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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND EASEMENTS FOR SAWMILL BRANCH**

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SAWMILL BRANCH**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR SAWMILL BRANCH ("Declaration") is made this 23<sup>RD</sup> day of JANUARY, 2023, by FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation ("Declarant"), and is joined in by SAWMILL BRANCH AT PALM COAST PARK HOMEOWNERS ASSOCIATION, INC., a Florida corporation not-for-profit ("Association").

WHEREAS, Declarant is the owner in fee simple of the real property more particularly described on Exhibit "A" attached hereto and made a part hereof ("Property"); and

WHEREAS, Declarant desires to develop a planned residential community to be known as "Sawmill Branch" (as hereinafter defined) upon the Property; and

WHEREAS, in order to develop and maintain Sawmill Branch as a planned residential community and to preserve the values and amenities of such community, it is necessary to declare, commit and subject the Property and the improvements now or hereafter constructed thereon to certain land use covenants, restrictions, reservations, regulations, burdens, liens, and easements; and to delegate and assign to the Association certain powers and duties of ownership, administration, operation, maintenance and enforcement; and

WHEREAS, the Association is joining in this Declaration in order to acknowledge its obligations hereunder.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, Declarant hereby declares that the Property shall be owned, held, used, transferred, sold, conveyed, demised and occupied subject to the covenants, restrictions, easements, reservations, regulations, burdens and liens hereinafter set forth, all of which shall run with the Property and any part thereof and which shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

**1. EXPLANATION OF TERMINOLOGY**

The following words and phrases used in this Declaration (unless the context should clearly reflect another meaning) shall have the following meanings:

1.1. "ACCESS CONTROL SYSTEM" shall mean any system intended to control access to Sawmill Branch, if any. THE ASSOCIATION, DECLARANT AND PARTICIPATING BUILDER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THE ASSOCIATION, DECLARANT, PARTICIPATING BUILDER AND THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS AND OFFICERS, ARE NOT INSURERS OF OWNERS OF HOMES, OR THE

PERSONAL PROPERTY LOCATED WITHIN HOMES. THE ASSOCIATION, DECLARANT AND PARTICIPATING BUILDER SHALL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM ANY CASUALTY OR INTRUSION INTO A HOME.

1.2. "ADDITIONAL PROPERTY" shall mean any real property (other than the Property) that may be submitted by Declarant to the terms and provisions of this Declaration by a Supplemental Declaration which shall be executed by Declarant and need not be joined in by any other person or Owner. No portion of any Additional Property shall be encumbered by this Declaration unless and until such property is added by a Supplemental Declaration executed by Declarant. In the event any Additional Property becomes encumbered by this Declaration, then, and only then in such event, the term "Property" as used herein shall also mean a portion (or all) of the Additional Property.

1.3. "AMENDMENT(S)" shall mean any and all amendments to this Declaration, all of which shall be consecutively numbered beginning with the "First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements for Sawmill Branch" and each of which shall be properly adopted pursuant to the terms of the Governing Documents and recorded in the Public Records of the County; provided, however, the failure to so consecutively number such amendments shall not impair their validity hereunder and such amendments to the extent not otherwise numbered will be deemed to have been numbered in chronological order of their appearance in the Public Records of the County. "Amendment(s)" shall also mean any and all amendments to any Supplemental Declaration, as recorded in the Public Records of the County.

1.4. "ARCHITECTURAL REVIEW BOARD" OR "ARB" shall mean the committee created pursuant to Section 8 hereof.

1.5. "ARTICLES" shall mean the Articles of Incorporation of the Association filed in the Office of the Secretary of State of the State of Florida, a true copy of which is attached hereto as Exhibit "B" and incorporated herein by this reference, as such Articles may be amended from time to time.

1.6. "ASSESSMENT" shall mean assessments for which all the Owners are obligated to pay to the Association and includes "Individual Home Assessments," "Special Assessments" and "Service Area Assessments" (as such terms are defined in Section 7 hereof) and any and all other assessments which are levied by the Association in accordance with the Governing Documents.

1.7. "ASSOCIATION" shall mean SAWMILL BRANCH AT PALM COAST PARK HOMEOWNERS ASSOCIATION, INC., a not-for-profit Florida corporation, its successors and assigns, existing pursuant to the Articles, and which Association is responsible for the ownership, administration, operation, maintenance, preservation, enforcement and architectural control of Sawmill Branch as provided in this Declaration. The "Association" is NOT a condominium association and is not intended to be governed by Chapter 718, the Condominium Act, Florida Statutes.

- 1.8. "BOARD" shall mean the governing body of the Association.
- 1.9. "BYLAWS" shall mean the Bylaws of the Association, which have been or will be adopted by the Board, a copy of which are attached hereto as Exhibit "C" and incorporated herein by this reference, as such Bylaws may be amended from time to time.
- 1.10. "CIY" shall mean City of Palm Coast, Florida.
- 1.11. "COMMON AREA" OR "COMMON PROPERTY" shall mean the property which is or will be owned and/or maintained by the Association, as set forth in this Declaration or on the Plat, or additional plat, if any.
- 1.12. "COMMUNITY COMPLETION DATE" shall mean the date upon which all Homes in Sawmill Branch, as ultimately planned and as fully developed, have been conveyed by Declarant or Participating Builder to Owners.
- 1.13. "COMMUNITY DEVELOPMENT DISTRICT" or "CDD" shall mean the Palm Coast Park Community Development District which is a special purpose government unit organized in accordance with the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended, and which may acquire, fund, construct, operate and maintain certain infrastructure and community services within and outside Sawmill Branch.
- 1.14. "COMMUNITY DEVELOPMENT DISTRICT PROPERTY" or "CDD PROPERTY" shall mean any easement or property, real and personal, which is owned or leased by, or is dedicated by the Plat or by separate deed to, the CDD, which easements and property shall be maintained by the CDD, as set forth in this Declaration and/or the Plat.
- 1.15. "COMPLETED HOME" shall mean a Home that has been completed and for which Home a certificate of occupancy or equivalent therefor has been issued by the appropriate governmental agency, and the title to which has been conveyed by Declarant or a Participating Builder.
- 1.16. "COMPLETED HOME OWNER" shall mean the Owner of a Completed Home.
- 1.17. "CONTRIBUTING HOME" shall mean any Home conveyed by Declarant or a Participating Builder(s) to an Owner (other than a Participating Builder) which has been issued a certificate of occupancy for the Home constructed thereon by the appropriate governmental agency, except if conveyed to an Institutional Mortgagee by foreclosure or a deed in lieu of foreclosure, upon which an affirmative covenant to pay Assessments, as more particularly set forth herein, is imposed.
- 1.18. "CONTRIBUTING HOME OWNER" shall mean the Owner of a Contributing Home.
- 1.19. "COUNTY" shall mean Flagler County, Florida.

1.20. "DECLARANT" shall mean Forestar (USA) Real Estate Group Inc., a Delaware corporation, and any successor or assign thereof to which Forestar (USA) Real Estate Group Inc., a Delaware corporation, specifically assigns all or part of the rights of Declarant hereunder by an express written assignment, whether recorded in the Public Records of the County or not. The written assignment may give notice as to which rights of Declarant are to be exercised and as to which portion of the Property. In any event, any subsequent declarant shall not be liable for any default or obligations incurred by any prior declarant, except as may be expressly assumed by the subsequent declarant. An Owner shall not, solely by the purchase of a Home, be deemed a successor or assign of Declarant under the Governing Documents unless such Owner is specifically so designated as a successor or assign of such rights in the instrument of conveyance or any other instrument executed by Declarant.

1.21. "DECLARATION" shall mean this instrument as it may be amended from time to time, together with any Supplemental Declaration(s) or Amendments hereto, which may be recorded in the Public Records of the County.

1.22. "DIRECTOR" shall mean a member of the Board.

1.23. "DRAINAGE SYSTEM" shall mean all structures, including culverts and swales, required to collect and convey rainfall runoff from Sawmill Branch to the water management tract(s) on and/or adjacent to the Property. The Drainage System is located upon and designed to serve all of Sawmill Branch and is a private drainage system. It is intended that the CDD shall maintain the Drainage System.

1.24. "DRI" shall mean that certain Palm Coast Park Development of Regional Impact Order approved by the City Council of the City of Palm Coast, Florida ("City") by Resolution No. 2004-48 with an effective date of December 7, 2004, as it has been and may be amended from time to time.

1.25. "GOVERNING DOCUMENTS" shall mean, in the aggregate, this Declaration and the Articles, Bylaws, any rules and regulations of the Association which may be promulgated, all of the instruments and documents referred to therein and executed in connection therewith, and all amendments to the foregoing.

1.26. "HOA ACT" shall mean the homeowners' association act, Chapter 720, Florida Statutes, as amended through the date of recording this Declaration amongst the Public Records of the County.

1.27. "HOME" shall mean a residential dwelling unit in Sawmill Branch intended as an abode for one (1) family, including single family detached residences. The term Home shall include the Lot. In the event all or any portion of the Additional Property is submitted to this Declaration by a Supplemental Declaration, the number of Homes within Sawmill Branch shall increase.

1.28. "IMPROVEMENT" shall mean all structures or artificially created conditions and appurtenances thereto of every type and kind located within Sawmill Branch, including, but not

limited to, buildings, walkways, sidewalks, parking areas, berms, fountains, sprinkler pipes, gatehouses, roads, driveways, fences, perimeter and retaining walls, underground footers and other foundation supports, stairs, landscaping, hedges, plantings, poles, swings, swimming pools, covered patios, screen enclosures, jogging, bicycling and walking paths, basketball backboards and hoops, signs, site walls, gazebos, benches, mailboxes, decorative street lights and signs.

1.29. "INSTITUTIONAL MORTGAGE" shall mean a mortgage held by an Institutional Mortgagee on any property within Sawmill Branch.

1.30. "INSTITUTIONAL MORTGAGEE OR INSTITUTIONAL LENDER" shall mean any lending institution owning a first mortgage encumbering any Home or Lot within Sawmill Branch, which owner and holder of said mortgage shall either be a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, building and loan association, mortgage banking company licensed to do business in the State of Florida, or any subsidiary thereof, licensed or qualified to make mortgage loans in the State of Florida or a national banking association chartered under the laws of the United States of America or any "secondary mortgage market institution," including the Federal National Mortgage Association ("FNMA"), Government National Mortgage Association ("GNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") and such other secondary mortgage market institutions as the Board shall hereafter approve in writing; any and all lenders, and the successors and assigns of such lenders, which have loaned money to Declarant and which hold a mortgage on any portion of the Property securing any such loan; any pension or profit-sharing funds qualified under the Internal Revenue Code; the Veterans Administration ("VA"), the Federal Housing Administration ("FHA") or the U.S. Department of Housing and Urban Development ("HUD") or such other lender as is generally recognized in the community as an institutional lender; or Declarant, its successors and assigns.

1.31. "INTEREST" shall mean the maximum nonusurious interest rate allowed by law on the subject debt or obligation, and if no such rate is designated by law, then eighteen percent (18%) per annum.

1.32. "LAKES" means those portions of Sawmill Branch designated on the Plat(s), if any, as lake(s), lake tracts or stormwater management tracts.

1.33. "LAKE LOT" means a Lot within Sawmill Branch abutting one of the Lakes.

1.34. "LEGAL FEES" shall mean (i) all fees for attorney and paralegal services incurred in connection with negotiations, mediation, arbitration, litigation or preparation for same (whether or not such an action is actually begun) through and including all trial and appellate levels and post-judgment or collection proceedings; and (ii) all costs incurred with respect to the matters set forth in (i), above.

1.35. "LOT" shall mean any parcel of land within Sawmill Branch as shown on the Plat, any additional plat, or on any replat, if any, upon which a Home is permitted to be constructed, together with the Improvements thereon. Upon completion of construction of a Home on a Lot, such Lot and the Improvements thereon are sometimes collectively referred to as a Lot in this Declaration and the Governing Documents. Any portion of Sawmill Branch owned by the CDD

shall not be considered a Lot.

1.36. "MEMBERS" shall mean all of the Owners who are also members of the Association, as provided herein.

1.37. "MONITORING SYSTEM" shall mean any monitoring/alarm systems or devices including, but not limited to, access control devices, provided for Homes.

1.38. "NOTICE AND HEARING" shall mean written notice and a public hearing before a tribunal appointed by the Board at which the Owner concerned shall have an opportunity to be heard in person or by counsel, at the Owner's expense, in the manner set forth in Section 10.1 herein.

1.39. "OWNER" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Home within Sawmill Branch, and includes Declarant for as long as Declarant owns fee simple title to a Lot or Home, but excluding therefrom those having such interest as security for the performance of an obligation.

1.40. "PARTICIPATING BUILDER" shall mean D.R. Horton, Inc. - Jacksonville, a Delaware corporation, or its successors or assigns, and any affiliate of D.R. Horton, Inc. - Jacksonville and any other entity(ies) Declarant may designate as a Participating Builder. Declarant shall have the right to assign, in whole or in part, any of its rights hereunder to a Participating Builder(s). "Participating Builders" shall mean Participating Builder and any other entity(ies) designated as a Participating Builder.

1.41. "PLAT" shall mean the plat of SAWMILL BRANCH AT PALM COAST PARK PHASE 2A recorded or to be recorded in the Public Records of the County. In the event an additional plat is recorded in the Public Records of the County with respect to the Additional Property made subject to this Declaration pursuant to a Supplemental Declaration, then the term "Plat" as used herein shall also mean the additional plat. Not all of the property shown on the Plat may be subject to this Declaration.

1.42. "PROPERTY" shall mean that certain real property described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of this Declaration and/or the Association; provided, however, Declarant reserves the right to add property and withdraw from the provisions hereof such portion or portions of the Property as Declarant from time to time elects, upon the execution by Declarant of a Supplemental Declaration.

1.43. "PUD" shall mean that certain Planned Unit Development approved by the City Council of the City on April 3, 2007 pursuant to Ordinance Number 2007-06 RZ-PUD-07-02 Sawmill Creek Planned Unit Development, as it has been and may be amended from time to time.

1.44. "PUBLIC RECORDS" shall mean the Public Records of the County.

1.45. "SAWMILL BRANCH" shall mean that planned development located in the County which encompasses the Property. Sawmill Branch is presently intended to be comprised



of Four Hundred Ninety-Three (493) Homes and the Common Area, but subject to change in accordance with this Declaration. Sawmill Branch will initially consist of the land set forth in Exhibit "A," attached hereto and made a part hereof and may be expanded to include Additional Property or reduced by withdrawal of property, all by the recording of one or more Supplemental Declaration(s).

1.46. "SERVICE AREA" shall mean a group of Lots designated as a separate Service Area pursuant to this Declaration or a Supplemental Declaration for purposes of receiving other benefits or services from the Association which are not provided to all Lots. A Service Area may be comprised of more than one housing type and may include noncontiguous parcels of property. A Lot may be assigned to more than one Service Area. Service Area boundaries may be established and modified as provided in Section 13.34.

1.47. "SERVICE AREA ASSESSEMENTS" shall mean assessments levied against the Lots in a particular Service Area as described in Section 7.5.

1.48. "ST. JOHNS RIVER WATER MANAGEMENT DISTRICT PERMIT" OR "DISTRICT PERMIT" shall mean that certain permit issued by the St. Johns River Water Management District affecting the Property, a copy of which is attached as Exhibit "D" hereto and made a part hereof, as same may be amended or modified from time to time.

1.49. "SUPPLEMENTAL DECLARATION" shall mean any instrument executed by Declarant which, when recorded in the Public Records of the County, shall: (a) commit Additional Property, if any, to the provisions of this Declaration, and shall be the only method of committing such property to the provisions of this Declaration, (b) withdraw any portion(s) of the Property from the effect of this Declaration, (c) designate portion(s) of the Property or Additional Property as Common Area hereunder or as CDD Property, and/or (d) be for such other purposes as are provided in this Declaration. A Supplemental Declaration may also be used to add additional covenants, restrictions, reservations, regulations, burdens, liens, and easements upon the Property or any portion thereof; remove any existing covenant, restriction, reservation, regulation, burden, lien or easements from the Property or any portion thereof; declare certain properties to be or not to be Common Area; and/or add properties to or withdraw properties from the Property and the provisions of this Declaration. The Association shall join in the execution of any Supplemental Declaration at the request of Declarant but such joinder shall not be required to make any such Supplemental Declaration effective. The Owners shall not be required to join in the execution of any Supplemental Declaration but shall nevertheless be bound thereby.

1.50. "SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM" shall mean a system of structures and other improvements, including, without limitation, control structures, culverts and swales, which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, over drainage, environmental degradation and water pollution, or to otherwise affect the quality and quantity of discharge from the system, as permitted pursuant to Chapter 62-330, Florida Administrative Code. The Surface Water or Stormwater Management System is located upon and designed to serve the Property and possibly other properties around the Property. It is intended that the CDD shall maintain, repair and operate the Surface Water or Stormwater Management System located on the

Property in accordance with the requirements of the District Permit.

1.51. "TURNOVER DATE" shall mean the date upon which Members, including Declarant, shall assume control of the Association and elect the Board, as more particularly described in Article V.D.2 of the Articles.

1.52. "WATER MANAGEMENT DISTRICT" or "SJRWMD" shall mean the St. Johns River Water Management District, a regional water management district established in accordance with Florida law, and any successor, governmental agency, body or special district charged with the rights and responsibilities of the SJRWMD.

## 2. DESCRIPTION OF SAWMILL BRANCH

### 2.1. General Plan of Development

Sawmill Branch comprises the Property encompassing, or which will encompass, the Lots and Common Area, and the CDD Property, as more particularly defined by this Declaration and, in addition, lands which Declarant may add, but shall in no way be obligated to add, by one or more Supplemental Declaration(s). The Property initially declared hereunder is described in Exhibit "A" attached hereto and is planned to contain Four Hundred Ninety-Three (493) Homes, together with Common Area, all in accordance with, but subject to, the terms of this Declaration. Notwithstanding the foregoing, Declarant hereby reserves the right to modify its plan of development of Sawmill Branch (including, without limitation, the right to modify the site plan of Sawmill Branch; the right to add or change the recreational facilities and amenities, if any, Home product types, and number of Homes to be constructed within Sawmill Branch); and/or the right to add land to Sawmill Branch or to withdraw land from Sawmill Branch. Therefore, in the event Declarant modifies its plan of development of Sawmill Branch and/or adds land to Sawmill Branch or withdraws land from Sawmill Branch, it is hereby acknowledged by each Owner that the number of Lots, the layout of Lots and/or the size of Lots within Sawmill Branch may change. Declarant's general plan of development further contemplates that the Homes to be constructed within Sawmill Branch shall be whatever types of structures Declarant may choose which are in conformance with this Declaration. Declarant's general plan of development of Sawmill Branch may also include whatever facilities and amenities Declarant considers in its sole judgment to be appropriate to Sawmill Branch, as well as any changes thereto.

Additional Property will become a part of Sawmill Branch if, and only if, Declarant in its sole discretion adds Additional Property to Sawmill Branch by recording a Supplemental Declaration to such effect. Declarant hereby reserves an easement for ingress and egress and for utilities and drainage over, under and across the Property for the benefit of any Additional Property; provided, however, no such easement may be granted upon any portion of the Property that lies directly beneath a Home.

Declarant expressly reserves the right as to the Property to (i) commence construction and development of the Property if and when Declarant desires; (ii) develop the Property upon such timetable as Declarant, in its sole discretion, chooses; and (iii) modify the plan of development of the Property (including, without limitation, the right to modify the site plan and

master plan of Sawmill Branch, the right to add or change the recreational facilities and amenities, and the right to change the Home product types and number of Homes to be constructed within Sawmill Branch) in such manner as Declarant, in its sole discretion, chooses. Nothing contained herein shall be construed as obligating Declarant to construct Sawmill Branch according to the present plan of development nor as obligating Declarant to declare any Additional Property to be Property.

Notwithstanding anything in this Declaration to the contrary, there shall be no modification of the plan of development or other changes of any type or nature provided for or described in this Section 2.1 without the prior written consent of Participating Builders, except for subjecting all or any portions of the Additional Property to the terms and provisions of this Declaration.

A uniform community development district known as the Palm Coast Park Community Development District (the "CDD") has been or will be established pursuant to Chapter 190 of the Florida Statutes to acquire or provide certain funding of the construction, maintenance and repair of improvements serving Sawmill Branch. The CDD will provide certain urban community development services and will have the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide such services. The CDD will impose taxes and/or assessments on Sawmill Branch through a special taxing CDD. These taxes will pay for the construction, maintenance and/or repair costs of improvements serving Sawmill Branch and will be set annually by the governing board of the CDD. These taxes and assessments are in addition to county and all other taxes and assessment provided for by law. These fees, rates, charges, taxes and assessments will either appear on the annual real estate tax bill for each Owner in which case they will be payable directly to the Flagler County Tax Collector or they will appear on a separate bill issued to each Owner by the CDD. All taxes of the CDD shall constitute a lien upon those portions of Sawmill Branch owned by any Owner. The CDD shall have the power to issue any types of bonds permitted by Chapter 190, Florida Statutes.

## 2.2. Lakes; Water Level and Use.

With respect to any waterways now existing or which may hereafter be contained within Sawmill Branch, only Declarant (and after the Turnover Date, the Association) shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters, or other structure shall be erected on or over the waterways, except as may be erected or approved in writing by the Declarant (and following the Turnover Date, the Association). Only the Declarant (and after Turnover Date, the Association) shall have the right to prescribe the schedule for watering of the landscaping of the Property (subject to applicable legal requirements). No swimming shall be permitted on such waterways. The Association shall have, as permitted or required by law, the right to control the growth and eradication of plants, fowl, fish and fungi in and on such waterways.

All Owners acknowledge that the Property is located within the boundaries of the District. Due to ground water elevations underneath the Property, priorities established by governmental authorities and other causes outside of the reasonable control of Declarant and the Association, water levels in the waterways may rise and fall significantly due to among other

things, fluctuations in ground water elevations within the surrounding areas. Accordingly, Declarant and the Association have no control over such water levels and/or ground water elevations. Neither Declarant nor the Association shall have any liability for aesthetic conditions, objectionable odors, damage to plantings or direct or consequential damages of any nature caused by the fluctuation of water levels or water quality. Each Owner, by acceptance of title to a Lot, and each Owner's invitees, guests, agents, lessees, and their family members by use of a Lot, hereby release Declarant and the Association from and against any and all losses, claims, demands, liabilities, damages, costs and expenses of whatever nature or kind (including, without limitation, attorneys' fees and courts costs at trial and all appellate levels), related to, arising out of and/or resulting from water levels in the waterways.

DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING, BUT NOT LIMITED TO, LIFEGUARDS FOR THE WATERWAYS. ANY INDIVIDUAL USING THE WATERWAYS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY HOLDS DECLARANT AND THE ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS ARISING FROM SUCH USE.

