

Instrument prepared by  
and after recording return to:  
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(space above this line for recording)

**CERTIFICATE OF AMENDMENT**

THE UNDERSIGNED, Michael Hackleman, being the duly elected and acting President of The Community Association for Mill Run, Collier County, Inc., a Florida corporation not for profit, does hereby certify that at the duly noticed annual meeting of the members held on November 15, 2016, the Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions for The Community Association for Mill Run, Collier County, Inc. as set forth in Exhibit "A", and the Amended and Restated Bylaws of The Community Association for Mill Run, Collier County, Inc. as set forth in Exhibit "B", all attached hereto, were approved by the required vote of the membership. The Declaration of Charter, Easements, Covenants and Restrictions for The Community Association for Mill Run, Collier County, Inc., was originally recorded at OR Book 1391, Pages 660 et seq, of the Public Records of Collier County, Florida.

THE COMMUNITY ASSOCIATION FOR  
MILL RUN, COLLIER COUNTY, INC.  
(SEAL)

Jennifer Nichols  
Witness Signature  
Jennifer Nichols  
Print Name

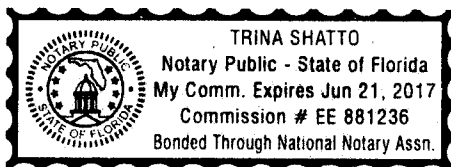
Michael Hackleman  
Michael Hackleman, President

Date December 5, 2016

Trina Shatto  
Witness Signature  
Trina Shatto  
Print Name

STATE OF FLORIDA  
COUNTY OF Collier

The foregoing instrument was acknowledged before me this 5th day of December 2016, by Michael Hackleman, as President of The Community Association for Mill Run, Collier County, Inc., the corporation described in the foregoing instrument and who is (  ) personally known to me or who has produced \_\_\_\_\_ as identification.



Trina Shatto  
Notary Public  
Print Name:  
My Commission Expires:

AMENDED AND RESTATED DECLARATION OF CHARTER, EASEMENTS COVENANTS  
AND RESTRICTIONS  
FOR  
THE COMMUNITY ASSOCIATION FOR MILL RUN, COLLIER COUNTY, INC.

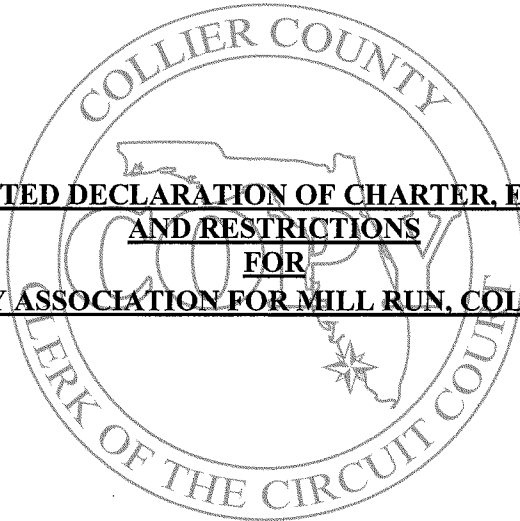


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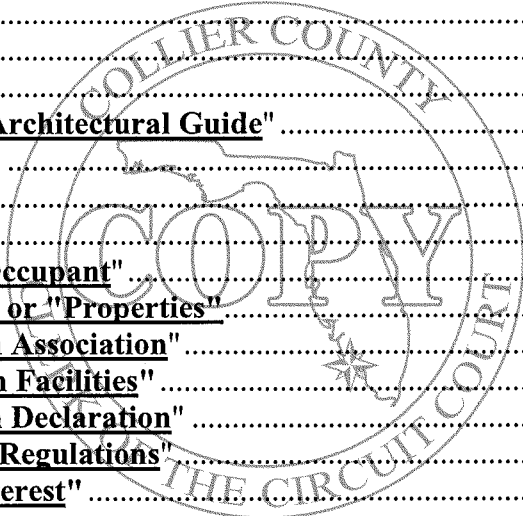


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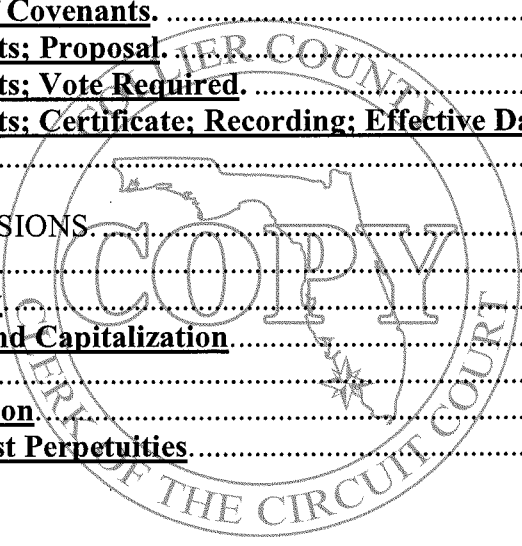
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Note: Substantial rewording of entire Declaration of Charter, Easements, Covenants and Restrictions. See current Declaration of Covenants, Conditions and Restrictions, and subsequent amendments thereto for present text.

**AMENDED AND RESTATED DECLARATION OF CHARTER, EASEMENTS, COVENANTS AND RESTRICTIONS FOR THE COMMUNITY ASSOCIATION, FOR MILL RUN, COLLIER COUNTY, INC.**

**THIS AMENDED AND RESTATED DECLARATION** is made this \_\_\_ day of \_\_\_\_\_, 2016, by The Community Association for Mill Run, Collier County, Inc., a Florida Not-For-Profit Corporation ("Association"). The original Declaration of Charter, Easements, Covenants and Restriction for Mill Run was recorded in O.R. Book 1391, Page 660 of the Public Records of Collier County, Florida, to provide for the preservation and enhancement of the property values, amenities and opportunities in Mill Run and to create a corporate entity to which was to be delegated and assigned the powers of administering and enforcing the Declarations of Charter, Easements, Covenants and Restrictions, and collecting and disbursing the assessments and charges created thereby. That Declaration of Charter, Easements, Covenants and Restrictions for Mill Run is hereby amended and is restated in its entirety. The land subject to this instrument is described on the subdivision plat for The Crossings, Mill Run recorded in Plat Book 15, Pages 39-41 of the Public Records of Collier County, Florida, attached hereto as Exhibit "A". The covenants and restrictions contained in this instrument shall run with the land legally described in Exhibit "A" attached hereto and be binding upon and inure to the benefit of all present and future owners of Lots. The acquisition of title to property or any other interest in Mill Run or the lease, occupancy, or use of any portion of a Lot constitutes an acceptance and ratification of all provisions of this instrument as amended from time to time, and an agreement to be bound by its terms.

By adoption of this Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions, the members of the Association ratify governance of the property known as Mill Run, under the provisions of this Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions, and the Exhibits hereto, and in accordance with Chapter 720, Florida Statutes (the "Act"), as may be amended from time to time.

1. **DEFINITIONS.** Certain words and phrases used in this Declaration and its recorded exhibits shall have the definitions, if any, specified in the Declaration of Charter, Easements, Covenants and Restrictions for Mill Run, as originally recorded in O.R. Book 1391 at Pages 660 Official Records of Collier County, Florida, as it may be amended from time to time, or, if different, the meanings stated below, unless the context clearly requires otherwise.

1.1 "**Assessment**" shall have the meaning set forth in Section 720.301, Florida Statutes (2015).

1.2 "**Association**" means The Community Association for Mill Run, Collier County, Inc. a Florida corporation not for profit.

1.3 "**Association Property**" or "**Common Areas**" means and refers to the land, systems, facilities, rights and easements which may be deeded, leased, licensed, granted, reserved, assigned, dedicated or transferred to the Association, or was or is designated Association Property, together with all improvements and personal property thereon and equipment, facilities and rights associated therewith, including real property, regardless of whether title has been conveyed to the Association, that has been dedicated to the Association or its Members by a recorded Plat or committed by this Declaration or other

Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions

For

The Community Association for Mill Run

restrictive covenants to be leased or conveyed to the Association or any property for which the Association has assumed responsibility of maintenance. The term "Association Property" shall include, without limitation, all "Common Areas" within the Properties, as that term is defined in Section 720.301 of the Act, as may be amended from time to time, and as may be dedicated or described on the Plat for the Properties.

1.4 "**Board of Directors**" means and refers to the Board of Directors of the Association.

1.5 "**Common Expenses**" means and refers to all expenses properly incurred by the Association in the performance of its duties.

1.6 "**Declaration**" means this Declaration of Charter, Easements, Covenants and Restrictions for Mill Run, as amended from time to time.

1.7 "**Drainage System**" consists of all lakes, water management tracts, any drainage facilities initially established or as may be required by applicable governmental regulations, and the conservation areas and buffer zones, all as shown on the plat or described in the Recreation Declaration.

1.8 "**Family**" or "**Single Family**" means any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly and regularly reside together as a single housekeeping unit, each of whom is related by blood, marriage, or adoption to each of the others.

(C) Two or more natural persons meeting the requirements of (B) above, except that there is among them not more than one person who is not so related to some or all of the others.

1.9 "**First Mortgagee**" means the mortgagee or assignee of a first mortgage against a Lot.

1.10 "**Governing Documents**" means this Declaration, and the Articles of Incorporation and Bylaws, and Rules and Regulations of the Association. If there is conflict in the interpretation of the Governing Documents, the order of priority shall be the same as the order in which they appear in this section.

1.11 "**Guest**" means a person who is physically present in, or occupies a Lot on a temporary basis at the invitation of the owner or other legally permitted occupant, without the payment of consideration.

1.12 "**Lease**" means the grant by an Owner of a temporary right to occupy the Owner's residence for valuable consideration.

1.13 "**Living Unit**" or "**Unit**" means any residences which has been constructed on the Lots, each designed for use and occupancy as a single family residence. Wherever either term is used, it shall be interpreted as through it were followed by the words "and the Lot on which it is constructed" unless the context clearly requires another meaning.



1.14 "**Lot**" means any platted parcel of land upon each of which a Living Unit has been constructed. Wherever it appears, "Lot" shall be interpreted as if it is followed by the words "and the Living Unit constructed thereon," except where the context clearly requires a different interpretation.

1.15 "**Member**" means and refers to all persons who are members of the Association as provided in the Governing Documents.

1.16 "**Mill Run**" means, and is the name of, the Properties.

1.17 "**Mill Run Architectural Guide**" is the compilation of architectural standards for Mill Run, as amended from time to time. The Mill Run Architectural Guide was attached as Exhibit C to the original Declaration for informational purposes. However, amendments to the Mill Run Architectural Guide as adopted subsequently do not need to be recorded to be effective.

1.18 "**Occupant**" when used in connection with a Living Unit, means any person who is physically present in the Living Unit on two or more consecutive days, including staying overnight. "Occupy" means the act of being an occupant.

1.19 "**Owner**" means and refers to any person or persons, entity or entities, who is or are the record owners of title to any Lot in the Property.

1.20 "**Plat**" means and includes any and all plats of all or a portion of the Property from time to time, including without limitation, the Plat of "The Crossings, Mill Run" as recorded in Plat Book 15, pages 39-41, Public Records of Collier County, Florida.

1.21 "**Primary Occupant**" means the natural person approved for occupancy when title to a Lot is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person, except where the content clearly indicates otherwise.

1.22 "**Property**" or "**Properties**" means and refers to the real property that is subject to this Declaration.

1.23 "**Recreation Association**" means the Stonegate/Mill Run Recreation Association, Inc., which is the nonprofit corporation established by the Recreation Declaration for the ownership and maintenance of the Recreation Facilities and Drainage System.

1.24 "**Recreation Facilities**" consist of that real property shown on the plat as "Tract B Recreation Area, " with pool, heated whirlpool, tennis courts, bathhouses and other amenities, all as described in the Recreation Declaration. The Recreation Facilities are shared with the neighboring community of Stonegate under the terms of the Recreation Declaration.

1.25 "**Recreation Declaration**" means the "Recreation Declaration" is the Declaration of Charter, Easements, Covenants and Restrictions for the Stonegate/Mill Run Recreation Facility, dated November 23, 1988 and recorded at Official Records Book 1396, Page 1594 of the Public Records of Collier County, Florida, as amended.

