS FOR TIMBER RIDGE**

~~This~~ (Note: The following Amended and Restated Declaration is a complete restatement of the Declaration of Neighborhood Covenants for TIMBER RIDGE as the same is found in Official Records Book 3411, at Page 4834 and as subsequently amended all in the Public Records of Lee County, Florida. Please see that document's Articles I through XIII for the present text.)

~~TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC.,~~ (“Declaration” a Homeowners’ Association as defined hereinafter) is made by ~~BAY COLONY GATEWAY, INC.,~~ a Delaware corporation, and its successors, assigns and designees in Fla. Stat. §720.301(9) is charged with maintenance of the Common Areas within TIMBER RIDGE, a Subdivision located in Lee County, Florida, and more particularly described in Exhibit “A”, attached hereto (hereinafter the “Community”). Regardless of the terms used herein, there is no intent to create ownership rights in real property governed by Chapters 718 or 719, Florida Statutes.

WITNESSETH:

~~Whereas,~~ Developer, being

For the developer purposes of enhancing and protecting the master-planned development known as Gateway, is the owner value, attractiveness, and desirability of the Lots or tracts constituting such Subdivision, the Association, by this Amendment, hereby restates and declares that all of the real property described in Article II of this Declaration and desires above and each part thereof shall be held, sold, and conveyed only subject to create thereon a residential-community known as Timber Ridge (hereinafter referred to as the “Community”), the following easements, covenants, conditions and restrictions, which shall solely contain subdivided lots; and

~~Whereas,~~ Developer desires to insure the attractiveness of constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above-described property within the Community and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of the said property, and to provide for the maintenance of Community common properties, areas and facilities or any part thereof, their heirs, successors, and certain exterior maintenance of individually owned properties assigns, and, to this end, desires to subject the real property described in Article II of this Declaration to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for shall inure to the benefit of said property and each Homeowner thereof, to the extent same may be applicable as provided hereinafter; and Owner thereof.

~~Whereas,~~ Developer has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the Community and in Gateway and to insure the residents’ enjoyment of the specific rights, privileges and easements in the Community common properties, areas and facilities, to create an organization to which should be delegated and assigned the powers of owning, maintaining and administering the Community common

properties, areas and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

~~Whereas, Developer has incorporated under the laws of the State of Florida, as a corporation not for profit,~~

**ARTICLE I:**  
**DEFINITIONS AND CONSTRUCTION**

~~TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC., for the purpose of exercising the functions aforesaid within the Community, to the extent same may be applicable as provided hereinafter;~~

~~Now, Therefore, Developer declares that the real property described in Article II of this Declaration is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes collectively referred to as "covenants and restrictions") hereinafter set forth.~~

**Article I: Definitions and Construction**

Unless the context expressly requires otherwise, the following terms mean as follows wherever used in this Declaration: the Association's Articles of Incorporation and its Bylaws:

Section 1. "Act" means Chapter 720 of the Florida Statutes, entitled "Homeowners' Associations" as the same is amended from time to time.

Section 2. "ARC" means the Architectural Review Committee, formerly known as the Design Review Board or "DRB" established pursuant to Article IV of this Declaration.

Section 3. "Articles of Incorporation" or "Articles" means the Articles of Incorporation of the Association, as may be the same are amended from time to time by restatement herein. A copy of the Articles of Incorporation as amended and filed with the Florida Department of State is attached as Exhibit B "C", hereto. Any future amendments to the original Articles need not be recorded in the public records of Lee County, Florida.

Section 4. "Assessment" collectively means the General Assessment, Special Assessments and Specific Assessments as provided and described in Article VIII herein.

Section 5. "Association" means Timber Ridge Neighborhood Association, Inc., a Florida corporation not for profit, organized or to be organized under Chapter 617, and operating pursuant to Chapter 720, Florida Statutes.

Section 6. and includes the Board or and any approved committee.

Section 7. "Board", "Board of Directors" or "BOD" means the Association's board of directors by and through which the Association takes

action.

~~Section 7. "Bylaws"~~~~Section 5. "By-Laws"~~ means the ~~byelaws~~Bylaws of the Association as ~~may be~~ amended ~~by restatement herein or otherwise~~ from time to time. A copy of the ~~original By-Laws~~Amended and Restated Bylaws is attached as Exhibit ~~C~~"D" hereto. ~~Any future amendments to the original By-Laws need not be recorded in the public records of Lee County, Florida.~~

~~Section 8. "Section 6. "Common Expenses"~~ means all expenses properly incurred by the Association in the performance of its duties pursuant to this Declaration, the Articles, the ~~By-Laws~~Bylaws or any rules promulgated thereunder, or any agreement properly entered into by the Association, including, but not limited to:-

(a) the expenses incurred in connection with the ownership, maintenance, repair, replacement, reconstruction or improvement of the Common ~~Property~~Areas and/or real property held in title by the Association, if any, as provided for pursuant to this Declaration (which expenses may, but shall not necessarily, include utilities, taxes, assessments, insurance and repairs);

(b) the expenses of obtaining, repairing or replacing personal property owned by the Association;

(c) the expenses incurred in the administration and management of the Association; and

(d) the expenses declared to be Common Expenses pursuant to this Declaration or the Articles or the ~~By-Laws.~~Bylaws.

~~Section 7. "9. "Common Property" or "Common Properties"~~Areas" mean any portion or portions of the Property now or hereafter owned by the Association or designated herein or on any plat of the Property as recorded in the public records of the County, as from time to time may be amended (~~"("Plat"),~~), as either Common ~~Property~~Areas or property to be maintained by the Association (whether or not such property is part of a dedicated right-of-way or easement). ~~"Common Property"Areas~~ shall include (a) any landscaping in any median or cul-de-sac island located in any right-of-way as shown on the Plat (whether or not these areas are indicated as common areas), (b) ~~all fencing installed on a Lot and required to be maintained by the Association pursuant to this Declaration,~~ (c) any tracts for rights-of-way or access easements and corresponding roads and streets, and (~~dc~~) any utility easements or tracts for corresponding sewer or potable water.-

~~Section 8. "Section 10. "County"~~ means Lee County, Florida.

~~Section 11. Section 9. "Declaration"~~ means this ~~instrument~~Amended and Restated Declaration, as it may be amended from time to time.-

~~Section 12. "Section 10. "Developer"~~ means Bay Colony-Gateway, Inc., a dissolved Delaware corporation and its successors, assigns and designees.-

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Section 13. ~~“Section 11.”~~ “District” shall mean and refer to the Gateway Services District, a special taxing district established by the State of Florida in accordance with Chapter 190, Florida Statutes. The District shall (a) care for and maintain any lakes and associated equipment located wholly on the Property, (b) be responsible for the water management system on the Property, including drainage facilities, lake maintenance and storm water storage and capacity for the Community, subject to the requirements of the South Florida Water Management District, and (c) be responsible and undertake other matters as described herein or for which the District is responsible pursuant to separate instrument or requirement.-

~~Section 12. “DRB” means the Design Review Board established pursuant to Article IV of this Declaration.-~~

14. ~~“Section 13.”~~ “Dwelling” means a residential housing unit consisting of a group of rooms which are designed or intended for the exclusive use as living quarters for one Family as initially constructed by the Developer, or subsequently modified by the Homeowner upon a Lot.-

~~Section 14.~~ 15. “Family” means one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than three (3) persons not all so related, together with domestic servants if any, maintaining a common household in a Dwelling.-

~~Section 15.~~ 16. “First Mortgage” means a valid Mortgage (as defined hereinafter) having priority over all other mortgages on the same property.-

~~Section 16.~~ Section 17. “First Mortgagee” means the holder of a recorded First Mortgage encumbering a Lot and the Dwelling thereon, if any.-

Section 18. ~~“Section 17.”~~ “Gateway” shall mean and refer to those certain lands located in Lee County, Florida with the general boundary of ~~Interstate 75 to the west, Colonial Boulevard Extension to the north, State Road 82 to the east, and Daniels Road to the south, and certain lands located to the west of Interstate 75~~ Gateway Community Development of Regional Impact (Lee County) #01-8384-036, and such other lands as may, from time to time, be added to or subtracted from said lands pursuant to Article 2.-

~~Section 18.~~ 19. “Gateway Development Order” shall mean and refer to the Development Order of Gateway, A Development of Regional Impact #01-8384-36, adopted by the Lee County Board of County Commissioners on May 31, 1985, including any modifications or amendments thereto which have been or may be adopted from time to time.-

~~Section 19.~~ 20. “General Development Plan” shall mean and refer to the ~~Developer’s~~ Developer’s plan of Gateway as it may be amended from time to time by Developer, showing the land uses and the property units assigned by Developer to the various portions of the property.

~~Section 20.~~

Section 21. “Governing Documents” shall mean in the aggregate: this Declaration, and the Association’s Articles of Incorporation, Bylaws and any Rules and Regulations it may enact and enforce pursuant to this Declaration.

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~~Section 22.~~ Section 22. "Homeowner" means any person or entity who from time to time holds record title to any Lot. If more than one person holds such title, all such persons are Homeowners, jointly and severally. ~~The Developer is a Homeowner with respect to each~~

~~Section 23.~~ Section 23. "Lot from time to time owned by such Developer."

~~Section 21.~~ Section 21. "Lot" means each numbered lot as established by a recorded Plat of all or a portion of the Property.

~~Section 22.~~ Section 24. "Member" means any Homeowner in its capacity as a member of the Association. All Homeowners shall be Members of the Association.

Section 25. "Mortgage" means any valid instrument transferring any interest in real property as security for the performance of an obligation.

~~Section 23~~26. "Person" means any natural person or artificial entity having legal capacity.

~~Section 24~~27. "Property" means the real property described in ~~Article II of Exhibit "A"~~ to this Declaration.

~~Section 25.~~28. "PUD" shall mean and refer to the document titled "Lee County Ordinance No. 85-15," an ordinance creating the Gateway Planned Unit Development (PUD), adopted by the Board of County Commissioners of Lee County, Florida, on May 31, 1985, as may from time to time be modified or amended.

~~Section 26.~~ Section 29. "Resident" means a permanent occupant of a Lot.

~~Section 27.~~ "Work" means the development of all or any portion of the Property as a residential community by Developer's construction and installation of streets, dwellings, buildings, and other improvements and the sale or other disposition of the Property and improvements thereon in parcels or as completed Lots.

Section 30. "Voting Interest" means the entirety of the Homeowners.

~~Section 28~~31. The term "Article" and the term ~~paragraph~~ "Paragraph" where used throughout this Declaration shall mean the same, unless the context requires otherwise.

~~Section 29.~~ Section 32. The term "Section" where used throughout this Declaration shall refer to that portion of the Article indicated, unless the context requires otherwise.

Unless the context expressly requires otherwise: (i) the use of the singular includes the plural and vice versa; (ii) the use of one gender includes all genders; (iii) the use of the terms "including" or "include" is without limitation; (iv) the use of the term "Lot" includes any portion applicable to the context thereof, any and all improvements, fixtures, trees, vegetation,

and other property from time to time situated thereon, and any and all appurtenant rights; and (v) the words "must," "should," and "will" have the same legal effect as the word "shall." This Declaration should be interpreted, construed, applied, and enforced in a reasonable, practical manner to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Lots by providing a common plan for their development and enjoyment. The various headings used in this Declaration are for indexing and organizational purposes only and are not to be used to interpret, construe, apply, or enforce its substantive provisions.-

**~~Article II: Property Subject to This Declaration~~**

**ARTICLE II:**  
**PROPERTY SUBJECT TO THIS DECLARATION**

The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the County of Lee, State of Florida, and is more particularly described in the metes and bounds description attached hereto as Exhibit "A" and incorporated by reference as fully as if specifically repeated herein, and all of which real property shall hereinafter be referred to as "Property."

**~~Article III: Property Rights, Easements and Restrictions~~**

**ARTICLE III:**  
**PROPERTY RIGHTS, EASEMENTS AND RESTRICTIONS**

Section 1. **Appurtenances.** The benefit of all rights and easements granted by this Article constitute a permanent appurtenance to, and will pass with, the title to every Lot enjoying such benefit. Whenever any such right or easement is described as non-exclusive by this Article, its benefit nevertheless is exclusive to all Lots granted such benefit by this Article unless this Article expressly grants such benefit to other persons. In no event will the benefit of any such easement extend to the general public.-

Section 2. **Utility Easements.** Developer has identified areas for use by all utilities for the construction and maintenance of their respective facilities servicing the Property, and Developer hereby grants to such utilities, jointly and severally, easements for such purpose. The location and extent of such easements are as shown on the Plats (recorded or to be recorded) of the Property or such other instrument defining them. In addition to the above, Developer hereby reserves has reserved unto itself and its successors and assigns and the Association, an easement over, under, across and through the Common Property Areas as may be required for the construction, maintenance and operation of a two-way communication and security system. Such The Association and such utilities entities, as well as Developer, and their respective agents, employees, designees and assigns shall have full rights of ingress and egress over any Lot for all activities appropriately associated with the purposes of said easements.