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO A LOT, AND EACH OWNER'S INVITEES, GUESTS, AGENTS, LESSEES, AND THEIR FAMILY MEMBERS BY USE OF A LOT, ACKNOWLEDGES THAT THE WATERWAYS ARE DEEP AND DANGEROUS. NEITHER DECLARANT, THE ASSOCIATION NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY WATERWAY WITHIN SAWMILL BRANCH, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF SAWMILL BRANCH SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITAT OR ENTER INTO WATER BODIES WITHIN OR NEARBY SAWMILL BRANCH AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

No installation of sand or other materials intended to simulate a beach shall be permitted along the Lake banks. Unless prohibited by applicable law, codes or any permits issued by governmental authorities, only non-motorized watercraft may be operated on any portion of the

Surface Water or Stormwater Management System, including retention ponds. Swimming is strictly prohibited within any portion of the Surface Water or Stormwater Management System, including the retention ponds. No removal or damage to littoral or wetland plantings, if any, is permitted.

### 2.3. Model Row

Declarant hereby reserves for itself and for Participating Builders the right to construct and/or operate a "model row(s)" in Sawmill Branch. The "model row(s)" may contain models for Sawmill Branch or other communities, as Declarant and/or any of Declarant's affiliates may so determine, in their sole discretion. The "model row(s)" may also contain parking, landscaping and fencing across the roads within Sawmill Branch as Declarant may determine in its sole discretion. In the event that Declarant, any of its affiliates or a Participating Builder(s) constructs a "model row(s)" in Sawmill Branch, such "model row(s)" may be used for such period of time that Declarant and/or any of Declarant's affiliates and/or or a Participating Builder(s) determines to be necessary in their sole judgment. Declarant and Participating Builder(s) may use any model home(s) for a sales office. By the Owner's acceptance of a deed for a Lot and Completed Home in Sawmill Branch, such Owner agrees and acknowledges that: (i) Declarant and/or any of Declarant's affiliates and/or Participating Builder(s) have a right to construct and/or operate a "model row(s)"; (ii) Declarant and/or any of its affiliates and Participating Builder(s) have an easement over Sawmill Branch for ingress and egress to and from the "model row(s)" and to use and show the models to prospective purchasers in Sawmill Branch or other communities being developed by Declarant and/or any of Declarant's affiliates, and/or any Participating Builder(s) as long as such "model row(s)" exists; and (iii) the Owner shall not interfere in any manner whatsoever in the sales process by Declarant and/or any of Declarant's affiliates, and/or any Participating Builder(s), including, without limitation, the carrying of signs, the posting of signs on Lots or Homes or other types of demonstrations in Sawmill Branch or any public right-of-way adjacent to the Property. Each Owner acknowledges and agrees that any such activities interfere with the quiet enjoyment of Sawmill Branch by the other Owners, are detrimental to the value of the Homes within Sawmill Branch, and interfere with Declarant's and/or its affiliates and/or any Participating Builder(s) ability to conduct their respective business.

## 3. ADDITIONS TO AND WITHDRAWALS FROM THE PROPERTY; CONVEYANCE OF COMMON AREA

### 3.1. Additions

Declarant may from time to time, in its sole discretion, by recording appropriate Supplemental Declaration(s) in the Public Records of the County, add any Additional Property or any other real property to the Property governed by this Declaration, and may declare all or part of such Additional Property or other property (including any Improvements thereon) to be Lots or Common Area. Upon the recording of a Supplemental Declaration, the property described therein shall be deemed part of the Property as if it were originally included therein and subject to this Declaration. Any such Supplemental Declaration may submit any Additional Property or any other real property to such modifications of the covenants, restrictions, reservations, regulations, burdens, liens and/or easements contained in this Declaration as may be necessary or convenient to reflect or adapt to any changes in circumstances or differences in the character of any such

Additional Property or other property. Nothing contained in this Section 3.1 shall be construed to require the joinder by or consent of the Owners or the Association to any such Supplemental Declaration; provided, however, the Association shall join in the execution of any such Supplemental Declaration at the request of Declarant. In addition, nothing herein shall require Declarant to add any Additional Property.

### 3.2. Designation of Additional Common Area

Declarant may, from time to time, by recording Supplemental Declarations in the County, designate additional portions of the then existing Property owned by it to be Common Area.

### 3.3. Disclaimer of Implication

Only the real property described in Exhibit "A" hereto is submitted and declared as the Property subject to this Declaration. Unless and until a Supplemental Declaration is recorded in the fashion required pursuant to this Declaration, no other property (including any Additional Property) shall in any way be deemed to constitute a portion of the Property or be affected by the covenants, restrictions, reservations, regulations, burdens, liens, and easements expressly binding the Property as provided by the terms of this Declaration.

### 3.4. Absence of Obligation

Nothing in this Declaration shall be construed to require Declarant to add any Additional Property to the Property encumbered by this Declaration or to require Declarant to declare any portion of any properties added to the Property to be Common Area, nor shall anything in this Declaration be construed to require Declarant to declare any portion or portions of the existing Property as Common Area, except to the extent herein specifically provided.

### 3.5. Withdrawal

Notwithstanding anything herein to the contrary, Declarant reserves the absolute right at any time to withdraw portions of the Property from the provisions of this Declaration by recording an appropriate Supplemental Declaration in the County. Any such Supplemental Declaration must be executed by Declarant, the Owner of each Lot located on the Property sought to be withdrawn (if any) and each holder of an Institutional Mortgage on a Lot located on the Property sought to be withdrawn (if any), in order to be effective. Nothing contained in this Section shall be construed to require the joinder by or consent of the Owners of Lots on the portion of the Property which is not withdrawn by such Supplemental Declaration, such Owners' Institutional Mortgagees holding mortgages on Lots on the portion of the Property which is not withdrawn by such Supplemental Declaration, or the Association.

### 3.6. Title to the Common Area

To the extent herein provided, the Common Area is hereby dedicated to the joint and several use in common of the Owners of all Lots that may, from time to time, constitute part of the Property. When title to all Lots which are subject to the provisions of this Declaration has been conveyed to non-Declarant purchasers or earlier at Declarant's option (exercisable from time to time, as to any portions of the Common Area), Declarant or its successors and assigns shall

convey and transfer to the Association, by quitclaim deed, the fee simple title to the Common Area free and clear of any mortgages and the Association shall accept such conveyance, holding title for the Owners as aforesaid. Such conveyance shall be subject to: (i) taxes and assessments with respect to the Common Area from and after the date of recording this Declaration; (ii) all laws, ordinances, regulations, restrictions, prohibitions and other requirements imposed by governmental authorities, including, without limitation, all building, zoning, land use and environmental laws, ordinances, codes and regulations; (iii) matters which would be disclosed by an accurate survey of the Common Area; (iv) easements, covenants, conditions, restrictions, reservations, limitations, agreements and other matters of record; and (v) the terms and provisions of this Declaration, as the same may have been modified, amended and/or supplemented from time to time.

At the time of conveyance of the Common Area or any portion thereof, the Association shall be required to accept the Common Area, together with the personal property and Improvements appurtenant thereto, if any. The Association hereby agrees to accept the Common Area and the personal property and Improvements appurtenant thereto in "AS IS" "WHERE IS" condition, without any representation or warranty, expressed or implied, in fact or by law, as to the condition or fitness of the Common Area and the personal property and Improvements appurtenant thereto being conveyed. IN THAT REGARD, THE ASSOCIATION AND EACH OWNER KNOWINGLY AND VOLUNTARILY RELINQUISHES AND WAIVES, AND DECLARANT EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES (EXPRESS OR IMPLIED) AS TO THE COMMON AREA AND PERSONAL PROPERTY AND IMPROVEMENTS WHETHER ARISING FROM CUSTOM, USAGE OR TRADE, COURSE OF CONDUCT, COURSE OF DEALING, CASE LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF HABITABILITY, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY IMPLIED WARRANTY OF FITNESS FOR ANY INTENDED OR PARTICULAR PURPOSE. TO THE EXTENT THAT BY LAW OR OTHERWISE ANY OF THE WARRANTIES RELINQUISHED, WAIVED OR DISCLAIMED CANNOT BE RELINQUISHED, WAIVED OR DISCLAIMED, IN WHOLE OR IN PART, ALL SECONDARY, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE SPECIFICALLY EXCLUDED AND DISCLAIMED (INCLUDING, WITHOUT LIMITATION, DAMAGES RESULTING FROM CLAIMS OF PROPERTY DAMAGE, LOSS OF USE, PERSONAL INJURY OR EMOTIONAL DISTRESS).

The Association shall accept this conveyance of the Common Area (together with the personal property and Improvements appurtenant thereto) and shall pay all costs of such conveyance including documentary stamps and other taxes of conveyance, recording charges, title insurance expenses and insurance fees. The conveyance shall not, however, impair in any way Declarant's rights and easements as set forth in this Declaration.

Commencing upon the date this Declaration is recorded, and notwithstanding that title thereto has not yet been conveyed to the Association, the Association shall be responsible for the maintenance of the Common Area in a continuous and satisfactory manner without cost to the general taxpayers of the County. The Association shall be responsible for the payment of real estate taxes, if any, against the Common Area including taxes on any Improvements and any personal property thereon accruing from and after the date this Declaration is recorded.

The Owners (including Declarant as to Lots owned by it) shall have no personal liability for any damages: (i) for which the Association is legally liable, or (ii) arising out of,

relating to, or in connection with the existence or use of any Common Area or any other property required to be maintained by the Association.

Subject to the foregoing, Declarant may mortgage any or all portions of the Common Area to finance construction and development expenses provided that the mortgagee recognizes the rights of Owners under this Declaration and neither the Association nor any Owner is personally liable for paying the mortgage. In such event, neither the Association nor the Owners shall be required to join in or be entitled to consent to such mortgage. The Common Area shall be released from any such mortgage no later than the date same is conveyed to the Association.

### 3.7. Parking Rights

The Association may maintain upon the Common Area parking spaces for Owners, occupants, visitors and guests. The use of such parking spaces by Owners, occupants, visitors and guests shall be subject to duly adopted rules and regulations of the Association, as the same may be amended from time to time.

## 4. OWNERS' PROPERTY RIGHTS

### 4.1. Owners' Easements of Enjoyment

Every Owner and family member, guest, lessee, agent or invitee of an Owner shall, except as may otherwise be provided in this Declaration, have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of the Common Area within the Property, except as may otherwise be specifically provided elsewhere in this Declaration, in common with all other Owners, their family members, guests, lessees, agents and invitees, located outside another Owner's Home which easement shall be appurtenant to, and shall pass with title to each Owner's Lot. This right shall be subject to the following conditions and limitations:

4.1.1. The right and duty of the Association to reasonably limit the number of guests, invitees or tenants of an Owner using the Common Area.

4.1.2. The right and duty of the Association to levy Assessments against each Contributing Home for the purpose of operating, maintaining, repairing and replacing the Common Area and facilities thereon, all in compliance with the provisions of this Declaration and the restrictions on portions of the Property from time to time recorded by Declarant.

4.1.3. The right of the Association to establish, amend and/or abolish from time to time, uniform rules and regulations pertaining to the use of the Common Area.

4.1.4. The right of the Association to establish, amend and/or abolish from time to time uniform rules and regulations pertaining to the Lots for the purposes of enhancing the aesthetic uniformity of the Property.

4.1.5. The right of the Association in accordance with its Articles, Bylaws, and this Declaration, with the vote or written assent of two-thirds (2/3) of the total voting interests of



the Association, to borrow money for the purpose of improving the Common Area and facilities thereon, and, in aid thereof, to mortgage, pledge, or hypothecate any or all of its real or personal property or pledge Assessments as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the use rights of the Owners.

4.1.6. The right of the Association to dedicate, release, alienate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject the Common Area to such conditions as may be agreed to by the Association. No such dedication, release, alienation or transfer shall be effective unless Members entitled to cast two-thirds (2/3) of the total voting interests of the Association agree to such dedication, release, alienation, or transfer.

4.1.7. The right of the Association to without any vote of the Owners to grant easements and rights-of-way or strips of land, where necessary or desirable, for utilities, water and sewer facilities, cable television, and other services over the Common Area to serve the Common Area and other portions of the Property, without vote of the Owners.

4.1.8. The right of Declarant, Declarant's affiliates and each of their respective officers, directors, partners, employees, agents, licensees, and invitees to the nonexclusive use of the Common Area within the Property and the facilities thereon, without charge, for sales, marketing, display, access, ingress, egress, construction, and exhibit purposes and to grant (without consent of the Association and/or vote of the Owners) easements and rights-of-way as provided in this Declaration.

4.1.9. The right of the Association, by action of the Board, to reconstruct, replace, or refinish any Improvement or portion thereof upon the Common Area, in accordance with the original design, finish, or standard of construction of such Improvement.

4.1.10. The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs, and ground cover upon any portion of the Common Area, except as may be prohibited under the District Permit.

4.1.11. The right, however not the duty, of the Association by action of the Board to seek the vacation of publicly dedicated streets, if any, upon the Common Area.

4.1.12. The easements provided elsewhere in this Declaration, designated on the Plat or any additional plat, if any, including, but not limited to, those set forth in this Section 4.

4.1.13. The right of the Association to provide for the maintenance, preservation and architectural control of Lots, Homes and other properties as set forth in this Declaration.

4.1.14. The right of the Association and Declarant and their respective employees, agents, licensees, and invitees to come upon the Property (including, without limitation, Common Area as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient for the Association and/or the Declarant to carry on its respective duties, obligations, responsibilities under, and all other work referred to in, this Declaration (including, without

limitation, Declarant's development and construction of Sawmill Branch and Homes therein).

#### 4.2. Delegation of Use

Any Owner may delegate, in accordance with this Declaration, such Owner's right of enjoyment to the Common Area located outside the Homes to the members of such Owner's family, or to the lessees who reside in such Owner's Home, subject to this Declaration, all of the rules and regulations presently in effect and any which may become effective in the future, and further subject to reasonable regulation by the Board.

#### 4.3. Recognition of Existing Easements

Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes and consents to the easements reserved and/or granted with respect to the Property under this Declaration.

#### 4.4. Easements for Vehicular Traffic

In addition to the general easements for use of the Common Area reserved herein, there shall be, and Declarant hereby reserves, grants, and covenants for itself and all future Owners, their family members, guests, invitees and lessees, Institutional Mortgagees of the Property (or portions thereof), and to the Association, that all of the foregoing shall have a perpetual nonexclusive easement for vehicular traffic over (i) all streets dedicated to the public use, if any (as well as alcoves, cul de sacs, and other private, paved areas abutting or serving the same), and (ii) any private roads within or upon the Property.

#### 4.5. Access Easement

Declarant hereby reserves for itself and Participating Builders, perpetual, nonexclusive easements of ingress and egress over and across: (i) any private streets, drives, roads and/or roadways and driveways, if any, within or upon the Property, and (ii) all other portions of the Property, any of the foregoing of which are necessary or convenient for enabling Declarant or Participating Builders to carry on and complete the work referred to in this Declaration. All of the foregoing easements shall be for the use of Declarant, Declarant's employees, contractors and agents, Declarant's successors and assigns, Participating Builders and Participating Builders' employees, contractors, subcontractors and agents, Owners, and the respective tenants, employees, agents, invitees, and licensees of Declarant, Participating Builders and Owners.

#### 4.6. Grant and Reservation of Easements

Declarant hereby reserves and grants the following perpetual, nonexclusive easements over and across the Property as covenants running with the Property for the benefit of the Owners, the Association and Declarant as hereinafter specified for the following purposes:

4.6.1. Utility and Services Easements. All of the Property shall be subject to an easement or easements to provide for: (i) installation, service, repair and maintenance of the

equipment required to provide utility services to the Property and the Lots and Homes, including, but not limited to, power, lights, telephone, cable television, gas, water, sewer, irrigation and drainage, and (ii) governmental services, including, but not limited to, police, fire, health, sanitation and other public service personnel, including reasonable rights of access for persons and equipment necessary for such purposes for the benefit of the appropriate utility companies, agencies, franchises or governmental agencies.

4.6.2. Easement for Encroachment. All of the Property shall be subject to an easement or easements for encroachment in favor of each Owner in the event any portion of such Owner's Home or appurtenant Improvements installed by Declarant or Participating Builder(s) such as a fence, stucco, underground footer or sidewalk, now or hereafter encroaches upon any of the Lots as a result of minor inaccuracies in survey or construction, by design, or due to settlement or movement. Such encroaching Improvements installed by Declarant or Participating Builder(s) shall remain undisturbed for so long as the encroachment exists. Any easement for encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of the Owner thereof or such Owner's designees.

4.6.3. Easement to Enter Upon Lots and Homes. An easement or easements for ingress and egress in favor of the Association including the Board or the designee of the Board, to enter upon the Lots for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or repair in accordance with the Governing Documents, including, by way of example, the making of such repairs, maintenance or reconstruction as are necessary for the Common Area and to maintain any Lot in the event the Owner thereof fails to do so.

4.6.4. Easement over Common Area. An easement of enjoyment in favor of all Owners, their family members, guests, invitees and tenants in and to the Common Area which shall be appurtenant to and shall pass with a deed or title to every Lot in the Property, subject to the following:

4.6.4.1. the right of the Association to suspend the right to use the Common Area of any Owner and such Owner's family members, guests, invitees and tenants for any period during which Assessments against such Owner's Lot remain unpaid, subject to the notice and hearing provisions in Section 10.1 herein;

4.6.4.2. the right of Declarant and Participating Builder(s) and each of their respective officers, directors, partners, employees, agents, licensees, and invitees to the nonexclusive use of the Common Area and the facilities thereon, without charge, for sales, marketing, display, access, ingress, egress, construction, and exhibit purposes, and to grant (without consent of the Association and/or vote of the Owners) easements and rights-of-way as provided in the Declaration;

4.6.4.3. the right of the Association and Declarant and their respective employees, agents, licensees, and invitees to come upon the Property (including, without limitation, Common Area as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient for the Association and/or the Declarant to carry on its respective duties, obligations, responsibilities under, and all other work referred to in, this

Declaration (including, without limitation, Declarant's or Participating Builders' construction of Homes in Sawmill Branch;

4.6.4.4. the right of the Association to grant permits, licenses and easements over the Common Area for utilities and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property; and

4.6.4.5. all provisions set forth in the Governing Documents.

4.6.5. Easement for Roof Overhang. An easement or easements, as shown on the Plat and additional plat, if any, to provide for the roof overhang of a Home in favor of the Owner thereof, including rights of access for persons or equipment necessary to maintain, repair and replace such roof overhang.

4.6.6. Irrigation Easement. An easement for irrigation over, under and upon the Property, including each of the Lots, in favor of the Association and each Owner, including, but not limited to, reasonable rights of access for persons and equipment to construct, install, maintain, alter, inspect, remove, relocate and repair the irrigation pipes.

4.6.7. Plat Easement(s). The Plat and/or additional plat, if any, may contain additional easements not discussed herein, granted in favor of the Association, Owners or others, for the specific purposes as described therein.

4.6.8. Drainage Easement. An easement for the purpose of accessing the Lakes to perform Lake maintenance and to perform Surface Water or Stormwater Management System and drainage facilities. The Owners, their guests, invitees, lessees and other persons are specifically prohibited from utilizing the drainage easements for the purpose of accessing the Lakes for other uses.

4.6.9. Maintenance Easements. Easements over the Property outside of the Homes granted in favor of the Association and the District for the purpose of maintaining the Lakes and Surface Water or Stormwater Management System and drainage facilities within the Lakes.

4.7. Surface Water or Stormwater Management System Easement.

4.7.1 Blanket Surface Water or Stormwater Management System Easement. The plan for the development of the Property includes the construction of a Surface Water or Stormwater Management System, which may include, without limitation, retention lakes, swales, conduits, weirs, pipes, and/or berms across the rear of certain Lots and access easements to the Surface Water or Stormwater Management System as may be shown on the Plat or otherwise dedicated. Declarant hereby reserves for itself, its successors and assigns, and grants to the Association and its designees, a perpetual, nonexclusive easement over and across all areas of the Surface Water or Stormwater Management System for the drainage of stormwater from the

Property. Portions of the Surface Water or Stormwater Management System may be located entirely within Lots.

#### 4.7.2 Surface Water or Stormwater Management System Maintenance.

To the extent not maintained by the CDD, the Association shall be responsible for the maintenance, operation, and repair of the Surface Water or Stormwater Management System. Such maintenance shall include the exercise of practices which allow the Surface Water or Stormwater Management System to provide drainage, water storage, conveyance, or other capabilities in accordance with all the permits, statutes, rules, and regulations pertaining to surface water management, drainage, and water quality promulgated by the District, Florida Department of Environmental Protection, and all other local, state and federal authorities having jurisdiction. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the Surface Water or Stormwater Management System to provide drainage, water storage, conveyance and other stormwater management capabilities as permitted by the District.

To the extent not maintained by the CDD, the Association shall maintain and control the water level and quality of the Surface Water or Stormwater Management System and the bottoms of any retention lakes or drainage easements which retain or hold stormwater on a regular basis. The Association shall have the power, as may be required by any applicable governmental entity, to control and eradicate plants, fowl, reptiles, animals, fish, and fungi in and on any portion of the retention lakes or drainage easement. The Owners of Lots adjacent to or containing any portion of the Surface Water or Stormwater Management System, shall maintain all shoreline vegetation and the grade and contour of all embankments to the water's edge (as it may rise and fall from time to time) irrespective of ownership of such land, keep the grass, plantings, and other lateral support of the embankments in a clean and safe manner and to prevent erosion and shall remove trash and debris as it may accumulate in the system, from time to time. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the Surface Water or Stormwater Management System to provide drainage, water storage, conveyance or other surface water capabilities as permitted by the District. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be consistent with the District Permit as originally issued or any modification that may be approved by the District. In order to provide adequate assurance that the Surface Water or Stormwater Management System will adequately function, the following maintenance procedures shall be followed:

4.7.2.1 To the extent not maintained by the CDD, the Association shall inspect or cause to be inspected all inlets and control structures for vandalism, deterioration or accumulation of sand and debris.

4.7.2.3 To the extent not maintained by the CDD, the Association shall assure that all debris or sand shall be removed from the inlets and control structures and any orifice system.

4.7.2.4 To the extent not maintained by the CDD, the Association shall inspect and repair or cause to be inspected and repaired all skimmer boards around control structures as necessary.

4.7.3 Surface Water or Stormwater Management System Maintenance Easement. The CDD and Association are granted a perpetual, nonexclusive easement for ingress and egress, at all reasonable times and in a reasonable manner, over and across the Surface Water or Stormwater Management System and over any portion of a Lot which is a part of the Surface Water or Stormwater Management System, or upon which a portion of the Surface Water or Stormwater Management System is located to operate, maintain, and repair the Surface Water or Stormwater Management System as required by the District Permit. Such right expressly includes the right to cut any trees, bushes or shrubbery, to make any gradings of soil, construct or modify and berms placed along the rear of any Lots as part of the Surface Water or Stormwater Management System, or take any other action reasonably necessary, following which Declarant or the Association shall restore the affected property to its original condition as nearly as practicable; provided, however, that Declarant or the Association shall not be required to replace or repair fences, walks, structures, landscaping, or other improvements which are removed or damaged. Declarant or the Association shall give reasonable notice of its intent to take such action to all affected Owners, unless, in the opinion of Declarant or the Association, an emergency exists which precludes such notice. The right granted herein may be exercised at the sole option of Declarant or the Association and shall not be construed to obligate Declarant or the Association to take any affirmative action in connection therewith. The Owners of Lots adjacent to or containing a portion of the retention areas are granted a perpetual, nonexclusive easement for ingress and egress over and across the Surface Water or Stormwater Management System for the purpose of providing maintenance and erosion control to the embankments of such retention areas but only in compliance with the District Permit or otherwise with District approval.