1.26 "**Rules and Regulations**" means the administrative rules and regulations governing procedures for administering the Association and the Property, as adopted, amended or rescinded by resolution of the Board of Directors.

Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions

For

The Community Association for Mill Run

1.27 **"Voting Interest"** means and refers to the voting rights distributed to the Members pursuant to the Governing Documents. The Members are entitled to one (1) vote for each Lot they own. Each Lot has One "Voting Interest." There are 178 Lots in the Property and therefore there are a total of 178 Voting Interests in the Association:

2. **ASSOCIATION; MEMBERSHIP VOTING RIGHTS.** The administration and management of this Property shall be by The Community Association for Mill Run, Collier County, Inc., a Florida corporation not for profit, which shall perform its functions pursuant to the following:

2.1 **Articles of Incorporation.** A copy of the Articles of Incorporation of the Association is attached as Exhibit "B".

2.2 **Bylaws.** The Amended and Restated Bylaws of the Association shall be the Bylaws as attached as Exhibit "C" to this Declaration, as they are amended from time to time.

2.3 **Members.** Every person or entity who is a record owner of a fee simple interest in any Lot shall be a member of the Association. Membership is appurtenant to, runs with, and shall not be separated from, the real property interest upon which membership is based. The burden of notifying the Association of a change of membership shall be borne by the new member; and the Association shall not be required to recognize a change of membership until the new member furnishes satisfactory proof of ownership and the fulfillment of the requirements set forth in the Bylaws.

2.4 **Voting Interests.** The members of the Association are entitled to one (1) vote in Association affairs for each Lot owned by them. Votes shall be cast as provided in the Bylaws.

2.5 **Termination of Membership.** Termination of membership in the Association does not relieve or release any former member from liability or obligation incurred under or in any way connected with the Association during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

2.6 **Association As Owner of Lots.** The Association has the power to purchase Lots and to acquire and hold, lease, mortgage, and convey them, by act of a majority of the Board of Directors. However, if at any time the Association owns two (2) or more Lots, it may not purchase any more Lots without the prior approval of a majority of the voting interests, unless the Association obtains title to the Lot by virtue of its foreclosure action, in which case no membership vote shall be required.

2.7 **Board of Directors.** Except as otherwise specifically provided by law or by the Governing Documents, the Association shall act through its Board of Directors and its officers, and no vote of the members shall be required. The officers and Directors of the Association have a fiduciary relationship to the members.

2.8 **Powers and Duties.** The powers and duties of the Association include those set forth in this Declaration, the Articles of Incorporation and the Bylaws, those provided in Chapter 720, Florida Statutes (the "Act"), as may be amended from time to time, and Chapter 617, Florida Statutes, to the extent not inconsistent with the foregoing documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers. The Association has the power to enter into agreements and to acquire leaseholds, memberships and ownership, possessory or use interests in lands or facilities, regardless of whether the lands or facilities are contiguous to the Property. If the Association has the authority to maintain a class action suit as plaintiff, the Association may also be joined as a

Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions

For

The Community Association for Mill Run

defendant in an action as the representative of that class with reference to litigation and disputes involving the matters for which the Association could bring a class action. Nothing herein limits any statutory or common law right of an individual owner or class of owners to bring any action which may otherwise be available. In addition, these powers include:

- (A) To make and collect Assessments against the Owners to defray the costs, expenses and losses of the Association, and to use the funds in the exercise of its powers and duties.
- (B) To protect, maintain, repair, replace and operate the Common Areas.
- (C) To purchase insurance for the protection of the Common Areas, the Association and the Owners.
- (D) To repair and reconstruct improvements after casualty, and to make further improvements to the Common Areas.
- (E) To make, amend and enforce Rules and Regulations as set forth in the Governing Documents.
- (F) To approve or disapprove the transfer, leasing and occupancy of Lots as may be provided in the Governing Documents.
- (G) To enforce the provisions of the laws of the State of Florida that are applicable to Mill Run and the Governing Documents.
- (H) To contract for the management and maintenance of Mill Run, and any property or easements and related improvements that are dedicated to the Association by plat or separate instrument, including any agreement or easement which imposes maintenance obligations on the Association, and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by law or by the Governing Documents to be exercised by the Association's Board of Directors or the Members.
- (I) To employ accountants, attorneys, architects, and other professionals to perform the services required for proper operation of Mill Run.
- (J) To borrow money as necessary to perform its other functions hereunder.
- (K) To grant, modify or move any easement.
- (L) To acquire, own, lease and dispose of any real and personal property.
- (M) To sue and be sued.

**3. COMMONS/Common Areas.**

**3.1 Title.**

3.1.1 **Association Ownership.** The Common Area, also called the Commons, shall be owned and maintained by the Association for the benefit of all owners. The Commons includes, but is not limited to, the roads within the Properties, landscaping, lighting and signage.

3.1.2 **Common Roads.** The Common Roads are private and are not intended to be dedicated to the public. Common Roads are to be considered part of the Commons.

3.1.3 **Conveyance.** The Association may buy or lease property to be added to the Commons. The Association may sell any part of the Commons real property upon written consent of Members representing 75% of the Association voting interests. Membership approval is not needed to sell personal property or to grant easements on the Common Area.

3.1.4 **Dedication.** The Association shall have the right to convey title to or dedicate the Common Roads or any other Commons to the public upon consent in writing of Members representing a majority of the voting interests.

4. **ASSESSMENTS.** The Association has the authority to levy and collect assessments to pay against each Lot and owner in order to provide funds for the operation of the Association, including both regular assessments for each Lot's share of the common expenses as set forth in the annual budget and special assessments for unusual, nonrecurring or unbudgeted common expenses. Common expenses include the expenses of the operation, maintenance, repair, replacement, or protection of the Common Areas, association property, and those components of the individual Lots for which the Association is responsible; the expenses of insurance for the Association and/or directors and officers; the costs of carrying out the powers and duties of the Association; and any other expense, whether or not included in the foregoing, designated as a common expense by this Declaration or the Bylaws. If the Board enters into a contract for bulk service cable television, the costs of a duly franchised cable or satellite television service obtained pursuant to a bulk contract shall be a common expense or may be billed on a per Lot basis at the Board's discretion. The Association may also levy special charges against any individual Lot for any amounts, other than for common expenses, which are properly chargeable against each Lot under this Declaration or the Bylaws.

4.1 **Covenant to Pay Assessments.** Each Owner of any Lot (including any purchaser at a judicial sale), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (A) The Lot's pro-rata share of annual assessments based on the annual budget adopted by the Association;
- (B) The Lot's pro-rata share of any special assessments levied for expenses not provided for by the annual budget; and
- (C) Any service assessments or charges against less than all of the Lots specifically authorized in this Declaration or the Bylaws.

Assessments shall be established and collected as provided herein and in the Bylaws. The assessments and charges, together with interest, late fees, costs, and reasonable attorneys' fees shall bind each Lot in the hands of the owner, his heirs, devisees, personal representatives, successors and assigns. In any conveyance of title, voluntary or otherwise, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments coming due prior to the time of such conveyance, without prejudice to the rights of the transferee to recover from the transferor any amounts paid by the transferee therefor.

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Except as provided elsewhere in this Declaration as to First Mortgagees, no owner may be excused from the payment of assessments unless all owners are similarly excused.

4.2 **Share of Assessments.** Except as otherwise provided below, each Lot and the owner thereof shall be liable for an equal share of all annual and special assessments, such share being a fraction of the whole, the numerator of which is the number "one" and the denominator of which is the total number of Lots included within the Property.

4.3 **Special Charges to Lots.** All legal fees arising from an owner's violation of the governing documents shall be considered a special charge against the owners account in accordance with this Declaration. The costs incurred by the Association in paying real estate taxes on a Lot in order to protect its lien rights, shall be assessable as a special charge against the Lot and collectable as an assessment pursuant to the terms of this Declaration. The Association can also assess a special charge against a Lot for failing to maintain the Lot, as set forth in Section 6.3 herein.

4.4 **Establishment of Liens to Secure Payment.** All assessments and charges levied by the Association in accordance with the provisions of this Declaration or any of the Governing Documents, together with interest at the highest rate allowed by law, late fees, and costs of collection (including, but not limited to costs and reasonable attorney's fees) are hereby declared to be a charge and continuing lien upon the Lot against which each such assessment or charge is made, and shall also be the personal obligation of the owner of each Lot assessed. This lien is superior to any homestead rights the owner may acquire. No owner may be exempt from personal liability for assessments and charges, or release any Lot from the liens and charges hereof, by a waiver of use rights, or by abandoning the Lot. The Association's lien is activated by recording a Claim of Lien by the Association in the public records of Collier County, but shall relate back to the date of recording of the original Declaration, setting forth the amount and due date of each unpaid assessment or charge as of the date the Claim of Lien is recorded. The Claim of Lien secures payment of all assessments and charges due at the time of recording (including interest, costs and attorney's fees as provided above), as well as all assessments and charges coming due subsequently, until the lien is satisfied or a final judgment of foreclosure obtained. Upon full payment of all sums secured by a Claim of Lien, the party making payment is entitled to a satisfaction in recordable form.

4.5 **Priority of Liens.** Except as otherwise provided by law, the Association's lien for unpaid assessments and charges shall be subordinate and inferior to that of any recorded First Mortgage, unless the Association's Claim of Lien was recorded before the mortgage. The Association's lien is superior to, and takes priority over, any other mortgage regardless of when recorded. A lease of a Living Unit is also subordinate and inferior to any Claim of Lien for the Association, regardless of when the lease was executed. A mortgagee in possession, a receiver, a purchaser at a foreclosure sale, or a mortgagee that has acquired title by deed in lieu of foreclosure, and all persons claiming by, through or under any of them, shall hold title subject to the liability and lien of any assessment or charge coming due after taking title. A mortgagee of a first mortgage of record acquiring title to a Lot at the public sale resulting from a foreclosure judgment in a foreclosure suit in which the Association has been initially named as a defendant junior lienholder, or by deed in lieu of foreclosure where such mortgage is no longer a lien against the property, shall be liable for the share of common expenses or assessments attributable to the Lot, which came due prior to the mortgagee's acquisition of title, to the fullest extent provided by the Act, as the same may be amended from time to time, plus attorney fees and costs of collection, including the protection of any assessment rights in any foreclosure action by any Institutional Lender or in an Owner's bankruptcy action. Any unpaid share of common expenses for which such acquirer is exempt from liability becomes a common expense collectible from all Owners. No acquirer of title to a Lot by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any assessments

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coming due during the period of such ownership. Third party purchaser acquiring title to a Lot at the public sale shall be responsible for all unpaid assessments, common expenses and other charges, including interest, late fees, attorney's fees and costs. Any unpaid assessment or charge which cannot be collected by reason of this Section shall be treated as a common expense, collectible from all Lots, including the Lot as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

The Association may file a Claim of Lien against a Lot for unpaid assessments after written notice or demand for past due assessments as well as any other amounts owed to the Association has been made by the Association. The written notice or demand must (i) provide the Owner with 45 days to make payment for all amounts due, including, but not limited to, any attorney's fees and actual costs associated with the preparation and delivery of the written demand; and (ii) be sent by registered or certified mail, return receipt requested, and by first-class U.S. mail to the Owner at his/her last address as reflected in the records of the Association, if the address is within the U.S., and to the address of the Lot if the Owner's address as reflected in the records of the Association is not the Lot address. If the Owner's address is outside the U.S., the Association may send the notice to that address and to the Lot address via first-class U.S. mail. A Claim of Lien shall secure payment of all Assessments due at the time of recording (including interest, late fees, costs and attorney's fees as provided above), as well as all Assessments, interest, late fees, costs and attorney's fees coming due subsequently, until the Claim of Lien is satisfied or a final judgment of foreclosure obtained. Any payment received by the Association and accepted shall be applied first to any interest accrued, then to any late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent Assessment. The preceding sentence applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

4.6 **Collection of Assessments.** If any owner fails to pay any assessment, charge, or installment thereof, within ten (10) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association.