Section 3. **Common Properties Areas.** Subject to the provisions of subsection (b)

below, every Homeowner shall have a non-exclusive right and easement of enjoyment in and to the Common ~~Properties~~Areas, if any, and such easement shall be appurtenant to and shall pass with the title to every Lot situated within the Community.–

(a) Extent of ~~Members'~~Members' Easement. The rights and easements of enjoyment created herein shall be subject to the following:

(i) the right of the Association to limit the use of the Common ~~Properties~~Areas to Homeowners, their families and guests;

(ii) the right of the Association to suspend the voting and enjoyment rights of a Homeowner or the enjoyment rights of a Tenant for any period during which any assessment against such ~~Homeowner's~~Homeowner's Lot remains unpaid, or for any infraction of the Association'sAssociation's published ~~rules~~Rules and ~~regulations~~;Regulations; pursuant to Fla. Stat. Sec. 720.305, as amended;

(iii) the right of the Association to dedicate or transfer all or any part of the Common ~~Property~~Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Homeowners. ~~No such dedication or transfer shall be effective unless the Members entitled to at least 66 and 2/3% of the total Class A votes and all of the Class B votes~~Voting Interests agree to such dedication or transfer, provided that this paragraph shall not preclude the Board from granting easements for the installation and maintenance of electrical, telephone, special purpose cable for television and other uses, water and sewer, utilities and drainage facilities upon, over, under and across the Common ~~Property~~Areas without the ~~assent~~consent of the ~~membership~~; and ~~Membership~~;

(iv) the right of the Association to impose reasonable covenants and restrictions with respect to the use of the Common ~~Properties~~Areas in addition to those set forth herein.;

(v) the obligation of the Homeowners to maintain certain items of personal property located on the Common Areas and the portions of the Common Areas serving or bounding the Homeowners' respective Lots as set forth in Article VII; and

(vi) the right of the Association to enact and promulgate reasonable Rules and Regulations concerning the use of the Lots and Common Areas.

(b) Extension of Rights and Benefits. Every Homeowner shall have the right to extend the rights and easements of enjoyment vested in him under this Article to each of his tenants and to each ~~member~~Member of his Family who resides with him and to such other persons as may be permitted by the Association.–

Section 4. Lots. The following covenants, restrictions and easements are hereby imposed on the Lots, as may be applicable, in the Community:–

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(a) General Restrictions. The following restrictive covenants are easements and covenants running with the land and are binding upon all Homeowners, Tenants, Residents, and other occupants and their respective successors and assigns:-

(i) The Lots and the Dwelling and other improvements thereon shall be used only for single-family residential purposes, and no professional, business or commercial use that increases the volume of traffic entering or exiting the community or that otherwise negatively impacts the community shall be made of the same, or any portion thereof, provided further that nothing herein shall be construed in such a manner as to prohibit a Homeowner from (a) maintaining his personal professional library therein; (b) keeping his personal, business or professional records or accounts therein; or (c) handling his personal, business or professional telephone calls or correspondence therefrom. No Dwelling shall exceed two stories in height or 35 feet as measured from the minimum finished grade to the mean height level between eaves and ridge of gable, hip gambrel roofs and to the deck line of a mansard roof. The minimum floor area of any Dwelling shall be 1,200 square feet of air conditioned living area.-

(ii) Perpetual, non-exclusive easements are hereby created over the rear 10 feet of each Lot for purposes of permitting ~~Developer and/or~~ the Association to construct and erect landscaping, fences, hedges or other buffers as a means to separate the Lots.-

(iii) No noxious or offensive activity shall be conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the Community. No inflammable, combustible or explosive fluid or chemical substance shall be kept on any Lot except such as are required for normal household use, and same shall be kept within the Dwelling constructed thereon. No Homeowner shall permit or suffer anything to be done or kept in his Dwelling or, where applicable, on his Lot which will increase the rate of insurance as to other Homeowners or to the Association.-

(iv) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, ~~except that Developer may place any type of temporary structure on any Lot at any time to aid in its construction and/or sales activities.~~

(v) No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be maintained in sanitary containers or as required by the Association or the applicable ordinances of the County or the District, as may be applicable. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.-

(vi) No individual water supply system or irrigation system (including the installation of pumps related thereto) not connected to the County or District water supply system shall be permitted on any Lot, and no individual may install a pump or otherwise divert any waters from any lake located wholly or partially on the Property for purposes of irrigation or any other purpose. The provisions of this paragraph shall not be amended or modified until December 31, 2020; in addition, for so long as Developer and its successors and assigns owns any real property in Gateway, no amendment or modification to this paragraph shall be effective



without the express prior written consent of Developer or its successors or assigns.–

(vii) ~~No individual sewage disposal system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Architectural Committee~~ARC and all applicable governmental authorities. ~~Prior written approval of such system as installed shall be obtained from the Architectural Committee~~Association and such governmental authorities.–

(viii) ~~There shall be no alteration, addition or improvement of any Common Properties~~Areas, except as provided in this Declaration, nor shall any person use the ~~Common Properties~~Areas or any part thereof in any manner contrary to or not in accordance with the ~~rules~~Rules and ~~regulations~~Regulations pertaining thereto as from time to time may be promulgated by the Association or approved and authorized in writing by the Association.–

(ix) ~~No motor vehicles of any type or nature or trailers or campers or boats or boat trailers may be parked upon any sale area, if applicable, permanently parked or stored on the streets or other Common Areas within the Community, except trucks and the like may be parked briefly for delivery purposes. No trucks, with commercial signage, pipe racks, cranes, lifts, utility bodies and other similarly-outfitted work trucks; or trailers, campers, boats or boat trailers, or recreational vehicles may be parked in any driveway or upon any Lot or upon the roads of the Community for more than 24 continuous hours. or for consecutive days, even if less than 24 hours. No motor vehicle or boat repair work shall be conducted on any Lot other than for very minor repairs. The Association may enact more specific Rules and Regulations regarding parking of vehicles in the Community.~~

~~(x) The Board of Directors~~Association may from time to time adopt or amend previously adopted ~~rules~~Rules and ~~regulations~~Regulations governing the details of the operation, use, maintenance, management and control of the ~~Common Properties~~Areas and governing and restricting the use and maintenance of the Lots and improvements and landscaping thereon; ~~provided pursuant to Fla. Stat. Sec. 720.303(2)(c)2. Provided, however, that copies of such rules~~Rules and ~~regulations are~~Regulations shall be furnished to each Homeowner ~~fourteen (14) days prior to the time same became effective and provided that set for the Board meeting at which said rules and regulations are a reasonable exercise of the Association's power and authority based upon the overall concepts and provisions in this Declaration~~Rules and Regulations will be considered.

(xi) ~~Satellite dishes, aerials, antennas and all lines and equipment related thereto located wholly within the physical boundaries of a Dwelling shall be permitted without any requirement for approval from the Board of Directors.–~~

A. ~~Satellite dishes, aerials and antennas (including, but not limited to, ham radio antennas) shall not be permitted on the non-enclosed dwelling portions of a Lot except to the extent required to be permitted by applicable law (including, but not limited to, the federal Telecommunications Act of 1996). and the FCC Rules regulating Over-The-Air-Reception-Devices [OTARD]).~~ The Association shall have the right and authority, in its sole discretion and from time to time, to promulgate ~~rules~~Rules and ~~regulations~~Regulations concerning the size and location of, and safety restrictions pertaining to, the installation of such

television signal reception equipment.-

B. Notwithstanding any provision to the contrary, the Association, in its discretion and from time to time, shall have the power and ability to erect or install any satellite dish, aerial or antenna or any similar structure on the Common ~~Property Areas~~ provided that such satellite dish, aerial or antenna be solely utilized for the reception of television signals to be utilized by the residents of the Community or for security purposes.-

C. Notwithstanding any provision to the contrary, only antennae, aerials and satellite dishes which are designed to receive television signals shall be permitted (i.e., no antennae and satellite dishes which broadcast a signal shall be permitted).

(xii) A Homeowner shall be entitled to construct, maintain and operate solar collection devices (“Solar Collectors”) and/or energy devices based upon renewable resources (collectively, a Solar Collector and any other energy device based upon renewable resource shall be referred to as an “Energy Device”), on such Homeowner’s Homeowner’s Lot; provided, however, that the Homeowner must obtain the written approval of the Developer (until such time as the Developer has conveyed all Lots in the Community to third parties) or the Architectural Committee (following conveyance by the Developer of all Lots in the Community to third parties), as the case may be, ARC prior to placing, installing or constructing an Energy Device on such Lot. Until such time as the Developer has conveyed all Lots in the Community to third parties, the Developer The Association shall be solely responsible to promulgate rules Rules and regulations Regulations as are reasonably necessary to carry out the provisions and intent of this subsection. Following conveyance by the Developer of all Lots in the Community to third parties, the Architectural Committee shall be solely responsible to promulgate rules and regulations as are reasonably necessary to carry out the provisions and intent of this subsection. All rules Rules and regulations Regulations promulgated in accordance with this subsection shall be collectively referred to as the “Energy Device Rules and Regulations.”

An approval for an Energy Device shall be issued by the ~~Developer or the Architectural Committee, as the case may be, ARC~~ only in accordance with the Energy Device Rules and Regulations: and review by the ARC under the provisions of Article IV of this Declaration. With regard to Solar Collectors, the ~~Developer or the Architectural Committee, as the case may be, ARC~~ may determine the specific location where a Solar Collector may be installed on the roof of a Dwelling within an orientation to the south or within 45° east or west of due south, provided that such determination does not impair the effective operation of the Solar Collector. Whenever and wherever possible, a Solar Collector shall be installed on the rear portion of a roof on a Dwelling so as to minimize the visual impact of the Solar Collector from the roadways adjacent to the subject Lot. Similarly, all Energy Devices other than Solar Collectors shall be installed in a manner so as to minimize the impact on other Lots in the Community. “Minimal visual impact” as used in this subsection shall mean that the visual impact of an Energy Device on a Lot shall be minimized by reasonable measures as set forth in the Energy Device Rules and Regulations. Considerations of optimal placement of an Energy Device shall yield to aesthetic considerations and the goal of minimal visual impact. Additional criteria for determining whether or not an Energy Device has a “minimal visual impact” also may be prescribed in the Energy Device Rules and Regulations.-

(xiii) ~~\_~~ There shall be no wall or window type air conditioning unit(s) in any Dwelling.-

(xiv) ~~\_~~ No Lot shall be increased in size by filling in any water it may abut. The elevation of a Lot may not be changed so as to materially affect the surface elevation or grade of the surrounding Lots without the prior written approval of the ~~Architectural Committee Association.~~

(xv) ~~\_~~ No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the ~~Architectural Committee Association.~~ However, artificial material (i.e. rubber mulch) may be used as ground cover to prevent weed growth. No more than 10% of any Lot shall be planted, covered or maintained in any material other than grass or other natural, living vegetation, unless approved by the ~~Architectural Committee Association.~~

(xvi) ~~\_~~ No automobile garage shall be permanently enclosed and converted to other use without the substitution of another enclosed automobile storage facility upon the Lot. ~~\_~~ All Lots shall have a paved driveway of stable and permanent construction. ~~\_~~ Unless prior approval of the ~~Architectural Committee Association~~ is obtained, the driveway base shall be concrete. ~~\_~~ No driveway surface shall be painted, repainted, or otherwise artificially colored or recolored without the prior approval of the ~~Architectural Committee Association.~~

(xvii) ~~\_~~ No wall, fence, hedge or shrubbery shall be constructed or placed on any Lot until its height, length, type, design, composition, material and location shall have first been approved in writing by the ~~Architectural Committee Association.~~ The height of any wall or fence shall be measured from the existing property elevations. ~~\_~~ Any dispute as to height, length, type, design, composition or material shall be resolved by the ~~Architectural Committee~~ ARC, whose ~~decision findings~~ shall be ~~final.~~ Hurricane ~~adopted by the Board of Directors.~~ Removable hurricane or storm shutters shall not be stored on the exterior of the Dwelling without the prior approval of the ~~Architectural Committee Association~~ in writing. ~~\_~~ No awnings or shutters shall be ~~used~~ installed or deployed without the prior approval of the ~~Architectural Committee Association~~ in writing. The Association, through its Board and ARC may make reasonable Rules regulating the selection, installation, design and deployment of hurricane or storm shutters.

(xviii) ~~\_~~ No sign of any kind shall be displayed to the public view on any Lot, except for the following:

~~(1)~~ A. The exclusive sales agent for the Homeowner or the Homeowner may place one (1) professional sign not to exceed two (2) square feet advertising the property for sale or rent.-

~~(2)~~ B. Additionally, a sign displaying the word "open," not to exceed two (2) square feet, may be displayed during any time the Homeowner or his designated representative is in attendance.-

The size and design of all signs mentioned above and of signs pertaining to house numbering, mailboxes and other such material shall be subject to review by the ARC and approval by the Architectural Committee Association.