4.7.4 Improvements. No docks, bulkheads, or other structures, permanent or temporary, shall be constructed on, over, or under any portion of the Surface Water or Stormwater Management System without the prior written consent of the Association and the approval of the ARB or Declarant, which consent or approval may be withheld for any reason. Any improvements to the Surface Water or Stormwater Management System permitted by the Association and installed by the Owner shall be maintained by such Owner in accordance with the maintenance provisions of this Declaration. All improvements to the Surface Water or Stormwater Management System may also require the prior written approval of the District. After receiving the approval of the ARB, Owner shall be solely liable for obtaining all governmental permits necessary or convenient to construct such Improvement.

4.7.5 Use and Access. Declarant and the Association shall have the right to adopt reasonable rules and regulations from time to time in connection with the use of the surface waters of any portion of the Surface Water or Stormwater Management System, and shall have the right to deny such use to any person who, in the opinion of Declarant or the Association, may create or participate in a disturbance or nuisance on any part of the Surface Water or Stormwater Management System. The use of such surface waters (including, without limitation, use of any non-motorized watercraft) by the Owners shall be subject to and limited by the rules and regulations of Declarant and the Association, all permits issued by governmental authorities, and any rights granted to other persons pursuant to the rules and regulations of Declarant and the Association. Notwithstanding anything to the contrary herein contained, swimming is strictly

prohibited on any portion of the Surface Water or Stormwater Management System, including the retention ponds.

4.7.6 LIABILITY. NEITHER DECLARANT, PARTICIPATING BUILDER(S) NOR THE ASSOCIATION SHALL HAVE ANY LIABILITY WHATSOEVER TO OWNERS, GUESTS, TENANTS, OR INVITEES IN CONNECTION WITH THE RETENTION LAKES (IF ANY) AND DRAINAGE FACILITIES OR ANY PART OF THE SURFACE WATER OR STORMWATER MANAGEMENT SYSTEM. EACH OWNER, FOR ITSELF AND ITS GUESTS, TENANTS, OR INVITEES, RELEASES DECLARANT, PARTICIPATING BUILDER(S) AND THE ASSOCIATION FROM ANY LIABILITY IN CONNECTION THEREWITH.

4.7.7 Wetlands, Jurisdictional Land Swales. This Declaration is subject to the rights of the State of Florida over portions of the Property that may be considered wetlands, marshes, sovereignty or jurisdictional lands, and every Owner shall obtain any permit necessary prior to undertaking any dredging, filling, mowing, improving, landscaping, or removal of plant life existing on his Lot.

Further, certain Lots may be improved with swales constructed within Lots that are contiguous to any jurisdictional lands. The Owners thereof shall not remove or modify the swales without the consent of the applicable governmental entities. Any Owner who alters or otherwise modifies any swale, including mowing, shall repair and restore any such swale to be in full compliance with the District Permit, at such Owner's sole cost and expense and shall indemnify and hold the Declarant and the Association harmless from such violation.

4.7.8 Rights of the District. Notwithstanding any other provisions contained elsewhere in this Declaration, the District shall have the rights and powers enumerated in this paragraph. The District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the Surface Water or Stormwater Management System. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved in writing by the District. No person shall alter the drainage flow of the Surface Water or Stormwater Management System, including any buffer areas, swales, treatment berms or swales, without prior written approval of the District. Any amendment to this Declaration that alters the Surface Water or Stormwater Management System, beyond maintenance in its original condition, including the water management portions of the Common Property, must have prior written approval of the District. In the event that the Association is dissolved, prior to such dissolution, all responsibility relating to the Surface Water or Stormwater Management System must be assigned to and accepted by an entity approved in writing by the District.

4.7.9 Indemnity. Declarant may be required to assume certain duties and liabilities for the maintenance of the Surface Water or Stormwater Management System or drainage system within the Property under the Plat, permits, or certain agreements with governmental agencies. The Association further agrees that subsequent to the recording of this Declaration, it shall hold Declarant harmless from all suits, actions, damages, liabilities and expenses in connection with loss of life, bodily or personal injury or property damage arising out

of any occurrence in, upon, at or from the maintenance of the Surface Water or Stormwater Management System occasioned in whole or in part by any action, omission of the Association or its agents, contractor, employees, servants, or licensees but not excluding any liability occasioned wholly or in part by the acts of the Declarant, its successors or assigns. Upon completion of construction of the Surface Water or Stormwater Management System or drainage system Declarant shall assign all its rights, obligations and duties thereunder to the Association. The Association shall assume all such rights, duties and liabilities and shall indemnify and hold Declarant harmless therefrom.

4.7.10 Declarant's Rights. Declarant, its successors and assigns shall have the unrestricted right, without approval or joinder of any other person or entity: (i) to designate the use of, alienate, release, or otherwise assign the easements shown on the Plat of the Property or described herein, (ii) to plat or replat all or any part of the Property owned by Declarant, and (iii) to widen or extend any right of way shown on the Plat of the Property or convert a Lot to use as a right of way, provided that Declarant owns the lands affected by such change. Owner of Lots subject to easement shown on the Plat of the Property shall acquire no right, title, or interest in any of the cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over, or under the easement area. The Owners of Lots subject to any easements shall not construct any improvements on the easement areas, alter the flow of drainage, or landscape on such areas with hedges, trees, or other landscaping items that might interfere with the exercise of the easement rights. Any Owner who constructs any improvements or landscaping on such easement areas shall remove the improvements or landscape items upon written request of Declarant, the Association, or the grantee of the easement.

#### 4.8. Assignments

The easements reserved hereunder may be assigned by Declarant, Participating Builder or Association in whole or in part to any city, county or state government or agency thereof, or any water management district, or any duly licensed or franchised public utility, or any other designee of Declarant. Declarant shall have and hereby reserves the right to grant and/or reserve additional easements over, under and upon the Property or portions thereof (including the portion of Lots where no physical structure of the Home is located) which may be necessary or desirable by Declarant. The Owners hereby authorize Declarant, Participating Builder and/or the Association to execute, on their behalf and without further authorization, such grants of easement or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration.

Notwithstanding anything in this Declaration to the contrary, the easement rights granted or reserved by Declarant hereunder are not to be construed as creating an affirmative obligation to act on the part of Declarant.

### 5. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION; BOARD; DURATION OF THE ASSOCIATION

#### 5.1. Membership and Voting Rights



Membership in the Association shall be established and terminated as set forth in the Articles. Each Member shall be entitled to the benefit of, and be subject to, the provisions of the Governing Documents. The voting rights of the Members shall be as set forth in the Articles.

## 5.2. Board

The Association shall be governed by the Board which shall be appointed, designated or elected, as the case may be, as set forth in the Articles.

## 5.3. Duration of Association

The duration of the Association shall be perpetual, as set forth in the Articles. In the event of termination, dissolution or final liquidation of the Association, the responsibilities for the operation and maintenance of the Surface Water or Stormwater Management System must be transferred to and accepted by an entity which would comply with Section 62-330, Florida Administrative Code, and must be approved by the Surface Water or Stormwater Management District prior to such termination, dissolution or liquidation.

# 6. COVENANT TO PAY ASSESSMENTS; ESTABLISHMENT OF LIENS; COLLECTION OF ASSESSMENTS; COLLECTION BY DECLARANT; CERTAIN RIGHTS OF DECLARANT AND INSTITUTIONAL MORTGAGEES

## 6.1. Affirmative Covenant to Pay Assessments

6.1.1. In order to: (i) fulfill the terms, provisions, covenants and conditions contained in the Governing Documents; and (ii) maintain, operate and preserve the Common Area for the use, safety, welfare and benefit of the Owners and their family members, guests, invitees and lessees, there is hereby imposed upon each Contributing Home and each Contributing Home Owner the affirmative covenant and obligation to pay to the Association commencing from and after the first conveyance of a Home from Declarant and/or Participating Builder, as evidenced by the recordation of a deed in the Public Records of the County (in the manner herein set forth) all Assessments, including, but not limited to, the Individual Home Assessments and Special Assessments. Each Owner, by acceptance of a deed or other instrument of conveyance conveying a Lot and Completed Home within the Property, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Association all Assessments in accordance with the provisions of the Governing Documents.

6.1.2. The following expenses of the Association are hereby declared to be Operating Expenses which the Association is obligated to assess and collect, and which the Owners are obligated to pay as provided herein or as may be otherwise provided in the Governing Documents: (1) any and all taxes and tax liens which may be assessed or levied at any and all times against the Common Area as a whole and not upon an individual Lot or Home, or against any and all personal property or Improvements thereon; (2) all charges levied for utilities providing services for the Common Area as a whole and not upon an individual Lot or Home, or to the Owners on a bulk basis, such as water, gas, electricity, telephone, cable television, telecommunications services home monitoring, sanitation, sewer and any type of utility or any

other type of service charge which is not separately billed to an Owner; (3) the premiums on policies of insurance including, but not limited to, liability and casualty insurance for the Common Area and directors and officers liability insurance for the officers and directors of the Association; (4) any sums necessary for the maintenance and repair of the Common Area and all Improvements located thereon; (5) any sums necessary to reimburse the Association for any costs or expenses incurred in connection with maintaining the Common Area; (6) administrative and operational expenses; (7) all sums necessary for the maintenance and repair of the Surface Water or Stormwater Management System to be maintained by the Association, including but not limited to work within retention areas, drainage structures and drainage easements; (8) any costs and expenses associated with the "Conservation Easement" (as defined below) and all sums necessary for the maintenance, repair and preservation of the "Conservation Easement Property" (as defined below); and, (9) any and all expenses deemed to be Operating Expenses by the Association and/or under this Declaration. Reserves for future maintenance, repair and replacements are specifically excluded from Operating Expenses. The Board may, if it so determines, include reserves in the Association's annual budget; provided, however, to the maximum extent allowable by applicable law, Declarant shall not be obligated for funding any portion of the reserves, if and regardless of whether reserves are established by the Board, either on Homes and/or Lots it owns or Homes and/or Lots owned by others (including if Declarant is deficit funding any portion of the Operating Expenses or Budget). In addition, any expense which is required by this Declaration to be the matter of Special Assessment shall not be deemed to be an Operating Expense. Expenses which are required to be the matter of Special Assessment include, by way of example but not by way of limitation, the following: the cost of reconstructing, replacing or improving the Common Area which is the Association's responsibility to maintain or any portion thereof or Improvements thereon; any casualty loss affecting the Association or the Common Area to the extent such loss exceeds the insurance proceeds, if any, receivable by the Association as a result of such loss; any judgment against the Association (or against a Director or Directors if and to the extent such Director is, or such Directors are, entitled to be indemnified by the Association therefor pursuant to the Articles) to the extent such judgment exceeds the insurance proceeds, if any, received by the Association as a result of such judgment, or an agreement by the Association (or such Director or Directors to whom indemnification is owed) to pay an amount in settlement of a lawsuit against it (or such Director or Directors) to the extent such settlement exceeds the insurance proceeds, if any, received by the Association as a result of such settlement agreement; and legal fees and costs (including, without limitation, attorneys and paralegal fees and court costs) incurred by the Association in connection with litigation (whether incurred for the preparation, filing, prosecution or settlement thereof or otherwise), except Legal Fees incurred by the Association in connection with the collection of Assessments or other charges which the Owners are obligated to pay pursuant to the Governing Documents or the enforcement of the use and occupancy restrictions contained in the Governing Documents, and except legal fees incurred for lawsuits not approved pursuant to Section 13.12 below.

The Operating Expenses with respect to the Common Area are payable by each Owner of a Contributing Home notwithstanding the fact that Declarant may not have as yet conveyed title to the Common Area to the Association.

## 6.2. Establishment of Liens

Each Assessment against a Contributing Home, together with Interest thereon and costs of collection, including, but not limited to, Legal Fees, shall be the personal obligation of the Owner of such Contributing Home. Any and all Assessments made by the Association in accordance with the provisions of the Governing Documents with Interest thereon and costs of collection, including, but not limited to, Legal Fees, are hereby declared to be a charge and continuing lien upon each Contributing Home against which each such Assessment is made. Said lien shall be effective only from and after the time of the recordation amongst the Public Records of the County of a written, acknowledged statement by the Association setting forth the amount due to the Association as of the date the statement is signed. Upon full payment of all sums secured by that lien, the party making payment shall be entitled to a satisfaction of the statement of lien in recordable form. Notwithstanding anything to the contrary herein contained, in the event an Institutional Mortgagee of record obtains title to a Home as a result of foreclosure of its first mortgage or deed in lieu of foreclosure, such acquirer of title, its successors or assigns, shall be liable for Assessments pertaining to such Lot or chargeable to the former Owner except and to the extent limited by the HOA Act.

### 6.3. Collection of Assessments

In the event any Owner shall fail to pay any Assessment, or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the Association, through its Board, shall have any and all of the following remedies to the extent permitted by law, which remedies are cumulative and which remedies are not in lieu of, but are in addition to, all other remedies available to the Association:

6.3.1. To accelerate the entire amount of any Assessment for the remainder of the calendar year notwithstanding any provisions for the payment thereof in installments.

6.3.2. To advance on behalf of the Owner(s) in default funds to accomplish the needs of the Association up to and including the full amount for which such Owner(s) is liable to the Association and the amount or amounts of monies so advanced, together with Interest and all costs of collection thereof, including, but not limited to, Legal Fees, may thereupon be collected by the Association from the Owner(s) and such advance by the Association shall not waive the default.

6.3.3. To file an action in equity to foreclose its lien at any time after the effective date thereof as provided in Section 6.3.2 hereinabove. The lien may be foreclosed by an action in the name of the Association in like manner as a foreclosure of a mortgage on real property.

6.3.4. To file an action at law to collect said Assessment plus Interest and all costs of collection thereof, including, but not limited to, Legal Fees, without waiving any lien rights or rights of foreclosure in the Association.

6.3.5. To charge Interest on such Assessment from the date it becomes due, as well as a late charge of Twenty-Five and No/100 Dollars (\$25.00) or five percent (5%) of the past due amount, whichever is greater, by the Association to defray additional collection costs. This amount is subject to change in the Board's sole discretion.

6.3.6. To suspend the right of the Owner(s) in default to vote on any matter on which the Owners have the right to vote if such Owner is delinquent in payment of Assessments or other monetary obligation due the Association for more than ninety (90) days and until such monetary obligations are paid in full.

6.3.7. To suspend the right of the Owner(s), along with their family members, guests, invitees and tenants to use certain common and recreational areas located within the Common Area, if any, if such Owner is delinquent in payment of Assessments or any other monetary obligation due the Association for more than ninety (90) days and until such monetary obligations are paid in full.

Suspensions imposed by the Association pursuant to subsections 6.3.6 and 6.3.7 above must be approved by the Board in the manner required by the HOA Act.

#### 6.4. Collection by Declarant

In the event for any reason the Association shall fail to collect the Assessments, Declarant shall at all times have the right (but not the obligation): (i) to advance such sums as the Association could have advanced as set forth above; and (ii) to collect such Assessments and, if applicable, any such sums advanced by Declarant, together with Interest and costs of collection, including, but not limited to, Legal Fees.

#### 6.5. Rights of Declarant and Institutional Mortgagees to Pay Assessments and Receive Reimbursement

Declarant and any Institutional Mortgagee(s) shall have the right, but not the obligation, jointly or individually, and at their sole option, to pay any of the Assessments which are in default and which may or have become a charge against any Home(s). Further, Declarant and any Institutional Mortgagee shall have the right, but not the obligation, jointly or individually, and, at their sole option, to pay insurance premiums or fidelity bond premiums or other required items of Operating Expenses on behalf of the Association in the event the same are overdue and when lapses in policies or services may occur. Declarant and any Institutional Mortgagee paying overdue Operating Expenses on behalf of the Association will be entitled to immediate reimbursement from the Association plus Interest and any costs of collection including, but not limited to, Legal Fees, and the Association shall execute an instrument in recordable form to this effect and deliver the original of such instrument to each Institutional Mortgagee who is so entitled to reimbursement and to Declarant if Declarant is entitled to reimbursement.

### 7. METHOD OF DETERMINING ASSESSMENTS AND ALLOCATION OF ASSESSMENTS

#### 7.1. Determining Amount of Assessments

The total anticipated Operating Expenses for each calendar year shall be set forth in the budget ("Budget") prepared by the Board. Each Home shall be assessed its *pro rata* portion

of the total anticipated Operating Expenses as set forth in the Budget (other than those Operating Expenses which are properly the subject of a Special Assessment or Benefited Assessment), which shall be the "Individual Home Assessment" as to each Contributing Home. Operating Expenses shall be divided by the total number of Homes planned for Sawmill Branch, but subject to change in accordance with this Declaration. Notwithstanding anything in the Governing Documents to the contrary, only a "Contributing Home" and the Owner thereof, shall be obligated to pay Individual Home Assessments. Notwithstanding anything herein or in the Governing Documents to the contrary, any assessment for legal expenses incurred by the Association to begin legal proceedings against Declarant shall be deemed an Operating Expense which is properly the subject of a Special Assessment and not the subject of a regular Individual Home Assessment.

### 7.2. Assessment Payments

The Individual Home Assessments shall be payable quarterly, in advance, on the first day of the fiscal quarter. Notwithstanding the foregoing, the Board has the right to change the method and frequency of the payments of Individual Home Assessments. The Individual Home Assessments, and the quarterly payments thereof, as well as all Assessments provided for herein and all installments thereof may be adjusted from time to time by the Board to reflect changes in the number and status of Contributing Homes (thus apportioning all Operating Expenses among all Contributing Homes in existence at the time an Individual Home Assessment installment is due) or due to changes in the Budget or in the event that the Board determines that an Assessments or any installment thereof is either less than or more than the amount actually required.

### 7.3. Special Assessments

"Special Assessments" include, in addition to other Assessments designated as Special Assessments in the Governing Documents and whether or not for a cost or expense which is included within the definition of "Operating Expenses," those Assessments which are levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring Improvements for, or on, the Common Area or the cost (whether in whole or in part) of reconstructing or replacing such Improvements. In addition, Special Assessments may be levied against particular Lots and/or Owners to the exclusion of others. Notwithstanding anything to the contrary herein contained, it is recognized and declared that Special Assessments shall be in addition to, and are not part of, any Individual Lot Assessment. Any Special Assessments assessed against Lots and the Owners thereof shall be paid by such Owners in addition to any other Assessments and shall be assessed in the same manner as the Individual Lot Assessment. Special Assessments shall be paid in such installments or in a lump sum as the Board shall, from time to time, determine. Notwithstanding the foregoing, the levying of any Special Assessment after the Turnover Date shall require the affirmative assent of at least thirty percent (30%) of all Members represented in person or by proxy at a meeting called and held in accordance with the Bylaws; provided, however, the Board acting alone and without the consent of Members may levy Special Assessments for the following: i) in the event of a casualty loss to repair and replace Common Area which is not insurable (e.g., landscaping, fencing, *etc.*), not insured, under insured, or where insurance coverage was denied by the insurance carrier after the casualty loss; ii) to obtain funds to cover insurance deductibles in the event of a casualty loss; or iii) capital improvements

necessary or desirable for the sole purpose of preservation of, or prevention of damage to, Common Area.

#### 7.4. Liability of Owners for Individual Home Assessments

By the acceptance of a deed or other instrument of conveyance of a Completed Home in the Property, each Owner thereof acknowledges that such Completed Home becomes a Contributing Home upon such conveyance by Declarant and the Owners thereof are jointly and severally liable for their own Individual Home Assessments and their applicable portion of any Special Assessments, as well as for any and all other Assessments for which they are liable, as provided for herein. Such Owners further recognize and covenant that they are jointly and severally liable with the Owners of all Contributing Homes for the Operating Expenses (subject to any specific limitations provided for herein such as, but not limited to, the limitation with respect to matters of Special Assessment and the limitations on the liability of Institutional Mortgagees and their successors and assigns). Accordingly, subject to such specific limitations, it is recognized and agreed by each Owner, for such Owner and such Owner's heirs, executors, successors and assigns, that in the event any Owner fails or refuses to pay such Owner's Individual Home Assessment or any portion thereof, or such Owner's respective portion of any Special Assessment or any other Assessment, then the other Owners may be responsible for increased Individual Home Assessments or Special Assessments or other Assessments due to the nonpayment by such other Owner, and such increased Individual Home Assessment or Special Assessment or other Assessment can and may be enforced by the Association and Declarant in the same manner as all other Assessments hereunder as provided in the Governing Documents.

#### 7.5. Calculation of Service Area Assessments

Before the beginning of each fiscal year, the Board shall prepare a separate budget for each Service Area of the estimated expenses which it expects to incur on behalf of such Service Area for the coming year. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the Service Area expenses, including any surplus or deficit to be applied from prior years, assessment income, any fees charged for use of recreational amenities maintained on behalf of the Service Area, if any, and any other non-assessment income.

The Association is authorized to levy "Service Area Assessments" to fund the Service Area expenses for each Service Area against all Lots in the Service Area that are subject to assessment under Section 7.1, in the proportions described in this Article 7, as the Board may reasonably determine. In determining the Service Area Assessment rate for any Service Area, the Board may consider any assessment income expected to be generated from any property in the Service Area reasonably anticipated to become subject to assessment during the fiscal year.

Declarant may, but shall not be obligated to, reduce the Service Area Assessment applicable to any Service Area for any fiscal year by payment of a subsidy which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and

Declarant.

All amounts that the Association collects as Service Area Assessments shall be expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

#### 7.6. Waiver of Use

No Owner, other than Declarant, may exempt himself, herself or itself from personal liability for Assessments duly levied by the Association. No Owner may release the Owner's Home from the liens and charges hereof either by waiver of the use and enjoyment of the Property and the facilities thereon or by abandonment of such Owner's Home.

#### 7.7. Declarant Subsidy

Except as may be limited by applicable law, Declarant has the right (at its sole election) to: subsidize the Budget of the Association as provided below by making voluntary contributions in amounts determined by Declarant in Declarant's sole discretion. During the period of time that Declarant or Participating Builders are offering Homes for sale in Sawmill Branch and/or based on the number of Homes owned by Owners other than Declarant or Participating Builders, Declarant may seek to keep Assessments lower than they otherwise may be by subsidizing the Budget of the Association by making voluntary contributions in amounts determined by Declarant. The amount of any such voluntary contributions may vary from time to time or may be discontinued and/or recommenced by Declarant from time to time. The determination to subsidize the Budget of the Association, the amount of any such voluntary contribution, the discontinuance and/or recommencement of any such voluntary contributions shall all be made by Declarant in Declarant's sole discretion and in no event shall Declarant have any obligation whatsoever to make any such voluntary contributions. Each Owner shall be solely responsible to review the Budget of the Association then in effect to determine if and to what extent Declarant is making any voluntary contributions to subsidize the budget and thus lower the Assessments payable by the Owners that would otherwise be higher based on the Operating Expenses of the Association. Declarant's rights under this Section 7.6 do not constitute a guarantee of Assessments or Operating Expenses under and as described in Section 720.308(2) of the HOA Act.