- (A) To charge interest on such assessment or charge, from the due date until paid, at the highest rate allowed by law; and, in addition, to impose a late payment penalty which may not exceed the greater of twenty-five dollars (\$25.00) or 5% of each delinquent installment payment of the assessment, or such other maximum as may be provided for by law.
- (B) To file an action in equity to foreclose its lien. Unless another procedure is required by law, the lien may be foreclosed by an action brought by the Association, in the same manner as provided in Section 720.3085 of the Act, as may be amended from time to time.
- (C) To bring an action at law for money judgment against the Owner without waiving any lien foreclosure rights of the Association.
- (D) If an Owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association, to levy reasonable fines, or may suspend the Owner's right to use common areas or common facilities until the monetary obligation is paid, except for that must be used to access the Lot, utility services, or parking. Any such fines or suspension shall be imposed in accordance with the requirements of the Act.

- (E) If any Owner is delinquent for more than ninety (90) days in paying any monetary obligation due to the Association to suspend the voting rights of a Member until the monetary obligation is paid.
- (F) As an additional right and remedy of the Association, upon default in the payment of Assessments as aforesaid and after thirty (30) days' prior written notice to the applicable Owner and the recording of a claim of lien, the Association may declare any Assessment installments due for the remainder of the budget year in which the claim of lien was filed to be accelerated and immediately due and payable.
- (G) If a Lot is occupied by a tenant and the Owner is delinquent in paying any obligation due to the Association, the Association may make written demand on the tenant to pay directly to the Association the future monetary obligations related to the Lot, and the tenant must make such payment. Such demand shall be continuing in nature and the tenant must continue to pay the monetary obligations until the Association releases the tenant or the tenant discontinues its tenancy, provided that the tenant shall not be liable for any increase in monetary obligations due unless the tenant was notified in writing of the increase at least ten (10) days before the date on which rent is due. If the tenant fails to make such payment the Association may sue for eviction under Sections 83.59-83.65, Florida Statutes, as if the Association were a landlord thereunder, however, the Association is not otherwise considered a landlord under Chapter 83 of the Florida Statutes and shall have no duties thereunder.

4.7 **Certificate.** The Association shall, within fifteen (15) days of request for same, furnish to any owner liable for assessments a certificate in writing signed by an officer or agent of the Association, setting forth whether all assessments and charges against the owner's Lot have been paid. Any person, except the owner, who relies on the certificate, shall be protected thereby.

4.8 **Special Assessments.** Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses, pursuant to the procedure set forth in the Bylaws. Special Assessments shall be paid in installments or in a lump sum, as the Board may determine from time to time.

4.9 **Enforcement Against Tenants.** Subject to the procedures and limitations set forth in Section 720.3085(8) of the Act, as may be amended from time to time, if a Lot is occupied by a Tenant and the Owner is delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Tenant pay the subsequent rental payments and continue to make such payments until all monetary obligations of the Owner related to the Lot have been paid in full to the Association. The Tenant must pay the monetary obligations to the Association until the Association releases the Tenant or the Tenant discontinues tenancy in the Lot. The Association may evict the Tenant if the Tenant fails to make a required payment to the Association.

In the event that Section 720.3085(8) is removed from the Act, the remainder of this Section 4.9 shall be applicable to the Association's ability to collect rent from a Tenant. If an Owner has leased his Lot and the Owner becomes delinquent in paying any monetary obligation due to the Association, the Association may make a written demand that the Tenant pay to the Association the subsequent rental payments and continue to make such payments until all monetary obligations of the

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Owner related to the Lot have been paid in full to the Association. The Tenant must pay the monetary obligations to the Association until the Association releases the Tenant or the Tenant discontinues tenancy in the Lot. If the Tenant paid rent to the Owner for a given rental period before receiving the demand from the Association and provides written evidence to the Association of having paid the rent within 14 days after receiving the demand, the Tenant shall begin making rental payments to the Association for the following rental period and shall continue making rental payments to the Association to be credited against the monetary obligations of the Owner until the Association releases the Tenant or the Tenant discontinues tenancy in the Lot. The liability of the Tenant may not exceed the amount due from the Tenant to the Owner. The Owner shall provide the Tenant a credit against rents due to the Owner in the amount of moneys paid to the Association. The Association may evict the Tenant if the Tenant fails to make a required payment to the Association. However, the Association shall not be considered a landlord under Chapter 83, Florida Statutes. The Tenant shall not, by virtue of payment of monetary obligations to the Association, have any of the rights of an Owner. The Board shall have the authority as a condition of approving a Lease to require that the Tenant and the Owner enter into a Lease addendum that provides that all Lease payments shall be paid to the Association during such time as the Owner is delinquent in paying any monetary obligation owed to the Association. Alternatively, the Association may require that such language be included in the Lease.

5. **ARCHITECTURAL AND AESTHETIC CONTROL - Architectural Review Committee.**

The architectural review and control functions of the Association shall be administered and performed by the Board of Directors unless delegated to an Architectural Review Committee ("ARC"). The Board of Directors shall appoint all members of the ARC, which shall consist of three (3) persons. Members of the ARC shall serve a term of one year, which shall expire at the first meeting of the Board of Directors that occurs after the Annual Meeting of the Members. The Mill Run Architectural Guide can be amended by the Board of Directors.

5.2 **Review Procedure, Construction Subject to Review.** All construction or modification (except interior alterations not affecting the external structure or appearance of any Building) on any Lot or Commons must be approved in advance by the Architectural Review Committee. Modifications subject to review specifically include, but are not limited to, painting or other alteration of a Building (including doors, windows and trim); replacement of roof or other parts of a Building other than with duplicates of the original material; installation of antennas, satellite dishes or receivers, solar panels or other devices; construction of fountains, swimming pools, whirlpools or other pools; construction of privacy walls or other fences or gates; addition of awnings, flower boxes, shelves, statues, or other outdoor ornamentation; window coverings; any individual wells or septic tanks and any material alteration of the landscaping or topography of Mill Run, including without limitation any removal or substantial cutting of trees or plants. The listing of a category does not imply that such construction is permitted.

5.2.2 **Application.** The plans to be submitted for approval shall include (i) the construction plans and specifications, including all proposed clearing and landscaping, (ii) elevations of all proposed improvements and (iii) such other items as the Architectural Review Committee requires. No construction on any Lot shall be commenced and no Lot shall be modified except in accordance with such plan. Any modification to the approved plan must be reviewed and approved by separate application. The Architectural Review Committee may require and specify a time limit on completion of proposed improvements for approval.

5.2.3 **Basis for Decision.** Applications shall be approved or denied based upon compliance with the provisions of the Mill Run Architectural Guide, the restrictions contained in the

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Governing Documents, the quality of workmanship and material and the history of the proposed contractor's work within the Community, and the harmony of design with surrounding structures. The Architectural Review Committee may also consider other factors, including purely aesthetic considerations, which in the sole opinion of the Architectural Review Committee will affect the desirability or suitability of the construction, only as restricted by law. The Architectural Review Committee may grant variances from the Mill Run Architectural Guide based on architectural merit or existing topographical or landscape conditions. However, the granting of such variance shall not create vested rights in the variance for the owner, nor shall such variance be a basis for any other owner to claim estoppel or waiver.

5.2.4 **Uniform Procedures.** The Architectural Review Committee may establish procedures for the review of applications, including review costs and fees, if any, to be paid by the applicant.

5.2.5 **Notification; Construction.** The Architectural Review Committee shall notify the applicant in writing of its decision within thirty (30) days, the application shall be deemed approved unless the applicant agrees to an extension. If approval is given or deemed to be given, construction of the improvements may begin. All construction must comply substantially with the submitted plans.

5.2.6 **Enforcement.** If any construction is begun which has not been approved or which deviates substantially from the approved plans, the Architectural Review Committee, the Association may bring an action for specific performance, declaratory decree or injunction. Costs, including attorneys' fees, shall be paid by the non-prevailing party.

6. **APPURTENANCES, PROPERTY RIGHTS, EASEMENTS, Appurtenances to Each Lot.**

The owners of each Lot have certain rights and obligations appurtenant to such ownership, including without limitation the following:

- (A) Membership in the Association, and the right to cast one (1) vote in Association affairs, which rights shall be acquired and exercised as provided herein, and in the Articles of Incorporation and the Bylaws of the Association.
- (B) The non-exclusive right to use the Common Areas for the purposes intended, subject to the restrictions and limitations provided in the Governing Documents.
- (C) Beneficial ownership of an undivided share of the assets and common surplus of the Association equal to the owner's share of liability for the assessments levied by the Association as set forth in Section 3.2 above. The ownership of an undivided share of the common surplus does not entitle the owner to a distribution of the common surplus.
- (D) Other appurtenances as may be provided in the Governing Documents. The appurtenances to a Lot and Living Unit automatically pass with the title, whether separately described or not, and cannot be separated from the title to the Lot and Living Unit. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the Living Units.

The appurtenances to a Lot automatically pass with the title, whether separately described or not, and cannot be separated from the title to the Lot. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred except as an appurtenance to the Lots.

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6.2 **Use and Possession.** An owner is entitled to exclusive use and possession of his Lot and Living Unit. He is entitled to non-exclusive use of the Common Areas in accordance with the purposes for which they are intended, but no use of any Lot or Common Areas may unreasonably interfere with the rights of other owners or residents. No Lot may be subdivided or any part separately sold, leased or otherwise transferred. Every owner, and his tenants, guests and invitees, shall have a perpetual non-exclusive easement for ingress, egress and access in, and over the walkways and private roads for use in common with all other owners, their tenants, guests and invitees. The portions of the Common Areas not used for walkways, private streets, sidewalks or driveways shall be for the common use and enjoyment of the owners and each owner shall have a permanent and perpetual easement for the use and enjoyment of such lands as common open space, subject to recorded restrictions and regulation by the Association. These easements shall be appurtenant to and shall pass with the title to every Lot subject to the following:

- (A) The right and duty of the Association to levy assessments against each Lot for the upkeep, maintenance, repair or betterment of the Common Areas and improvements thereon.
- (B) The right of the Association to dedicate or transfer or grant an easement covering all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be determined by the Board. No such easement shall materially interfere with the rights of owners to use the Common Areas for the purposes intended.
- (C) The right of an owner to the non-exclusive use and enjoyment of the Common Areas and facilities thereon shall extend to the members of this immediate family who reside with him, and to his tenants, guests and invitees, subject to regulation from time to time by the Association.

The Association shall be responsible for the maintenance and operation of the Common Areas, and any improvements and personal property thereon, unless such authority is delegated to the Owners under the Governing Documents.

6.3 **Partition; Separation of Interests.** There shall be no judicial partition of the Common Areas, except as expressly provided elsewhere herein, nor shall any owner or any other person acquiring any interest in the Properties, or any part thereof, seek judicial partition thereof. Nothing herein shall be construed to prevent judicial partition of any Lot and Living Unit owned in co-tenancy. The ownership of any Lot and the ownership of the Living Unit constructed thereon may not, however, be separated or separately conveyed, nor may any person who does not have an ownership interest in at least one Lot and Living Unit hold membership in the Association.

6.4 **Easements.** Each of the following easements and easement rights is reserved through the Properties and is a covenant running with the land, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any land from the Property. Any lien encumbering these easements shall automatically be subordinate to the rights of the owners with respect to such easements. Each Lot shall be subject to an easement in favor of all other portions of the Property for the location of utilities, and for surface water drainage, for lateral and subjacent support, and for the use, maintenance, repair, and replacement of party walls, and shared structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving the Properties.