~~The provisions of this subsection shall not apply to Developer.~~

(xix) ~~Commercial activities involving animals shall not be allowed. Developer and “not-for-profit” activities regarding animals may be regulated as the Association may establish, by Rule or Regulation, limits on the number and kind of pets that may be kept or permitted to be kept on any Lot. No animals may be warehoused on the Property, nor may any Lot be used as a “shelter” for animals awaiting adoption. No hogs, pigs, swine, goats, chickens, pigeons, fowl, reptiles or any other obnoxious animals, as shall be determined in the sole discretion of Developer, shall be kept or permitted to be kept anywhere on the Property. Any Pet owners shall, at all times, comply with Lee County’s ordinances and the State of Florida’s laws regarding the keeping of animals. If a Homeowner or other resident of the Property fails to observe these covenants or any other provisions of the governing documents as to the keeping of pets, then such person shall be warned (in writing) of the infraction. After two such warnings, any pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon three (3) days’ written notice by the Association to the Homeowner thereof or to the Homeowner of the Lot containing such pet or housing such pet. The failure to remove an animal from the Property according to this provision shall be a finable offense and in all events shall be determined as per Bylaws Article XI and Fla. Stat. 720.305(2). Nuisance animals include, but are not limited to, those that bark excessively, are allowed to run free, or are aggressive or threatening to others, those whose waste is not picked up by the owner or are left unattended on a patio, in a yard, or on the porch.~~

(xx) ~~Each Lot and the Common Property Areas are hereby subjected to a permanent easement appurtenant to any adjoining Lot to permit the use, construction, existence, maintenance, repair and restoration of Dwellings located on such adjoining Lot, including, but not limited to, driveways, walkways and roof structures which overhang and encroach upon the servient Lot or Common Property Areas, if any, provided that such structures were constructed by Developer or the construction of such structure is permitted and approved as elsewhere herein provided. The owner of the dominant tenement shall have the right, at all reasonable times, to enter the easement area in order to make full use of such structure for its intended purposes and to maintain, repair and restore any improvements located on the dominant tenement; provided, however, that any such entry made for purposes of maintenance, restoration or repair shall be limited to daylight hours and shall only be made with the prior knowledge of the owner of the servient tenement. In case of emergency, the right of entry for maintenance, restoration or repair shall be immediate, not restricted as to time and not be conditioned upon prior knowledge of the owner of the servient tenement. The owner of the servient tenement shall not place any improvement, material or obstacle in or over the easement area on the servient tenement which would unreasonably interfere with the rights of the owner of the dominant tenement granted by this paragraph. Any such improvement, material or obstacle shall be promptly removed by the owner of the servient tenement at that owner’s expense when requested by the owner of the dominant tenement or Developer the Association notwithstanding any lapse of time since~~

such improvement, material or other obstacle was placed in or over the easement area.–

(xxi) ~~Where a Lot abuts any body of water, the Homeowner of such Lot shall be responsible for maintaining all grass areas lying between the ~~water's~~water's edge and such Lot. No amendment to this paragraph shall be effective without the express prior written consent of ~~Developer.~~District.~~

(xxii) ~~Permanent propane storage tanks (defined for these purposes as any propane storage tank weighing greater than 30 pounds when completely filled with propane gas and which is not attached as a part of a portable barbecue grill) shall not be permitted on any Lot except with the prior written consent of the ~~Developer (until the Developer no longer owns any Lots in the Community) or the Architectural Committee (following sale of all Lots by the Developer to third parties), as the case may be.~~Association. All permanent propane storage tanks shall be located beneath the visible ground surface of the Lot, it being ~~Developer's~~Association's intention to maintain an aesthetically-pleasing community. ~~In order to ensure the aesthetic qualities of the Community, the provisions of this subparagraph may not be amended without the prior written consent of the Developer.~~~~

(xxiii) ~~All landscaping on a Lot shall be accomplished in accordance with a plan submitted to the ARC and approved by the ~~Architectural Committee.~~Association. All areas not covered by structures, walkways or paved parking facilities shall be maintained as lawn or landscape areas, with underground sprinkler systems, to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals, ~~flowways~~flow ways or water management areas not to exceed thirty-five feet beyond the boundary line of a Lot. ~~No~~ Except as provided in subparagraph (xv) above, no stone, gravel, or paving of any type shall be used as a lawn unless approved as part of the final landscape plan. ~~All required lawns and landscaping shall be completed at the time of completion of the principal Dwelling on the Lot as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall be kept in good and living condition by the Homeowner to the satisfaction of the ~~Architectural Committee.~~ARC.~~~~

(xxiv) ~~Roofs shall have a minimum pitch of 5:12, except that ~~deviation~~deviations from the minimum pitch may be approved by the ~~Architectural Committee.~~ARC in specific circumstances. All roofs shall be constructed of flat, barrel, S-tile, villa or cement tile as defined by common usage in the County. In the event some new and attractive material for roofing surfaces is discovered or invented, the ~~Architectural Committee.~~ARC and Association may, in its sole discretion, approve the use of such new material. ~~(provided, however, that the Architectural Committee shall only be permitted to issue such approval with the prior written approval of the Developer until such time as the Developer no longer owns any Lots in the Community).~~~~

(xxv) ~~No Dwelling may be leased except by means of a written lease agreement. No lease shall permit any term or extension period of less than 1 month in duration. No Dwelling may be leased more than 3 times in any 12 month period. Each Homeowner shall be required to provide the Association with a copy of any lease agreement entered into respecting a Dwelling within one week of the execution thereof or prior to the date of occupancy thereunder, whichever~~

is earlier. Every lease agreement shall bind the tenant to obey all rules and regulations which apply to the Dwelling or Homeowner as a condition of the tenancy and shall designate Developer or its designee and the Association as third party beneficiaries entitled to enforce this requirement of the lease. A current set of the rules shall be delivered to tenant upon execution of the lease. The provisions of this Section shall not apply to Dwellings which are leased by Developer and utilized as model homes for the Community or Gateway.

~~(b) Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration will be interpreted, construed, or applied to prevent Developer, or its or their contractors, subcontractors, agents, and employees, from doing or performing on all or any part of the Property owned or controlled by Developer, whatever they determine to be reasonably necessary or convenient to complete the Work, including:~~

~~(i) Improvements. Erecting, constructing, and maintaining such structures and other improvements as may be reasonably necessary or convenient for the conduct of such Developer's business of completing the Work, establishing the Property as a residential community, and disposing of the same in parcels or Lots by sale, lease, or otherwise; or~~

~~(ii) Development. Conducting thereon its business of completing the Work, establishing the Property as a residential community, and disposing of the Property in parcels or Lots by sale, lease or otherwise; or~~

(xxv) Quiet Hours. In order to preserve the quiet character of a single-family residential neighborhood, during the hours of 10:00 pm to 7 am, no activities generating unreasonable amounts of noise, traffic or other disturbance shall be permitted. Specifically, the activities prohibited during this time period shall include, but not be limited to: construction or Dwelling/landscape maintenance, other use of outdoor power equipment and tools, power washing, music or amplified sound.

(b) Access by Association.

~~(iii) Signs. Maintaining such signs as may be reasonably necessary or convenient in connection with the sale, lease or other transfer of the Property in parcels or Lots.~~

~~(e) Access by Association. The officers, employees, or designated agents of the Association have a right of entry onto the exterior of each Lot to the extent reasonably necessary to discharge any duty imposed, or exercise any right granted, by this Declaration or to investigate or enforce the provisions of the Declaration and the rulesRules and regulationsRegulations of the Association. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times, and the entry may be only upon reasonable notice whenever circumstances permit. Entry into any improvement Except as specifically provided in Article VII, Section 1, entry into the interior of any dwelling upon any Lot may not be made without the consent of its Homeowner or occupant for any purpose, except pursuant to court order or other authority conferred by law. Such consent will not be unreasonably withheld or delayed.~~

~~(d)c) General Easements. In the event that any part of any Dwelling encroaches or shall hereafter encroach upon any part of any other Lot or the Common PropertyAreas, valid easements for the maintenance of such encroachments are hereby established and shall exist so~~

long as all or any part of the same shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any Homeowner if such encroachment or use is detrimental to or interferes with the reasonable use and enjoyment of the Dwelling of another Homeowner and if it occurred due to the willful conduct of any Homeowner.–

Section 5. **Ingress and Egress and Maintenance.** Each Homeowner shall have a perpetual unrestricted easement over, across and through the Common ~~Property~~ Areas for the purpose of ingress to and egress from his Lot, subject only to the right of the Association to impose reasonable and non-discriminatory ~~rules~~ Rules and regulations Regulations governing the manner in which such easement is exercised, which easement shall be appurtenant to and pass with ownership to each Lot. Additionally, each Homeowner shall have a perpetual unrestricted easement over, across and through the Common Areas to maintain the mailbox serving his or her Lot and to clean and maintain the curbing on the roadway in the immediate proximity of his or her Lot.

Section 6. **Use of Roadways, Gate Access.** Each Homeowner and approved Tenants shall receive access passcodes for use in entering the Property through the gated access. The use of remote controllers for gate access is not a property right and the distribution and use of them may be regulated by the Association. Moreover, the Association may regulate the use of the private roadways within the Property including, but not limited to: speed limits, use of the roadways by unlicensed drivers and unregistered, motorized vehicles.

Section 7. **Restrictions on Use of Lakes, Waterways, Wetlands, or Other Bodies of Water.** With respect to any lakes, waterways, wetlands or other bodies of water located on the Property, no Homeowner, Resident or any temporary occupant of a Lot shall: (i) disturb, remove, alter or in any way disrupt vegetation thereon; (ii) construct permanent or temporary docks or seawalls; and (iii) connect to any lake, waterway, wetland or other body of water through the use of a well, pump, ditch or other system of any nature for any purpose, including, but not limited to, lawn irrigation, lawn maintenance, water features or for any other use; and (iv) be permitted to fish or place a boat on or within such areas. In addition, no Homeowner, Resident or any temporary occupant of a Lot shall dig a well on any Lot for any purpose, including but not limited to lawn irrigation, lawn maintenance, water features or for any other use; and (iv) be permitted to fish or place a boat on or within such areas. ~~The provisions in violation of this paragraph shall not apply to Developer.~~ the Rules of the District. No amendment to this paragraph shall be effective without the express prior written consent of ~~Developer.~~ the District. The District allows fishing as follows:

~~**Article IV: Architectural and Design Review**~~

(a) A Homeowner may fish from any common area.

(b) A Homeowner with property that abuts a lake may fish from his own property.

(c) A Homeowner may fish from property belonging to another resident only after obtaining permission from the Lot owner.

(d) It is the responsibility of the individual to obtain necessary permits/licenses and follow all applicable Fish & Game Regulations for Lee County and the State of Florida.

#### **ARTICLE IV:** **ARCHITECTURAL AND DESIGN REVIEW**

Section 1. **Architectural and Design Standards.** The Board of Directors shall adopt, from time to time, specific architectural and design standards or criteria for the Property, which standards shall be applied by the ~~ORB~~ARC and the Board as provided hereinafter.-

Section 2. **Role of the ~~ORB~~ARC.** The purpose of the ~~ORB~~ARC is to provide review services and advice to the Board in order to insure the development of the Property as a commercial project or projects of the highest quality and standards and to insure that all Dwellings or portions thereof or any other improvements on each Lot shall present an attractive and pleasing appearance from all sides of view.-

Section 3. **Composition of the ~~ORB~~ARC.** Until such time as Developer no longer owns any property contained within Gateway or records in the public records of the County a disclaimer as to all rights and duties concerning the ~~ORB~~ARC, Developer shall have the sole and exclusive power to appoint the chairman and members of the ~~ORB~~ (who need not be members of the Association). Upon such time as Developer no longer owns any property contained within the Community or records in the public records of the County a disclaimer as to all rights and duties concerning the ~~ORB~~, the ARC. The Board shall appoint the chairman and membersMembers of the ~~ORB~~ARC, the Board may remove ~~ORB member~~ARC Member(s) if determined beneficial, and, where a vacancy or vacancies on the ~~ORB~~ARC occurs, a successor or successors shall be appointed by the Board.-

Section 4. **Powers of the ~~ORB~~ARC.** The ~~ORB~~ARC shall evaluate, control and approve construction, remodeling, or additions to the Dwellings or any portion thereof or any other improvements, as well as all landscaping plans, on each Lot in the manner and to the extent set forth herein- or as otherwise delegated to it by the Board. Work (save and except for improvements on a Lot that are solely contained within the physical confines of a Dwelling and in no manner affect the facade, facings or exterior surfaces of such Dwelling) shall not be commenced unless and until building and construction plans and specifications covering same ("Plans and Specifications"), showing such information as may be required by the ~~ORB~~ARC, have been submitted to, reviewed by the ARC and approved in writing by the ~~ORB~~ Association. Acceptance or rejection of Plans and Specifications shall be made by majority vote of the ~~ORB~~ARC.