#### 7.8. Declarant's Right to Loan or Advance Funds

Declarant may (but is not obligated to) loan, advance or otherwise make payments to the Association to assist the Association in meeting its financial obligations. Notwithstanding anything to the contrary contained in this Section, if Declarant loans, advances or otherwise makes payments to the Association, other than as a voluntary subsidy per Section 7.7 above, then any such sums shall be repaid to Declarant prior to the Turnover Date.

#### 7.9. Working Fund Contribution

Each Owner who purchases a Lot with a Home thereon from Declarant or a Participating Builder (sales by Declarant to a Participating Builder are exempt) shall pay to the

Association at the time legal title is conveyed to such Owner, an "Initial Working Fund Contribution." The Initial Working Fund Contribution shall be Five Hundred Dollars and No/100 (\$500.00). Initial Working Fund Contributions are not advance payments of Individual Home Assessments and shall have no effect on future Individual Home Assessments, nor will they be held in reserve. To ensure that the Association will have sufficient cash available to pay for start-up expenses, Operating Expenses and other expenses, Declarant or a Participating Builder may from time to time advance to the Association the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant or a Participating Builder advances the Initial Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Initial Working Fund Contribution to be paid by such Owner to the Association pursuant to this Section 7.9 shall be paid directly to Declarant or a Participating Builder, as applicable, in reimbursement of the advance, instead of to the Association. Initial Working Fund Contributions (whether paid by Owner or advanced by Declarant) may also be used to offset Operating Expenses during the time Declarant is in control of the Board.

#### 7.10. Ongoing Working Fund Contribution

Each Owner who purchases a Lot with a Home thereon, other than from Declarant or a Participating Builder as set forth in Section 7.9 above, shall pay to the Association at the time legal title is conveyed to such Owner, an "Ongoing Working Fund Contribution." The Ongoing Working Fund Contribution shall be Five Hundred Dollars and No/100 (\$500.00). Ongoing Working Fund Contributions are not advance payments of Individual Home Assessments and shall have no effect on future Individual Home Assessments, nor will they be held in reserve. Ongoing Working Fund Contributions may also be used to offset Operating Expenses during the time Declarant is in control of the Board.

#### 7.11. Participating Builder Exemption.

Notwithstanding anything in this Declaration or the Articles and Bylaws to the contrary, during the time that a Participating Builder owns any Lot, the Participating Builder shall not pay any Individual Home Assessments with respect to the Lots owned by the Participating Builder; provided, however, Assessments shall commence and be payable as to a particular Lot owned by a Participating Builder upon the earlier to occur of (i) the sale of the Lot by a Participating Builder to an unaffiliated third party; or (ii) the Participating Builder is "no longer marketing the Lot for sale." The term "no longer marketing the Lot for sale" means that the Participating Builder has ceased all reasonable sales efforts as to a Lot for more than sixty (60) days after a Participating Builder has formally commenced its sales program within Sawmill Branch; provided, however, such time period of sixty (60) days shall be extended by matters for force majeure which are beyond the control of the Participating Builder such as acts of God, delays caused by governmental authorities having jurisdiction over Sawmill Branch in issuing building permits or other permits to Participating Builder, or any other matters that would qualify under impossibility of performance principles recognized under the laws of the State of Florida. For the purpose of this Section 7.11, if there are more than one (1) Participating Builder, each Participating Builder for the purposes of this Section shall be treated individually and not collectively with other Participating Builders.



## 7.12. Declarant's Obligation for Assessments and Option to Fund Budget Deficits.

Each Owner acknowledges and agrees that because Assessments are allocated based on the total number of Homes planned for Sawmill Branch as described in Section 7.1 above, that it is possible the Association may collect more or less than the amount budgeted for Operating Expenses. Accordingly, to the maximum extent permitted by Florida law, during the time which Declarant has the right to control the Board, Declarant may satisfy its obligation for Assessments, if applicable, on Homes which it owns at the applicable rate either by paying Assessments in the same manner as any other Owner or by funding the Budget deficit. The Budget deficit is the difference between (i) the amount of Assessments levied on Completed Homes owned by Owners other than Declarant or a Participating Builder plus any other income, revenue or sums received by the Association during the period during which Declarant has elected to fund the deficit, and (ii) the amount of the Association's actual expenditures during the fiscal year, but expressly excluding to the maximum extent allowable by law, contributions to reserves, if established, and Special Assessments arising as a result of any unusual loss or liability. The calculation of Declarant's deficit funding obligation shall be done on a cumulative basis (from the inception of the election to fund the deficit until Declarant's election to cease funding the deficit) although Declarant will fund the Association to meet its cash flow obligations as they arise during the deficit funding period. Regardless of Declarant's election, Declarant's Assessment obligations, if any, may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by Declarant. After Declarant's right to control the Board terminates or sooner if Declarant elects to pay Assessments, if applicable, on Homes it owns, and cease deficit funding, Declarant shall pay Assessments on Homes which it owns pursuant to the provisions of this Declaration. Declarant's obligation to deficit fund is not a guarantee of Assessments or Operating Expenses as contemplated by Section 720.308 of the HOA Act because the amount of Assessments and/or Operating Expenses to be paid by Owners during any deficit funding period may change based upon changes in the then buildout budget.

## 8. ARCHITECTURAL REVIEW BOARD

### 8.1. Members of the Architectural Review Board

The Architectural Review Board, sometimes referred to in this Declaration as the "ARB," shall be comprised of three (3) members. The initial members of the ARB shall consist of persons designated by Declarant. Each of said persons shall hold office until all Lots and Homes have been conveyed or such earlier time as Declarant may, at its sole option, elect. Thereafter, each new member of the ARB shall be appointed by the Board and shall hold office until such time as such new member has resigned, or has been removed, or such new member's successor has been appointed, as provided herein. Members of the ARB, other than those designated by Declarant, may be removed at any time without cause. The Board shall have the sole right to appoint and remove all members of the ARB other than those designated by Declarant.

### 8.2. Review of Proposed Construction

8.2.1. No Improvements, including, by way of example and not of limitation, accessory structures, exterior lighting fixtures, brick pavers, stamped concrete, concrete flatwork,

basketball goals, gym sets and play structures, buildings, fences, walls, pools, roofs, gutters or rain spouts, antennae, aerials, microwaves, reception devices, mailboxes, external enclosures or attachments (including entry screen and patio screen enclosures), or landscaping (including hedges, massed plantings and trees) shall be commenced, erected, installed, altered, modified, painted, planted, or maintained on the Property, including the Lots, nor shall any canopies, shutters, or window coverings be attached to or placed upon outside walls or roofs of any Home or building by any Owner other than Declarant, unless such Improvements have been reviewed by and received the written approval of the ARB in accordance with Section 8.2.2. herein below. Any Owner desiring to make Improvements shall submit two (2) complete sets of plans and specifications prepared by an architect, landscape architect, engineer or other person determined by the ARB to be qualified, showing the nature, dimensions, materials and location of the same, together with the security deposit, if required by the ARB, to be held and disbursed by the Association in accordance with Section 8.3 herein below. In addition to the foregoing, the ARB may establish and charge a review fee on a case by case basis, in the sole discretion of and in an amount set by the ARB. If a review fee is charged by the ARB, it shall be non refundable in any event, whether or not the application submitted by an Owner is approved. Notwithstanding anything in this Section 8 to the contrary, if it is determined that any of the terms of Section 8 conflict with any of the terms or provisions of Section 10.9, then the terms or provisions of Section 10.9 shall supersede and control to the extent of such conflict.

8.2.2. The ARB shall approve proposed plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated will not be detrimental to the appearance of the surrounding area of the Property as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures and is otherwise desirable. The ARB may also issue and amend from time to time rules or guidelines setting forth procedures for the submission of plans and specifications. If the proposed construction, alterations or additions are to a portion of the Improvements which the Association is obligated to maintain, said approval shall also be subject to approval by the Board. The ARB may condition its approval of proposed plans and specifications in such a manner as it deems appropriate and may require the submission of additional information prior to approving or disapproving such plans.

8.2.3. The ARB shall have thirty (30) days after delivery of all required materials to give written approval or rejection of any such plans and, if written approval is not given within such thirty (30) day period, such plans shall be deemed rejected, provided, however, that in any event, no such addition, construction or alteration shall be made by any Owner which is detrimental to or inconsistent with the harmony, appearance or general scheme of the Property as a whole.

8.2.4. In no event shall any Improvement (including without limitation landscaping) be permitted within the landscaped areas and grassed areas and any sidewalks and sidewalk easements on Lots.

8.2.5. Notwithstanding anything to the contrary in this Declaration, no Improvement (including, without limitation, landscaping) shall be permitted within any Lot that interferes with the flow of rainfall runoff to or through the Surface Water or Stormwater Management System.

8.2.6. Notwithstanding any provision in this Section to the contrary, the approval of the ARB shall not be required for any additions, changes or alterations within any Homes if such additions, changes or alterations are not visible from the outside of such Homes. All changes and alterations shall be subject, independently, to all applicable governmental laws, statutes, ordinances, codes, rules and regulations.

8.2.7. Notwithstanding anything to the contrary herein contained, no construction, reconstruction, addition or alteration by Declarant or a Participating Builder shall require the prior approval or any certificate of consent of the ARB or any security deposit.

### 8.3. Security Deposit for Improvements; Indemnification

Any Owner desiring to make Improvements may be required by the ARB, depending upon the Improvements being requested and the manner of installation of such Improvements, to provide to the ARB, at the time of the Owner's submission of plans and specifications for review and approval by the ARB, up to a Five Thousand Dollar (\$5,000.00) security deposit to cover costs of incidental damage caused to the Common Area, an adjacent Home or Lot, or any property (real or personal) by virtue of such Owner's construction of Improvements. The ARB shall have the sole and absolute discretion to determine whether a security deposit is required for the Improvements being requested. The Association shall not be obligated to place the security deposit in an interest bearing account. The Owner shall be entitled to the return of the security deposit upon: (i) such Owner's written notice to the ARB that the Improvements covered by the security deposit have been completed in accordance with the plans and specifications approved by the ARB; and (ii) the ARB's (or its duly authorized representative's) inspection of such Improvements confirming completion; provided, however, should any incidental damage be caused to the Common Area by virtue of such Owner's construction of Improvements, the security deposit shall not be returned to Owner until such damages have been repaired. In the event that Owner has not repaired such damages to the Common Area to the satisfaction of the ARB, Association shall have the right (but not the obligation), after five (5) days notice to the offending Owner, to repair such incidental damage and to use so much of the security deposit held by the Association to reimburse itself for the costs of such work. Further, the offending Owner hereby agrees to indemnify and reimburse the Association for all reasonable costs expended by the Association that exceed the security deposit, including Legal Fees, if any, incurred in connection therewith. Should any incidental damage be caused to an adjacent Lot or Home by virtue of such Owner's construction of Improvements, the Owner of the adjacent Lot (the "Adjacent Lot Owner") shall, at such Adjacent Lot Owner's sole option: (a) remedy such damage and submit to the Association a receipt, invoice or statement therefor for reimbursement from the offending Owner's security deposit; or (b) allow the offending Owner to repair such incidental damage to the Adjacent Lot Owner's Lot or Home, at the offending Owner's sole cost and expense, and upon receipt by the Association of written notice from the Adjacent Lot Owner that such incidental damage has been repaired, the offending Owner shall be entitled to a return of the security deposit being held by the Association, if any.

Notwithstanding anything contained in this Section to the contrary, the Association's return of the security deposit being held by it for any such Improvements shall be

based solely on considerations set forth above. The Association's return of the security deposit does not and shall not be construed to constitute a determination by members and representatives of the ARB, Declarant, and/or the Association of the structural safety, approval or integrity of any Improvement, conformance with building or other codes or standards, or the proper issuance of governmental permits and approvals for any Improvement.

8.4. Meetings of the ARB

The ARB shall meet from time to time as necessary to perform its duties hereunder. The ARB may from time to time, by resolution unanimously adopted in writing, designate an ARB representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ARB, except the granting of variances pursuant to Section 8.9 below. In the absence of such designation, the vote of any two (2) members of the ARB shall constitute an act of the ARB.

8.5. No Waiver of Future Approvals

The approval of the ARB of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to withhold approval or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant. Similarly, the denial of approval by the ARB of any plans and specifications or drawings for any work performed or proposed shall not be deemed to constitute a waiver of any right to approve or consent to any identical or similar proposal subsequently or additionally submitted for approval or consent, whether such submission is by that applicant or another applicant.

8.6. Compensation of Members

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

8.7. Inspection of Work

Inspection of work and correction of defects therein shall proceed as follows:

8.7.1. Upon the completion of any work for which approved plans are required under this Section, the submitting party shall give written notice of completion to the ARB.

8.7.2. Within thirty (30) days after written notice of completion, the ARB or its duly authorized representatives may inspect such Improvement. If the ARB finds such work was not done in substantial compliance with the approved plans, it shall notify the submitting party in writing of such noncompliance within such thirty (30) day period, specifying the particulars of noncompliance, and shall require the submitting party to remedy such noncompliance.

8.7.3. If upon the expiration of fifteen (15) days from the date of such notification the submitting party shall have failed to remedy such noncompliance, notification shall be given to the Board in writing of such failure. Upon such notice, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the submitting party shall remedy or remove the same within a period of not more than thirty (30) days from the date of announcement of the Board's ruling. If the submitting party does not comply with the Board's ruling within such period, the Board, at its option, may remove the Improvement, remedy the noncompliance, or proceed in court to compel compliance and the submitting party shall reimburse the Association, upon demand, for all expenses incurred in connection therewith, including Interest and Legal Fees. If such expenses are not promptly repaid by the submitting party to the Association, the Board shall levy an Assessment against such submitting party for reimbursement, and said Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as liens for Operating Expenses.

8.7.4. If, for any reason, notification is not given to the submitting party of acceptance within thirty (30) days after receipt of said written notice of completion from the submitting party, the Improvement and/or alteration shall be deemed to be in compliance with said approved plans.

#### 8.8. Non-Liability of ARB Members

Neither the ARB nor any member thereof, nor its duly authorized ARB representative, nor Declarant, shall be liable to the Association or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the ARB's duties hereunder, unless due to the willful misconduct or bad faith of a member and only that member shall have any liability. The ARB's review and approval or disapproval of plans submitted to it for any proposed Improvement shall be based solely on considerations of the overall benefit or detriment to the community as a whole. The ARB shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes or standards, and no member or representative of the ARB or the Association, nor Declarant, shall be liable for the safety, soundness, workmanship, materials or usefulness for any purpose of any such Improvement or alteration proposed by the plans. By submitting a request for review and approval by the ARB, an Owner shall be deemed to have and does automatically agree to indemnify, defend and hold harmless the ARB, the Association and Declarant (and each of their respective officers, directors, partners, affiliates, members, representatives and employees) from and against any and all claims, causes of action, losses, damages, liabilities, costs and expenses (including, without limitation, Legal Fees) arising from, relating to or in any way connected with the Improvement or alterations for which such request was submitted. Furthermore, approval by the ARB of any request does not excuse Owner from also obtaining approvals from all applicable governmental authorities.

#### 8.9. Variance

The ARB may authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, when circumstances such as

topography, natural obstructions, hardship, aesthetic or environmental considerations may require; provided, however, the ARB shall not give or authorize (and the ARB is hereby prohibited from giving or authorizing) any variance with respect to the displaying of any signs for the sale or renting of the Home as prohibited in Section 10.23. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the Improvements for which the variance was granted.

#### 8.10. Declarant and Participating Builder Exemption

Declarant and Participating Builders are hereby exempt from having to comply with the requirements of this Section 8 in their entirety.

### 9. MAINTENANCE AND REPAIR OBLIGATIONS

The responsibility for the maintenance of the Property is divided between the Association and the Owners. Interior maintenance of structures is the responsibility of the owners of such structures. The Association may enter into agreements with others for the Association's management and/or maintenance of all or part of the property to be maintained by such entity (regardless of whether the subject property is within the Property) for purposes of carrying out all or a portion of the maintenance responsibilities of such entity, the expenses of which may be designated an Operating Expense, if the Association's Board determines such is in the interest of the Owners. Privately owned property shall be the maintenance responsibility of the Owner thereof, unless the responsibility is assumed by another by agreement approved or acknowledged by the Association. Open space owned by or dedicated to the Association shall be maintained by the Association and will not be diminished or destroyed in a manner which materially alters its use or enjoyment as open space.

#### 9.1. By the Association

9.1.1. To the extent not maintained by the CDD, the Association, at its expense, shall be responsible for the operation, maintenance, repair and replacement of all landscaping and grassed areas encompassed within the Common Area as well as all of the Improvements and facilities located over, through and upon the Common Area (except public utilities, to the extent same have not been made Common Area). Should any incidental damage be caused to any Home by virtue of the Association's failure to maintain the Common Area as herein required or by virtue of any work which may be performed or caused to be performed by the Association in the maintenance, repair or replacement of any Common Area, the Association shall, at its expense, repair such incidental damage. The Association shall not, however, be responsible for any loss of use, any hardship, an Owner's time or any other consequential or punitive damages.

9.1.2. The Association shall operate, maintain, repair and replace the irrigation system constructed over, through and upon the Common Area (or any portions thereof) as it shall deem appropriate. The Association shall be responsible for the costs of operation and maintenance of such irrigation system in connection with the Common Area, including any monthly fees and other costs of water and/or electric usage and the cost of repair or replacement to all or any part thereof. There is hereby reserved in favor of the Association the right to enter upon the Common

Area and any and all Lots for the purpose of operating, maintaining, repairing and replacing the irrigation system over, through and upon the Common Area within the Property.

9.1.3. To the extent not maintained by the CDD, the Association shall be responsible for the maintenance, repair and replacement of all private streets, drives, roads and roadways, if any, located upon the Common Area and there is hereby reserved in favor of the Association the right to enter upon any and all parts of the Common Area and Lots for such purpose. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of all city, County, district, municipal or other properties which are located within or in a reasonable proximity of the Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Property, including, without limitation, the right to enhance the landscaping in any public right of way.

9.1.4. The Association shall be responsible for the maintenance, repair and replacement of any common lighting located in Sawmill Branch; provided, however, the Association shall not be responsible for the maintenance, repair and replacement of any lighting provided by the municipal electric service.

9.1.5. Any property designated as open space, landscape buffer, undisturbed natural buffer, preserve area, or conservation or wetland area on any plat, permit, or other document recorded in the Public Records of the County shall be preserved and maintained by the owner of such property in a natural open condition and in accordance with any applicable permits and permitting authorities. The Association or any subsequent owner shall not do anything that diminishes or destroys the open space, landscape buffer, undisturbed natural buffer, preserve area, or conservation area, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

9.1.6. Except as specifically provided herein to the contrary, the Association shall be responsible for maintaining any perimeter walls, if any, perimeter fencing and retaining walls located within the Property and on Lots. With respect to perimeter walls, if any, perimeter fencing and retaining walls located within Lot boundaries, the Owner, rather than the Association, shall maintain the interior portion of such walls or fences which face the Owner's home. The Association shall have an easement on all Lots for access to perform the obligations set forth in this Section 9.1.6. Notwithstanding anything to the contrary herein, if an Owner installs a fence on such Owner's Lot abutting a perimeter wall, perimeter fence and/or retaining wall (which shall require the prior ARB approval), the Owner thereof, rather than the Association, shall be responsible for maintaining such perimeter fence and the perimeter walls and/or retaining walls located on such Owner's Lot.

9.1.7. Neither the Association nor any Owner shall alter the slopes, contours, or cross sections of the Lakes, Lake banks and littoral zones or chemically, mechanically, or manually remove, damage or destroy any plants in any of the littoral zones, except upon the written approval from the Association or applicable governmental authority. The Association shall be responsible for maintaining the required survivorship and coverage of the planted littoral areas, to ensure the ongoing removal of prohibited and invasive non-native plant species from these areas, and to

comply with all governmental regulations applicable to the Lakes, Lake banks and littoral zones.

9.1.8. In accordance with the provisions of this Declaration, to the extent not maintained by the CDD, the Association shall operate, maintain and repair the Surface Water or Stormwater Management System constructed over, through and upon the Property. Such maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance, or other surface water or stormwater management capabilities as permitted by the District. Any repair or construction of the Surface Water or Stormwater Management System shall be as permitted or, if modified, as approved by the District. There is hereby reserved in favor of the CDD and the Association the right to enter upon the Common Area and the Lots for the purpose of operating, maintaining, repairing, and replacing the Surface Water or Stormwater Management System over, through and upon the Property. To the extent not maintained by the CDD, the Association shall be responsible for all costs associated with all cleaning, maintenance, repairs and replacement of any portion of the Surface Water or Stormwater Management System necessary to maintain the system in its original condition and use. In the event the Association fails to maintain the Surface Water or Stormwater Management System in accordance with this Declaration and/or the District Permit, as the same may be amended from time to time, then the District shall have the right to commence an action against the Association, including, without limitation, monetary penalties and injunctive relief, to compel the Association to maintain the portions of the Surface Water or Stormwater Management System for which the Association is responsible in accordance with this Declaration, and/or the District Permit. The registered agent for the Association shall retain a copy of the District Permit for the Association's benefit.

9.1.9. The Association, by action of its Board, may make minor and insubstantial alterations and Improvements to the Common Area having a cost not in excess of Five Thousand Dollars (\$5,000). All other alterations and Improvements must first be approved by at least two-thirds (2/3) of all Members represented in person or by proxy at a meeting called and held in accordance with the Bylaws. No alteration or Improvement may be made to the Common Area which materially and adversely affects the rights of the Owner of any Lot to the enjoyment of such Owner's Lot or the Common Area unless the Owner and all mortgagees holding recorded mortgages on such Lot consent thereto in writing.

9.1.10. All expenses incurred by the Association in connection with the services, operation, maintenance, repair and replacement described in Sections 9.1.1 through 9.1.9 above, inclusive, are Operating Expenses, payable by each Owner under the provisions of this Declaration concerning Assessments. Should the maintenance, repair or replacement provided for in Sections 9.1.1 through 9.1.9 of this Section 9 be caused by the negligence of or misuse by an Owner, such Owner's family, guests, servants, invitees, or tenants, such Owner shall be responsible therefor, and the Association shall have the right to levy an Assessment against such Owner's Lot and said Assessment shall constitute a lien upon the appropriate Lot and Home with the same force and effect as liens for Operating Expenses.