- (A) Utility and other Easements. The Association has the power, without the joinder of any owner, to grant, modify or move easements such as electric, gas, cable television, or other utility, service or access easements, or relocate any existing easements, and to relocate any existing easements, in any portion of the Properties, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Properties. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Lots. The Association may also transfer title to utility-related equipment or installations, and take any other action reasonably necessary to satisfy the requirements of any utility company or governmental agency to which any such utility-related equipment or installations are to be so transferred.
- (B) Encroachments. If for any reason other than the intentional act of the owner or the Association, any Living Unit or Lot encroaches upon any of the Common Areas, upon any other Lot, or any Common Area encroaches upon any Lot, then an easement shall exist to the extent of that encroachment as long as the encroachment exists.
- (C) Ingress and Egress. A non-exclusive easement shall exist in favor of each owner and occupant, their respective guests, tenants, licensees and invitees for pedestrian traffic over, through, and across sidewalks, streets, paths, walks, and other portions of the Common Areas as from time to time may be intended and designated for such purpose and use, and for vehicular and pedestrian traffic over, through, and across such portions of the Common Areas as from time to time may be paved or intended for such purposes, and for purposes of ingress and egress to the public ways. Access to public roads or other communities outside Mill Run shall be only through the main entrance gate to Mill Run.
- (D) Drainage. A perpetual, non-exclusive easement shall exist in favor of the Association, and their employees or other designees for the use of drainage areas established throughout the Properties, and an easement for ingress, egress, and access to enter any portion of the Properties in order to construct, maintain or repair, as necessary, any drainage areas and facilities thereon and appurtenances thereto, specifically including without limitation, access over and across portions of the Common Areas by utility companies to utilize such areas for facilities for the transporting of treated effluents for irrigation purposes. No structure, landscaping, or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may obstruct or retard the flow of water through drainage areas or otherwise interfere with any easement provided for in this Section or the use rights set forth elsewhere in the Governing Documents.

7. **RECREATION FACILITIES; LAKES. Recreation Declaration; Easement for Use.** This Declaration is subject to the terms of the Recreation Declaration, which creates the Recreation Association to maintain the Recreation Facilities and Drainage System. As provided by the Recreation Declaration, each Owner shall have an easement for use of the Recreation Facilities.

7.2 **Collection of Assessments.** The Association may act as agent for the Recreation Association to collect its assessments, which shall be delivered promptly to the Recreation Association.

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7.3 **Conservation Areas. Ownership.** The Conservation Areas and Buffer Zones, as identified on the Plat, are declared common areas of the Recreation Association.

7.3.2 **Preservation of Natural State.** The Conservation Areas and Buffer Zones shall be the perpetual responsibility of the Recreation Association and may in no way be altered from their natural state. Activities prohibited within the Conservation Areas and Buffer Zones include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs, or other vegetation; excavation, dredging, or removal of soil material; diking or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control, or fish and wildlife habitat conservation or preservation.

7.3.3 **Compliance with Laws.** The Conservation Areas and Buffer Zones shall be owned by the Recreation Association and maintained in a natural state for beautification and green belt purposes, all consistent with and in accordance with all laws, ordinances and regulations and including, without limiting the generality of the foregoing, all regulations and requirements of the South Florida Water Management District and Department of Environmental Regulation.

7.4 **Lakes. Ownership.** Each of the lakes shown on the Plat as water management tracts shall be owned by the Recreation Association.

7.4.2 **Maintenance; Use.** The Recreation Association shall maintain, improve, operate and use all lakes only for beautification and retention of water purposes. The following are prohibited uses of the lake areas; fishing; utilization of objects designed for use on or below water such as boats, canoes, floats and tubes; bathing and swimming. Further, no Owner shall, or shall permit anyone claiming by, through or under such Owner, to pollute either of such lakes or to dump garbage, refuse or foreign objects therein or pump and remove water therefrom.

7.4.3 **Compliance with Laws.** Each of the lakes shall be maintained by the Recreation Association in accordance with the laws, ordinances and regulation and including, without limiting the generality of the foregoing, all regulations and requirements of the South Florida Water Management District and Department of Environmental Regulation.

7.5 **Easements.** The Association dedicates to the Recreation Association the following easements:

7.5.1 **Water Line.** An easement landward of any lake boundary for the natural rise and fall of the actual water line caused by natural events or by the necessity of complying with governmental rules and regulations and applicable laws.

7.5.2 **Maintenance.** As shown on the Plat, a 20-foot maintenance easement along the boundary of Lots where abutting a water management tract, to permit the Recreation Association, its agents, employees and contractors ingress and egress to each lake and for the purpose of maintaining the lakes and lake banks.

7.5.3 **Drainage.** Drainage easements as shown on the Plat.

7.5.4 **Access.** An access easement for ingress and egress over and across all Common Roads and, as reasonably necessary, over any Lot (but not those portions of a Lot improved with a Building or other substantial improvements approved by the Architectural Review Committee). To permit

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the Recreation Association, its agents, employees and contractors ingress and egress to the lakes and other portions of the Drainage System.

7.6 **Maintenance of Adjoining Property.** The Owner of the landward side of a lake shall maintain all land above the actual water line as it may exist from time to time. All such maintenance shall be conducted so that the grass, planting or other natural support of the embankments shall be maintained in a clean and safe manner to prevent erosion, turbidity or clogging of the lakes and to comply with the governmental regulations.

## 8. **MAINTENANCE; IMPROVEMENTS.**

8.1 **Maintenance by Owner.** Each Owner shall maintain his Lot and Unit, and all fixtures and appliances located therein in good condition and repair at all times. The yards and landscaping on all improved Lots shall be neatly and attractively maintained, and shall be cultivated and planted to the extent required to maintain an appearance in harmony with other improved Lots in the Property. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his Lot. An Owner shall not allow a condition to exist on his Lot which will adversely affect any other Lots or Units of other Owners. Garages and storage areas shall be maintained in an orderly condition, and the storage of combustibles or explosives other than ordinary household materials is prohibited. Each Owner is prohibited from painting or otherwise decorating or changing or changing the appearance of his Unit except as permitted in the Declaration.

8.2 **Maintenance by the Association.** The Association shall be responsible for the maintenance, repair, and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

(A) Reconstruct, repair, replace or refinish any improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

(B) Construct, reconstruct, repair, replace, or refinish any portion of the Common Area used as a road, street, and parking area (but not private driveways);

(C) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(D) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

(E) Construct, maintain, repair and replace landscaped areas on any portion of the Common Area;

(F) Maintain any and all easement areas granted to the Association herein or on the Plat or in any other document, including but not limited to easements for access, open space, recreation, utilities, and drainage.

(G) Maintain the Surface Water Management System and any other portion of the Common Area used for drainage and retention;

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(H) Maintain, repair and replace the sidewalks traversing Owners' Lots, which sidewalks exist as of the date of the recordation of this Amended and Restated Declaration. It is acknowledged that these existing sidewalks were originally installed pursuant to the original Declaration according to an easement granted by the developer of Mill Run, and the Association wishes to maintain these sidewalks as a Common Expense. Such sidewalks shall be maintained up to the driveway apron, it being understood that the Association is not responsible for any extension of the sidewalk into an additional walkway or area other than that necessary to traverse the Lot; and

(I) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

8.3 **Enforcement of Maintenance.** If the owner of a Lot and Living Unit fails to maintain it as required in this Declaration, the Association may institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Lot and performing the work necessary to bring the Lot into compliance with the Governing Documents, with or without consent of the owner. The Association may, but is not obligated to, repair, replace, or maintain any item which constitutes a hazard to other property or residents, or which has a material adverse effect on the appearance of the Properties. Any expenses so incurred by the Association shall be assessed against the owner as a service assessment, together with reasonable attorney's fees and all other expenses of enforcement pursuant to the terms of this Declaration. The enforcement actions permitted herein are subject to any applicable notice and opportunity to cure provisions contained in Section 12 herein or in the Association's Rules and Regulations.

8.4 **Negligence, Damage Caused by Condition in Living Unit.** The owner of each Lot and Living Unit shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence, act or omission, or by that of any member of his family or his guests, employees, invitees, agents, or lessees, but such liability shall be limited to the extent that such expenses are not met by the proceeds of insurance available.

8.5 **Alterations and Additions.** Funds necessary for material alterations or substantial additions to the Common Areas by the Association may be levied by the Association upon approval by a majority of the whole Board of Directors.

8.6 **Pest Control.** The Association may elect to supply pest control services for the outside of each Unit, with the cost thereof being part of the common expenses. An owner has the option to decline such service unless the Association determines that such service is necessary for the protection of other Units, in which case the owner must either permit the Association's pest control company to enter his Unit, or employ a licensed pest control company of his own selection to enter his Unit on a regular basis to perform pest control services and furnish written evidence thereof to the Association. The cost of pest control provided by the Association is common expense, so the election of an owner not use the service will not reduce the owner's assessments.

8.7 **Hurricane Shutters.** Unit Owners shall comply with the regulations pertaining to hurricane shutters set forth in the Rules and Regulations adopted by the Board of Directors, which may be amended from time to time. The Board shall have the ability to adopt further rules and regulations regarding the timing and manner of deployment of hurricane shutters, including the time period during which hurricane shutters may not be continuously deployed.

## 9. INSURANCE; DUTY TO RECONSTRUCT.

9.1 **Failure to Reconstruct.** If the owner of any Lot fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 9.1 above, the Association shall give written notice to the owner of his default. If the owner has not notified the Association of satisfactory arrangements to meet his obligations within thirty (30) days after the Association mailed such notice, the Association shall be deemed to have been granted the right by the owner, as such owner's attorney-in-fact, to remove all debris and damaged improvements, and additionally to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this Section, which shall be in the sole discretion of the Board of Directors, the owner of the Lot shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from the owner any costs not paid by insurance, and shall have a lien on the Lot and Unit to secure payment.

9.2 **Association's Right of Entry.** For the purpose of performing the duties authorized by this Section 9, the Association, through its duly authorized agents and employees, shall have the right, after reasonable notice to the owner, to enter upon the Lot at reasonable hours.

9.3 **Association Insurance: Duty and Authority to Obtain.** The Board of Directors shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it may deem necessary. The premiums shall be a common expense. The name of the insured shall be the Association as agent for the owners without naming them, and their mortgagees.

9.4 **Required Coverage.** The Association shall maintain adequate liability insurance and casualty insurance covering all buildings and other insurable improvements (if any) within the Common Areas in an amount determined annually by the Board of Directors, such insurance to afford the following protection:

- (A) **Property.** Loss or damage by fire, extended coverage (including windstorm), vandalism, and malicious mischief, and other hazards covered by what is commonly referred to as an "all risk" property contract.
- (B) **Liability.** Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board of Directors, with cross liability endorsement to cover liabilities of the owners as a group to any single owner.
- (C) **Fidelity.** Adequate fidelity bond coverage for all individuals having control of or access to Association funds.

9.5 **Optional Coverage.** The Association may purchase and carry such other insurance coverage as the Board of Directors may determine from time to time to be in the best interest of the Association and owners. Some common examples are:

- (A) Flood insurance.
- (B) Broad Form Comprehensive General Liability Endorsement.

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- (C) Directors and Officers Liability.
- (D) Automobile. Automobile liability for bodily injury and property damage for owned and/or non-owned motor vehicles, in such limits of protection and with such coverage as shall be required by the Board of Directors
- (E) Medical Payments.
- (F) Worker's Compensation.

9.6 **Description of Coverage.** A detailed summary of the coverages included in the Association's policies shall be available for each owner upon request. All Association insurance policies shall be available for inspection by owners upon request.

9.7 **Waiver of Subrogation.** If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogate as to any claim against owners, the Association, or their respective servants, agents or guests, except for any claim based primarily upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

9.8 **Insurance Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association, and all proceeds shall be payable to the Association.

9.9 **Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be used to defray the cost of repair or reconstruction. Any proceeds remaining after defraying costs shall become part of the Association's common surplus.

9.10 **Association as Agent.** The Association is hereby irrevocably appointed agent for each owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Living Units.

## 10. **GENERAL COVENANTS AND USE RESTRICTIONS.**

10.1 **Residential Use.** Each Living Unit shall be occupied by only one Family and its temporary guests at any time, as a residence and for no other purpose. There is a maximum occupancy of two persons per bedroom, plus two persons, including the Owner, who may occupy the Living Unit. All Occupants of a Living Unit must be registered with the Association and authorized by written instructions from the Owner to avoid having their presence challenged by other Owners, security, or management. The Association may adopt rules requiring registration of all Occupants and adopt registration forms. Further, the Association may adopt rules requiring that Guests'/ Occupants' vehicles be registered with the Association. The failure to register a vehicle accordingly may result in the vehicle being towed from the Mill Run Property without notice. Occupants/ Guests in violation of the registration/ occupancy limitation provision may be subject to eviction and other enforcement action under Section 10.4.5 below.