Section 5. **Plans and Specifications.** The ~~ORB~~ARC requires that all Plans and Specifications be accompanied by site plans which show the siting of all physical improvements



on the Lot under consideration. The Board of Directors may set a reasonable fee for review to compensate the Association for the costs it will incur in the hiring of professionals to assist it in its review. As a prerequisite to consideration for approval, and prior to beginning the contemplated work, a minimum of 3 complete sets, or as many as requested by the ~~ORB~~ARC, of Plans and Specifications must be submitted to the ~~ORB~~ARC. A review of the merits of a Homeowner's Plans and Specifications shall not commence until the ARC has deemed the Plans and Specification complete and that the ARC has sufficient information on which to make a review. In addition, if requested by the ~~ORB~~ARC, there shall be submitted to the ~~ORB~~ARC for consideration such samples of building materials proposed to be used as the ~~ORB~~ARC shall specify and require. All Plans and Specifications shall be prepared by an architect and/or professional engineer registered in the State of Florida. The architect and/or professional engineer submitting the Plans and Specifications must state in writing that he has visited the site and is familiar with all existing site conditions. These requirements pertaining to Plans and Specifications may be waived, in whole or in part, by the ~~ORB~~ARC upon application of the Homeowner showing good cause for waiving such requirement(s). All requests for improvements must be submitted on the most recently promulgated Association forms, which may be found on the Association's website along with a checklist of items to be included. Each page is to be numbered, signed and dated by all adjacent neighbors and ~~ORB members~~ARC Members evaluating the request.

Section 6. **Recommendations of the ~~ORB~~ARC.** Once the ~~ORB~~ARC has received and reviewed the Plans and Specifications submitted by a Homeowner, the ~~ORB~~ARC may either (a) make a decision to either approve or disapprove the proposal of the Homeowner, or (b) request additional information as the ~~ORB~~ARC deems necessary in its discretion to be able to render a decision. At such time as a decision to approve or disapprove is made, the ~~ORB~~ARC shall have no further action to take with regard to the ~~Homeowner's~~Homeowner's proposal until such time as the Homeowner resubmits revised Plans and Specifications for consideration. Once the ARC has determined that the Plans and Specifications should be approved, it shall do so at a duly-noticed meeting and shall thereafter communicate or transmit its findings and recommendations to the Board for its consideration of final approval.

Section 7. **Approval of Plans and Specifications.** Upon written approval of the ~~ORB~~WorkBoard, ~~work~~work may be commenced and shall be prosecuted to completion promptly and in strict conformity with such Plans and Specifications. Any approval issued by the ~~ORB~~Association for which ~~Work~~work is not commenced within 180 days from the date of issuance of the written approval shall be deemed to be null and void, and the Homeowner shall be required to resubmit Plans and Specifications to the ~~ORB~~ARC for review and approval, unless such requirement is waived in writing by the ~~ORB~~Association (which shall have the effect of continuing the original approval). The ~~ORB~~Association shall be entitled to stop any ~~Work~~work in violation of these restrictions, and any ~~Work~~work undertaken without application having first been made and approval obtained as provided above shall be deemed to be in violation of this covenant and may be required to be restored to the original condition at the ~~Homeowner's~~Homeowner's expense. All costs and expenses of the Association (including attorney's fees) related to the enforcement of these covenants shall be paid by the Homeowner in violation thereof. All construction activities as approved by the ~~ORB~~Association must comply substantially with the Plans and Specifications as approved by the ~~ORB~~ARC.

Section 8. **Rejection of Plans and Specifications.** ~~The ORBARC shall have the right to refuse to review Plans and Specifications which it deems to be incomplete; or to refuse to approve any Plans and Specifications which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons connected with future development plans of Developer.~~ In the event the ORBARC rejects such Plans and Specifications as submitted, ~~the ORB or otherwise recommends non-approval to the Board of Directors,~~ the ARC shall so inform the Homeowner in writing, stating with reasonable detail the reason(s) for rejection or disapproval. ~~In rejecting/recommending rejection of~~ such Plans and Specifications, the ORBARC may take into consideration the suitability and desirability of the proposed activities and results proposed by the Homeowner, the materials proposed to be used in connection with such activities on the Lot, the quality of the proposed workmanship and materials, the harmony of external design with the Community and Gateway, the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties and upon Community and Gateway residents.-

Section 9. **Appeal by Aggrieved Homeowner.** ~~If the ORB rejects~~ ARC recommends rejection or non-approval of such Plans and Specifications, the aggrieved Homeowner may appeal such adverse decision to the Board. ~~The Board can either reverse the decision of the ORBARC and approve the Plans and Specifications as submitted by the Homeowner, or reject the appeal, in which event the aggrieved Owner may appeal such adverse decision by submitting in writing to the Board a request for a special meeting of all Homeowners to consider the propriety of the Board's decision within 10 days after receipt of such written request.~~ The Board thereafter shall call a special meeting, and the costs pertaining to such special meeting shall be borne by the appealing Homeowner. ~~At such special meeting, the proposal made by the Homeowner and the decision of the ORBARC and the Board, together with the stated reasons for the rejection of the proposal, shall be made available to all Homeowners.~~ A vote of a majority of the total voting interests ~~Voting Interests of the Community present in person or by proxy of a duly-called and noticed meeting of the Association Members at which a quorum is present (excluding the Developer)~~ shall be necessary to overturn an adverse decision of the ORBARC and the Board against the Homeowner. If a quorum is not attained, then the Board's decision is final and shall not be overturned.

Section 10. **Compliance with Governmental Regulations.** ~~In addition to the foregoing requirements, any Work-work undertaken by a Homeowner must be in compliance with the requirements of all controlling governmental authorities, and the Homeowner shall be required under an affirmative duty to obtain an appropriate building permit from the applicable governmental authorities when required by controlling governmental requirements.~~ all governmentally-required permits and approvals. Any consent or approval by the DRBARC to any ~~Workwork~~ may be conditioned upon the Homeowner requesting such approval, obtaining a building permit for same, or providing the Association with written evidence from the controlling governmental authority that such permit will not be required, and in that event, the Homeowner requesting architectural approval shall not proceed with any ~~Workwork~~ until such building permit or evidence that a building permit is not required is submitted to the Association.-

Section 11. **Enforcement of Restrictions; Exemptions.** ~~Developer.~~ The Association  
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shall have the non-exclusive responsibility of enforcing the restrictions set forth in this Section ~~prior to the formation of the DRB, which, upon election as discussed in Section 3 hereof, shall assume and be responsible for enforcement. References in this Section to the DRB shall mean Developer until the DRB is elected.~~ The architectural, maintenance and use restrictions contained in this Section shall apply to each and every Lot and all portions of the Property now or hereafter subjected to this Declaration; ~~provided, however, that Developer shall be exempt from the provisions of this Section and shall not be obligated to obtain Board approval for any construction or change(s) in construction which Developer may elect to make at any time.~~

Section 12. **Liability of the DRBARC and the Board of Directors.** ~~Notwithstanding anything in this Section to the contrary, the DRBARC and the Board shall merely have the right, but not the duty, to exercise architectural control in a particular matter, and shall not be liable to any Homeowner, the Association or any other entity due to the exercise or non-exercise of such control, or the approval or disapproval of any improvements. Furthermore, the approval of any Plans or Specifications or any improvement shall not be deemed to be a determination or warranty that such Plans or Specifications or improvements:-~~

- (a) ~~are complete or do not contain defects; or~~
- (b) ~~in fact meet any standards, guidelines and/or criteria of the DRBARC or the Board; or~~
- (c) ~~are in fact architecturally or aesthetically appropriate; or~~
- (d) ~~comply with any applicable governmental requirements.~~

~~Furthermore, the DRBARC and the Board shall not be liable for any defect or deficiency in such Plans or Specifications or improvements or any injury resulting therefrom.-~~

Section 13. **Completion of Work; Remedy.** ~~When Workwork on any improvement is ~~onee~~has begun, such Workwork thereon must be prosecuted diligently and completed within a reasonable time. If for any reason such Workwork is discontinued or there is no substantial progress toward completion for a continuous 60 day period, then the DRB Association shall have the right to notify the Homeowner of its intentions herein, enter the Lot and take such steps as might be required to correct the undesirable appearance or existence of the Dwelling, including, but not limited to, demolition and/or removal thereof, and/or pursue any of the remedies under this Declaration as the DRB Association determines, and charge the Homeowner for all costs associated therewith, which shall include all costs and ~~attorneys'~~attorney's fees. The reason for such correction shall be solely in the discretion of the DRB Association and may include, but shall not be limited to, aesthetic grounds. The DRB Association shall have the authority, ~~on behalf of the Board,~~ to enter into such contracts as may be necessary to undertake the remedial and necessary actions on the Lot, ~~including the right to enter into a contract with Developer to undertake such actions.~~ In addition, any failure to undertake Workwork under this Section shall require the offending Homeowner to resubmit Plans and Specifications to the DRBARC for approval prior to undertaking any new Workwork on the Lot.-~~

Article

**ARTICLE V:  
MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Membership and Voting Rights**

~~Section 1. Membership.~~ Every Homeowner that is subject to Assessment under Article VIII hereof shall become a ~~member~~ Member of the Association upon the recording of the instrument of conveyance. ~~If title to a Lot is held by more than one person, each such person is a member.~~ Member. A Homeowner of more than one Lot is entitled to one ~~membership~~ Membership for each Lot owned. ~~Each membership~~ Membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot whether or not mention thereof is made in such conveyance of title. ~~No person other than a Homeowner may be a member~~ Member of the Association, and a ~~membership~~ Membership in the Association may not be transferred except by the transfer of title to a Lot; provided, however, the foregoing does not prohibit the assignment of ~~membership~~ Membership and voting rights by a Homeowner who is a contract seller to such ~~Homeowner's~~ Homeowner's vendee in possession.

~~Section 2. Voting and Voting Interest.~~ The Association shall have ~~two (2)~~ one (1) ~~classes~~ class of voting ~~membership: Class A and Class B. So long as there is Class B membership, "Class A Members" are~~ Membership: all Homeowners except Developer. Upon termination are Members for the purposes of Class B membership voting. However, as provided below, ~~Class A Members are all Homeowners, including Developer so long as such Developer is a Homeowner. Subject to the provisions~~ only one vote on Association matters or matters of ownership shall be cast per Lot.

~~Section 3 of this Article, all members, Class A or Class B, are entitled to cast one vote for each Lot owned; however, as provided in the Articles of Incorporation, the Class B Members are entitled to elect the Association's directors until termination of Class B membership.~~

~~Section 3. Co-Ownership.~~ If more than one person owns an interest in any Lot, all such persons are members Members, but there may be only one vote cast with respect to such Lot. Such vote may be exercised as the co-owners determine among themselves, but no split vote is permitted. Prior to any meeting at which a vote is to be taken, each co-owner must file a voting certificate setting forth the name of the voting co-owner representative with the secretary of the Association to be entitled to vote at such meeting, unless such co-owners have filed a general voting authority with the secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held in a tenancy by the entireties, either tenant is entitled to cast the vote for such Lot unless and until the Association is notified otherwise in writing.

~~Section 4. Termination of Class B Membership; Transfer of Control. From time to time, Class B membership may cease and be converted to Class A membership, and members other than the Developer shall be entitled to elect a majority of the members of the Board, upon the happening of any of the following events, whichever occurs earliest:~~

~~(a) 3 months after 90% of the Lots in all portions of the Community which are or may be~~  
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ultimately subject to governance by the Association have been conveyed to third party Homeowners;

(b) upon conveyance of the requisite percentage of Lots which triggers the transfer of control of the Association, as such percentage is mandated by applicable Federal Housing Authority, Federal National Mortgage Association, Government National Mortgage Association, Department of Housing and Urban Development, Federal Home Loan Mortgage Corporation or Veterans Administration provisions related to mortgage financing; or (c) when the Developer waives in writing its right to Class B membership, which waiver shall be evidenced by the recording of a certificate to such effect in the public records of the County.

Notwithstanding the foregoing, despite an event of transfer of control having occurred, the Developer shall be entitled to elect at least one member to the Board as long as the Developer holds for sale in the ordinary course of business at least 5% of the total number of Lots which are or may ultimately be contained within the Community.

Upon termination of Class B membership, all provisions of this Declaration or of the Articles of Incorporation or By-Laws referring to Class B membership will be obsolete and without further force or effect, including any provision requiring voting by classes of membership.

**Section 5. Amplification and Construction of Governing Documents.** The provisions of this Declaration are amplified by the Association's Association's Articles of Incorporation and By-Laws Bylaws, but no such amplification will alter or amend substantially any of the rights or obligations of the Homeowners set forth in this Declaration. ~~Developer intends the provisions of this~~ This Declaration is intended, on the one hand, and the Articles of Incorporation and ~~By-Laws~~ Bylaws, on the other, to be interpreted, construed, applied, and enforced to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Developer intends that the provisions of this Declaration control over anything in the Articles of Incorporation or By-Laws Bylaws to the contrary; and likewise, any term in the Articles of Incorporation shall prevail over a conflicting term in the Bylaws. However, when a provision in one document is more specific than that of another, the more specific provision will prevail. The terms defined in this Declaration shall have same meanings in the Articles of Incorporation and ~~By-Laws~~ Bylaws, unless otherwise provided.