9.1.11. The Association has a reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of Sawmill Branch.



## 9.2. By the Owners

9.2.1. The Owner of each Lot must keep and maintain the Lot and the Improvements thereon (including all landscaped and grassed areas), including all equipment and appurtenances, in good order, condition and repair, and must perform promptly all maintenance and repair work within, upon and outside of such Owner's Home which, if omitted, could adversely affect Sawmill Branch, the other Owners or the Association and its Members. The Owner of each Lot shall be responsible for any damages caused by a failure to so maintain such Lot, Improvements and Home. The Owners' responsibility for maintenance, repair and replacement shall include, but not be limited to, all of the physical structures constructed in, upon, above or below the Lot, and physical items attached or connected to such structures that run beyond the boundary line of the Lot which exclusively service or benefit the Lot and Home. Without limiting the generality of the foregoing, the Owner of each Lot shall keep all drainage structures (such as catch basins) located on the Owner's Lot clear of grass, leaves and other debris. Additionally, the painting, caulking and maintenance of the exterior surface of the walls, doors, windows and roof of the physical structures of the Home shall be performed by the Owner, and the exterior surface of such walls, doors, windows and roof shall at all times be maintained in a good and serviceable condition with no damage or other defect therein by the Owner. The Owner of a Lot further agrees to pay for all utilities, such as telephone, cable or satellite television, telecommunication systems, home monitoring, water (including water associated with irrigation), sewer, sanitation, electric, etc., that may be separately billed or charged to each Home. The Owner of each Lot shall be responsible for insect and pest control within the Home and the Lot. Whenever the maintenance, repair and replacement of any items which an Owner is obligated to maintain, repair or replace at such Owner's own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement, except that the Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or otherwise, reduce the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

In addition to the foregoing, the Owner of each Home shall be required to maintain appropriate climate control, keep his or her Home clean, promptly repair any leaks and take necessary measures to retard and prevent mold, fungi, mildew and mycotoxins from accumulating in the Home. Each Owner shall be required to clean and dust such Owner's Home on a regular basis and to remove visible moisture accumulation on windows, window sills, walls, floors, ceilings and other surfaces as soon as reasonably possible and must not block or cover any heating, ventilation or air-conditioning ducts, and to properly maintain and have serviced on a regular basis, the Home's HVAC system. Each Owner of a Home shall be responsible for damage to such Owner's Home and personal property as well as any injury to the Owner of a Home and/or occupants of the Home resulting from the Owner's failure to comply with these terms. Each Owner of a Home shall be responsible for the repair and remediation of all damages to the Home caused by mold, fungi, mildew and mycotoxins. While the foregoing are intended to minimize the potential developments of molds, fungi, mildew and other mycotoxins, each Owner understands and agrees that there is no method for completely eliminating the development of same. By acquiring title to a Home, each Owner shall be deemed to have assumed the risks associated with

molds, mildew, toxins and/or fungi and to have released Declarant from any and all liability resulting from same, including, without limitation, any liability for incidental or consequential damages, which may result from, without limitation, the inability to possess the Home, inconvenience, moving costs, hotel costs, storage costs, loss of time, lost wages, lost opportunities and/or personal injury and death to or suffered by the Owner, his or her family members and/or his or her guests, tenants, invitees and/or the pets of all of the aforementioned persons, as a result of mold, mildew, fungus or spores. Additionally, each Owner, by acceptance of a deed, or otherwise acquiring title to a Home, shall be deemed to have agreed that Declarant shall not be responsible, and Declarant hereby disclaims any responsibility for any illness, personal injury, death or allergic reactions which may be experienced by the Owner, his or her family members and/or his or her guests, tenants, invitees and/or the pets of all of the aforementioned persons, as result of mold, mildew, fungus or spores. Neither Declarant nor any Participating Builders makes any representations or warranties regarding the existence or development of molds, fungi, mildew or mycotoxins, and each Owner on behalf of themselves and their family members, guests, invitees, tenants, successors and assigns shall be deemed to and by acceptance of a deed or title to the Home or by use of the Home, waives and expressly releases any such warranty and claims for loss or damages (including, without limitation, property damage and/or personal injury) resulting from the existence and/or development of same. References in this section regarding climate control and air conditioning shall only be applicable to those portions of the Home that are air conditioned.

9.2.2. An Owner shall not plant any shrubs, trees and/or landscaping on his or her Lot (except in such Owner's private fenced-in backyard area, if applicable) without the prior written approval of the Association. If an Owner receives such approval and plants any shrubs, trees and/or landscaping on his or her Lot, such Owner shall be responsible for maintaining such shrubs, trees and/or landscaping. Nothing shall be planted in any open space, landscape buffer and/or undisturbed natural buffer, if any, by any Owner.

Declarant or a Participating Builder may have constructed one or more drainage swales upon each Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such Lot from time to time. Each Lot Owner shall be responsible for the maintenance, operation and repair of the swales on the Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the drainage swale shall be authorized and any damage to any drainage swale, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the drainage swale is located.

9.2.3. The Owner of each Lot shall maintain, repair and replace as needed any fencing on their Lot, clean, maintain and repair the driveway on their Lot, and keep the sidewalk located on and/or adjacent to their Lot clean and free from any stains, trash, debris and/or impediments to pedestrian traffic. Without limiting the generality of the foregoing, the Owner of each Lot shall also maintain, repair and replace as needed, the sidewalks and paved surfaces within the rights-of-way adjacent to their Lots.

9.2.4. To the extent not maintained by the CDD, each Owner of a Lot abutting a Lake, if any, shall also be responsible for maintaining and repairing the portion of the lake bank slopes on or adjacent to his or her Lot.

9.2.5. In addition to the above, the Owner of each Home shall be responsible to fix leaks in and otherwise maintain and repair the roof of such Owner's Home and replace any dead or obviously dying trees on their Lot.

9.2.6. If a Home is damaged by fire or other casualty, its Owner shall properly and promptly restore it to at least as good a condition as it was before the casualty occurred. Any such work shall be in accordance with the original plans and specifications of the Home unless otherwise authorized by the Board

9.2.7. Each Owner shall keep such Owner's Home insured in an amount not less than its full insurable value against loss or damage by fire or other hazards. Evidence of such coverage shall be furnished to the Association promptly upon the Board's request.

9.2.8. If an Owner fails to comply with the foregoing provisions of this Section 9.2, the Association may proceed in court to compel compliance. Further, if the failure to comply relates to the Owner's obligations to maintain insurance, the Association shall be entitled, although not obligated, to obtain the required coverage itself and to levy on the offending Owner an Assessment equal to the cost of premiums, and any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses.

9.2.9. If a failure to comply with the provisions of this Section 9.2 relates to the Owner's obligation to maintain and care for the Home, landscaping or any other area required to be maintained and cared for by the Owner, then, in addition to the exercise of all other remedies, the Association or Declarant shall have the right but not the obligation, upon fifteen (15) days written notice, to enter the Lot of the Owner for the purpose of performing the maintenance and care referred to, set forth and described in the notice and to levy on the offending Owner an Assessment equal to the cost of performing such maintenance and care. Any such Assessment shall constitute a lien upon the applicable Lot and Home with the same force and effect as a lien for Operating Expenses. The determination of whether an Owner is failing to properly maintain and care for the property for which he has the maintenance responsibility under this Declaration or any of the other Governing Documents shall be determined in the sole discretion of the Association or Declarant.

### 9.3. Damage to Buildings

The Owner of any Home which has suffered damage may apply to the ARB for approval for reconstruction, rebuilding, or repair of the Improvements therein. The ARB shall grant such approval only if, upon completion of the work, the exterior appearance of the Improvement(s) will be substantially similar to that which existed prior to the date of the casualty. If the obligation for repair falls upon the Association, ARB approval will not be required prior to the commencement of such work, so long as the exterior appearance of the Improvements will be

substantially similar to that which existed prior to the date of the casualty.

The owner or owners of any damaged building (including, without limitation, the Owner of a Lot and/or Home), the Association shall be obligated to proceed with all due diligence hereunder and the responsible parties shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within one (1) year after the damage occurs, unless prevented by causes beyond his or her or their reasonable control.

Declarant and Participating Builders shall be exempt from the provisions of this Section 9.3, provided that any such reconstruction, rebuilding or repairs made by Declarant or a Participating Builder shall be consistent, as to the exterior appearance, with the Improvements as they existed prior to the damage or other casualty.

## 10. OCCUPANCY AND USE RESTRICTIONS

All of the Property shall be held, used, and enjoyed subject to the following limitations and restrictions, and any and all additional rules and regulations which may, from time to time, be adopted by the Association, except as provided in Section 10.39 below with respect to Declarant and Lots and Homes owned by Declarant:

10.1. Enforcement. Failure of an Owner to comply with any limitations or restrictions in this Declaration or any of the Governing Documents or with any rules and regulations promulgated by the Association shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof.

Notwithstanding the rights of the Association hereunder to enforce to the terms and provisions of the Governing Documents, the District shall also have the right to take enforcement action, including a civil action for an injunction and penalties, against the Association to compel the Association to correct any failure by the Association to operate, maintain and repair the Surface Water or Stormwater Management System in accordance with the District Permit.

In addition to all other remedies, if an Owner is delinquent for more that ninety (90) days in paying a monetary obligation due the Association, the Association may suspend, until such monetary obligation is paid, any or all of the rights of any or all of an Owner or an Owner's tenants, guests or invitees to use the Common Area and facilities (including, without limitation, cable television and other amenity (non-utility) services provided); may suspend the voting rights of an Owner if such Owner is delinquent in payment of regular annual assessments for more than ninety (90) days; and may levy reasonable fines against any Owner or any Owner's tenant, guest or invitee for failure of such Owner, and/or such Owner's family, guests, invitees, tenants or employees to comply with any of the Governing Documents, provided the following procedures are adhered to:

10.1.1. Notice. The Association shall notify the Owner in writing of the noncompliance and set forth the corrective action to be taken. A fine or suspension of use rights may not be imposed without at least fourteen (14) days notice to the Owner sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee of the Association. If

the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. If the Association imposes a fine or suspension, the Association must provide written notice of such fine or suspension by mail or hand delivery to the Owner and, if applicable, to any Owner's tenant, guest or invitee. At the Association's option, any fine may be levied on a daily basis in the event of a continuing violation without the necessity of a new hearing and without any limitation on the amount of such fine.

10.1.2. Hearing. Should the Owner still be in noncompliance, the noncompliance shall be presented to the Board after which the Board shall hear reasons why a fine should or should not be imposed. A written decision of the Board shall be submitted to the Owner, as applicable, not later than twenty-one (21) days after said meeting.

10.1.3. Payment. A fine shall be paid not later than thirty (30) days after notice of the imposition of the fine.

10.1.4. Fines. An Owner shall be responsible for all Legal Fees incurred in connection with the collection of a fine whether or not an action at law to collect said fine is commenced. All monies received from fines shall be allocated as directed by the Board, subject always to the provisions of this Declaration. Unless otherwise permitted by applicable law, a fine of less than One Thousand and No/100 Dollars (\$1,000.00) may not become a lien against a Lot.

10.1.5. Failure to Pay Assessments. Notice and Hearing as provided in this Section shall not be required with respect to the imposition of suspension of voting rights or fines upon any Owner because of such Owner's failure to pay Assessments or other monetary obligations or charges which are due for more than ninety (90) days.

10.1.6. Suspension of use rights to the Common Area shall not impair the right of an Owner or tenant of a Lot and/or Home to have vehicular and pedestrian ingress to and egress from such Lot and/or Home, including, but not limited to, the right to park, nor to provide access to utility services provided to the Lot and/or Home.

10.1.7. In addition to all other remedies, the Association may levy Benefited Assessments, to cover costs which the Association incurs to bring a Lot into compliance with the Governing Documents, including Legal Fees, or costs incurred as a consequence of the conduct of an Owner or occupant of a Lot, their guests or invitees.

10.1.8. For purposes of this Section 10, unless the context otherwise requires, Owner shall also include the family, invitees, guests, licensees, lessees and sublessees of any Owner, and any other permitted occupants of a Home. All the Property shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Declarant in Section 10.39 hereof:

10.2. Single Family Use. The Homes shall be for single family use only. No commercial occupation or activity may be carried on in Sawmill Branch except as such occupation or activity is permitted to be carried on by Declarant or a Participating Builder under this Declaration. A family is defined to mean any number of persons related by blood, marriage or adoption or not

more than two (2) unrelated adult persons living as a single housekeeping unit.

10.3. Occupancy of Home. The Fair Housing Amendments Act of 1988 (Public Law 100-430, approved September 13, 1988) ("Fair Housing Act"), which became effective in March, 1989, and as amended effective December 31, 1995, provides that communities cannot reject families with children. Therefore, neither Declarant, a Participating Builder, nor the Association shall have the authority to prohibit children.

10.4. Nuisance. Subject to allowances for reasonable construction activities, no obnoxious or offensive activity shall be carried on, in or about the Lots and Homes or in or about any Improvements, or on any portion of Sawmill Branch, nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any Owner. No use or practice shall be allowed in or around the Lots and Homes which is a source of annoyance to the Owners or occupants of Homes or which interferes with the peaceful possession or proper use of the Lots and Homes or the surrounding areas. No loud noises or noxious odors shall be permitted in any Improvements or Homes. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, unlicensed off road motor vehicles or any items which may unreasonably interfere with television or radio reception of any Owner shall be located, used or placed on any Lot or Home, or exposed to the view of other Owners without the prior written approval of the Board. If a dispute or question arises as to what may be or become a nuisance, the issue shall be submitted to the Board, whose decision shall be dispositive of such dispute or question.

10.5. No Improper Uses. No improper, offensive, hazardous or unlawful use shall be made of any Lot or the Home thereon nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any person using any portion of the Property. Each portion of the Property will be subject to, and the Association and each Owner will conform to and observe, all laws, statutes, ordinances, rules and regulations of the United States of America, the State of Florida, the County, the city and any and all other governmental and public authorities and boards or officers of the same relating to such Property and any Improvements thereon or the use thereof. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereover relating to any Lot or Home shall be corrected by, and at the sole expense of the Owner of any such Lot or Home.

10.6. Leases. No Home may be rented for a period of less than one (1) calendar month. No portion of a Home (other than an entire Home) may be rented. All leases shall provide, and if they do not so provide then the leases shall be deemed to provide, that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Articles, the Bylaws, applicable rules and regulations, or of any other agreement, document or instrument governing the Lots or Homes. The Owner of a leased Home shall be jointly and severally liable with such Owner's tenant for compliance with the Governing Documents and to the Association to pay any claim for injury or damage to property caused by the negligence of the tenant. Every lease shall be subordinate to any lien filed by the Association whether before or after such lease was entered into. Within five (5) days following execution of a lease for a Home, but in no event later than occupancy of the Home by a tenant, Owner shall: (a)

notify the Association in writing with the name of the tenant and all of tenant's family members or others that will be occupying the Home, and (b) provide the Association with a true, correct and complete copy of the lease agreement. In the event Owner fails to timely comply with the foregoing, such lease shall be null and void and of no further force or effect, and Owner shall be in violation of this Declaration.

The lease of a Home for a term of six (6) months or less is subject to a tourist development tax assessed pursuant to Section 125.0104, Florida Statutes. An Owner leasing his or her Home for a term of six (6) months or less agrees, and shall be deemed to have agreed, for such Owner, and his or her heirs, personal representatives, successors and assigns, as appropriate, to hold the Association, the Developer and all other Owners harmless from and to indemnify them for any and all costs, claims, damages, expenses or liabilities whatsoever, arising out of the failure of such Owner to pay the tourist development tax and/or any other tax or surcharge imposed by the State of Florida with respect to rental payments or other charges under the lease, and such Owner shall be solely responsible for and shall pay to the applicable taxing authority, prior to delinquency, the tourist development tax and/or any other tax or surcharge due with respect to rental payments or other charges under the lease.

In the event that an Owner is delinquent in the payment of his or her Assessments or other sums due and owing to the Association, the Home shall not be leased until such amounts are paid in full. If the Home is leased in violation of this provision, the Association may terminate the lease and evict the tenants in addition to imposing all other available remedies. In the event an Owner is in default in the payment of Assessments or other sums due and owing to the Association and the Owner's Home is leased, the Association shall have the right and authority to collect the rent to be paid by the tenant to the Owner directly from the tenant. In the event such tenant fails to remit said rent directly to the Association within ten (10) days (but no later than the day the next rental payment is due) from the day the Association notified such tenant in writing that the rents must be remitted directly to the Association, the Association shall have the right to terminate the lease and evict the tenant. All sums received from the tenant shall be applied to the Owner's account for the leased Home according to the priority established in the HOA Act until the Owner's account is current. All leases entered into by an Owner shall be deemed to automatically incorporate this provision and all the Owners hereby appoint the Association its agent for such purpose.

In addition to any notice to a tenant of a Home permitted to be given by law, an Owner by acceptance of a deed to a Home, does hereby irrevocably grant to the Association (and its officers, directors, designees, agents, and employees) and to any professional management or accounting firm providing management or accounting services to the Association, the right to notify, in writing, the tenant of the Home of any delinquency by the Owner of the Home in payment of any monetary obligations due to the Association, including but not limited to the amount thereof. Further each Owner hereby agrees and acknowledges that the disclosure of any of Owner's delinquent monetary obligations due to the Association, as provided in the preceding sentence, shall not be construed or be deemed to be a violation of the Fair Debt Collection Practices Act ("FDCPA") 15 U.S.C. Section 1692 *et seq.*

10.7. Removal of Sod and Shrubbery; Alteration of Drainage, Etc. Except for

Declarant's acts and activities with regard to the development of Sawmill Branch, no Improvements (including, but not limited to, driveways, pools, and landscaping) and no sod, top soil, muck, trees or shrubbery shall be removed from Sawmill Branch and no change in the condition of the soil or the level of the land of any of Sawmill Branch area shall be made which would result in any permanent change in the flow or drainage of surface water within Sawmill Branch without prior written consent of the ARB.

10.8. Addition of Landscaping; Alteration of Drainage, Etc. If an Owner installs additional landscaping to their Lot (which installation must be approved by the ARB), the Owner is responsible for the additional costs of maintaining the additional landscaping. The installation of additional landscaping shall not result in any permanent change in the flow or drainage of surface water within Sawmill Branch without prior written consent of the ARB.

10.9. Antenna and Aerial. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any portion of the Property or upon any improvements thereon, unless expressly approved in writing by the Association, except that this prohibition shall not apply to those satellite dishes that are one (1) meter (39.37 inches) in diameter or less, and specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Telecommunications Act of 1996, as amended from time to time. The Association is empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The Association may also adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to certain specified locations, not visible from the street or neighboring properties, and integrated with the Property and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules and provided the cost of complying with such rules would not unreasonably increase the cost of installation of permissible dishes or antennae. Any permissible dishes or antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. This Section 10.9 shall not apply to Declarant.

10.10. Garbage and Trash. Each Owner shall regularly pick up all garbage, trash, refuse or rubbish around his or her Lot, and no Owner or resident shall place or dump any garbage, trash, refuse or other materials on any other portions of Sawmill Branch, or any property contiguous to Sawmill Branch. Garbage, trash, refuse or rubbish that is required to be placed at the front of a Lot in order to be collected may be placed and kept at the curb after 5:00 p.m. on the day before the scheduled day of collection, but not sooner, and any trash facilities must be removed on the collection day after the pickup. All garbage, trash, refuse or rubbish must be placed in appropriate trash facilities or bags. All containers, dumpsters and other trash collection facilities shall be approved by the Association. All containers, dumpsters or garbage facilities shall be stored inside the garage or screened from view on the Lot and kept in a clean and sanitary condition. No noxious or offensive odors shall be permitted.

10.11. Radio Transmission. No ham radios or radio transmission equipment shall be operated or permitted to be operated within Sawmill Branch without the prior written consent of the Association.



10.12. Animals and Pets. No animals, livestock or poultry of any kind of size shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept subject to the rules and regulations governing their keeping adopted by the Board. In no event shall the number of pets exceed two (2) dogs, two (2) cats and two (2) pet birds for any Lot. No permitted pet may be kept, bred or maintained for any commercial purpose. No permitted pet may be kept if the pet becomes a nuisance or annoyance to any neighbor, as determined by the Board. No dogs or other pets shall be permitted to have excretions on the Property, except in locations designated by the Board. An Owner is responsible for the cost of repair or replacement of any Common Area damaged by such Owner's pet. Permitted pets shall only be kept subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Association.

If, in the discretion of the Board, any animal shall become dangerous or an annoyance or nuisance to other Owners, or destructive of wildlife or property, such animal may not thereafter be kept on a Lot. Further, in the event any group of animals shall collectively become dangerous or an annoyance or nuisance to other Owners, or destructive to wildlife or property, the Board shall have the right to require the applicable Owner to reduce the number of animals kept on the Lot or to take such other remedial action as the Board shall specify. Under no circumstances shall a "Dangerous Dog" (as hereinafter defined) be permitted on the Property. As used in this Declaration, a "Dangerous Dog" is defined as a dog which meets any one (1) of the following criteria: (a) has aggressively bitten, attacked, endangered or inflicted severe injury on a human being at any time whether on or off the Property, (b) has severely injured or killed a domestic animal at any time whether on or off the Property, or (c) has, when unprovoked, chased or approached any person upon the streets, drives, roads, avenues, roadways and/or sidewalks, or any other portion of the Property, in a menacing fashion or apparent attitude of attack; provided, however, a dog shall not be a "Dangerous Dog" if the threat, injury, death or damage was sustained by a person who, at the time, was unlawfully on the Property (or any portion thereof), or, while lawfully on the Property (or any portion thereof), was tormenting, abusing or assaulting the dog or its owner or a family member; provided further, that no dog may be a "Dangerous Dog" if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault. No exotic pet or any animal of any kind which has venom or poisonous defense or capture mechanisms, or if let loose would constitute vermin, shall be allowed on any portion of the Property. Trained seeing-eye dogs will be permitted for those persons holding certificates of blindness and necessity. Other animals will be permitted if such animals serve as physical aides to handicapped persons and such animals have been trained or provided by an agency or service qualified to provide such animals. The guide or assistance animal will be kept in direct custody of the assisted person or the qualified person training the animal at all times when on the Property and the animal shall wear and be controlled by a harness or orange-colored leash and collar. Pets may not be kept, bred or maintained for any commercial purpose. Any pet must be temporarily caged, carried or kept on a leash when outside of a Home. No pet shall be kept outside a Home or on any patio, unless someone is present in the Home. No dogs will be curbed in any landscaped area or close to any walk, but only in special areas designated by the Association, if any, provided this statement shall not require the Association to designate any such area. An Owner shall immediately pick up and remove any solid animal waste deposited by his or her pet. The Owner shall compensate any person hurt or bitten by his or her pet and shall indemnify the Association and hold it harmless against any loss or liability of any kind or character

whatsoever arising from or growing out of having any animal within the Property. If a dog or any other animal becomes obnoxious to other Owners by barking or otherwise, the Owner thereof must cause the problem to be corrected; or, if it is not corrected, the Owner, upon written notice by the Association, will be required to permanently remove the animal from the Property. All pets must be registered, licensed and inoculated as required by law. The Association will promulgate rules and regulations from time to time designating other rules as necessary to regulate pets.

10.13. Clotheslines. Unless otherwise permitted by applicable law and only to the extent permitted therein, no clothesline or clothes drying which is visible from outside a Lot shall be undertaken or permitted on any portion of Sawmill Branch.

10.14. Temporary Buildings, Etc. With the exception of sheds which shall be permitted provided same have received the prior written consent of the ARB, no tents, trailers, shacks or other temporary buildings or structures shall be constructed or otherwise placed within Sawmill Branch except in connection with construction, development, leasing or sales activities permitted under this Declaration or with the prior written consent of the Association. No temporary structure may be used as a residence.