No time-sharing, business or commercial activity shall be conducted in or from any Living Unit. No person may publicly advertise the address of a Living Unit as the address of any business. The use of a Living Unit as a public lodging establishment shall be deemed a business or commercial use. This Section 10.1 shall not be construed to prohibit any Living Unit occupant from maintaining a personal or professional library, from keeping his personal, business or professional records in his Living Unit, or from handling his personal, business or professional telephone calls, written correspondence, or other

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communications in and from his Living Unit. Such uses are expressly declared customarily incident to residential use. This Section 10.1, however, is intended to prohibit commercial or business activity by an owner which would noticeably change the residential ambiance of the community, or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the community by persons making deliveries or pick-ups, employees or other business associates, or customers and clients. No person who is subject to registration under Florida law as a sexual offender or sexual predator may occupy a Living Unit, and individuals in violation of this provision are subject to eviction and other enforcement action under Section 10.4.5 below.

10.2 **Occupancy of Living Unit when Owner is not in Residence.** An owner may occasionally allow family, friends or business associates in reasonable numbers to temporarily occupy his Unit in his absence. Except as otherwise provided in Section 10.4 below, this provision is not intended to allow any owner to use his Unit as short-term transient accommodations for several individuals or families. The owner must register all guests with the Association in advance, giving such information about the guests and the period of their stay as the Board may reasonably require. The owner is responsible for the conduct of his guests. When the owner is not in residence, overnight occupants may stay for a period not to exceed fourteen (14) days. This restriction on occupancy does not apply to the parents, children, grandparents, grandchildren, and siblings of an owner. The Board may require an owner provide a list of exempt individuals to avoid a person's presence being questioned. The Board may further grant a variance from this restriction for employees or independent contractors of owner.

10.3 **Approval of Improvements by Board of Directors or ARC.** As described in Section 10.4 hereof all buildings, structures, landscaping and improvements to be built on or in the Community, must be approved by the Board of Directors or ARC. The Master Association Declaration provides the procedure and method of obtaining said approval.

10.4 **Leasing.** All Leases of Units must be in writing. An Owner may Lease only his or her entire Lot, and then only in accordance with this Section 10.4, after receiving the approval of the Association. Timeshare or other similar occupancy of a Lot is prohibited.

10.4.1 **Procedures.**

(a) **Notice by the Owner.** An Owner intending to Lease his or her Unit shall give to the Board or its designee written notice of such intention at least 20 days prior to the first day of occupancy under the Lease together with the name and address of the proposed Tenant, a fully executed copy of the proposed Lease, and such other information as the Board may reasonably require. The applicant must sign for having received copies of the Governing Documents.

(b) **Board Action.** After the required notice and all information or interviews requested have been provided, the Board shall have 20 days in which to approve or disapprove the proposed Lease. If the Board neither approves nor disapproves within that time, its failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a written letter of approval to the Tenant.

(c) **Disapproval.** A proposed Lease shall be disapproved only if a majority of the entire Board so votes, and in such case the Lease shall not be made. Appropriate grounds for disapproval shall include, but not be limited to, the following:

(1) the Owner is delinquent in the payment of Assessments at the time the application is considered;

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(2) the Owner has a history of leasing his or her Unit without obtaining approval, or leasing to troublesome tenants and/or refusing to control or accept responsibility for the occupancy of his or her Unit;

(3) the application on its face indicates that the prospective Tenant intends to conduct himself or herself in a manner inconsistent with the Governing Documents;

(4) the prospective Tenant has been convicted of a felony involving violence to persons or property, a felony involving sale or possession of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;

(5) the prospective Tenant has a history of conduct which evidences disregard for the rights and property of others;

(6) the prospective Tenant has a record of financial irresponsibility, including without limitation, prior bankruptcies, foreclosures or bad debt;

(7) the prospective Tenant, during previous occupancy, has evidenced an attitude of disregard for the Governing Documents;

(8) the prospective Tenant gives false or incomplete information to the Board as part of the application procedure, or the required transfer fees and/or security deposit are not paid; or

(9) the Owner fails to give proper notice to the Board of his or her intention to Lease the Residence.

(d) Failure to Give Notice or Obtain Approval. If proper notice is not given, the Board at its election, may approve or disapprove the Lease. Any Lease entered into without approval may, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the Tenant and other occupants of the Residence without securing consent to such eviction from the Owner.

(e) Applications: Assessments. Applications for authority to Lease shall be made to the Board on such forms and include such terms as the Board may provide from time to time. The Owner may not delegate legal responsibility for paying Assessments to the Tenant.

(f) Committee or Manager Approval. To facilitate approval of Leases proposed during times when many of the Directors are not in residence, the Board may by resolution delegate its approval powers (but not disapproval) to a committee or the Association's manager.

10.4.2 Term of Lease and Frequency of Leasing. The minimum Lease term is three (3) months and maximum lease term is one (1) year. No Lot may be leased more than one (1) time in any calendar years, and no option for the Tenant to extend or renew the Lease for any additional period shall be permitted unless approved by the Board. Written notice to renew a lease must be submitted to the Board for approval at least twenty (20) days prior to the first day of lease. No subleasing or assignment of Lease rights by the Tenant is allowed.

10.4.3 Occupancy During Lease Term. Guests shall not occupy leased Lots unless the Tenant and/or his or her Family are in residence.

10.4.4 Occupancy in Absence of Tenant. If a Tenant absents himself or herself from the Lot for any period of time during the Lease term, his or her Family authorized to occupy the Lot who are already in residence may continue to occupy the Lot and may have Guests subject to all of the restrictions set forth in this Declaration. If the Tenant and all of the Family members mentioned in the preceding sentence are absent, no other person may occupy the Lot.

10.4.5 Regulation by Association. All of the provisions of the Governing Documents shall be applicable and enforceable against any person occupying a Lot to the same extent as against the Owner. A covenant on the part of each occupant to abide by the Governing Documents, designating the Association as the Owner's agent with the authority to terminate any Lease and evict the Tenants and other occupants in the event of breach of such covenant, shall be deemed to be included in every Lease, whether oral or written, and whether specifically expressed in such agreement or not.

10.4.6 Fees and Deposits for the Lease of Residences. Whenever herein the Board's approval is required to allow the Lease of a Lot, the Association may charge the Owner a preset fee for processing the application, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a Lease with the same Tenant. The Association may also require payment of a security deposit to the Association, which security deposit shall cover damage to the Common Area. Handling of the security deposit and claims against the security deposit shall be in accordance with Chapter 83, Florida Statutes.

10.4.7 Unapproved Leases. Any Lease of a Lot not approved pursuant to this Section 8.4 shall be void and unenforceable unless subsequently approved by the Board and shall constitute a valid basis for an eviction action.

10.5 Nuisance. No member shall use or permit a Lot to be used in any manner which would be unreasonably disturbing, detrimental or a nuisance to the occupant of another Lot or which would not be consistent with the maintenance of the highest standards for the first class residential development, nor permit the premises to be used in a disorderly or unlawful way. The use of each Lot and the Common Areas shall be consistent with existing laws and the Governing Documents, and residents shall at all times conduct themselves in a peaceful and orderly manner. No unlawful, disorderly, obnoxious or offensive activity shall be carried on upon any Lot or in any Lot, nor shall any owner permit or condone any activity that is, or may reasonably become, a source of annoyance or nuisance to other residents. All residents shall observe the vehicular speed limits and any rules posted on signs in the Common Area.

10.6 Temporary Structures. No structure of a temporary character, including trailer, tent or shack shall be used on any Lot, either temporarily or permanently.

10.7 Signs. No sign, advertisement or notice of any type or nature whatsoever shall be erected or displayed upon any Lot (including placement on the Building, yard or in any window) or upon the commons, unless the Architectural Review Committee has given express prior written approval of the size, shape, content and located, which approval may be arbitrarily withheld. Each Lot may have address markings and the name of the Owner, the size and style of which may be regulated by the Architectural Review Committee. "For Sale," "For Rent," "Open House" and construction signs may be posted but only in compliance with the Rules and Regulations adopted by the Board of Directors, as amended from time to time.

10.8 Appearance; Refuse Disposal. Each owner shall keep his Lot free and clear of trash and debris and shall reasonably maintain his Lot. No Lot shall be used or maintained as a dumping ground

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for rubbish. Personal property of residents shall not be left on the lawns or landscaped areas outside the Lots. Trash, garbage or other waste shall not be kept except in sanitary containers suitably screened from view from the street and adjacent Lots. Garbage or trash containers may be placed out for collection anytime after 6:00 PM the day before scheduled pickup, and must be returned to storage no later than 6:00 PM on the day of pickup. No portions of any Lot shall be used for hanging or drying laundry of any kind, except an Owner can hang or dry laundry on a stand-up collapsible metal umbrella clothesline that is not visible from the street.

10.9 **Maintenance.** Association shall have the right to repair any structure or improvement on any Lot which, in the opinion of the Board, constitutes a danger or nuisance or is in unsightly disrepair, provided that the owner is given reasonable notice of the Association's intent to do so, which reasonably specifies the proposed action. The Association shall charge the expense of same against the owner of said Lot, which charge shall be a lien on the Lot which may be foreclosed, and which shall secure the Association's attorney's fees and other costs in connection with said foreclosure. The Board of Directors may adopt additional regulations pertaining to the exterior maintenance of the Lot and any structure or improvement of any lot, which Rules and Regulations may be amended from time to time.

10.10 **Pets and Animals.** No horses, livestock or poultry of any kind (including, without limitation, pigs, goats and chickens) shall be raised, bred or kept on any Lot, except for commonly accepted household pets such as dogs, cats and birds. Pets may not be kept, bred or maintained for any commercial purposes. All pets shall be contained in Residences and shall not be permitted to run freely. When outside a Residence, all pets must be carried or secured with a hand held leash. The Owner, pets owner or handler, as applicable, must pick up all of the pet's solid waste and deposit it in an appropriate trash container. All pets must have required vaccination certificates and licenses in accordance with applicable governing authority and regulations. In the event that any pet becomes a nuisance, the Board of Directors may order the Owner and the pet's owner, as applicable, to permanently remove the same from the Residence and shall if necessary, have the right to seek injunctive relief requiring the Owner and the pet's owner, as applicable, to remove the pet in the event the pet is not removed after receipt of such notice. Tenants and Guests are permitted to keep pets in Residences. Pets are further subject to the Rules and Regulations adopted by the Board, which may be amended from time to time.

10.11 **Parking and Storage of Vehicles.** Except for service vehicles temporarily present on the property, Owners may not park, store or keep on the property any commercial truck or other commercial vehicle, or any boat, trailer, semi-trailer, recreation vehicle, motorcycle, house trailer, mobile home, motor home, bus, tractor, or any other such vehicle, unless it is enclosed within a garage. No person may park, store or keep any motor vehicle on grassed or landscaped areas, or any places outside of paved driveways, garages, or other designated parking areas. No vehicle may be parked so that it blocks a sidewalk. Vehicles which are in wrecked, junked, partially dismantled, inoperative or abandoned condition, whether attended or not, and those not bearing current license plates, are not permitted on the Properties. Golf carts, All-Terrain Vehicles (ATV), Go-carts, Mini Bikes, and other gas powered or off-road vehicles are also not permitted on the Properties. The repair of motor vehicles, is not permitted on the Properties, except within a building and totally isolated from public view. Overnight parking on the street or right of way is prohibited. The Board may define what is considered "overnight parking" in its Rules and Regulations. Vehicles in violation of the Governing Documents shall be subject to towing at the Unit Owner's expense, even if such vehicles which are in violation of the Governing Documents are parked within the Lot boundaries.