**Article**

**ARTICLE VI:  
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

**Section 1. Rights and Obligations of the Association.**

~~Section 1. Association.~~ The Association shall govern, make ~~rules~~ Rules and ~~regulations~~ Regulations, control and manage the Lots and Common ~~Properties~~ Areas, if any, located on the Property pursuant to the terms and provisions of this Declaration and the Articles of Incorporation and ~~By-Laws~~ Bylaws. The Association has the power to levy fines and the other remedies contained in Fla. Stat. Sec. 720.305 for violations of the Association's governing documents and the Rules and Regulations of the Association. The procedures for such shall be

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as directed in the Act or as may be found in the Association's Bylaws. The Association shall at all times pay the real property ad valorem taxes on any Common ~~Properties~~Areas if said taxes are billed to the Association as differentiated from being billed to the Homeowner and pay any governmental liens assessed against the Common ~~Properties~~Areas. The Association shall further have the obligation and responsibility for the hiring of certain personnel and purchasing and maintaining such equipment as may be necessary for maintenance, repair, upkeep and replacement of any Common ~~Properties~~Areas and facilities which may be located thereon, the performance of any of its maintenance obligations and performance of such other duties as are set forth herein, as follows:

(a) Notwithstanding the foregoing, the Association may, but is not obligated to, employ security guard(s) or a security guard service. If a security guard(s) or security guard service is employed by the Association, the Board of Directors shall determine, in its sole discretion, the schedule and cost of expense of security guard(s) or security guard service. ~~Developer, while in control of the Association, does not intend to hire or pay for security guard(s) or a security guard service.~~

(b) ~~The~~ Except as otherwise provided in these governing documents, the Association shall maintain the Common ~~Properties~~Areas and pay the real property ad valorem taxes and governmental liens assessed against the Common ~~Properties~~Areas and billed to the Association. Any Common ~~Properties~~Areas which are to be maintained by the Association as provided herein shall be maintained in good condition and repair. Should real property ad valorem taxes or governmental liens as to any Common ~~Properties~~Areas be assessed against the billed Lots, the Board of Directors shall have the right to determine, in its sole discretion, if the Association should pay all or any portion of said bill(s) for taxes or liens, and such amount as they determine should be paid by the Association shall be levied as a Special Assessment pursuant to Article VIII of this Declaration.

(c) ~~(e)~~The Association shall maintain all landscaping and signage within the Common ~~Properties~~Areas, along the road right of way of Gateway Boulevard and Griffin Drive which abuts the ~~Property~~Areas, and in any landscaping easement which is owned or runs in favor of the Association. In addition, the Association shall maintain:

(i) any entry features for the Community, including, but not limited to, walls, signage and a fountain, whether located on the Common ~~Properties~~Areas or the Lots. Such maintenance activities, may, but not necessarily will, include, without limitation, any of the following: replacement and/or replanting of existing landscaping; excavation; construction of berms; and installation, maintenance and repair of irrigation facilities;

(ii) the security gate and camera system located at the point of entry into the Community on Timber Ridge Drive. The cost of repairing damage caused by a Homeowner, his/her guests, invitees or tenants shall be assessed to the Homeowner and secured by a lien on the Lot as a Specific Assessment pursuant to Article VIII of this Declaration;

(iii) ~~(d)~~ The Association shall maintain fences installed by Developer along the rear property line of each Lot. If a Homeowner decides to have Developer build a fence along the

~~side property lines of his Lot ("Side Fences") or build his own Side Fences, the Association shall maintain these Side Fences and bill the Homeowner separately as and when determined by the Association for the costs of associated maintenance. The Side Fences must be the same style fencing as the fencing along the back property line and comply with the local zoning/building codes, and shall require written approval of the Architectural Committee as may be provided herein prior to installation.~~

(e) the repair/replacement of all vinyl privacy fences along the rear boundaries of a Lot whether or not originally installed by the developer. If a Lot's rear privacy fence becomes damaged, then it is the Association's decision as to whether the fence shall be repaired or replaced. Damage determined to be caused by the Homeowner, his guest or tenants will be charged to the Homeowner if the Association is forced to repair or replace fencing;

(iv) The Association shall maintain and repair and replace all mailboxes, mailbox posts and curbing. Damage determined to be caused by the Homeowner, his guest or tenants will be charged to the Homeowner if the Association is forced to repair or replace mailboxes or posts. Homeowners should regularly inspect these items for signs of wear and tear, thus limiting the extent of the repairs required.

(d) In the event the Association in the future acquires any Common PropertiesAreas, the Association shall obtain, maintain and pay the premiums for the hazard insurance, flood insurance, liability insurance and fidelity bond coverage as set forth below and as consistent with state and local insurance laws, and such other types of insurance as the Board may deem advisable:

(i) Hazard insurance covering all Common PropertiesAreas, except for land foundations and excavations, and all common personal property and supplies. The policy must protect against loss or damage by fire and all other hazards normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar types of communities, including those covered by the standard "all risk" endorsement. The policy shall cover one hundred percent (100%) of the current replacement cost of all covered facilities and shall include the following endorsements: agreed amount and inflation guard (if available), and construction code, if the local construction code requires changes to undamaged portions of buildings even when only part of the Property is destroyed by an insured hazard, and steam boiler coverage providing at least Fifty Thousand Dollars (\$50,000.00) coverage for each accident at each location.

(ii) Flood insurance covering the Common PropertyAreas buildings and any other common personal property if any part of the Community is in a special flood hazard area as defined by the Federal Emergency Management Agency. The amount of flood insurance shall be for not less than the lesser of: (i) 100% of the current replacement cost of all buildings and insurable property within the flood hazard area, and (ii) the maximum coverage available for the Property under the National Flood Insurance Program.

(iii) Comprehensive general liability insurance covering all Common PropertiesAreas and any other areas under the Association's supervision, including public ways

and commercial spaces owned by the Association. The policy must provide coverage of at least \$1,000,000.00 for bodily injury and property damage for any single occurrence. The policy must cover bodily injury and property damage resulting from the operation, maintenance or use of the Common ~~Properties~~Areas and other areas under the ~~Association's~~Association's control and any legal liability resulting from ~~law suits~~lawsuits related to employment contracts to which the Association is a party. The policy must provide for at least 10 ~~days~~days written notice by the insurer to the Association prior to cancellation or substantial modification.

(iv) Fidelity bond coverage for any person (including a management agent) who either handles or is responsible for funds held or administered by the Association, whether or not such persons are compensated for such services. The bond shall name the Association as an obligee and shall cover the greater of: (i) the maximum funds that will be in the custody of the Association or its management agent while the bond is in force, and (ii) the sum of 3 ~~months~~months General Assessments on all Lots plus the Reserve Fund. The bond shall provide for ten (10) ~~days~~days written notice to the Association and all servicers of FNMA-owned mortgages in the Property prior to cancellation of or substantial modification to the bond.-

(~~f~~e) The Association shall care for and maintain any entryway features, including, but not limited to, fountains, walls and signage, intended for and/or identifying the Property and shall maintain any landscaping located within the Common ~~Property~~Areas, road right-of-way or any landscaping easement which is owned by or runs in favor of the Association, which maintenance activities may, but not necessarily will, include without limitation any of the following: replacement and/or replanting of existing landscaping, excavation, construction of berms, and installation, maintenance and repair of irrigation facilities.

~~(g) It is understood that there shall be an easement and cost allocation agreement placed upon a portion of the entry roadway on the Property, which pertains to shared use of such lands by adjacent parcels of property. The Association is specifically empowered and authorized to maintain such lands in accordance with such easement agreement and to charge such adjacent owners for their allocated share of such expenses in accordance with such agreement.~~

The foregoing constitutes the basic and general obligations of the Association, and the expenses pertaining to such obligations are to be paid by ~~members~~Members of the Association as hereinafter provided, except as otherwise provided herein. It shall be the duty and responsibility of the Association, through its Board of Directors, to fix and determine from time to time the sum or sums necessary and adequate to provide for the expenses of the Association. The procedure for the determination of such assessments shall be as hereinafter set forth in this Declaration or the ~~By-Laws~~Bylaws or the Articles of Incorporation. The Board shall have the power and authority to levy a Special Assessment, should one become necessary, as determined by it in its sole discretion, and said Special Assessment shall be determined, assessed, levied and payable in the manner determined by the Board as hereinafter provided in this Declaration or the Articles of Incorporation or the ~~By-Laws~~Bylaws.

Section 2. **Management Contracts and Leases of Common Property Areas.** The Association shall expressly have the power to contract for the management of the Association and/or the Common ~~Property~~Areas, if any, and to lease the recreation areas, further having the



power to delegate to such contractor or lessee any or all of the powers and duties of the Association respecting the contract granted or property demised. The Association shall further have the power to employ administrative and other personnel to perform the services required for proper administration of the Association.-

~~The undertakings and contracts authorized by the first Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts had been authorized by the first Board of Directors duly elected by the membership of the Association; provided, however, that any management or property maintenance contract entered into by the Association prior to the election of such first Board shall be terminable by the Association without cause or penalty at any time after such election upon not more than 90 days' advance notice.-~~

Section 3. Easements. \_

(a) Easements for installation and maintenance of utilities (including, but not limited to, those required for cable television service) and drainage facilities are reserved to: the District (as may be applicable), the Association, or as shown on the Plat or as otherwise granted by Developer. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channel in the easements, or which may obstruct or retard the flow of water through drainage channel in the easements, or which are or might be prohibited by the public authority to whom said easement is given-

(b) Easements over, under, across and through each Lot and the Common Properties Areas are hereby expressly granted to the Association for the purpose of making any repairs or performing any maintenance provided for or required by this Declaration, regardless of whether such repairs or maintenance directly benefit the Lot upon which they are performed.

(c) The easement area of each Lot and all improvements in it shall be maintained by the Homeowner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.-

**Article**

**ARTICLE VII:**  
**HOMEOWNERS' OBLIGATION FOR MAINTENANCE OF**  
**LOTS AND LANDSCAPING THEREON**

Section 1. Homeowners' Maintenance of Lots. Homeowners shall be obligated and ~~Improvements~~ responsible for all maintenance of their Lot and ~~Landscaping Thereon~~

~~Section 1. Maintenance of Premises.~~ the improvements thereon. Standards for maintenance and upkeep may be set forth in the Rules and Regulation promulgated by the Association. The Association shall have the right, after reasonable notice to the Homeowner, to enter upon a Lot to inspect the conditions of any portions of a Lot for which the Homeowner is responsible to repair, replace or maintain and which is visible from the street fronting the Lot or

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is visible to a neighboring property.

(a) No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Lot and no refuse or unsightly objects shall be allowed to be placed or suffered to remain upon any Lot. \_

(b) All lawns, landscaping and sprinkler systems and any property, Dwelling, improvement and appurtenance shall be kept in good, safe, clean, neat and attractive condition.,

(c) Trees on Lots shall be maintained as follows:

(i) Any tree or shrub on a Lot that has limbs that protrude into or over the common roadway must be kept and all maintained by the Homeowner in a reasonable manner as to not touch, damage or scratch any reasonable-sized vehicle such as a truck or van;

(ii) Any tree obscuring the effectiveness of common area lighting must be trimmed with the same reasonable expectations and liability to the homeowners as the road access.

(iii) Any oak or similar tree that is or is at risk of damaging any utility or private and/or common property may be removed at the Homeowner's expense without the need for ARC approval. Homeowners planning such work are advised to call "811" in order to have underground utilities properly located in advance of such work.

(d) Side Fencing (regardless of when installed or by whom) shall be maintained/replaced by the Homeowner and should match the fencing along the back property line and comply with the local zoning/building codes. Although the Association is primarily responsible for the repair and replacement of vinyl fencing along the rear Lot line, damage determined to be caused by the Homeowner, his guest or tenants will be charged to the Homeowner if the Association is forced to repair or replace fencing.

(e) Homeowners should regularly inspect all mailboxes, mailbox posts and curbing for signs of wear and tear, thus limiting the extent of the repairs required.

(f) All Dwellings shall be maintained in a finished, painted and attractive condition. Upon the failure to maintain the premises as aforesaid to the satisfaction of Developerthe Association and upon the Homeowner'sHomeowner's failure to make such correction within 15 days of giving of written notice by the Association (~~which written notice does not have to be given by the Association in the case of emergency, in which event, the Association may without any prior notice directly remedy the problem~~),, the Association may enter upon such premises and make such improvements or correction as may be necessary, the costs of which shall be paid by the Homeowner ~~or~~. Such written notice does not have to be given by the Association in the case of emergency, and in which event, the Association may without any prior notice directly remedy the problem. The Association may bring an action to enforce these remedies at law or in equity. Such entry by the Association or its agents shall not be a trespass and by acceptance of a deed for a Lot, such party has expressly given the

Association the continuing permission to do so which permission may not be revoked. If the Homeowner fails to make payment within 15 days after request to do so by the Association, such amount shall be deemed a Specific Assessment pursuant to Article VIII hereof; and may be collected accordingly.