10.15. Garages. No garage shall be permanently enclosed so as to make such garage unusable by an automobile, and no portion of a garage originally intended for the parking of an automobile shall be converted into a living space or storage space and no garage opening shall have a screen covering without the consent of the ARB.

10.16. Fences. No fences or walls located on a Lot shall exceed six (6) feet in height and no chain link or similar style fence shall be allowed on any Lot. All fences, except those abutting a lake, shall be constructed in white vinyl material or of a color, design and material approved in advance by the ARB. No fence or wall shall be built beyond the plane from the front corner of the Home to the side lot lines. For corner Lots, no fence or wall on the side common to the street right-of-way shall extend forward of the rear corner of the Home. On Lots abutting lakes, canals or other bodies of water, no fence shall be placed beyond the top of the bank. Only open picket, black metal fences shall be allowed along the rear Lot line and along the rear sixteen feet (16') of each side Lot line. Fencing on the side Lot lines of Lots abutting lakes, canals or other bodies of water may be either four (4) or six (6) feet, open picket, black metal or vinyl of a color, design and material approved in advance by the ARB, with the rear sixteen feet (16') transitioning from four (4) to six (6) feet, if applicable. The Owner assumes complete responsibility to maintain any fence on such Owner's Lot, including, but not limited to, trimming any grass, ivy or other plants from the fence. In the event the ARB approves the installation of a fence, it shall also have the right to require installation of landscaping, also subject to the ARB's approval, at the time the fence is installed. Notwithstanding the foregoing, an Owner may not install any fencing (including invisible fencing) on his or her Lot without the prior written approval by the ARB. In addition, the installation of any fence placed upon any Lot is subject to easements which run with the land. In the event that any fence is approved by the ARB and is permitted to cross any such easements, such ARB's approval is still subject to Owner first receiving written approval from the grantee of such easements and all other applicable governmental authorities. In the event the grantee of any such easement which runs with the land (i.e., FPL, utility provider or the County), its successors and/or assigns, requires the removal of any fence upon the Lot, then the Owner of said Lot shall,

at the Owner's sole cost and expense, immediately remove the fence. The Owner of a Lot when installing any fence upon the Lot shall comply with all valid laws, zoning ordinances, codes, rules and regulations of all applicable governmental bodies, as applicable, in addition to the ARB approval required.

10.17. Drainage or Utility Easements. No structures, trees or shrubs shall be placed on any drainage or utility easements, except by Declarant or a Participating Builder, without the prior written consent of the ARB.

10.18. Additions and Alterations. No Home shall be enlarged by any addition thereto or to any part thereof, and no Owner shall make any improvement, addition, or alteration to the exterior of his or her Home, including, without limitation, the painting, staining, or varnishing of the exterior of the Home without the prior written consent of the ARB.

10.19. Increase in Insurance Rates. No Owner may engage in any action which may reasonably be expected to result in an increase in the rate of any insurance policy or policies covering or with respect to any portion of the Property not owned by such Owner.

10.20. Mining, Drilling, or Excavation. There shall be no mining, quarrying or drilling for minerals, oil, gas or otherwise ("Mining Activity") undertaken on the Property. Activities of Declarant or the Association in dredging, excavating or maintaining drainage or other facilities or easements shall not be deemed Mining Activities.

10.21. Upon the failure of an Owner(s) to (i) maintain the portion of the Property and any Improvement thereon which such party is responsible to maintain in accordance with the requirements of this Declaration and to the satisfaction of the Association and (ii) correct such deficiencies within fifteen (15) days of written notice by the Association, unless a longer period is authorized by the Association, the Association may enter upon such portion of the Property and make such corrections as may be necessary. The cost of such corrections shall be paid by the Owner who is required to perform such maintenance. If any Owner(s) fails to make payment within fifteen (15) days after requested to do so by the Association, then the payment requested shall be collected as an Individual Home Assessment from such Owner and the Association shall be entitled to lien rights upon the portion of the Property requiring such maintenance in accordance with the provisions of this Declaration.

10.22. Subdivision and Partition. No Lot on the Property shall be subdivided except by Declarant or a Participating Builder.

10.23. Signs. No sign, display, poster, advertisement, notice, lettering or other advertising device of any kind whatsoever (including, without limitation, "For Sale," "For Rent," or "By Owner," or any other signs for the sale or renting of homes) may be exhibited, displayed, inscribed, painted or affixed in public view of any portion of any building or other Improvement in the Property (including, without limitation a Home), or on or in a vehicle, without the prior written consent of the ARB and the Board, which consent may be given, withheld or conditioned in the sole and absolute discretion of the ARB and the Board. Neither the ARB, nor the Board, shall consent to any "For Sales," "For Rent," "By Owner" or similar sign for the renting or sale of a

Home so long as Declarant or a Participating Builder owns a Lot in Sawmill Branch or so long as Declarant or any of Declarant's affiliates (or any of their respective successors or assigns) or a Participating Builder are conducting sales and marketing of Homes in Sawmill Branches or other communities developed or marketed by Declarant or its affiliates, or a Participating Builder, whichever is later. Signs, regardless of size, used by Declarant or any of Declarant's affiliates, or any of their respective successors or assigns, or a Participating Builder, for advertising or marketing during the construction and sale period of Sawmill Branch or other communities developed and/or marketed by Declarant or its affiliates, or a Participating Builder and other signs authorized by Declarant shall be exempt from this Section. Such sign or signs as Declarant and/or a Participating Builder may be required to erect under the terms of an Institutional Mortgage shall be exempt from this Section. An Owner may display a security sign provided by a contractor for security services as permitted by the HOA Act. This provision may not be amended without the prior written consent of Declarant and Participating Builders.

10.24. Boats, Recreational Vehicles and Commercial Vehicles. No trailer, camper, or other vehicle, other than four wheel passenger automobiles and other four wheel passenger vehicles determined acceptable by the Association, shall be permitted on any portion of Sawmill Branch unless fully enclosed in the garage, except for trucks furnishing goods and services during the daylight hours, except for police and emergency service vehicles, and except as the Association may designate for such use by appropriate rules and regulations. Motorcycles and boats are permitted on the Property; however, they are restricted to being parked in the garage only. In addition, the Board shall adopt rules and regulations from time to time regulating and limiting the size, weight, type and place and manner of operation of vehicles in Sawmill Branches. No commercial vehicle, trailer, recreational vehicle, motor home, boat or boat trailer may be parked or stored on the Property except in the garage of a Home located upon a Lot or except as otherwise specified by the Board in any adopted rules and regulations. The Declarant and the Board have the sole authority to determine whether a vehicle is considered a commercial vehicle or otherwise violates the restrictions in this section. No bus or tractor-trailer or any other truck larger than a full-size pickup truck may be parked on the Property, except as otherwise specified by the Board in any adopted rules and regulations and except temporarily as in the case of a moving van or other such vehicle necessary to provide service to an Owner and with the exception of any vehicles necessary for any construction activity being performed by or on behalf of Declarant.

10.25. Vehicular Parking. No person, firm or corporation shall park or cause to be parked any vehicle on any portion of the Property other than in garages, driveways or other specifically designated parking areas in the streets, drives, swales, alleys or parkways located on the Property. The foregoing, however, shall not: (i) prohibit routine deliveries by tradesmen, or the use of trucks or commercial vans in making service calls and short term visits; (ii) apply to a situation where a vehicle becomes disabled and, as a result of an emergency, is required to be parked within Sawmill Branches until it can be towed away; and (iii) apply to vehicles used in connection with construction, development or sales activities permitted under this Declaration. Parking on streets that are owned and maintained by the applicable governing jurisdiction shall be subject to the local ordinances, regulations or guidelines in effect.

10.26. All powered vehicles capable of exceeding five (5) miles per hour are prohibited from use on Sawmill Branches property unless they are licensed, registered, and insured.

Specifically, any motorcycle, moped, or motorized scooter used in Sawmill Branches may only be driven by a licensed driver, and must be registered and insured in accordance with Florida law. Specifically exempted from this regulation are electric personal assistive mobility devices as defined under Florida Statutes, Section 316.003(83); and any other bona-fide "assistive technology devices" as defined in Florida Statutes, Section 427.802(1); and any special mobile equipment as defined under Florida Statutes, Section 316.003(48) provided that such equipment may not be operated in a manner that creates a traffic hazard, or which poses a threat of harm to the user of such equipment.

10.27. No person, firm or corporation shall maintain or repair any vehicle (including, but not limited to, four wheel passenger automobiles) upon any portion of the Property except within a closed garage and totally isolated from public view; provided, however, Declarant its successors, nominees or assigns and the Association may make, or cause to be made, such repairs if necessary in regard to vehicles used in connection with construction, sales or management at Sawmill Branches. Vehicles which are missing one or more wheels, have one or more deflated tires, are not in an operating condition, or do not have current valid license plates shall not remain upon any portion of the Property, except within a wholly enclosed garage fully shielded from view, for more than two (2) consecutive days. No Owner or his or her family members, guests, invitees or lessees or their family members, guests, or invitees shall be permitted to keep any vehicle on the Property which is deemed to be a nuisance by the Association or Declarant.

10.28. Window Decor. No newspaper, aluminum foil, sheets or other temporary window treatments shall be permitted, except for periods not exceeding two (2) weeks after an Owner or a lessee first moves into a Home or when permanent window treatments are being cleaned or repaired. Window tinting is permitted provided that the type and method of tinting is first approved by the ARB.

10.29. Hurricane Shutters. No hurricane shutters may be installed without the prior written consent of the ARB, which consent may not be unreasonably withheld. If the installation of hurricane shutters is made which does not conform with the ARB's consent, then the hurricane shutters will be made to conform by the ARB at the Owner's expense or they shall be removed. Approved hurricane shutters shall not be installed or closed, as applicable, before the issuance of a hurricane watch by the National Hurricane Center encompassing the Sawmill Branch location, and shall be removed no later than ten (10) days after the cessation of a hurricane watch or warning for same ("Hurricane Shutter Time Period"), however, if the hurricane shutters are clear in color they shall be allowed to remain installed or closed, as applicable, if the Owners are absent during hurricane season

Each Owner who plans to be absent from his or her Home during the hurricane season must prepare his or her Lot prior to such Owner's departure by (a) removing all furniture, potted plants and other movable objects from his or her porch, balcony or patio, if any; (b) designating a responsible firm or individual satisfactory to the Association to install and remove hurricane shutters in accordance with the Hurricane Standards and the Hurricane Shutter Time Period requirements; and (c) designating a responsible firm or individual satisfactory to the Association to care for the Home should the Home suffer hurricane damage. Such firm or individual shall contact the Association for clearance to install or remove hurricane shutters

pursuant to this Declaration.

10.30. **Flags.** An Owner may display one portable, removable United States flag in a respectful manner, and one portable, removable official flag in a respectful manner, not larger than 4½ feet by 6 feet, that represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag. An Owner may erect a freestanding flagpole no more than 20 feet high on any portion of the Owner's Lot if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The Owner may further display in a respectful manner from that flagpole, one official United States flag, not larger than 4½ feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the County and all setback and locational criteria contained in this Declaration. In addition to the foregoing permitted flags, an Owner may display, in a respectful manner, one additional portable, removalable, flag within his or her Lot, provided such additional flag is first approved by the ARB, as to type, location and size.

10.31. **Water Supply.** No individual water supply system shall be permitted on any of the Property, provided that one or more central water supply systems are being operated in accordance with requirements of the governmental body having jurisdiction over said central system, except that wells are permitted for the irrigation of landscaping only, provided that a stain tank is installed in conjunction with the irrigation well.

10.32. **Sewage Disposal.** No individual sewage disposal system shall be permitted on the Property.

10.33. **Weapons.** The use and discharge of weapons within Sawmill Branch is prohibited. The term "weapons" includes bows and arrows, slingshots, "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

10.34. **On-Site Fuel Storage.** No on-site storage of gasoline or other fuels shall be permitted on any Lot, except that up to five (5) gallons fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment. Propane tanks normally associated with outdoor barbecue grills are permitted above-ground. Further, propane tanks associated with heating pools or hot tubs may be permitted, provided, the location, size and type are first approved in writing by the ARB. This restriction is designed to reduce environmental risks associated with fuel storage and to minimize the hazards associated with on-site fuel storage.

10.35. **Unmanned Aircraft Systems.** Drones or similar unmanned aircraft, either with or without cameras, shall not be operated by an Owner, its immediate family members, lessees, guests or invitees on, over or from any portion of the Property, except for the purpose of an Owner or their authorized agent periodically inspecting the Owner's respective Lot or Home, or as otherwise permitted by the Board from time to time. The Board is specifically vested with the exclusive authority to adopt reasonable rules and regulations concerning or related to the operation of drones or similar unmanned aircraft on, over or from Lots or within Sawmill Branch. All drones or similar

unmanned aircraft systems shall only be operated in accordance with Federal, State and local regulations, all as amended from time to time. In no event shall an operator of a drone or similar unmanned aircraft system invade the privacy of another person on any Lot, Common Area, or any other portion of Sawmill Branch. No person shall operate a drone or similar unmanned aircraft system in any manner that constitutes a nuisance or harasses, annoys, or disturbs the quiet enjoyment of another person, including without limitation, to another Owner, its immediate family members, lessees, guests or invitees.

10.36. Board's Rule Making Power. The foregoing use restrictions shall not be deemed to be all inclusive nor restrict the right of the Association to adopt such reasonable rules and regulations governing the use of Sawmill Branch as the Board may determine from time to time, provided that such rules and regulations: (i) are not in conflict with the provisions hereof; (ii) apply equally to all lawful residents of Sawmill Branch without discriminating on the basis of whether a Home is occupied by an Owner or his or her lessee; and (iii) for so long as Declarant holds any Homes within Sawmill Branch for sale in the ordinary course of its business, have the prior written approval of Declarant. Declarant has the right to approve any rule or modification thereof.

10.37. Compliance with Documents. Each Owner and their family members, guests, and invitees shall be bound by and abide by the Governing Documents. The conduct of the foregoing parties shall be considered to be the conduct of the Owner responsible for, or connected in any manner with, such individual's presence within Sawmill Branch. Such Owner shall be liable to the Association and shall pay the cost of any maintenance, repair or replacement of any real or personal property located on the Property rendered necessary by his or her act, neglect or carelessness, or by that of any other of the foregoing parties as an Individual Home Assessment.

10.38. No Implied Waiver. The failure of the Association or Declarant to object to an Owner's or other party's failure to comply with the covenants or restrictions contained herein or any other Governing Document (including the rules now or hereafter promulgated) shall in no event be deemed a waiver by Declarant or the Association or of any other party having an interest in the Property of its right to object to same and to seek compliance in accordance with the provisions of the Governing Documents.

10.39. Declarant and Participating Builder Exemption. Declarant and/or Participating Builder(s) plan to undertake the work of constructing Homes and Improvements upon certain of the Lots within the Property and may undertake the work of constructing other buildings upon adjacent land or other property being developed or marketed by Declarant and/or Participating Builder(s), and/or either of their affiliates. The completion of the aforementioned work and the sale, rental and other transfer of Homes by Declarant, Declarant's affiliates, a Participating Builder and/or a Participating Builder's affiliates, are essential to the welfare of the Property as a residential community. In order that such work may be completed and a fully occupied community established as rapidly as possible, neither the Owners, the Association, nor the Committee shall do anything whatsoever to interfere with any of Declarant, Declarant's affiliates, a Participating Builder and/or a Participating Builder's affiliates activities relating to the constructing of Homes and Improvements upon Lots within the Property, the constructing of other buildings upon adjacent land or any other property being developed or marketed by the Declarant, Declarant's

affiliates, a Participating Builder and/or a Participating Builder's affiliates, or the sale, rental and/or other transfer of Homes by Declarant, Declarant's affiliates, a Participating Builder and/or a Participating Builder's affiliates. In this respect, Declarant hereby reserve the right for itself and Participating Builders and their respective employees, contractors, agents, licensees, and invitees to come upon any and all portions of the Property (including, without limitation, the Common Area as well as a Lot even after the same has been conveyed to an Owner) as may be necessary or convenient to enable Declarant and/or Participating Builder(s) to carry on its work and other activities including, without limitation, Declarant's and/or a Participating Builder's construction of Homes and Improvements within Sawmill Branch.

In general, the restrictions and limitations set forth in this Section 10 shall not apply to Declarant or Participating Builders or to Lots owned by Declarant or Participating Builder(s). Declarant and Participating Builders shall specifically be exempt from any restrictions which interfere in any manner whatsoever with Declarant's or a Participating Builder's plans for construction, sale, lease, or use of the Property and to the Improvements thereon. Declarant and Participating Builders shall be entitled to injunctive relief for any actual or threatened interference with its rights under this Section 10 in addition to whatever remedies at law to which it might be entitled.

#### 11. DAMAGE OR DESTRUCTION TO COMMON AREA

Damage to or destruction of all or any portion of the Common Area shall, notwithstanding any provision in this Declaration to the contrary, be handled as follows:

11.1. If insurance proceeds are sufficient to effect total restoration of damaged or destroyed Common Area, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.

11.2. If insurance proceeds are insufficient to effect total restoration of the Common Area, and the cost of restoration would require a Special Assessment against each Lot in an amount of Five Thousand Dollars (\$5,000.00) or less (such amount is based on the value of the dollar in the year this Declaration is recorded and shall be increased each year thereafter based upon increases in the Consumer Price Index), then the Association shall cause the Common Area to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment proportionately against each of the Lots in accordance with the provisions of Sections 6 and 7 herein.

11.3. If the insurance proceeds are insufficient to effect total restoration of the Common Area and the cost of restoration of the Common Area would require a Special Assessment against each Lot in an amount greater than Five Thousand Dollars (\$5,000.00) (such amount is based on the value of the dollar in the year this Declaration is recorded and shall be increased each year thereafter based upon increases in the Consumer Price Index), then by the written consent or vote of a majority of the voting interests, they shall determine whether: (i) to rebuild and restore either: (a) in substantially the same manner as the Improvements existed prior to the damage or destruction; or (b) in a manner less expensive, and in the event of (a) or (b) to raise the necessary rebuilding and restoration funds by levying pro rata restoration and construction Special Assessments against all Lots; or (ii) to not rebuild and to retain available insurance proceeds. In



the event it is decided that the damaged or destroyed Common Area shall not be rebuilt, the remains of any structure or structures shall be torn down and hauled away, so as not to be a safety hazard or visual nuisance, and the land shall be fully sodded and landscaped or otherwise treated in an attractive manner. Notwithstanding anything contained herein to the contrary, any decision not to rebuild or to rebuild in a manner which would result in a change in the Improvements shall not be effective without the prior written approval of Declarant (which approval shall be given, conditioned or withheld in Declarant's sole and absolute discretion) as long as Declarant owns any portion of the Property.

11.4. Each Owner shall be liable to the Association for any damage to the Common Area not fully covered or collected by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of such Owner's family, tenants, invitees and guests, both minors and adults.

11.5 In the event that the repairs and replacements were paid for by any Special Assessments as well as insurance proceeds and regular Assessments, then, if after the completion of and payment for the repair, replacement, construction or reconstruction there shall remain any excess in the hands of the Association, it shall be presumed that the monies disbursed in payment of any repair, replacement, construction and reconstruction were first disbursed from insurance proceeds and regular Assessments and any remaining funds shall be deemed to be the remaining Special Assessments which shall be returned to the Owners by means of a *pro rata* distribution in accordance with the collection of such Special Assessments.

## 12. INSURANCE AND CONDEMNATION

The Association shall purchase and maintain the following insurance coverages subject to the following provisions, and the cost of the premiums therefor shall be a part of the Operating Expenses:

12.1. Casualty Insurance. Property and casualty insurance (including as applicable, windstorm coverage) in an amount equal to the then full replacement cost, exclusive of land, foundation, excavation and other items normally excluded from such coverage, of all Improvements and personal property which are owned by the Association and now or hereafter located upon the Common Area, which insurance shall afford protection against such risks, if any, as shall customarily be covered with respect to areas similar to the Common Area in developments similar to Sawmill Branch in construction, location and use.

12.2. Fidelity Coverage. Adequate fidelity coverage to protect against dishonest acts of the officers and employees of the Association and the Board and all others who handle and are responsible for handling funds of the Association shall be maintained in the form of fidelity bonds, which requirements shall be reasonably determined by the Board.

12.3. Directors' Coverage. Adequate directors' and officers' liability coverage, which coverage shall be effective from and after the date the Association is created.

12.4. Other Insurance. The Board may obtain such other forms of insurance as the

Board may determine and in such coverage amounts as the Board shall determine to be required or beneficial for the protection or preservation of the Property and any improvements now or hereafter located thereon or in the best interests of the Association and/or its officers and directors.

12.5. Cancellation or Modification. All insurance policies purchased by the Association shall provide that they may not be canceled (including for nonpayment of premiums) or substantially modified without at least ten (10) days prior written notice to the Association and to each first mortgage holder, if any, named in the mortgage clause.

12.6. Flood Insurance. If determined appropriate by the Board or if required by an Institutional Mortgagee, a master or blanket policy of flood insurance covering the Common Area, if available under the National Flood Insurance Program, shall be purchased, which flood insurance shall be in the form of a standard policy issued by a member of the National Flood Insurers Association, and the amount of the coverage of such insurance shall be the lesser of the maximum amount of flood insurance available under such program, or one hundred percent (100%) of the current replacement cost of all buildings and other insurable property located in the flood hazard area.

12.7. Condemnation. In the event the Association receives any award or payment arising from the taking of any Common Area or any part thereof as a result of the exercise of the right of condemnation or eminent domain, the net proceeds thereof shall first be applied to the restoration of such taken areas and improvements thereon to the extent deemed advisable by the Board and approved by at least two-thirds (2/3) of the total voting interests of the Association, and the remaining balance thereof, if any, shall then be distributed pro rata to Owners and mortgagees of Lots as their respective interests may appear.

12.8. Public Liability Coverage. A comprehensive policy of public liability insurance naming the Association and, until Declarant no longer owns any Lot within the Property, Declarant as named insureds thereof insuring against any and all claims or demands made by any person or persons whomsoever for personal injuries or property damage received in connection with, or arising from, the operation, maintenance and use of the Common Area and any Improvements located thereon, and for any other risks insured against by such policies with limits of not less than One Million Dollars (\$1,000,000.00) for damages incurred or claimed by any one person for any one occurrence; not less than Three Million Dollars (\$3,000,000.00) for damages incurred or claimed by more than one person for any one occurrence; and for not less than Fifty Thousand Dollars (\$50,000.00) property damage per occurrence with no separate limits stated for the number of claims, or in other amounts as Board may approve. The Association may also obtain worker's compensation insurance and other liability insurance including, but not limited to, insurance for lawsuits related to employment contracts in which the Association is a party, as it may deem desirable.

12.9. Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Owners, Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement of said persons, but only to the extent that such insurance

proceeds are received in compensation for such loss.

### 13. GENERAL PROVISIONS

#### 13.1. Conflict With Other Governing Documents.

In the event of any conflict between the provisions hereof and the provisions of the Articles and/or Bylaws and/or rules and regulations promulgated by the Association, the provisions of this Declaration shall control.