10.12 **Antennas and Flagpoles.** Antennas and satellite dishes are prohibited except that (a) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or

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less in diameter (b) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter; or (c) antennas or satellite dishes designed to receive television broadcast signals, ("Reception Device") shall be permitted, provided that the Reception Device is located so as not to be visible from outside the Residence, or is located on the side or rear yard of the Lot. The Board of Directors may require that a Reception Device be painted or screened by landscaping in order to blend into the Residence and removed from view from the street and other Residences. A flagpole shall not be used as an antenna. The installation and display of flagpoles and flags shall be subject to regulation by the Board of Directors, but no Owner shall be prevented from displaying one portable, removable official United States flag or official flag of the State of Florida in a respectful manner, or on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans Day, a portable, removable US Army, Navy, Air Force, Marine Corps or Coast Guard flag. The permitted flags shall not exceed 4.5' x 6'. Notwithstanding the foregoing, no one shall be permitted to display the United States flag in a manner that violates: (i) Federal law or any rule or custom as to the proper display or use of the United States flag; or (ii) any reasonable restriction pertaining to the time, place and manner of displaying the flag. The restriction must be necessary to protect a substantial interest of the Association.

10.13 **Garages.** In order to maintain a harmonious and aesthetic appearance, garage doors must remain closed except when a vehicle must enter or exit the garage or when in use.

10.14 **Fuel Storage Tanks.** No fuel or gas storage tanks may be permitted above ground on any Lot, except that an Owner may keep and maintain no more than two (2) small gas tanks not larger than forty (40) gallons each for gas barbecues and fireplaces in an area on his/her Lot specifically approved by the Architectural Review Committee. In addition, an Owner may installed an underground propane tank if permitted by the ARC and applicable governmental authority.

10.15 **Landscaping.** Owners are responsible for landscaping maintenance of their lots to ensure a healthy, neat, and orderly appearance at all times. All lawns are to be sodded and have a functional, irrigation system. Air conditioners, pool pumps, and other equipment are to be buffered from view through the use of a decorative wall or appropriate plantings. Other permanent landscaping may be installed only after approval by the Architectural Review Committee and Board of Directors and must be made in accordance with the requirements of the Architectural Review Guide and Rules and Regulations adopted by the Board of Directors, as amended from time to time.

10.16 **Mailboxes.** Each Owner shall maintain, repair or replace his/her mailbox, including the post, pursuant to prior written approval of the Board. However, the Association, at its expense, shall repair an Owner's mailbox once in a twelve (12) month period that is damaged as a result of any accidental damage or vandalism. The Board of Directors may promulgate further rules and regulations regarding mailboxes, which can be amended from time to time.

10.17 **Fences, Hedges, and Walls.** Fences, hedges, and walls may be installed only after approval by the Architectural Review Committee and Board of Directors and must be made in accordance with the requirements of the Architectural Review Guide and Rules and Regulations adopted by the Board of Directors, as amended from time to time. Fences, hedges and walls may not exceed six feet (6') in height and must be located within the front, side, and rear setback lines. Fences, hedges and walls are prohibited along the rear of lots that are located on lakes. Fences, hedges and walls located along the sides of dwellings must not exceed four feet (4') in height and not extend beyond the front and rear setback lines. Hedges shall not exceed the height of four feet (4') if within twelve feet (12') of the public roadway. Existing hedges shall not be grown to or exceed the height of seven feet (7') along the side

property lines of any property and the height of any rear property line hedges shall not be grown to or exceed the height of ten feet (10').

11. **TRANSFERS OF OWNERSHIP OF LOTS.** In order to foster a community of congenial, financially responsible residents with the objectives of inhibiting transiency, protecting the value of the Lots and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a Lot by an owner shall be subject to the following restrictions, which each owner covenants to observe:

11.1 **Forms of Ownership.**

- (A) **One owner.** A Lot may be owned by one natural person who has been approved as provided herein.
- (B) **Co-ownership.** Co-ownership of Lots is permitted. However, if the proposed co-owners are other than husband and wife, the Board shall condition its approval upon designation of one of the approved co-owners as "primary occupant," and the use of the Lot by other persons shall be as though the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift, subject to all the provisions of this Section 11.
- (C) **Ownership by Corporations or Trusts.** A Lot may be owned in trust, or by a corporation, partnership or other entity which is not a natural person, if approved in the manner provided for other transfers or title. However, the intent of this provision is to allow flexibility in estate, financial or tax planning, and not to create circumstances in which the Lot may be used as short term transient accommodations for several individuals or families. The approval of a Director, or corporation or other entity as an owner shall be conditioned upon designation of one natural person to be the "primary occupant", and the use of the Lot by other persons shall be as though the primary occupant were the only actual owner. Any change in the primary occupant shall be treated as a transfer of ownership by sale or gift, subject to all the provisions of this Section 11. No more than one such change will be approved in any twelve-month period.
- (D) **Life Estate.** A Lot may be subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, the life tenant shall be the only member from such Lot, and occupancy of the Lot shall be as if the life tenant was the only owner. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant and holders of the remainder interest shall be jointly and severally liable for all assessments and charges against the Lot. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. Except in the case where such a transfer has been made, if the consent or approval of the owner is required for any purpose, that consent or approval of the holders of the remainder interest shall not be required.

11.2 **Transfers.**

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- (A) Sale or Gift. No owner may effectively convey title to a Lot or any interest therein by sale or gift without the prior written approval of the Board of Directors.
- (B) Devise or Inheritance. If any owner acquires his title by devise or inheritance, his right to occupy or use the Lot shall be subject to the approval of the Association. The approval of the Association shall not be denied to any devisee or heir who was the decedent's lawful spouse or related to the owner by blood or adoption with the first degree.
- (C) Other Transfers. If any person acquires title in any manner not considered in the foregoing subsections, his right to occupy the Lot shall be subject to the approval of the Association under the procedure outlined in Section 11.3 below.

### 11.3 Procedures.

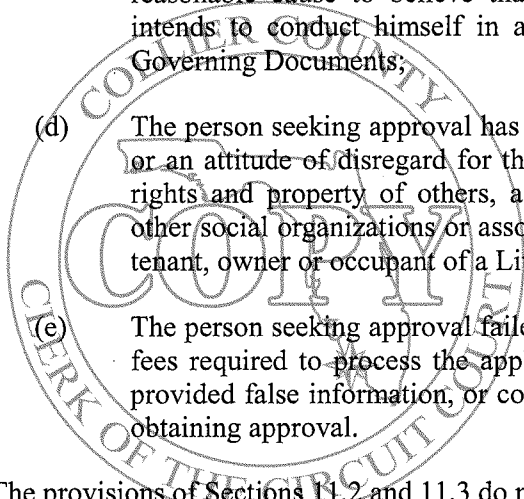
- (A) Notice to Association
1. Sale or gift. An owner intending to make a sale or gift of his Lot or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days prior to the date of the proposed transfer, together with the name, and address of the proposed purchaser or donee and such other information as the Board may reasonably require.
  2. Devise, Inheritance, Other Transfers. The transferee must notify the Association of his ownership and submit to the Association a certified copy of the instrument evidencing his ownership and such other information as the Board may reasonably require. The transferee shall have no occupancy right unless approved by the Board, but may sell or lease the Lot following the procedures provided in this Declaration.
  3. Failure to give Notice. If no notice is given, the Association at its election may approve or disapprove the transfer without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed transferee may provide the Board with the required notice and request reconsideration.
- (B) Board Action: Approval. Within twenty (20) days of receipt of the required notice and all information requested, but not later than sixty (60) days after receipt of the notice, whichever occurs first, the Board must approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by the President or Vice-President of the Association in recordable form and delivered to the transferee or the closing agent if the Board neither approves or disapproves within twenty (20) days, such failure to act shall be deemed the equivalent of approval, and on demand the Board shall issue a Certificate of Approval.
- (C) Disapproval.

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1. The Board may disapprove a transfer of ownership only if a majority of the whole Board so votes, after receiving a written opinion of counsel that such disapproval is for a good cause. Only the following shall be deemed to constitute good cause:
  - (a) The person seeking approval has been convicted of a felony involving violence to person or property, a felony involving possession or sale of a controlled substance, or a felony demonstrating dishonesty or moral turpitude;
  - (b) The person seeking approval has a record of financial irresponsibility, including without limitation, prior bankruptcies foreclosures or bad debts;
  - (c) The application for approval on its face gives the Board reasonable cause to believe that the person seeking approval intends to conduct himself in a manner inconsistent with the Governing Documents;
  - (d) The person seeking approval has a history of disruptive behavior or an attitude of disregard for the Governing Documents or the rights and property of others, as evidenced by his conduct in other social organizations or associations, or by his conduct as a tenant, owner or occupant of a Living Lot; or
  - (e) The person seeking approval failed to provide the information or fees required to process the application in a timely manner, or provided false information, or concluded the transaction without obtaining approval.



11.4 **Exception.** The provisions of Sections 11.2 and 11.3 do not require Association approval or of the acquisition of title by any acquirer who acquires title through an institutional mortgage, whether by foreclosure or deed in lieu of foreclosure; however, Association approval is required for a purchaser from such mortgagee.

11.5 **Unapproved Transfers.** Any sale or transfer which is not approved pursuant to the terms of this Declaration shall be void or voidable unless subsequently approved by the Board.

11.6 **Fees for Processing Applications for Approval to Purchase or Lease.** Whenever herein the Board's approval is required to allow the sale, lease, or other transfer of an interest in a Unit, the Association may charge the Owner a preset fee for processing the approval, such fee not to exceed the maximum amount allowed by law. No fee may be charged for approval of a renewal or extension of a lease with the same lessee.

12. **ENFORCEMENT OF COVENANTS AND ABATEMENT OF VIOLATIONS.** Every owner, and all guests, tenants and occupants, shall at all times comply with Chapter 617, Florida Statutes, Chapter 720, Florida Statutes, as may be amended from time to time, the Governing Documents, and the rules of the Association. Before undertaking any remedy, disciplinary or enforcement action against a person alleged to be in violation, the Association shall give the alleged violator reasonable written notice of the alleged violation, except in emergencies. The Board has adopted reasonable Rules and Regulations

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related to providing notices of violations and may amend such Rules. Disagreements concerning violations, including, without limitation, disagreements regarding the proper interpretation and effect of the Governing Documents, shall be presented to and determined by the Board of Directors of the Association, whose interpretation of the Governing Documents and/or whose remedial action shall control. Each member and the member's tenants, guests, and invitees, and the Association, are governed by, and must comply with Florida Statutes Chapters 720 and Chapter 617, the Governing Documents, and the rules of the Association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the Association or by a member against:

- (A) The Association;
- (B) A member;
- (C) Any Director or officer of the Association who willfully and knowingly fails to comply with these provisions; and
- (D) Any tenants, guests, or invitees occupying a parcel or using the Common Areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This Section 12 does not deprive any person of any other available right or remedy.

12.1 **Enforcement Action.** Judicial enforcement of these covenants and restrictions shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenants or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

12.2 **Self-help Remedies.** Violation of any conditions or restrictions or breach of any covenant herein contained or in any of the Governing Documents shall also give the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land where such violation or breach exists and summarily abate and remove, at the expense of the owner of the land, any construction or other violation that may be or exist thereon. The Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

12.3 **Suspension of Common Area Use Rights: Fines.** The Association may levy a reasonable fine or suspend, for a reasonable period of time, the rights of an owner, the owner's family, or an owner's tenants, guests, or invitees, or both, to use the Common Areas and facilities in the event of their failure to comply with any covenant, restriction, or rule contained in the Governing Documents or applicable law or in the event they condone such violation by their family members, guests, tenants or invitees. Any suspension of use rights will not prohibit an owner or tenant of a Lot from having vehicular and pedestrian ingress to and egress from the Lot, including, but not limited to, the right to park. The procedure for levying fines and suspending use rights is set forth in the Bylaws.

13. **SURFACE WATER MANAGEMENT SYSTEM.** The Association shall maintain and operate the Surface Water Management System and shall have an easement over the Properties for the purpose of repairing and maintaining the system. The cost of the maintenance and operation of the Surface Water Management System shall be a common expense. No amendment or modification to the Surface Water Management System shall be undertaken without first seeking prior approval from the Association and the appropriate governmental entity. No activity which as the effect of changing, altering, impeding or interfering with the operation of the Surface Water Management System shall be permitted.

Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions

For

The Community Association for Mill Run

#### 14. DURATION OF COVENANTS; AMENDMENT OF DECLARATION:

14.1 **Duration of Covenants.** The covenants, conditions, and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, and any owner, their respective legal representatives, heirs, successors and assigns, for an initial period that expires on the ninety-ninth (99th) anniversary of the date of recordation of the Declaration of Protective Covenants, Conditions, Easements and Restrictions for The Community Association for Mill Run, Collier County, Inc. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent ten (10) year renewal period, at least three-fourths (3/4ths) of the votes cast at a duly held meeting of members of the Association vote in favor of terminating this Declaration at the end of its then current term. Written notice of any meeting at which such a proposal will be considered shall be given at least forty-five (45) days before the meeting. If the members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. The certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

14.2 **Amendments; Proposal.** Notwithstanding the foregoing, this Declaration may be amended from time to time by a vote of the members. Amendments may be proposed by the Board of Directors or by written petition to the Board signed by at least one-fourth (1/4th) of the voting interests. The proposed amendments must be submitted to a vote of the members not later than the next annual meeting.

14.3 **Amendments; Vote Required.** Except as otherwise provided by law or by other specific provision of the Governing Documents, a proposed amendment to this Declaration shall be adopted if it is approved by at least two-thirds (2/3rds) of the voting interests of the Association present in person or by proxy and voting at any annual or special meeting called for the purpose, provided that notice of each proposed amendment has been given to the members in accordance with law. Unless otherwise provided by law, notice of proposed amendments shall be in substantially the same form as is specified in Chapter 720, Florida Statutes, for proposed amendments to a Declaration of Covenants. No amendment shall change any Lot's share of liability for assessments or any owner's voting rights, unless the owner consents to the amendment.

14.4 **Amendments; Certificate; Recording; Effective Date.** A copy of each amendment shall be attached to a certificate attesting that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration was originally recorded, and shall be executed by the President or Vice President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County. If a copy of the proposed amendment has not been provided to the Owners prior to the vote on that amendment, then within thirty (30) days after recording an amendment the Association will provide copies of the amendment to the Owners. If a previous copy of the proposed amendment had been provided to the Owners, then the Association may provide notice to the Owners that the amendment was adopted, identifying the official

Amended and Restated Declaration of Charter, Easements, Covenants and Restrictions  
For

The Community Association for Mill Run

book and page number or instrument number of the recorded amendment and that a copy of the amendment is available at no charge to the Owner upon written request to the Association.

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

15. **GENERAL PROVISIONS. Waiver.** Any waiver by any person of any provisions of this Declaration, or breach thereof, must be in writing to be effective, and shall not operate or be construed as a waiver of any other provision or subsequent breach.

15.2 **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Declaration is, for any reason, held invalid or unconstitutional by any court-of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portion thereof.

15.3 **Headings and Capitalization.** The headings of Sections and paragraphs herein, and the capitalization of certain words, are for convenience only, and do not affect the meaning or interpretation of the provisions of this Declaration.

15.4 **Notices.** Any notice required to be sent to any owner under the provisions of this Declaration or the Bylaws, shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as owner in the records of the Association at the time of such mailing. The owner bears the responsibility for notifying the Association of any change of address.

15.5 **Interpretation.** The Board of Directors is responsible for interpreting the provisions of this Declaration and its exhibits. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

15.6 **Rule Against Perpetuities.** In the event any court should hereafter determine any provisions as originally drafted herein in violation of the rule of property known as the "rule against perpetuities" or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose. "Measuring lives" shall be that of the incorporator of the Association.

# THE CROSSINGS, MILL RUN

A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 2,  
TOWNSHIP 49 SOUTH, RANGE 25 EAST,  
COLLIER COUNTY, FLORIDA

### COUNTY APPROVALS

COUNTY APPROVED BY THE COLLIER COUNTY ENGINEER THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
COUNTY APPROVED BY THE COLLIER COUNTY HEALTH DEPARTMENT THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
COUNTY APPROVED BY THE COLLIER COUNTY ENVIRONMENTAL ENGINEERS THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
COUNTY APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.

APPROVED BY THE COLLIER COUNTY ENGINEER THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
*[Signature]*  
COLLIER COUNTY ENGINEER

APPROVED BY THE COLLIER COUNTY HEALTH DEPARTMENT THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
*[Signature]*  
COLLIER COUNTY HEALTH DEPARTMENT

APPROVED BY THE COLLIER COUNTY ENVIRONMENTAL ENGINEERS THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
*[Signature]*  
COLLIER COUNTY ENVIRONMENTAL ENGINEERS

APPROVED BY THE COLLIER COUNTY ATTORNEY THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2010.  
*[Signature]*  
COLLIER COUNTY ATTORNEY

### SURVEYOR'S CERTIFICATE

I, the undersigned, being a duly licensed and sworn Surveyor of the State of Florida, do hereby certify that the plat has been prepared by me and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof.

### FILING RECORD

I, the undersigned, being a duly licensed and sworn Surveyor of the State of Florida, do hereby certify that the plat has been prepared by me and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof.

### TITLE CERTIFICATION

I, the undersigned, being a duly licensed and sworn Surveyor of the State of Florida, do hereby certify that the plat has been prepared by me and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof.

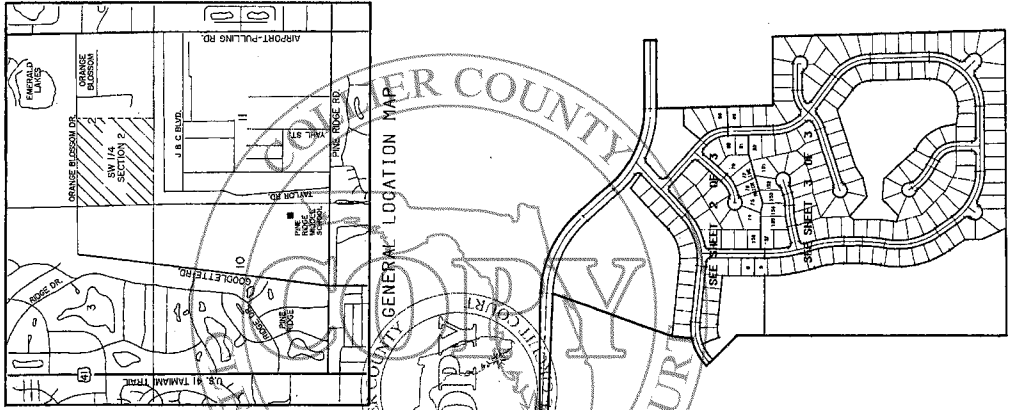
### GENERAL NOTES

1. ALL DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.
3. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.
4. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.
5. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.
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10. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.
11. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.
12. ALL DIMENSIONS ARE TO CENTER UNLESS NOTED OTHERWISE.

THIS INSTRUMENT WAS PREPARED BY:  
MILBRUN CHRISTENSEN, JR., P.L.L.C., # 2785  
REGISTERED ENGINEERS AND LAND SURVEYORS  
JACKSONVILLE, FLORIDA

### NOTICE

FOR A TRUE AND CORRECT COPY OF THIS INSTRUMENT, SEE THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.



### DESCRIPTION OF LAND PLATTED

THE LAND DESCRIBED IN THIS PLAT IS THAT PART OF THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 49 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, AS SHOWN ON THE PLAT HEREIN. THE TOTAL AREA OF THE LAND IS 1.23 ACRES. THE LAND IS DIVIDED INTO 10 LOTS, EACH OF WHICH IS DESCRIBED AS FOLLOWS: LOT 1, 0.12 ACRES; LOT 2, 0.15 ACRES; LOT 3, 0.18 ACRES; LOT 4, 0.21 ACRES; LOT 5, 0.24 ACRES; LOT 6, 0.27 ACRES; LOT 7, 0.30 ACRES; LOT 8, 0.33 ACRES; LOT 9, 0.36 ACRES; LOT 10, 0.39 ACRES.

### DEDICATION

THE UNDERSIGNED, BEING A DULY LICENSED AND SWORN SURVEYOR OF THE STATE OF FLORIDA, DO HEREBY CERTIFY THAT THE PLAT HAS BEEN PREPARED BY ME AND THAT THE SAME IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS SHOWN TO ME BY THE OWNER THEREOF, AND THAT THE SAME IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS SHOWN TO ME BY THE OWNER THEREOF.

### CORPORATE ACKNOWLEDGEMENT

I, the undersigned, being a duly licensed and sworn Surveyor of the State of Florida, do hereby certify that the plat has been prepared by me and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof.

### MORTGAGEE'S CONSENT

I, the undersigned, being a duly licensed and sworn Surveyor of the State of Florida, do hereby certify that the plat has been prepared by me and that the same is a true and correct copy of the original as shown to me by the owner thereof, and that the same is a true and correct copy of the original as shown to me by the owner thereof.

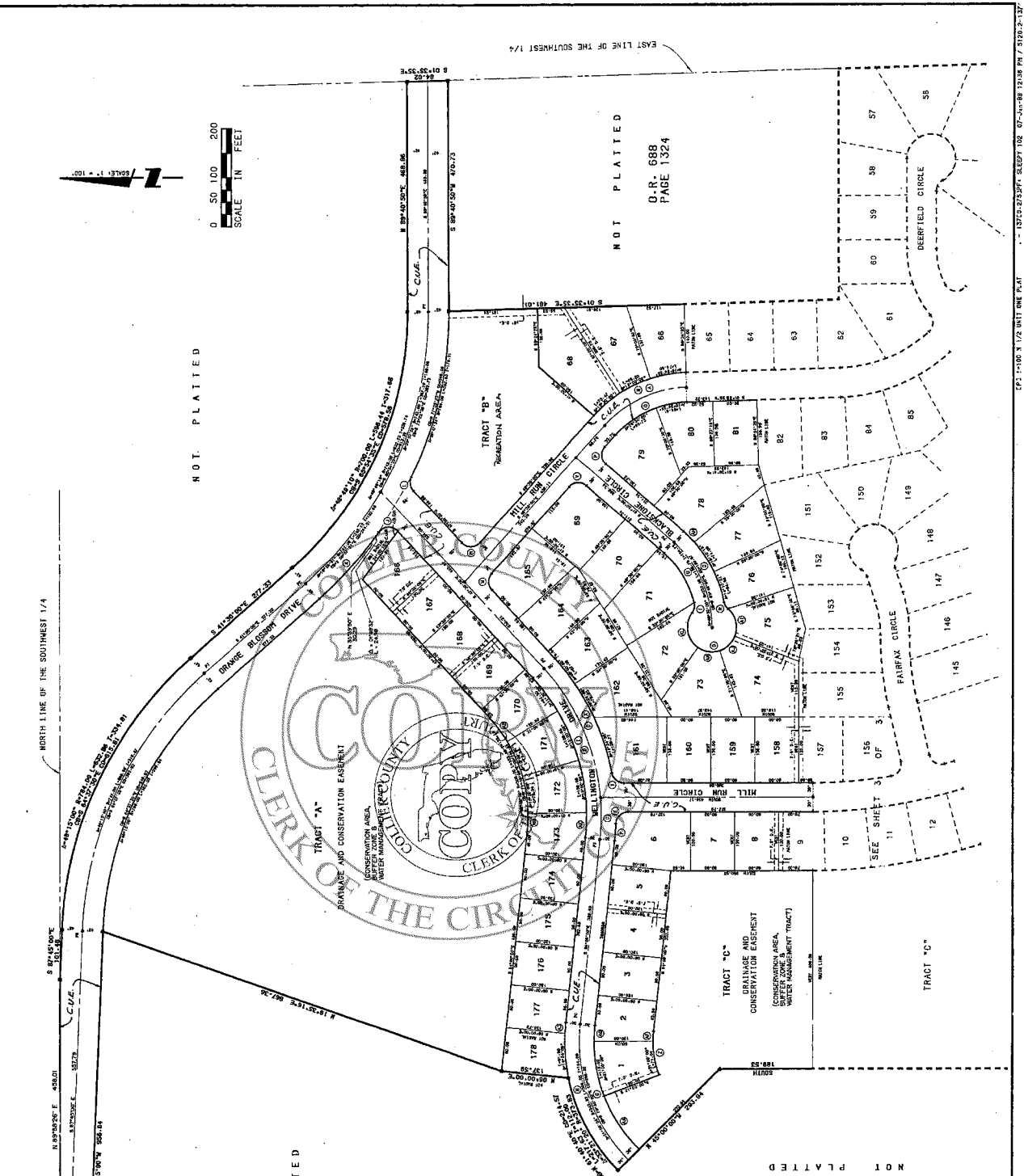
### NOTICE

FOR A TRUE AND CORRECT COPY OF THIS INSTRUMENT, SEE THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

**THE CROSSINGS, MILL RUN**

A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 2,  
TOWNSHIP 49 SOUTH, RANGE 25 EAST,  
COLLIER COUNTY, FLORIDA

THIS INSTRUMENT WAS PREPARED BY  
KIMBERLY S. MCNEEL, REGISTERED  
SURVEYOR, ENGINEER AND LAND SURVEYOR  
KIMBERLY S. MCNEEL & ASSOCIATES, INC.  
MABLES, COLLIER COUNTY, FLORIDA