~~In addition, the Homeowners of certain corner Lots on Timber Ridge Drive shall be responsible, at the Homeowner's sole expense, for any landscaping features located on or adjacent to such Lot, such as, but not necessarily limited to, trees and plantings, as installed by the Developer. Such landscaping features shall not be replaced or removed without the prior written consent of the Developer and the Association.~~

Section 2. **Maintenance of Corner Landscape Features.** The Homeowners of certain corner Lots along ~~Timer~~ Timber Ridge Drive shall be responsible for maintaining in good, neat and attractive condition trees and plantings (“Corner Landscape Features”) installed on their Lot corners by Developer. These Homeowners shall also be responsible for replacing such Corner Landscape Features, if necessary, at their sole cost and expense. The trees and plantings in the Corner Landscape Features shall not be removed or replaced without the prior written approval of the ~~Developer or the Association.~~

Section 3. **Failure to Maintain Lots.** In the event a Homeowner of any Lot shall fail to maintain or repair the Lot, the improvements thereon or the landscaping thereon, if any, within 30 ~~days~~ days’ written notice of same, the Association, may: (a) initiate the sanctions for violations of these Governing Documents as found in Article XI of the Bylaws, and without waiving any other remedy, (b) after approval by ~~2/3~~ a two-thirds vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot, any improvements thereon and the landscaping thereon. The cost of same shall be added to and become part of the Assessments to which said Lot is subject, and said cost shall be a lien upon said Lot with the same force and effect and the liens on Lots for Assessments as provided in this Declaration and the Articles of Incorporation and the ~~By Laws.~~ Bylaws.

~~**Article VIII: Covenant for Assessments: Other Charges**~~

**ARTICLE VIII:**  
**COVENANT FOR ASSESSMENTS; OTHER CHARGES**

Section 1. **Assessments Established.** Each Homeowner of any Lot, by acceptance of a deed to such Lot, whether or not it is so expressed in such deed, is deemed to covenant to pay to the Association (as may be applicable):

- (a) General Assessments, as defined in ~~Section~~ Sections 2 and 3 hereof;
- (b) Special Assessments, as defined in Section 54 hereof;

(c) Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration as provided in Section 65 hereof; and

(d) All taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this Article.-

All of the foregoing, together with interest, late fees and all costs and expenses of collection, including reasonable ~~attorneys'~~attorneys' fees, are a continuing charge on the land secured by a continuing lien upon the Lot against which each Assessment is made as provided in Section 9 hereof. Each such Assessment, together with interest, late fees and all costs and expenses of collection, including reasonable ~~attorneys'~~attorneys' fees, also is the personal obligation of the person or persons who was or were the Homeowner(s) of such Lot when such Assessment fell due.-

Section 2. **Purpose of Assessments: General Assessment.** The assessments levied by the Association must be used exclusively to promote the common good and welfare of the Homeowners and Residents of the Community, to operate and manage the Association and the Common ~~Properties~~Areas, if any, and to perform such duties as may be required by this Declaration and the Articles of Incorporation and ~~By Laws~~Bylaws of the Association- (the "Common Expenses"). To effectuate the following, the Association may levy an annual general assessment (~~"General Assessment"~~) to provide and be used for the operation, management and all other general activities and ~~expenses~~Common Expenses of the Association.-

~~Section 3. **Initial General Assessment.** The~~  
~~initial General Assessment shall be \$636.60 per year and will remain in effect until a different~~  
~~General Assessment may be determined as provided hereinafter. Except with regard to the initial~~  
~~General Assessment, the amount of the General Assessment shall be fixed by the Board at least~~  
~~30 days in advance of each General Assessment period, and shall be based upon a budget~~  
~~adopted budget in conformity with the procedure outlined in Fla. Stat. Sec. 720.303(6), as~~  
~~amended from time to time. The General Assessment period shall coincide with the~~  
~~Association's~~Association's fiscal year. ~~Except for the initial General Assessment, written~~ Written  
notice of the amount of the General Assessment should be given to every Homeowner, but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid General Assessment. The General Assessment shall be paid in equal monthly installments without interest until delinquent, and ~~prepayable~~pre-payable in whole at any time or times during the applicable General Assessment period without penalty or other consideration; provided, however, at the discretion of the Board, the General Assessment may be collected on a quarterly, semi-annual or annual basis rather than collected each month.-

~~Section 4. **Guarantee of Assessments by Developer.** For the initial fiscal year of the Association, Developer guarantees to each Homeowner that the amount of the General Assessment to be paid by Homeowners for that year shall not exceed an amount equal to 125% of the initial General Assessment as described in Section 3 hereof. Upon commencement of the second fiscal year of the Association, the aforementioned guarantee shall continue to exist on a month-by-month basis until (a) the end of the next month following Developer's delivery of written notice to the Association stating Developer's decision to no longer guarantee the amount of the General Assessment, or (b) upon the transfer of control of the Association from Developer to the Homeowners, whichever shall occur first. During any period of existence of the aforementioned guarantee, Developer shall not be responsible for the payment of Assessments~~

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~~on Lots it owns but shall fund any budget deficit for that particular fiscal year. The guarantee of the General Assessment by Developer shall not preclude the levying of Special Assessments against the Homeowners to defray the costs of Association expenses not contemplated under the Association's estimated operating budget for that fiscal year. Upon termination of the aforementioned guarantee, Developer shall be responsible for the payment of Assessments only upon Lots which it owns and for which a certificate of occupancy has been issued for the applicable improvements.~~

Section 4. Special Assessments.

(a)

~~Section 5. Special Assessments.~~

(a) The Association shall be empowered to levy a special assessment (“Special Assessment”) in the manner provided in this section.

(b) In addition to the General Assessment, the Association may levy in any fiscal year a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, ~~known then-unknown~~ expenses which exceeded, or when mature will exceed, the budget prepared and on which the General Assessment was based, ~~or as described in Section 4 hereof.~~ Notwithstanding the foregoing, no Special Assessment against the Homeowners shall exceed 1/12th of the total of the General Assessments levied against the Homeowners for that fiscal year without the prior approval of 75% of the total number of votes in the Association. Consideration of the levy of any Special Assessment shall be made at a duly-noticed Board meeting only after 14-day’s written notice of the meeting (with a description of the Special Assessment to be considered) has been delivered to each Homeowner in the manner specified in the Act. Special Assessments in an amount exceeding one-twelfth (1/12<sup>th</sup>) of the current year’s annual assessment shall not be effective until ratified by 51% of the Members present and voting in person or by proxy at a meeting of the Members at which a quorum has been attained.

Section 6.5. Specific Assessments. Any and all accrued ~~liquidated~~ indebtedness of any Homeowner to the Association arising under any provision of this Declaration or the other governing documents of the Association, also may be assessed by the Association against such Homeowner's Lot after such Homeowner fails to pay it when due and such default continues for 30 days after written notice.—

Section 7.6. Uniformity of Assessments. The General Assessment and any Special Assessment pertaining to general Common Expenses must be uniform for each Homeowner throughout the Community. Each Lot shall be liable for its 1/145<sup>th</sup> pro rata share of the Common Expenses of the Association.

~~Section 8. Commencement of Assessments. The Assessments as to each Lot owned by a Homeowner other than the Developer commences on the first day of the month following the closing of the purchase of the respective Lot by the Homeowner from Developer.~~

Section 9.7. Lien for Assessment. All sums assessed against any Lot, together with interest, late fees and all costs and expenses of collection, including reasonable

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~~attorneys'attorneys'~~ fees, are secured by a lien on such Lot in favor of the Association. ~~Such as~~ provided in Fla. Stat. Sec. 720.3085(1). ~~The Association's lien is subject~~ shall relate back to May 11, 2011 (the date of the recording of the original document that this Declaration restates) and ~~inferior to the lien for all sums validly secured by any First Mortgage encumberings~~ shall otherwise have the priority accorded such Lot under Fla. Stat. Sec. 720.3085. Except for liens for all sums validly secured by any such First Mortgage, all other lienors acquiring liens on any Lot after ~~this Declaration is recorded~~ July 1, 2008 are deemed to consent that such liens are inferior to the lien established by this Article, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and/or creditors of the existence of the ~~Association's~~ Association's lien and its priority. The Association from time to time may record a ~~Notice~~ Claim of Lien for the purpose of further evidencing the lien established by this Article, but neither the recording of, nor failure to record, any such notice of lien will affect the existence or priority of the ~~Association's~~ Association's lien.-

~~Section 10.8.~~ **Estoppel Certificate.** Upon demand, and for a reasonable charge as determined by the Board of Directors, the Association will furnish to any interested person a certificate signed by an officer of the Association or its authorized agent setting forth whether the General Assessment and any Special Assessment or Specific Assessment have been paid and, if not, the unpaid balance(s). The Association shall not be required to supply said certificate any sooner than fifteen (15) days after receiving a written request and payment therefor. The association may condition the provision of the certificate upon payment of its charges in advance.

~~Section 11.9.~~ **Remedies of the Association.** Any Assessment not paid within thirty (30) days after its due date bears interest at the rate of 18% per annum or such other rate as may be from time to time determined by the Board, provided, however, that such rate shall not exceed the maximum rate allowed by law not constituting usury. The Association may bring an action at law against the Homeowner personally obligated to pay such Assessment, and/or foreclose its lien against such ~~Homeowner's~~ Homeowner's Lot. No Homeowner may waive or otherwise escape liability for the Assessments. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the ~~Association's~~ Association's lien or its priority. ~~[Fla. Stat. Sec. 720.3085(5)].~~

~~Section 12.10.~~ **Foreclosure.** The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Homeowner is required to pay all costs and expenses of foreclosure, including reasonable ~~attorneys'attorneys'~~ fees, through and including appeal. All such costs and expenses are secured by the lien foreclosed. The Homeowner also is required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, which Assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the ~~Homeowner's~~ Homeowner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its Homeowner ~~for purposes of resale~~

~~only.~~ If any foreclosure sale results in a deficiency, the court having jurisdiction over the foreclosure may enter a personal judgment against the Homeowner for such deficiency.–

Section ~~13-11.~~ **Subordination of Lien.** Except where a notice of lien has been filed in the public records prior to the recording of a valid First Mortgage, the lien for the Assessments provided in this Article is subordinate to the lien of any such First Mortgage, but only to the extent provided in Fla. Stat. Sec. 720.3085, as it may be amended from time to time. Notwithstanding anything to the contrary contained in this section, the liability of a first mortgagee, or its successor or assignee as a subsequent holder of the first mortgage who acquires title to a parcel by foreclosure or by deed in lieu of foreclosure for the unpaid assessments that became due before the mortgagee’s acquisition of title, shall be the lesser of:

(a) The parcel’s unpaid common expenses and regular periodic or special assessments that accrued or came due during the 12 months immediately preceding the acquisition of title and for which payment in full has not been received by the association; or

(b)– One percent of the original mortgage debt.

The limitations on first mortgagee liability provided by this Section 11 apply only if the first mortgagee filed suit against the parcel owner and initially joined the association as a defendant in the mortgagee foreclosure action. Joinder of the association is not required if, on the date the complaint is filed, the Association was dissolved or did not maintain an office or agent for service of process at a location that was known to or reasonably discoverable by the mortgagee.

Sale or transfer of any Lot does not affect the Assessment lien. ~~The Association may give any encumbrancer of record 30 days' notice within which to cure such delinquency before instituting foreclosure proceedings against the Lot.~~ Any encumbrancer/lienor holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien established by this Article; upon such payment, such encumbrancer/lienor will be subrogated to all rights of the Association with respect to such lien, including priority.–

Section ~~14-12.~~ **Homesteads.** By acceptance of a deed to any Lot, each Homeowner is deemed to acknowledge conclusively and consent that all assessments established pursuant to this Article are for the improvement and maintenance of any homestead thereon and that the ~~Association's~~ Association’s lien has priority over any such homestead.–

Section ~~15-13.~~ **Reserve Fund.** ~~In the event the Association in the future acquires any Common Properties, then~~ **Funds.** Pursuant to Fla. Stat. 720.303(6) as amended, the Association shall maintain a reserve fund to be used solely for making expenditures in connection with the Common Properties (“Areas (“Reserve Fund”).”). The Board shall determine the appropriate level of the Reserve Fund based on a periodic review of the useful life of the improvements to the Common Properties/Areas and equipment owned by the Association, as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Properties/Areas, the purchase of equipment to be used by the Association in connection with its duties hereunder, or performance of required maintenance. Each budget shall disclose that

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percentage of the General Assessment which shall be added to the Reserve Fund and each Homeowner shall be deemed to make a contribution to the Association equal to such percentage multiplied by each installment of the General Assessment paid by such Homeowner. The budgeting of reserves shall, in all events, conform to the procedures outlined in Fla. Stat. Sec. 720.303(6), as amended.

Section ~~16.14.~~ **Other Charges.** Each Homeowner hereby covenants to pay any and all charges and assessments levied from time to time by the District and other applicable governmental entities.

**ARTICLE IX:**  
**OWNERSHIP, LEASING AND TRANSFER OF PARCELS**

In order to foster a stable, residential character to the Community, the following procedures are hereby in place.

**Section 1. Forms of ownership of Lots:**

(a) A Lot may be owned by any number of natural persons.