#### 13.2. Notices

Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the mailing thereof by United States mail, postage prepaid, to: (i) each Owner, at the address of the person whose name appears as the Owner on the records of the Association at the time of such mailing and, in the absence of any specific address, at the address of the Home owned by such Owner; (ii) the Association, certified mail, return receipt requested, at c/o Forestar (USA) Real Estate Group Inc., 14785 Old St. Augustine Road, Suite 300, Jacksonville, Florida 32258, Attention: Association President, or such other address as the Association shall hereinafter notify Declarant and the Owners of in writing; and (iii) Declarant, certified mail, return receipt requested, at Forestar (USA) Real Estate Group Inc., 14785 Old St. Augustine Road, Suite 300, Jacksonville, Florida 32258, or such other address or addresses as Declarant shall hereafter notify the Association of in writing, any such notice to the Association of a change in Declarant's address being deemed notice to the Owners.

#### 13.3. Enforcement

The covenants and restrictions herein contained may be enforced by Declarant (so long as Declarant holds an equitable or legal interest in any Lot and/or Home), the Association, any Owner and any Institutional Mortgagee holding a mortgage on any portion of the Property in any judicial proceeding seeking any remedy recognizable at law or in equity, including damages, injunction or any other form of relief against any person, firm or entity violating or attempting to violate any covenant, restriction or provision hereunder. The failure by any party to enforce any such covenant, restriction or provision herein contained shall in no event be deemed a waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenant, restriction or provision. The prevailing party in any such litigation shall be entitled to reimbursement of all costs thereof including, but not limited to, Legal Fees. Further, the Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

#### 13.4. Interpretation

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of recreational facilities and Common Area. Section, subsection, paragraph,

captions, headings and titles inserted throughout this Declaration are intended as a matter of convenience only and in no way shall such captions, headings or titles define, limit or in any way affect the subject matter or any of the terms and provisions thereunder or the terms and provisions of this Declaration.

Whenever the context so requires or permits, any pronoun used herein may be deemed to mean the corresponding masculine, feminine or neuter form thereof, and the singular form of any nouns and pronouns herein may be deemed to mean the corresponding plural form thereof and vice versa.

### 13.5. Severability

In the event any of the provisions of this Declaration shall be deemed invalid by a court of competent jurisdiction, said judicial determination shall in no way affect any of the other provisions hereof, which shall remain in full force and effect, and any provisions of this Declaration deemed invalid by a court of competent jurisdiction by virtue of the term or scope thereof shall be deemed limited to the maximum term and scope permitted by law. In the event that any court should hereafter determine that any provision of this Declaration is in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of a time period, such provision shall not thereby become invalid, but instead the duration of such time period shall be reduced to the maximum period allowed under such rule of law, and in the event the determination of the duration of such time period requires measuring lives, such measuring life shall be that of the incorporator of the Association.

### 13.6. Certain Rights of Declarant and Participating Builder

Notwithstanding anything to the contrary herein contained, no Improvements constructed or installed by Declarant and/or a Participating Builder shall be subject to the approval of the Association, the Owners or the provisions and requirements of this Declaration, although it is the intent of Declarant to maintain a community with a common scheme of development. Notwithstanding the other provisions of this Declaration, Declarant reserves for itself and Participating Builder(s), and Declarant and Participating Builder(s) and their nominees shall have, the right to enter into and transact on the Property any business necessary to consummate the sale, lease or encumbrance of Homes or real property within or outside Sawmill Branch, including, but not limited to, the right to maintain models and a sales and/or leasing office, a construction office and/or a service office, place signs, employ sales, leasing, construction and service personnel, use the Common Area and show Homes, and Declarant further reserves the right to make repairs to the Common Area and to carry on construction activity for the benefit of the Property. Declarant, and its nominees, and Participating Builder(s), as applicable, may exercise the foregoing rights without notifying the Association or the Owners. Any such models, sales and/or leasing office, construction office, service office, signs and any other items pertaining to such sales, leasing, construction or service efforts shall not be considered a part of the Common Area and shall remain the property of Declarant or a Participating Builder, as applicable. In addition, the Declarant hereby has, shall have and hereby reserves the right for itself and Participating Builders to enter upon the Common Area, if any, in order for Declarant or Participating Builders to final-out and/or close-out any and all approvals, permits, orders, conditions and/or requirements that have been

issued or imposed by any governmental entity in connection with the construction upon Lots within Sawmill Branch and all Improvements therein, and for Declarant or Participating Builders to comply and adhere to the same, and such rights shall survive the date of Turnover and continue for such period of time as is necessary for Declarant or Participating Builders if applicable, to fully comply with all such governmentally issued approvals, permits, orders, conditions and/or requirements. Without limiting the generality of the foregoing, in exercising any such rights, Declarant or Participating Builders, if applicable, shall have the right to remove and/or relocate any and all items (including, without limitation, landscape materials, fences and/or other Improvements) that may be required to be removed and/or relocated to final-out and/or close-out any and all such approvals, permits, orders, conditions and/or requirements without compensation to the Association or the Owners. This Section 13.6 may not be suspended, superseded or modified in any manner by any amendment to this Declaration unless such amendment is consented to in writing by Declarant and Participating Builders. This right of use and transaction of business as set forth herein and the other rights reserved by Declarant and Participating Builders in the Governing Documents may be assigned in writing by Declarant and Participating Builders in whole or in part, however any assignment by a Participating Builder shall only be to another Participating Builder. For the purposes of this Section 13.6, the term "Declarant" shall include any "Lender" which has loaned money to Declarant to acquire or construct Improvements upon the Property, or its successors and assigns if such Lender, its successors or assigns, acquires title to any portion of the Property as a result of the foreclosure of any mortgage encumbering any portion of the Property securing any such loan to Declarant, or acquires title thereto by deed in lieu of foreclosure. The rights and privileges of Declarant as set forth in this Section 13.6, are in addition to, and are no way a limit on, any other rights or privileges of Declarant under any of the Governing Documents.

Declarant, Participating Builders and each of their successors, assigns, employees, contractors, sub-contractors and potential purchasers shall have access to Sawmill Branch property at all times and the Association shall not impede any such access. Any gate system installed shall remain open during construction and sales hours to allow Declarant, Participating Builders and each of their successors, assigns, employees, contractors, sub contractors and potential purchasers access to Sawmill Branch.

Declarant shall also have the right, but not the obligation, to conduct inspections and tests from time to time of all or any portion of the Property in order to ascertain the physical condition of the Improvements and to determine if maintenance, repair or replacement of any such Improvement is necessary. If Declarant conducts any such tests or inspections, it shall pay all costs thereof and restore the affected portion of the Property to its condition immediately prior to the inspections and tests. Declarant shall have such rights of entry on, over, under, across and through the Property as may be reasonably necessary to exercise the rights described in this Section 13.6. Declarant's right of inspection shall exist whether or not the Turnover Date has occurred. In the event Declarant exercises its inspection right(s), it is acknowledged by the Association and all Owners that Declarant is performing any such inspection(s) for its own benefit and not for the benefit of the Association and/or the Owners and further, Declarant shall have no obligation to inform the Association and/or the Owners of the result of any such inspection.

ALL OWNERS, OCCUPANTS AND USERS OF SAWMILL BRANCH ARE

HEREBY PLACED ON NOTICE THAT DECLARANT OR PARTICIPATING BUILDERS AND/OR THEIR RESPECTIVE AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY BE, FROM TIME TO TIME CONDUCTING EXCAVATION, SAWMILL BRANCH AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO SAWMILL BRANCH. BY THE ACCEPTANCE OF THEIR DEED OR TITLE OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF SAWMILL BRANCH, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (I) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (II) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO SAWMILL BRANCH WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (III) DECLARANT, PARTICIPATING BUILDERS AND THEIR RESPECTIVE AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES SHALL NOT BE LIABLE IN ANY MANNER WHATSOEVER FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS WHATSOEVER ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (IV) ANY PURCHASE OR USE OF ANY PORTION OF SAWMILL BRANCH HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (V) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT OR PARTICIPATING BUILDERS TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF SAWMILL BRANCH.

### 13.7. Disputes as to Use

In the event there is any dispute as to whether the use of the Property or any portion or portions thereof complies with the covenants, restrictions, easements or other provisions contained in this Declaration, such dispute shall be referred to the Board, and a determination rendered by the Board with respect to such dispute shall be final and binding on all parties concerned therewith. Notwithstanding anything to the contrary herein contained, any use by Declarant of the Property shall be deemed a use which complies with this Declaration and shall not be subject to a contrary determination by the Board.

### 13.8. Amendment and Modification

The process of amending or modifying this Declaration shall be as follows:

13.8.1. Until the Turnover Date, all amendments or modifications shall only be made by Declarant without the requirement of the Association's consent or the consent of the Owners so long as such amendments or modifications do not materially impair the common plan of development of Sawmill Branch; provided, however, that the Association shall, forthwith upon

request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request. Notwithstanding anything in this paragraph to the contrary, no amendment shall be made by Declarant which impairs the rights and privileges of a Participating Builder(s) or adversely affects a Participating Builder(s) without the prior written consent of the Participating Builder(s).

13.8.2. After the Turnover Date, this Declaration may be amended by: (i) the consent of the Owners owning two-thirds (2/3) of all Lots; together with (ii) the approval or ratification of a majority of the Board. The aforementioned consent of the Owners owning two-thirds (2/3) of the Lots may be evidenced by a writing signed by the required number of Owners or by the affirmative vote of the required number of Owners at any regular or special meeting of the Association called and held in accordance with the Bylaws and evidenced by a certificate of the Secretary or an Assistant Secretary of the Association.

13.8.3. Amendments for correction of scrivener's errors or other nonmaterial changes may be made by Declarant alone until the Turnover Date and by the Board thereafter and without the need of consent of the Owners.

13.8.4. Notwithstanding anything to the contrary herein contained, no amendment to this Declaration shall be effective which shall impair or prejudice the rights or priorities of Declarant, Participating Builders, the Association or of any Institutional Mortgagee under the Governing Documents without the specific written approval of such party affected thereby. Finally, notwithstanding anything to the contrary contained herein, no amendment to this Declaration shall be effective which shall eliminate or modify the provisions of Section 13.6 and any such amendment shall be deemed to impair and prejudice the rights of Declarant and/or Participating Builders.

13.8.5. A true copy of any Amendment to this Declaration shall be sent certified mail by the Association to Declarant, Participating Builder(s) and to all Institutional Mortgagees holding a mortgage on any portion of the Property requesting notice. The amendment shall become effective upon the recording amongst the Public Records of the County of said amendment to this Declaration which sets forth any amendment or modification to this Declaration.

13.8.6. Notwithstanding anything contained herein to the contrary, Declarant may, without the consent of any Owners, file any amendment(s) to this Declaration which may be required by an Institutional Mortgagee for the purpose of satisfying said Institutional Mortgagee's development criteria or such other criteria as may be established by such Institutional Mortgagee's secondary mortgage market purchasers, including, without limitation, the FNMA and the FHLMC; provided, however, any such filed amendment(s) must be in accordance with any applicable rules, regulations and other requirements promulgated by HUD.

13.8.7. Any proposed amendment to this Declaration which would affect the Surface Water or Stormwater Management System (including environmental conservation areas, if any, and the water management portions of the Common Area), shall be submitted to the District for a determination of whether the proposed amendment necessitates a modification of the District Permit.

### 13.9. Delegation

The Association, pursuant to a resolution duly adopted by the Board, shall have the continuing authority to delegate all or any portion of its responsibilities for maintenance, operation and administration, as provided herein, to any managing agency or entity selected by the Board from time to time and whether or not related to Declarant.

### 13.10. Term

This Declaration and the terms, provisions, conditions, covenants, restrictions, reservations, regulations, burdens and liens contained herein shall run with and bind the Property, and inure to the benefit of Declarant, the Association and the Owners and their respective legal representatives, heirs, successors and assigns for a term of fifty (50) years from the date of recording this Declaration amongst the Public Records of the County, after which time this Declaration shall be automatically renewed and extended for successive periods of ten (10) years each unless at least one (1) year prior to the termination of such fifty (50)-year term or any such ten (10)-year extension there is recorded amongst the Public Records of the County an instrument agreeing to terminate this Declaration signed by the Owners owning two-thirds (2/3) of the Lots and Institutional Mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages held by Institutional Mortgagees, upon which event this Declaration shall be terminated upon the expiration of the fifty (50)-year term or the ten (10)-year extension during which such instrument was recorded.

In the event this Declaration is terminated or the Association ceases to exist for any reason, the Owners shall be jointly and severally responsible for the costs to maintain and shall maintain the Common Area in the manner described herein. This provision shall survive the termination of this Declaration and shall run with the Property in perpetuity. Any Owner may, however, petition the Circuit Court for the appointment of a Receiver to manage the affairs of the Association in the event of dissolution of the Association.

### 13.11. Rights of Mortgagees

13.11.1. Right to Notice. The Association shall make available for inspection upon request, during normal business hours or under reasonable circumstances, the Governing Documents and the books, records and financial statements of the Association to the Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Property. In addition, evidence of insurance shall be issued to each Owner and mortgagee holding a mortgage encumbering a Home upon written request to the Association. A mortgagee shall be entitled to receive timely written notice of any proposed action that requires the consent of a specified percentage of mortgagees. To be entitled to receive notices under this Section, the mortgagee (or mortgage insurer or guarantor) must send a written request to the Association stating both its name and address and the address of the Lot on which it has (or insures or guaranties) the mortgage.

13.11.2. Rights of Listed Mortgagee. Upon written request to the Association, identifying the name and address of the holder, insurer, or guarantor (such holder, insurer or



guarantor is herein referred to as a "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

(a) Any condemnation, loss or casualty loss which affects any material portion of the Property;

(b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and

(d) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform such Owner's obligations under the Governing Documents, including, but not limited to, any delinquency in the payment of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

13.11.3. Right of Listed Mortgagee to Receive Financial Statement. Any Listed Mortgagee shall, upon written request made to the Association, be entitled to financial statements of the Association for the prior fiscal year free of charge and the same shall be furnished within a reasonable time following such request.

#### 13.12. Approval of Association Lawsuits by Owners

Notwithstanding anything contained herein to the contrary, in order to prevent the Board from incurring expenses not contemplated by the Governing Documents, for which the Owners will be responsible, the Association shall be required to obtain the approval of three-fourths (3/4) of the total voting interests of the Association (at a duly called meeting of the Owners at which a quorum is present) prior to engaging persons or entities for the purpose of suing, or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

(a) the collection of Assessments;

(b) the collection of other charges which the Owners are obligated to pay pursuant to the Governing Documents;

(c) the enforcement of the use and occupancy restrictions contained in the Governing Documents;

(d) dealing with an emergency when waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Property or to the Owner(s) (the imminent expiration of a statute of limitations shall not be deemed an emergency obviating the need for the requisite vote of three-fourths [3/4] of the Owners); or

(e) filing a compulsory counterclaim.

### 13.13. Compliance With Provisions

Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot except as elsewhere herein provided does consent and agree to, and shall be conclusively deemed to have consented and agreed to, every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in such property. Declarant shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Declarant.

### 13.14. Security

The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. NOTWITHSTANDING THE FOREGOING, NEITHER DECLARANT, PARTICIPATING BUILDERS NOR THE ASSOCIATION MAKES ANY REPRESENTATIONS WHATSOEVER AS TO THE SECURITY OF THE PREMISES OR THE EFFECTIVENESS OF ANY MONITORING SYSTEM OR SECURITY SERVICE, IF ANY. ALL OWNERS AGREE TO HOLD DECLARANT, PARTICIPATING BUILDERS AND THE ASSOCIATION HARMLESS FROM ANY LOSS OR CLAIM ARISING FROM THE OCCURRENCE OF ANY CRIME OR OTHER ACT. NEITHER THE ASSOCIATION, DECLARANT, PARTICIPATING BUILDER(S) NOR ANY SUCCESSOR OF DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY OR SAFETY WITHIN THE PROPERTY, AND NEITHER THE ASSOCIATION, DECLARANT, PARTICIPATING BUILDER(S) NOR ANY SUCCESSOR TO DECLARANT OR A PARTICIPATING BUILDERS GUARANTEES OR WARRANTS, EXPRESSLY OR IMPLIEDLY, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH MONITORING SYSTEM OR SECURITY SERVICE, OR THAT ANY SYSTEM OR SERVICES WILL PREVENT INTRUSIONS, FIRES, DAMAGE, INJURY, DEATH OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME. NEITHER THE ASSOCIATION, DECLARANT, PARTICIPATING BUILDERS NOR ANY SUCCESSOR TO DECLARANT OR PARTICIPATING BUILDERS SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY. ALL MEMBERS, OWNERS AND OCCUPANTS OF ANY LOT OR HOME, AND TENANTS, GUESTS, AND INVITEES OF ANY OWNER ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD, DECLARANT, PARTICIPATING BUILDERS AND ANY SUCCESSOR TO DECLARANT OR A PARTICIPATING BUILDERS DO NOT REPRESENT OR WARRANT THAT: (a) ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM, IF ANY, RECOMMENDED BY, OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY, DECLARANT, PARTICIPATING BUILDERS OR THE COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED,

OR (b) THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEM WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD AND THE COMMITTEE, DECLARANT, PARTICIPATING BUILDERS AND ANY SUCCESSOR TO DECLARANT OR A PARTICIPATING BUILDER ARE NOT INSURERS OR GUARANTORS AND THAT EACH MEMBER, OWNER AND OCCUPANT OF ANY LOT OR HOME, AND EACH TENANT, GUEST AND INVITEE OF ANY MEMBER OR OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS OR HOMES, AND TO THE CONTENTS OF LOTS OR HOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD AND THE COMMITTEE, DECLARANT, PARTICIPATING BUILDERS AND ANY SUCCESSOR TO DECLARANT OR A PARTICIPATING BUILDER HAVE MADE NO REPRESENTATIONS, WARRANTIES AND/OR GUARANTIES, NOR HAS ANY OWNER, MEMBER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, IF ANY, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

#### 13.15. Covenant Running With The Land

All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lots and Homes and the Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of Declarant and subsequent Owner(s) of the Homes, Lots and Property or any part thereof, or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, lessees, and occupants of the Lots and Homes, as applicable, shall be subject to and shall comply with the provisions of this Declaration and the Articles, Bylaws and applicable rules and regulations as they exist and may from time to time be amended. The acceptance of a deed of conveyance of a Lot and Completed Home, or the entering into a lease of or occupancy of a Home, shall constitute an adoption and ratification by such Owner, lessee, or occupant of the provisions of this Declaration, and the Articles, Bylaws, and applicable rules and regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

#### 13.16. No Public Right or Dedication

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Common Area to the public, or for any public use.

### 13.17. No Representations or Warranties

NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE PROPERTY, ITS PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, FITNESS FOR INTENDED USE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION.

### 13.18. Association and Declarant as Attorney-In-Fact

Each Owner, by reason of having acquired ownership of a Lot and Completed Home, whether by purchase, gift, operation of law or otherwise, and each occupant of a Home, by reason of his or her occupancy, is hereby declared to have acknowledged and agreed to his or her automatic consent to any rezoning, replatting, covenant in lieu of unity of title, change, addition or deletion made in, on or to Sawmill Branch by Declarant (hereinafter, collectively, the "Modifications") and, in respect thereto, each Owner of a Lot and occupant of a Home hereby designates the Association to act as agent and attorney-in-fact on behalf of such Owner or occupant to consent to any such Modification. If requested by Declarant, each Owner shall evidence his or her consent to a Modification in writing (provided, however, that any refusal to give such written consent shall not obviate the automatic effect of this provision). Further, each Owner, by reason of having acquired ownership of a Lot and Completed Home, hereby agrees to execute, at the request of Declarant, any document and/or consent which may be required by any government agency to allow Declarant and/or its affiliates to complete the plan of development of Sawmill Branch, as such plan may be hereafter amended, and each such Owner hereby further appoints Declarant as such Owner's agent and attorney-in-fact to execute, on behalf and in the name of each such Owner, any and all of such documents and/or consents. This power of attorney is irrevocable and is coupled with an interest. The provisions of this Section 13 shall not apply to Owners that are Participating Builder(s). The provisions of this Section 13 may not be amended without Declarant's prior written consent.

### 13.19. Declarant's Reservation of Rights.

Notwithstanding anything contained in the Governing Documents to the contrary, Declarant reserves the right to change the zoning of any portion of the Property now existing or hereafter changed to be other than single-family residential (e.g., multi-family residential or commercial) and/or to make such uses of all or any part of the Property as shall be permitted by applicable zoning regulations as they may exist from time to time. Declarant, however, is not obligated by this Declaration to cause any portion of the Property to be rezoned or developed for any such uses. In the event Declarant changes the zoning of the Property, Declarant hereby reserves the right to amend this Declaration or to create one or more sub-declarations subjecting such property(ies) to additional or different specified or prohibited uses.

Additionally, in the event Declarant changes the zoning of the Property or any portion thereof to a use other than single-family residential and amends this Declaration or creates a sub-declaration, in order to insure representation on the Board for various groups having dissimilar interests, Declarant reserves the right to establish voting groups for election of Directors to the Board. In such event, each voting group shall be entitled to elect one (1) or more Director(s) to the Board. Each voting group may have different voting rights as determined by Declarant.

In the event Declarant establishes other uses of or for the Property as aforesaid, Declarant reserves the right to change the method pursuant to which Assessments are shared among the Lots and other portions of the Property. The expenses may be divided among each type of property use (e.g., single-family residential, multi-family residential and commercial) based upon, but not necessarily proportional to, the percentage of each type of property use, the level of services received by each type of property use and other relevant factors as determined by Declarant. Additionally, expenses which specifically relate to a specific property use will only be assessed against that type of property. The percentages for each type of property will be based upon the total acreage of the Property.

The portion of the anticipated Operating Expenses which are assessed against the single-family residential property shall be divided equally among the contributing Lots or units by dividing such portion of the Operating Expenses which are being assessed to the single-family residential property by the total number of contributing Lots or units.

The portion of the anticipated Operating Expenses which are assessed against the multi-family residential property shall be divided equally among the contributing multi-family units by dividing such portion of the Operating Expenses which are being assessed to the multi-family residential property by the total number of contributing units.

The portion of the anticipated Operating Expenses which are assessed against the commercial property shall be divided among the owners of the commercial property based upon a fractional formula, the numerator of which is the total square feet of buildings and paved areas of each commercial parcel and the denominator of which is the total square feet of all buildings and paved areas.

#### 13.20. Sales Interference.

Each Owner, by acceptance of a deed or other conveyance of a Home, hereby acknowledges and agrees that such Owner shall not interfere in any manner whatsoever in the sales process by Declarant or Participating Builders and/or any of their affiliates, including the carrying of signs or other types of demonstrations in Sawmill Branch or any public right-of-way adjacent to the Property. Each Owner acknowledges that any such activities interfere with the quiet enjoyment of Sawmill Branch by the other Owners, are detrimental to the value of the Homes within Sawmill Branch, and interfere with Declarant's or Participating Builders' ability to conduct its business.