~~(b) 17. Additional Master Ownership by Corporations, Partnerships or Trusts.~~ A Lot may be owned in trust, or by a corporation, partnership or other entity which is not a natural person. The intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Lot and residence may be used as short-term transient accommodations for several individuals or families. A trustee or corporation, partnership or other entity as a Lot owner shall be required to designate one (1) natural person to be the “primary occupant”. The use of the Lot and residence by other persons shall be as if the primary occupant were the only actual Homeowner.

(c) Life Estate. A Lot may be subject to a life estate, either by operation of law or by a voluntary conveyance. In that event, the life tenant shall be the only association member from such residence, and occupancy of the residence shall be as if the life tenant was the only Homeowner. The life tenant shall be liable for all assessments and charges against the Lot. Any consent or approval required of members may be given by the life tenant alone, and the consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-Homeowners for purposes of determining voting and occupancy rights.

**Section 2. Rental Properties; Approval of Leases.** All rentals shall be subject to prior written approval by the Association. In the event as set forth below. All leases of Lots or rentals of Lots must be in writing. A Homeowner may sell, lease or rent only his entire Lot, and then only in accordance with this subsection. The privilege to rent or lease may be revoked by the Board of Directors if it is abused by the Homeowner, or the Homeowner fails or refuses to follow the required procedures. Every lease agreement shall bind the tenant to obey all Rules and Regulations which apply to the Dwelling or Homeowner as a condition of the tenancy and

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shall designate Developer or its designee and the Association as third party beneficiaries entitled to enforce this requirement of the lease. The Association may enact additional Rules and Regulations governing leases and the procedures for considering their approval. A current set of the Rules and Regulations shall be delivered to tenant by the Homeowner as part of the lease approval process and in all events, shall be delivered prior to execution of the lease.

(a) Procedures.

~~(i), or its members, become members of a master~~ Notice. A Homeowner intending to lease or rent his Lot (or renew or extend a previously-approved lease or rental) must give to the Board of Directors (or its designee) written notice of such intention at least fifteen (15) days prior to the starting date of the proposed lease or rental (or the renewal or extension thereof), together with the name and address of the proposed lessee, or tenant, all other proposed residents, and other information about the lessee or tenant, or the lease or rental, that the Board may reasonably require. The Association may prescribe and require the use of a particular tenant approval application. The Homeowner must submit a copy of all contracts that will show proof that a contractor or contractors have been hired to ensure the following items of Lot maintenance will be accomplished on an appropriate scheduled basis: (1) the lawn will be mowed, (2) weeds will be controlled, (3) insects and lawn pests will be controlled, and (4) bushes, shrubbery and landscaping will be trimmed and otherwise maintained.

(ii) Failure to Give Notice. Any lease or rental entered into without notice in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee and all other residents by summary proceedings without securing consent to such eviction from the Homeowner.

(b) Term of Lease and Frequency of Leasing. The minimum term of any lease, renewal or extension thereof term is one (1) month. However, an approved lease may be extended for a maximum of four (4) consecutive months as long as there has been no interruption in possession: it being the intent to allow a month-to-month extension that immediately follows the expiration of a rental term under a lease and the lessee's possession of a Lot. No Lot may be rented or leased more than three (3) times in any twelve (12) month period. The Board is empowered to make an exception to the minimum lease or rental term, but only in the case of a hardship and only where written permission is requested and granted prior to any said occupancy. No subleasing or assignment of lease or rental rights by the lessee is allowed.

(c) Occupancy During Lease Term. No one but the lessee or tenant and his family (within the first degree of relationship by blood, adoption or marriage) may occupy the Lot. A lessee or tenant with pets must strictly follow the provisions of this Declaration and any Rules and Regulations of the Association regulating the keeping of pets within the Community.

(d) Regulation by Association. All of the provisions of the Declaration and other governing documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a Lot as a lessee, tenant, or guest to the same extent as against the Homeowner. The Association may require lessees or tenants to post a security deposit as provided by law to protect against damage to the Common Areas. A

covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the governing documents, designating the Association as the Homeowner's agent with the authority to terminate any lease agreement and evict the tenants in the event of breach of such covenant, shall be deemed to be included in every lease or rental agreement, whether oral or written, and whether specifically expressed in such agreement or not.

(e) Authority and Delegation. The Board of Directors shall have the authority to approve all leases or rentals and renewals thereof. The Board shall have the authority to promulgate or use a uniform lease or rental application and require such other information from the proposed tenant as is appropriate under the circumstances. The Board shall have the right to delegate the screening of proposed tenants to a committee, the Association's community association manager, or a commercial tenant screening concern. As part of the tenant screening process, the Association may, but is not required to, obtain background checks in its discretion – the actual cost of which shall be tendered by the Homeowner or tenant along with the application. The Association may also charge a fee for consideration of lease applications the amount of which shall be set forth in the Association's Rules and Regulations, but which otherwise shall not exceed the maximum fee prescribed by law.

(g) Uniform Lease; Tenant Conduct; Remedies. All leases or rentals shall be on a uniform form of lease if so promulgated by the Association. Uniform leases and all others will provide or shall be deemed to provide that the tenants have read and agreed to be bound by the various restrictions contained in the Declaration of Neighborhood Covenants, Articles of Incorporation, Bylaws of the Association, and Rules and Regulations (hereinafter "governing documents"). The uniform lease and other leases shall further provide or be deemed to provide that any violation of the applicable governing documents shall constitute a material breach of the lease and subject the tenant to eviction. If a tenant fails to abide by the applicable governing documents, that respective Lot's Homeowner(s) shall be responsible for the conduct of the tenant. The Homeowner shall have the duty to bring his tenants' conduct into compliance with the governing documents by whatever action is necessary, including without limitation, the institution of eviction proceedings. If the Homeowner fails to bring the conduct of the tenant into compliance with the governing documents, the Association shall have the authority to act as agent of the Homeowner to undertake whatever action is necessary to abate the tenants' noncompliance with the governing documents, including without limitations, the right to institute an action for eviction against the tenant in the name of the Association. The Association shall have the right to recover any costs or fees, including attorney's fees incurred in connection with such actions from the Homeowner in the same manner as common expense charges.

(h) Approval/Disapproval; Time Limitations. Upon receipt of all information and fees required by Association, the application shall be deemed complete and the Association shall have the duty to approve or disapprove all proposed leases, rentals or renewal and extensions within five (5) business days of receipt of such completed application. All requests for approval not acted upon within five (5) business days after being deemed complete shall be deemed approved. The Association has no duty to act on the consideration of an application that has been deemed incomplete. Applications for renewals of lease or rental agreements shall be submitted at least fifteen (15) days in advance of the expiration of the lease or rental agreement. If the Association disapproves a proposed lease or renewal, the Homeowner shall

receive a short statement indicating the reason for the disapproval, and the lease shall not be made or renewed. The Association shall have no duty to provide an alternate lessee nor shall it assume any responsibility for the denial of a lease application or renewal of a lease if any denial is based upon any of the following reasons:

(i) The person seeking approval (which shall include all proposed occupants) has been convicted of a felony involving violence to persons or property, or a felony demonstrating dishonesty or moral turpitude.

~~(ii) master association, or umbrella association ("Master Association") in addition to the Master Beautification Association, or as is otherwise described~~ The application for approval on its face, or the conduct of the applicant, indicates that the person seeking approval intends to conduct himself in a manner inconsistent with the governing documents. By way of example, but not limitation, a Homeowner allowing a tenant or transferee to take possession of the premises prior to approval by the Association (even though the application has been deemed complete) as provided for herein, then and in that event the Association shall have the power to: shall constitute a presumption that the applicant's conduct is inconsistent with applicable restrictions.

~~(iii) (a) levy and collect on its own behalf as part of the General Assessment an amount equal to the amount levied upon the Association by the Master Association; or~~ The person seeking approval has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in the Gateway community as a tenant, Homeowner, or occupant of a Lot or unit.

(iv) The person seeking approval has failed to provide the information, fees, or appearances required to process the application in a timely manner.

(v) All assessments, fines and other charges against the Lot have not been paid in full.

(vi) The proposed occupant makes any material misrepresentation during the application process, which shall justify retroactive disapproval of the application upon discovery of the misrepresentation.

(vii) The Owner has failed to maintain the Improvements on the Lot in conformity with Article VII hereof and the Rules and Regulations.

(viii) As a condition of renting a Lot, the Board may require the posting of a security deposit for damages to the Common Areas, as provided by law.

**Section 7. Fees Related to the Approval of Sale, Lease or Other Transfer of Lots.**  
The Association may charge the owner a preset fee for processing the application: such fee not to exceed \$100.00 per applicant or as otherwise provided under Florida law.

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**ARTICLE X:**  
**MISCELLANEOUS PROVISIONS RESPECTING MORTGAGES**

~~(b) collect on behalf of the Master Association as part of the General Assessment or as a separate charge an amount equal to the amount levied upon the Association's members by the Master Association.~~

**Article IX: Miscellaneous Provisions Respecting Mortgages**

The following provisions are intended for the benefit of a First Mortgagee and to the extent, if at all, that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

Section 1. **Notices of Overdue Assessments; Foreclosure.** Upon request in writing to the Association identifying the name and address of the First Mortgagee or the insurer or guarantor of a recorded First Mortgage on a Lot ~~("Insurer or Guarantor")~~ and the Lot number, the Association shall furnish each First Mortgagee, Insurer or Guarantor a written notice of such Lot ~~owner's~~owner's obligations under this Declaration which is not cured within 60 days. Any First Mortgagee of a Lot who comes into possession of the said Lot pursuant to the remedies provided in the Mortgage, foreclosure or a deed in lieu of foreclosure shall, to the extent permitted by law, take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Lot which become due prior to (i) the date of the transfer of title, or (ii) the date on which the holder comes into possession of the Lot, whichever occurs first.

Section 2. **Rights of First Mortgagees, Insurers and Guarantors.** Upon request in writing, each First Mortgagee, Insurer or Guarantor shall have the right:-

(a) to examine current copies of this Declaration, the ~~By-Laws~~Bylaws, all ~~rules~~Rules and ~~regulations~~Regulations, and the books and records of the Association during normal business hours;

(b) to receive, without charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Homeowners at the end of each of its respective fiscal years; provided, however, that in the event an audited financial statement is not available, any First Mortgagee shall be entitled to have such an audited statement prepared at its expense;

(c) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings;

(d) to receive written notice of any decision by the Homeowners to make a material amendment to this Declaration, the ~~By-Laws~~Bylaws or the Articles of Incorporation;

(e) to receive written notice of any lapse, cancellation or modification of an insurance policy or fidelity bond maintained by the Association; and

(f) to receive written notice of any action which would require the consent of a specified percentage of First Mortgagees.

Section 3. **Distribution of Proceeds.** No provision of this Declaration or the Articles of Incorporation or any similar instrument pertaining to the Property or the Lots therein shall be deemed to give a Homeowner or any other party priority over the rights of the First Mortgagees pursuant to their mortgages in the case of distribution to Homeowners of insurance proceeds or condemnation awards for losses to or a taking of the Lots and/or the Common ~~Property~~Areas, or any portion thereof or interest therein. In such event, the First Mortgagees, Insurers or Guarantors of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

Section 4. **Termination of the Community.** Unless the First Mortgagees of the individual Lots representing at least 67% of the votes in the Association have given their prior written approval, neither the Association nor the Homeowners shall be entitled to terminate the legal status of the Community for reasons other than substantial destruction or condemnation thereof.

Section 5. **Notice of Damage, Destruction or Condemnation.** Upon specific written request to the Association, each First Mortgagee, Insurer or Guarantor of a Lot shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common ~~Property~~Areas if such damage or destruction or taking exceeds \$10,000.00. If damages shall occur to such Lot in excess of \$1,000.00, notice of such event shall also be given.

Section 6. **Condemnation; Priority of Awards.** If any Lot or portion thereof or the Common ~~Property~~Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the First Mortgagee, Insurer or Guarantor of said Lot will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition, and no provisions of any document will entitle the Homeowner of such Lot or other party to priority over such First Mortgagee with respect to the distribution to such Lot of the proceeds of any award or settlement.–

**ARTICLE XI:**  
**DAMAGE, DESTRUCTION, CONDEMNATION**  
**AND RESTORATION OF IMPROVEMENTS**

~~Section Article X:1. Damage, Destruction, Condemnation and Restoration of Improvements~~

~~Section 1. Damage, Destruction and Restoration.~~ In the event the improvements forming a part of the Common ~~Property~~Areas. or any portion thereof, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, plus the Reserve Fund, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall

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be undertaken and the insurance proceeds and, if necessary, the Reserve Fund shall be applied by the Board or the payee of such insurance proceeds in payment therefor; provided, however, that in the event, within 180 days after said damage or destruction, the Homeowners shall elect to withdraw the Property from the provisions of this Declaration, or if the insurance proceeds and the Reserve Fund are insufficient to reconstruct the damaged or destroyed improvements to the Common ~~Property~~Areas and the Homeowners and all other parties in interest do not voluntarily make provision for reconstruction within 180 days from the date of damage or destruction, then such repair, restoration, or reconstruction shall not be undertaken. \_In the event such repair, restoration, or reconstruction is not undertaken, the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Homeowners, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.