#### 13.21. Animal, Reptile and Wildlife Hazards.

Florida's natural areas, which include conservation areas, Conservation Easement

Property, preservation areas, lakes and wetlands, provide habitat for many wild animals and reptiles, including possible bears, poisonous snakes and alligators. Animals can be upset by human presence and unexpectedly become aggressive or harmed by efforts to avoid you. Always keep your distance and avoid interaction with all wildlife.

All Owners, and their family members, guests, invitees and lessees, should always follow the suggestions listed below to assist in human protection from a potentially unpleasant experience as well as the protection of our wildlife:

- (a) Any wild animal can be dangerous. Always be cautious and observant.
- (b) Do not feed the wildlife. Food meant for human consumption can harm an animal. Animals that get food from humans may become aggressive.
- (c) Help keep wildlife "wild" by keeping your distance. Move away from animals without disturbing them and do not block an animal's path.
- (d) Photograph and observe wildlife from a safe distance, by using binoculars, spotting scopes or telephoto lenses.
- (e) If an animal or reptile approaches you, move away and maintain a safe distance.
- (f) Do not walk pets within or near any natural area, or near any bodies of water.
- (g) Keep young children at a safe distance from natural areas and bodies of water.

**BY ACCEPTANCE OF A DEED TO THEIR LOT EACH OWNER ACKNOWLEDGES THAT SAWMILL BRANCH, AND AREAS IN THE VICINITY OF SAWMILL BRANCH, MAY CONTAIN WILDLIFE SUCH AS, BUT NOT LIMITED TO, INSECTS, VENOMOUS AND NON-VENOMOUS SNAKES AND OTHER REPTILES, ALLIGATORS, AND OTHER ANIMALS, SOME OF WHICH MAY POSE HAZARDS TO PERSONS OR PETS COMING IN CONTACT WITH THEM. THE DECLARANT AND THE ASSOCIATION SHALL HAVE NO RESPONSIBILITY FOR MONITORING SUCH WILDLIFE OR NOTIFYING OWNERS OR OTHER PERSONS OF THE PRESENCE OF SUCH WILDLIFE. EACH OWNER AND HIS OR HER LESSEES, GUESTS AND INVITEES ARE RESPONSIBLE FOR THEIR OWN SAFETY.**

### 13.22 Title Documents.

Each Owner by acceptance of a deed to a Lot or Home acknowledges that such Lot and Home is subject to certain land use and title documents recorded in the Public Records of the County (collectively, the "Title Documents"). Declarant's plan of development for Sawmill Branch may necessitate from to time the further amendment, modification and/or termination of the Title Documents. DECLARANT RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in

connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners, Declarant by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Declarant, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Lot or Home: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Owner has waived its right to object to or comment on the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, on or before the Community Completion Date, the Association shall assume all of the obligation of Declarant under the Title Documents unless otherwise provided by Declarant by amendment to this Declaration recorded by Declarant in the Public Records of the County, from time to time, and in the sole and absolute discretion of Declarant.

#### 13.23 No Vested Rights.

Each Owner by acceptance of a deed to a Lot or Home irrevocably waives any claim that such Owner has any vested rights pursuant to case law or statute with respect to this Declaration or any of the other Governing Documents. It is expressly intended that Declarant and the Association have the broad right to amend this Declaration and the other Governing Documents, except as limited by applicable law as it exists on the date this Declaration is recorded in the Public Records of the County or except as expressly set forth herein.

#### 13.24 Access Control System.

Declarant may install a controlled access facility at one or more access points to Sawmill Branch. The Association shall have the right, but not the obligation, to contract for the installation of additional Access Control System facilities for Sawmill Branch. If provided, all costs associated with any Access Control System will be part of the Operating Expenses. Declarant hereby reserves for itself, and its contractors and suppliers, their respective agents and employees, and any prospective purchasers of Homes or Lots from Declarant, an easement for free and unimpeded access through any such Access Control System, subject only to such controls and restrictions as are agreed to in writing by Declarant. If the Association attempts to restrict or control access into Sawmill Branch through means not approved by the Declarant, the Declarant may take any and all measures necessary to eliminate same, including disabling any entry system during any hours desired by the Declarant, and the Declarant shall have no liability in this regard.

THE ASSOCIATION, DECLARANT AND PARTICIPATING BUILDER SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE ACCESS CONTROL OR INEFFECTIVENESS OF ACCESS CONTROL MEASURES UNDERTAKEN. EACH AND EVERY OWNER AND THE OCCUPANT OF EACH HOME ACKNOWLEDGES THE ASSOCIATION, DECLARANT, PARTICIPATING BUILDER AND THEIR EMPLOYEES, AGENTS, MANAGERS,

DIRECTORS AND OFFICERS, ARE NOT INSURERS OF OWNERS OR HOMES, OR THE PERSONAL PROPERTY LOCATED WITHIN HOMES. THE ASSOCIATION, DECLARANT AND PARTICIPATING BUILDER WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM ANY CASUALTY OR INTRUSION INTO A HOME.

### 13.25 Monitoring System.

The Association shall have the right, but not the obligation, to contract for the provision of services through a Monitoring System. If provided, all costs associated with any Monitoring System will be part of the Operating Expenses. It is extremely difficult and impractical to determine the actual damages, if any, that may proximately result from a failure on the part of Monitoring System service provider to perform any of its obligations with respect to any such Monitoring System and, therefore every Owner agrees Declarant, Participating Builder and Association assume no liability for loss or damage to property or for personal injury or death to persons due to any reason, including, without limitation, failure in transmission of an alarm, interruption of any community service or failure to respond to an alarm because of (i) any failure of the Monitoring System, (ii) any defective or damaged equipment, device, line or circuit of the Monitoring System, (iii) negligence, active or otherwise, of the Monitoring System service provider or its officers, agents or employees, or (iv) fire, flood, riot, war, act of God or other similar causes which are beyond the control of the Monitoring System service provider. Every Owner further agrees for himself, his grantees, Lessees, guests, invitees, licensees, and family members that if any loss or damage should result from a failure of performance or operation, or from defective performance or operation, or from improper installation, monitoring or servicing of the Monitoring System, or from negligence, active or otherwise, of Monitoring System service provider or its officers, agents, or employees, the liability, if any, of the Declarant, Participating Builder or Association for loss, damage, injury or death sustained shall be limited to a sum not exceeding Two Hundred Fifty and No/100 (\$250.00) U.S. Dollars, which limitation shall apply irrespective of the cause or origin of the loss or damage and notwithstanding that the loss or damage results directly or indirectly from negligent performance, active or otherwise or non-performance by an officer, agent or employee of Declarant, Participating Builder or Association. Further, in no event will the Declarant, Participating Builder or Association be liable for consequential damages, wrongful death, or personal injury.

THE DECLARANT, PARTICIPATING BUILDER AND ASSOCIATION DO NOT GUARANTEE OR WARRANT, EXPRESSLY OR IMPLIED, THE MERCHANTABILITY OR FITNESS FOR USE OF ANY SUCH MONITORING SYSTEM, OR THAT ANY MONITORING OR SERVICES WILL PREVENT INTRUSIONS, FIRES OR OTHER OCCURRENCES, OR THE CONSEQUENCES OF SUCH OCCURRENCES, REGARDLESS OF WHETHER OR NOT THE SYSTEM OR SERVICES ARE DESIGNED TO MONITOR SAME; AND EVERY OWNER OR OCCUPANT OF A HOME ACKNOWLEDGES THAT NEITHER DECLARANT, PARTICIPATING BUILDER NOR ASSOCIATION IS AN INSURER OF THE OWNER OR OCCUPANT'S PROPERTY OR OF THE PROPERTY OF OTHERS LOCATED ON THE PREMISES AND WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES OR DEATHS RESULTING FROM SUCH OCCURRENCES.



### 13.26 Community Development District.

The Association and each Owner acknowledges that Sawmill Branch is or will be part of an established uniform community development district known as Palm Coast Park Community Development District, as defined in Chapter 190, Florida Statutes. The CDD may provide certain urban community facilities services and will have the authority to levy and collect fees, rates, charges, taxes and assessments to pay for, finance and provide such facilities and services. The CDD may be empowered to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for basic infrastructures which may include, without limitation: (i) water management and control lands within the CDD and the connection of some or any of such facilities with other roads and bridges; (ii) roads and bridges; (iii) potable water distribution; (iv) sewage collection; (v) waste water management; (vi) landscaping; (vii) pool and pool related facilities; (viii) clubhouse and fitness center; (ix) parks; and (x) wetlands and preservation areas. The CDD may impose taxes and/or assessments on the Property. These taxes and assessments will pay for the construction, operation, maintenance and/or costs of certain public facilities within the CDD and will be set annually by the governing board of the CDD. These taxes and assessments are in addition to county and all other taxes and assessments provided for by law. These fees, rates, charges, taxes and assessments will either appear on the annual real estate tax bill for each Owner in which case they will be payable directly to the Flagler County Tax Collector or they will appear on a separate bill issued to each Owner by the CDD. The CDD shall have the power to issue any types of bonds permitted by Chapter 190, Florida Statutes.

13.26.1 Assessments. The Association and each Owner of a Home for all real property hereafter owned within the CDD's jurisdictional boundaries, covenants and agrees to pay any and all special, operating and maintenance assessments, fees, charges and taxes which may be imposed by the CDD upon such property to fund all or part of the cost of the acquisition, construction, operation, maintenance, repair and replacement of community improvements, facilities and services performed by the CDD, debt service thereof, and any other cost incurred by the CDD, and further agree to abide by all of the CDD's rules, regulations ordinances and contracts, as they may exist from time to time.

13.26.2 Required Disclosure. Each contract for the sale of a Lot and/or Home within the Property shall include, immediately prior to the space reserved in the contract for the signature of the purchase, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract:

**PALM COAST PARK COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO THE COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.**

### 13.27. Common DRI/PUD.

Each Owner by acceptance of a deed to a Lot or Home acknowledges that the Property is subject to the DRI and PUD. Due to the integrated nature of the Property and the lands described in the DRI and the PUD, no Owner, or any other person or entity shall construct any improvements upon the Property, nor take any action, which in the sole opinion of the Declarant, would result in a violation or modification of the terms and provisions of the DRI or the PUD, as the same may be amended from time to time, without the prior written consent of the Declarant. In the event of any conflict between this Declaration, the Governing Documents and the terms and conditions of the DRI/PUD, the more restrictive shall prevail.

### 13.28. FP&L Easements; Transmission Lines; EMF.

The Property is subject to various easements granted to Florida Power & Light Company and its affiliates, licensees, successors and assigns (collectively, "FP&L"), including, without limitation, Easement recorded in Official Records Book 1311, Page 270, and the Easement Agreement recorded in Official Records Book 1311, Page 219, both of the Public Records of the County, as the same may be amended and modified from time to time (collectively, "FP&L Easements"), which FP&L Easements are part of the Title Documents. Among other rights granted by the FP&L Easements, is a perpetual easement for a right of way of sixty-five feet (65') in width to be used by FP&L for the construction, operation and maintenance of one or more overhead and underground electric transmission and distribution lines and related facilities as well as one or more pipelines and appurtenant equipment for the transmission of substances of any kind. HIGH VOLTAGE ELECTRIC POWER TRANSMISSION LINES ARE LOCATED IN THIS EASEMENT WHICH IS LOCATED ON AND IN PROXIMITY OF SAWMILL BRANCH. HIGH VOLTAGE TRANSMISSION LINES MAY DISCHARGE OR EMIT ELECTROMAGNETIC FIELDS ("EMF") WHICH MAY OR MAY NOT PRESENT A HEALTH RISK TO RESIDENTS OF SAWMILL BRANCH. Electric service is essential to the very existence of a Home in the Sawmill Branch and the other homes in the area, and EMF is a by-product of the use of electricity. Production of EMF from power lines is directly related to the amount of current that FP&L or the applicable utility company sends through the transmission lines, and FP&L and the applicable utility company have the right to increase the amount of this current at any time. By acceptance of a deed to a Lot or Home within the Sawmill Branch, each Owner acknowledges and accepts the risk of living in the vicinity of the high voltage electric power transmission lines. Each Owner acknowledges and agrees that Declarant, Participating Builder(s) and Association shall have no responsibility to an Owner for any costs, expenses, losses, liabilities or obligations of any kind or nature whatsoever arising out of or in any way related to EMF, or the transmission lines or related facilities. Accordingly, EACH OWNER, FOR ITSELF AND HIS/HER FAMILY, GUESTS, TENANTS AND INVITEES, RELEASES DECLARANT, PARTICIPATING BUILDER(S) AND ASSOCIATION FROM ANY LIABILITY AND/OR CLAIMS FOR LOSS AND/OR DAMAGE (INCLUDING, WITHOUT LIMITATION, PROPERTY DAMAGE AND/OR PERSONAL INJURY) RESULTING FROM THE EXISTENCE OF HIGH VOLTAGE ELECTRIC POWER TRANSMISSION LINES ON OR IN PROXIMITY OF SAWMILL BRANCH AND ANY ELECTROMAGNETIC FIELDS,

RADIATION, NOISE, VIBRATION OR OTHER MATTER DISCHARGED OR EMITTED FROM SAID TRANSMISSION LINES AND RELATED FACILITIES.

13.29. Florida East Coast Railway.

There is a one hundred and fifty foot (150') wide Florida East Coast Railroad Right-of-Way (the "Railroad Right-of-Way") with railroad track(s) and/or line(s) (collectively, the "Train Line") located along the westerly boundary of Sawmill Branch. The Train Line is in active use with trains and/or other transportation vehicles (collectively, "Trains") running on, over and through the Railroad Right-of-Way on a regular, recurring basis. The Trains may operate lights, blow horns and other noisemaking devices near the Property at various times, including at night and on weekends. In addition, Trains running on, over and through the Railroad Right-of-Way may interrupt traffic in and out of the Sawmill Branch and emit loud noises, strong odors or smoke which may, from time to time, be detected at the Property. Each Owner, by acceptance of a deed or other conveyance of a Home, hereby acknowledges and agrees that neither Declarant, its agents or employees, have made any representations or warranties of any kind, express or implied, in connection with the Railroad Right-of-Way, Trains or Train Line, except as specifically set forth herein.

13.30. Linear Park Easement. Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes, understands and agrees that the Property is subject to that certain Perpetual Multi-Use Easement Agreement recorded in Official Records Book 1475, Page 1568, as corrected by Corrective Perpetual Multi-Use Easement Agreement recorded in Official Records Book 1570, Page 942, and Second Corrective Perpetual Multi-Use Easement Agreement recorded in Official Records Book 1814, Page 1924, all of the Public Records of the County, as the same may be amended and modified from time to time (collectively, "Linear Park Easement"), which Linear Park Easement is part of the Title Documents. Among other rights granted by the Linear Park Easement, is a perpetual multi-use easement, in and to, over and under the "Linear Park Property" in favor of the CDD for the following purposes: constructing and maintaining for public use the linear park at "Palm Coast Park," including, but not limited to, landscaping, irrigation, lighting, sidewalks, bikepaths, road crossings, walls, fences, drainage, signage and berms; installing water and sewer utility lines and facilities, conduits and underground electrical lines; and all such other purposes related to the development and use of the Linear Park Property as a public park and the development of Palm Coast Park (as such terms are defined in the Linear Park Easement).

13.31. Well Sites. Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes, understands and agrees that the Property is subject to the Easement Agreement recorded in Official Records Book 879, Page 1510, Declaration of Restrictions for Future Well Sites recorded in Official Records Book 879, Page 1521, as modified by that certain Modification of Declaration of Restrictions for Future Well Sites recorded in Official Records Book 1358, Page 1732, and Second Modification of Declaration of Restrictions for Future Well Sites recorded in Official Records Book 1465, Page 1604, as affected by Easement Agreement recorded in Official Records Book 1311, Page 219, all of the Public Records of the County (collectively, the "Well Sites Documents"), which Well Sites Documents are part of the Title Documents. There are certain "Designated Well Sites" located on the Property (as such term is

defined in the Well Sites Documents). The Designated Well Sites are subject to the provisions of that unrecorded Partial Amendment by and among Palm Coast Land, LLC, Palm Coast Forst, LLC and Florida Water Services Corporation ("FWS"), dated November 1, 2001, as amended. Among other rights granted by the Well Sites Documents, FWS is granted the option to buy Designated Well Sites located on the Property, and is also granted certain "Service Easements" over the Property for the purpose of access roads, pipelines and power lines to serve the Designated Well Sites (as such term is defined in the Well Sites Documents).

13.32. Conservation Easement. Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes, understands and agrees that the Property is subject to that certain Conservation Easement, dated June 5, 2008, and recorded in Official Records Book 1666, Page 374 of the Public Records of the County, as may be amended from time to time ("Conservation Easement"), in favor of SJRWMD.

(a) Purpose. The purpose of the Conservation Easement is to ensure that the property described on Exhibit "A" to the Conservation Easement ("Conservation Easement Property") will be retained forever in its existing natural condition and to prevent any use of the Conservation Easement Property that will impair or interfere with the environmental value of the Conservation Easement Property.

(b) Rights Granted to SJRWMD. As more specifically described in the Conservation Easement, the following rights were granted to SJRWMD to accomplish the purpose of the Conservation Easement:

(i) To enter upon and inspect the Conservation Easement Property in a reasonable manner and at reasonable times to determine compliance with the covenants and prohibitions contained in the Conservation Easement; and

(ii) To proceed at law or in equity to enforce the provisions of the Conservation Easement and require the restoration of areas or features of the Conservation Easement Property.

(c) Prohibited Acts and Uses. As more specifically described in the Conservation Easement, any activity on or use of the Conservation Easement Property inconsistent with the purpose of the Conservation Easement is prohibited. Without limiting the generality of the forgoing, the following activities and uses are expressly prohibited:

(i) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground;

(ii) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials;

(iii) Removing or destroying trees, shrubs, or other;

(iv) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface;

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

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

(vii) Acts or uses detrimental to such retention of land or water areas; and

(viii) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites of properties of historical, architectural, archaeological, or cultural significance.

(d) **Costs and Expenses.** Each Owner by acceptance of a deed for a Lot in Sawmill Branch, acknowledges and agrees that the future and ongoing rights and obligations arising under the Conservation Easement and applicable to the Property, shall inure to the benefit of and be the ongoing responsibility of the Association and in that regard, the Association, and each Owner of a Lot in Sawmill Branch, hereby agrees to release, indemnify and hold Declarant harmless from same. Any costs and expenses incurred by the Association in connection with the Conservation Easement shall be deemed to be Operating Expenses hereunder.

13.33. **City Irrigation Easement Agreement.** Each Owner, by acceptance of a deed or other instrument of conveyance, recognizes, understands and agrees that the Property is subject to that certain Irrigation Easement Agreement recorded in Official Records Book 2186, Page 1391 of the Public Records of the County, as the same may be amended and modified from time to time ("City Irrigation Easement"), which City Irrigation Easement is part of the Title Documents. Among other rights granted by the City Irrigation Easement, is a perpetual non-exclusive easement to, over, under, upon, across and through the "Property" in favor of the City, its successors and assigns, for the purpose of construction, installation, operation, maintenance and repair of a public reclaimed water main and irrigation system (as such term is defined in the City Irrigation Easement).

#### 13.34. Service Areas

Declarant may assign the Property and/or any property submitted to this Declaration by Supplemental Declaration, and/or any portions thereof, to one or more Service Areas (by name or other identifying designation) as Declarant deems appropriate, in Declarant's discretion, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to the Lots within such Service Area in addition to those which the Association generally provides to all Lots. Until the Turnover Date, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to designate or re-designate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area shall be assessed against the Lots within the Service Area as a Service Area Assessment.

In addition to Service Areas which Declarant may designate, the Owner(s) of any

two or more Lots may petition the Board to designate such Lots as a Service Area for the purpose of receiving from the Association (a) special benefits or services which are not provided to all Lots, or (b) a higher level of service than the Association otherwise provides. Upon receipt of such petition signed by the Owner(s) of a majority of the Lots within the proposed Service Area, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to be made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate in its discretion (provided, any such administrative charge shall apply at a uniform rate per Lot among all Service Areas receiving the same service). Upon written approval of the proposal by Owners of at least 67% of the Lots within the proposed Service Area, and Declarant prior to Turnover Date, the Association shall provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services shall be assessed against the Lots within such Service Area as a Service Area Assessment, subject to the right of the Owners of Lots within the Service Area to veto the budget for their Service Area as provided in Section 7.5.

The Board may, by resolution, designate a group of Lots as a Service Area and levy Service Area Assessments against such Lots to fund the costs of operating, maintaining, repairing, replacing and/or insuring certain portions of the Common Area within or adjacent to such Service Area. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and green space between the Service Area and adjacent public roads, private streets within the Service Area, if any, and Lakes or ponds within the Service Area, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; however, all similarly situated Lots shall be treated the same. Any such designation shall require the consent of Declarant prior to the Turnover Date.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, this Declaration has been signed by Declarant and joined in by the Association on the respective dates set forth below.

WITNESSES AS TO DECLARANT:

DECLARANT:

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

Parker Stastny  
Signature  
Print Name Parker Stastny

By: Sarah Wicker  
Printed Name: Sarah Wicker  
Its: Vice President

[Signature]  
Signature  
Print Name [Signature]

STATE OF FLORIDA        )  
  ) SS  
COUNTY OF Duval        )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, by SARAH WICKER, as vice president of **Forestar (USA) Real Estate Group Inc., a Delaware corporation**, freely and voluntarily under authority duly vested in him by said corporation, who is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of January, 2023.

[Signature]  
Notary Public, State of Florida at Large

My Commission Expires: 7/20/2024

Heather L. Allen  
Typed, Printed or Stamped Name of Notary Public



WITNESSES AS TO ASSOCIATION:

ASSOCIATION:

**SAWMILL BRANCH AT PALM COAST  
PARK HOMEOWNERS ASSOCIATION, INC.,**  
a Florida corporation not for profit

[Signature]  
Signature  
Print Name Beth Grossman

By: [Signature]  
Printed Name: Beth Grossman  
Its: President

[Signature]  
Signature  
Print Name JOHN STAWIERSKY

STATE OF FLORIDA     )  
                                  ) SS  
COUNTY OF DUVAL )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of  physical presence or  online notarization by Beth Grossman, as President of **SAWMILL BRANCH AT PALM COAST PARK HOMEOWNERS ASSOCIATION, INC.**, a Florida corporation not for profit, freely and voluntarily under authority duly vested in him by said corporation, who is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 23<sup>rd</sup> day of January, 2023.

[Signature]  
Notary Public, State of Florida at Large

My Commission Expires: 7/20/2024

Heather L. Allen  
Typed, Printed or Stamped Name of Notary Public





EXHIBIT "A"

Legal Description of Property

**LOTS**

Lots 1 through 158, inclusive, Lots 161 through 232, inclusive, and Lots 235 through 245, inclusive, of SAWMILL BRANCH AT PALM COAST PARK PHASE 2A, according to the plat thereof, as recorded in Plat Book 40 , Page 73 of the Public Records of Flagler County, Florida.

TOGETHER WITH

**COMMON AREA**

Tract "J" of SAWMILL BRANCH AT PALM COAST PARK PHASE 2A, according to the plat thereof, as recorded in Plat Book 40 , Page 73 of the Public Records of Flagler County, Florida.