Section 2. **Withdrawal of Property Fromfrom Declaration.** \_ In the case of damage or other destruction, upon the unanimous affirmative vote of the Homeowners voting at a meeting called for that purpose, any portion of the Property affected by such damage or destruction may be withdrawn from this Declaration. \_The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Homeowners, shall be on an equitable basis. \_Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common ~~Property~~Areas shall be allocated to the Homeowners on the basis of an equal share for each Lot. \_Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of assessments on such Lot or portion thereof by the Homeowner shall cease.–

Section 3. **Eminent Domain.** \_ In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal of the portion so taken from the provisions of this Declaration may be made by the Board. \_The allocation of any condemnation award or other proceeds to any withdrawing or remaining Homeowner shall be on an equitable basis. \_Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common ~~Property~~Areas shall be allocated to the Homeowners on the basis of an equal share for each Lot. \_Upon the withdrawal of any Lot or portion thereof, the responsibility for the payment of assessments on such Lot or portion thereof by the Homeowner shall cease.\_ The Association shall represent the Homeowners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the Common ~~Property~~Areas or any part thereof.\_ In the event of the total taking of the Property by eminent domain, the condemnation award available in that connection shall be divided by the Association among all Homeowners on the basis of an equal share for each Lot, after first paying from the share of each Homeowner the amount of any unpaid liens on his Lot, in the order of the priority of such liens.–

**Article XI: Termination of the Community**–

**ARTICLE XII:**  
**TERMINATION OF THE COMMUNITY**

At a meeting called for such purpose and attended by all Homeowners, the Homeowners, by affirmative vote of 100% of the Homeowners, may elect to terminate the legal status of the Community and sell the Common ~~Property Areas~~ as a whole. Within 10 days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to all First Mortgagees, Insurers and Guarantors entitled to notice under Article IX hereof. Such action shall be binding upon all Homeowners, and it shall thereupon become the duty of every Homeowner to execute and deliver such instruments and to perform all acts in manner and form as may be necessary to effect such termination and sale. The Association shall represent the Homeowners in any negotiations, settlements and agreements in connection with termination of the Community and sale of the Common ~~Property Areas~~, and any proceeds obtained therefrom shall be first used to pay all expenses and outstanding obligations of the Association and the remainder, if any, shall be divided among all Homeowners on the basis of an equal share for each Lot.–

~~Article XII: Operation~~

**ARTICLE XIII:**  
**OPERATION**

The provisions of this Declaration are self-executing and will run with the land and be binding upon all persons having any right, title, or interest therein, or any part, their respective heirs, successors, and assigns.

~~Article XIII: General Provisions~~

**ARTICLE XIV:**  
**GENERAL PROVISIONS**

Section 1. **Enforcement.** Unless expressly provided otherwise, the Association, or any Homeowner, has the right to enforce, by any appropriate proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, charges, rules, and regulations now or hereafter imposed by, or pursuant to, the provisions of this Declaration. If the Association or any person entitled to enforce any of the provisions of this Declaration is the prevailing party in any litigation involving this Declaration or any rule or regulation, such party may recover from the losing party all costs and expenses incurred, including reasonable ~~attorneys'~~attorneys' fees for all trial and appellate proceedings, if any. If the Association is the losing party against any Homeowner, such costs and expenses, including reasonable ~~attorneys'~~attorneys' fees, payable to the prevailing party and those incurred by the Association itself, may be assessed against such ~~Homeowner's~~Homeowner's Lot, as provided in Article VIII hereof. Failure by the Association or by any Homeowner to enforce any covenant, restriction, rule, or regulation will not constitute a waiver of the right to do so at any time.–

Section 2. **Amendment.** Subject to the provisions of Article ~~IX~~X of this Declaration and as may be otherwise provided herein, ~~Developer may amend this Declaration by an instrument executed with the formalities of a deed without the approval or joinder of any other party at any time prior to the date on which Developer shall have conveyed 90% of the Lots on the Property to third~~

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*April 1, 2019* Declaration of Neighborhood  
*Covenants for TIMBER RIDGE*

parties. Subject to the provisions of Article IX of this Declaration and as may be otherwise provided herein, commencing on the date that Developer shall have conveyed 90% of the Lots on the Property, this Declaration may be amended, rescinded, or terminated: (i) on or before January 1, 2010, by an instrument executed by the Association with the formalities from time to time required of a deed and signed by 90% of all Homeowners; and, (ii) thereafter by an instrument so executed by the Association and signed approved by not less than 70% of all Homeowners. 66 and 2/3rds percent of all Homeowners. However, simple amendments to correct typographical errors or miss-spellings may be made by the Board. No amendment is effective until recorded, and the Association's Association's proper execution of a Certificate of Amendment certifying the approval by the requisite number of Homeowners will entitle it to public record, notwithstanding the informal execution by the requisite percentage of Homeowners.

Notwithstanding the foregoing, no instrument of amendment, rescission or termination shall be effective while there are Class B memberships unless 100% of the Class B members shall approve and join in such instrument. For purposes of this Section, a Lot shall be considered conveyed when the deed is duly recorded. Further, notwithstanding the foregoing, any amendment to this Declaration that will affect the stormwater system, including water management portions of the Common Properties Areas, if any, will be subject to the prior approval of the South Florida Water Management District.

Section 3. Rights of Mortgagees. ~~Section 3. Special Amendment. Anything herein to the contrary notwithstanding, and subject to the requirement of First Mortgagee approval set forth in Article IX hereof where applicable, Developer reserves the right and power to record a special amendment ("Special Amendment") to this Declaration, at any time and from time to time, which amends this Declaration and any provision therein: (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any of such agencies or entities to make, purchase, sell, insure, guarantee or otherwise deal with first mortgages covering Lots; (iii) to correct clerical or typographical errors in this Declaration; (iv) to bring this Declaration into compliance with applicable laws, ordinances or governmental regulations; or (v) to minimize any federal or state income tax liability of the Association. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Developer to make or consent to a Special Amendment on behalf of each Homeowner and the Association. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of the Developer to make, execute and record Special Amendments. The right and power of Developer to make Special Amendments hereunder shall terminate on December 31, 2005, or on the date of the conveyance of all Lots in the Community by the Developer to third parties, whichever occurs last.~~

~~Section 4. Cable Television. Developer has entered into a contract with Gateway/Jones Communications, Ltd., a cable television provider, for the purposes of providing quality cable television services at a reasonable cost to the Lots. Developer hereby gives notice that one of~~



Developer's affiliated companies has an ownership interest in Gateway/Jones Communications, Inc., and that Developer or one of its affiliates may become the sole supplier of cable services to the Community.

~~Section 5. Additions to the Property.~~

~~(a) Additional land may be made subject to all the terms hereof and brought within the jurisdiction and control of the Association in the manner specified in this Section, provided such is done within 40 years from the date this Declaration is recorded. Notwithstanding the foregoing, however, under no circumstances shall Developer be required to make such additions, and until such time as such additions are made to the Property in the manner hereinafter set forth, no other real property owned by Developer or any other person or party whomsoever, other than within the Property, shall in any way be affected by or become subject to this Declaration. All additional land which, pursuant to this Section, is brought within the jurisdiction and control of the Association and made subject to the Declaration shall thereupon and thereafter be included within the term "Property" as used in this Declaration. Notwithstanding anything contained in this Section, Developer neither commits to, nor warrants or represents, that any such additional land will be made subject to and brought within the jurisdiction and control of the Association.~~

Any First Mortgagee has the following rights:

~~(b) Procedure for Making Additions to the Property. Additions to the Property may be made by the following procedure:~~

~~(i) Developer shall have the right from time to time, in its discretion and without need for consent or approval by either the Association, any Homeowner, Resident or other Person to make additional land owned by Developer subject to the scheme of this Declaration and to bring such land within the jurisdiction and control of the Association; provided, however, in the event any portion of such additional land is encumbered by one or more mortgages, Developer must obtain the consent and approval of each holder of such mortgage(s).~~

~~(ii) The addition shall be accomplished by Developer filing of record in the public records a supplement to this Declaration with respect to the additional land extending the terms of the covenants and restrictions of this Declaration to such land as specifically and legally described. Such supplement need only be executed by Developer and shall be accompanied by the consent(s) and joinder(s) of any holder(s) of mortgage(s) on such additional land. No joinder or consent of the Association, any Homeowner, Resident or other Person shall be required. Such supplement may contain such additional provisions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added land or permitted uses thereof. In no event, however, shall such additional provisions and/or modifications revoke, modify, or add to the covenants and restrictions established by this Declaration as such affect the land described in the original Exhibit A or added by a previous supplement.~~

~~(iii) Nothing contained in this Section shall obligate Developer to make additions to the Property.~~

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~~Section 6. Rights of Mortgagees.~~ Any First Mortgagee has the following rights:

(a) ~~(a)~~ Inspection. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect the books, records, and papers of the Association.

~~(b)~~

(b) Copies. Upon payment of any reasonable, uniform charge that the Association may impose to defray its costs, to receive copies of the Association's books, records, or papers, certified upon request.

(c) Financial Statements. Upon written request to the secretary of the Association, to receive copies of the annual financial statements of the Association; provided, however, the Association may make a reasonable charge to defray its costs incurred in providing such copies.

(d) Meetings. To designate a representative to attend all meetings of the ~~membership~~ Membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon.

By written notice to the secretary of the Association, and upon payment to the Association of any reasonable annual fee that the Association from time to time may establish for the purpose of defraying its costs, any First Mortgagee also is entitled to receive any notice that ~~it is~~ required to be given to the ~~Class A members~~ Members of this Association under any provision of this Declaration or the Articles of Incorporation or ~~By-Laws.~~ Bylaws.

Section 7.4. **Severability.** Invalidation of any particular provision of this Declaration by judgment or court order will not affect any other provision, all of which shall remain in full force and effect; provided, however, any court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in this Declaration when necessary to avoid a finding of invalidity while effectuating ~~Developer's intent of providing~~ a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Community.

Section 8.5. **Joinder.** Should title to any Lot of the Community have been conveyed by Developer prior to the recording of ~~this~~ the original Declaration, such Homeowners of Lots by their signature to a Joinder shall be deemed to have joined with the Homeowner in the recording of ~~this~~ that original Declaration and shall have subordinated their right, title and interest in the Lot to the terms ~~hereof~~ thereof and declare that their property shall be subject to ~~this~~ that Declaration (as amended) as fully as if title had been taken by them subsequent to the recording ~~hereof.~~ thereof.

Section 9.6. **Covenant Running with the Property.** Except as otherwise provided herein, the covenants, conditions and restrictions of this Amended and Restated Declaration shall run with and be binding upon the Property, and shall remain in force and be enforced by the Board of Directors and the Homeowners, their heirs, successors and assigns, for a term of 30

years after the date this Amended and Restated Declaration is recorded in the public records of the County, and shall be automatically renewed for successive periods of 10 years, unless the Homeowners, upon the affirmative vote of the holders of ~~7066~~ and 2/3rds % of the ~~voting interests~~ Voting Interests decide within 6 months of such renewal date, not to renew these covenants, conditions and restrictions, and a certificate executed by the president or the vice-president and secretary of the Association certifying to such vote is recorded in the public records of the County.-

~~Section 10. Deletions from the Property. Developer shall have the right and power to withdraw any portion of the Property owned by Developer from the scope of this Declaration. Any such withdrawal shall be accomplished by Developer filing of record in the public records a supplement to this Declaration with respect to the withdrawn land deleting the terms of the covenants and restrictions of this Declaration to such land as specifically and legally described. Such supplement need only be executed by Developer and shall be accompanied by the consent(s) and joinder(s) of any holder(s) of mortgage(s) on such withdrawn land. No joinder or consent of the Association, any Homeowner, Resident or other Person shall be required.~~

~~[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]~~ Section 7. Interpretation and Incorporation of Future Statutory Amendments. It is specifically intended that any mention of the Act herein or specific provision of Florida Statutes Chapter 720 incorporate all future amendments to said Act.

In Witness Whereof, the Association has executed this Declaration in Lee County, Florida, on this \_\_\_\_\_ day of \*, 2019.

Signed, Sealed and Delivered in the Presence of:

\_\_\_\_\_  
Signature of first witness

\_\_\_\_\_  
Printed name of first witness **TIMBER RIDGE NEIGHBORHOOD ASSOCIATION, INC., a Florida not-for-profit corporation**

\_\_\_\_\_  
Signature of second witness By: \*, President

\_\_\_\_\_  
Printed name of second witness

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STATE OF FLORIDA )  
 ) §  
COUNTY OF LEE )

**The foregoing** Declaration was acknowledged before me this \_\_\_\_\_ day of \*, 2019, by \* as President of Timber Ridge Neighborhood Association, Inc., a Florida not-for-profit corporation on behalf of said corporation. He [ ] is personally known to me or [ ] has produced identification of: \_\_\_\_\_.

\_\_\_\_\_  
*(Seal)*

\_\_\_\_\_  
*(sign)*  
**Notary Public: State of Florida At Large**