**DATA**

BLK/LY/FR	BLK	FR	LY	BLK	FR	LY
100-100-100	100	100	100	100	100	100
101-101-101	101	101	101	101	101	101
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103-103-103	103	103	103	103	103	103
104-104-104	104	104	104	104	104	104
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111-111-111	111	111	111	111	111	111
112-112-112	112	112	112	112	112	112
113-113-113	113	113	113	113	113	113
114-114-114	114	114	114	114	114	114
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116-116-116	116	116	116	116	116	116
117-117-117	117	117	117	117	117	117
118-118-118	118	118	118	118	118	118
119-119-119	119	119	119	119	119	119
120-120-120	120	120	120	120	120	120

**DATA**

BLK	FR	LY	BLK	FR	LY
100-100-100	100	100	100	100	100
101-101-101	101	101	101	101	101
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116-116-116	116	116	116	116	116
117-117-117	117	117	117	117	117
118-118-118	118	118	118	118	118
119-119-119	119	119	119	119	119
120-120-120	120	120	120	120	120



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ARTICLES OF INCORPORATION  
FOR  
THE COMMUNITY ASSOCIATION FOR MILL RUN,  
COLLIER COUNTY, INC.

The undersigned subscriber to these Articles of Incorporation, a natural person competent to contract, hereby forms a corporation under the laws of the State of Florida.

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ARTICLE I  
NAME

The name of the corporation is the THE COMMUNITY ASSOCIATION FOR MILL RUN, COLLIER COUNTY, INC., hereinafter referred to as the "Association." The address of the Association is National Development Properties of Florida, Inc., 7920-308 College Parkway, Ft. Myers, Florida 33907.

ARTICLE II  
REGISTERED AGENT

The initial Registered Agent of the Association is Patrick Bryan Reinert. The address of the Registered Agent is National Development Properties of Florida, Inc., 7920-308 College Parkway, Ft. Myers, Florida 33907.

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ARTICLE III  
PURPOSES

The Association does not contemplate pecuniary gain or profit to its members. The Association's specific purposes are to provide for the maintenance and preservation of the property ("Property") described in the Mill Run Declaration of Charter, Easements, Covenants and Restrictions, recorded or to be recorded in the public records of Collier County, Florida (the "Declaration") for the mutual advantage and benefit of the members of this Association who shall be owners of lots within the Property. To promote the health, safety and welfare of the owners of lots in the Property, the Association shall have and exercise the following authority and powers:

- (a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, which is hereby incorporated by reference.
- (b) To acquire, by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.
- (c) To borrow money and to mortgage, pledge or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred.
- (d) To participate in mergers and consolidations with other nonprofit corporations organized for similar purposes or annex additional residential property and Commons.
- (e) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Florida may now or hereafter have or exercise.

EXHIBIT "B"  
TO AMENDED & RESTATED DECLARATION

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ARTICLE IV  
MEMBERSHIP

Every person or entity who is a record owner of a lot within the Property shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot.

ARTICLE V  
VOTING RIGHTS

The Association shall have two classes of voting membership, as described in the Declaration.

ARTICLE VI  
BOARD OF DIRECTORS

The Board of Directors shall initially consist of three members, whose names and addresses are as follows:

Name	Address
Patrick Bryan Reinert	National Development Properties of Florida, Inc. 7920-308 College Parkway Ft. Myers, Florida 33907
Eric C. Miller	National Development Properties of Florida, Inc. 7920-308 College Parkway Ft. Myers, Florida 33907
Jo Ann Southern	National Development Properties of Florida, Inc. 7920-308 College Parkway Ft. Myers, Florida 33907

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ARTICLE VII  
TERM OF EXISTENCE

This corporation shall have perpetual existence unless sooner dissolved in accordance with the provisions herein contained or in accordance with the laws of the State of Florida. The date on which corporate existence shall begin is the date on which these Articles of Incorporation are filed with the Secretary of State of the State of Florida.

ARTICLE VIII  
DISSOLUTION

The Association may be dissolved with the assent in writing of not less than seventy five percent (75%) of each class of member. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of this Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created or for the general welfare of the residents of the county in which the Property is located. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.



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ARTICLE IX  
OFFICERS

Subject to the direction of the Board, the affairs of this Association shall be administered by its officers, as designated in the Bylaws of this Association. Said officers shall be elected annually by the Board. The names and addresses of the officers who shall serve until the first annual meeting of the Board are as follows:

<u>Office</u>	<u>Name and Address</u>
President	Patrick Bryan Reinert National Development Properties of Florida, Inc. 7920-308 College Parkway Ft. Myers, Florida 33907
Vice President	Eric C. Miller National Development Properties of Florida, Inc. 7920-308 College Parkway Ft. Myers, Florida 33907
Secretary/Treasurer	Jo Ann Southern National Development Properties of Florida, Inc. 7920-308 College Parkway Ft. Myers, Florida 33907

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ARTICLE X  
BYLAWS

The Bylaws of this Association shall be adopted by the first Board and recorded among the public records of Collier County, Florida. The Bylaws may be altered, amended, modified or repealed by a majority of the Directors or at any duly called meeting of the members of this Association.

ARTICLE XI  
AMENDMENTS

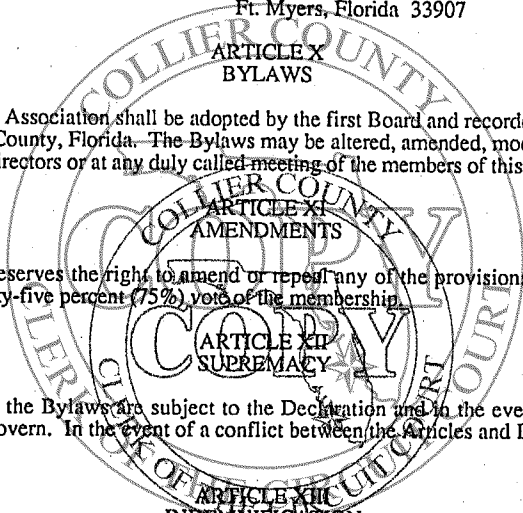
This Association reserves the right to amend or repeal any of the provisions contained in these Articles by a seventy-five percent (75%) vote of the membership.

ARTICLE XII  
SUPREMACY

These Articles and the Bylaws are subject to the Declaration and in the event of a conflict, the Declaration shall govern. In the event of a conflict between the Articles and Bylaws, the Articles shall govern.

ARTICLE XIII  
INDEMNIFICATION

This Association shall indemnify and hold harmless any and all of its present or former directors, officers, employees or agents, to the full extent permitted by law. Said indemnification shall include but not be limited to the expenses, including the cost of any judgments, fines, settlements and counsel's fees actually and necessarily paid or incurred in connection with any action, suit or proceeding, whether civil, criminal, administrative or investigative, and any appeal thereof, to which any such persons or his legal representative may be made a party or may be threatened to be made a party by reason of his being or having been a director, officer, employee or agent as herein



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provided. The foregoing right of indemnification shall not affect any other rights to which any director, officer, employee or agent may be entitled as a matter of law or which he may be lawfully granted.

ARTICLE XIV  
INCORPORATOR

The name and address of the incorporator of the corporation is:

Patrick Bryan Reinert  
National Development Properties of Florida, Inc.  
7920-308 College Parkway  
Ft. Myers, Florida 33907

IN WITNESS WHEREOF, for the purpose of forming this Association under the laws of the State of Florida, the undersigned, being the incorporator of this Association, has executed these Articles of Incorporation this \_\_\_ day of \_\_\_\_\_, 19\_\_.

WITNESSES:

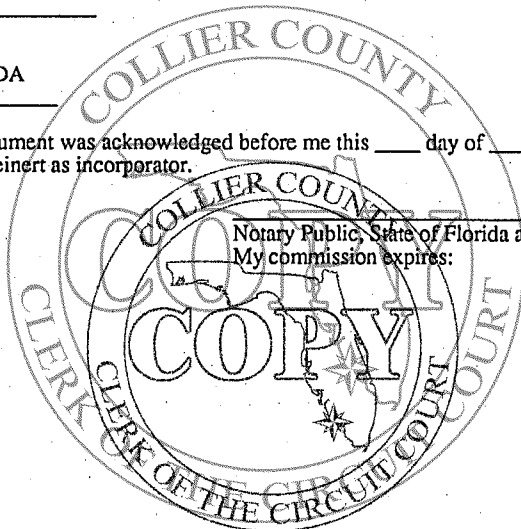
INCORPORATOR:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Patrick Bryan Reinert

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 19\_\_, by Patrick Bryan Reinert as incorporator.



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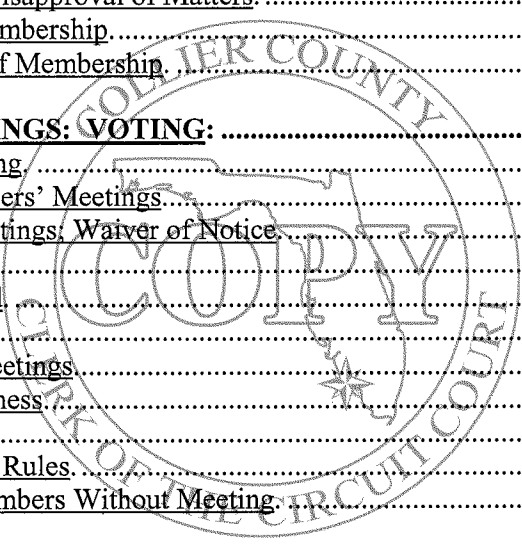


EXHIBIT "C"  
TO AMENDED & RESTATED DECLARATION

EXHIBIT "B"

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**OF**  
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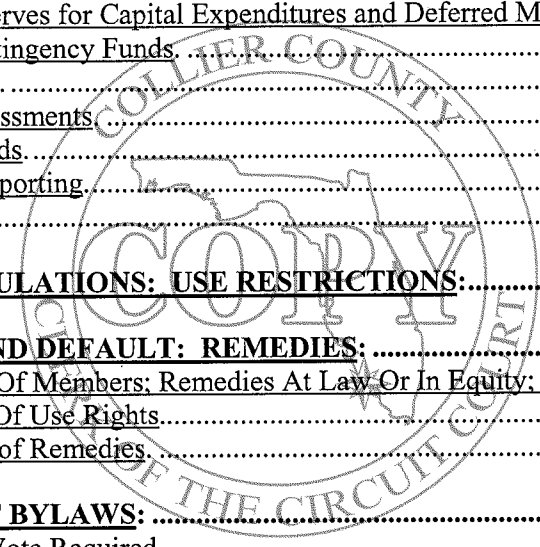
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**AMENDED AND RESTATED BYLAWS**

**OF**

**THE COMMUNITY ASSOCIATION FOR MILL RUN, COLLIER COUNTY, INC.**

1. **GENERAL:** These are the Amended and Restated Bylaws of The Community Association for Mill Run, Collier County, Inc., hereinafter the "Association", a not-for-profit corporation organized under the laws of Florida for the purpose of operating Mill Run (the "Property") pursuant to the Florida Not-For-Profit Corporation Act and Chapter 720, Florida Statutes (the "Act").

1.1 **Principal Office.** The principal office of the Association shall be at such location as may be designated from time to time by the Board of Directors.

1.2 **Seal.** The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "not for profit." The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

1.3 **Definitions.** The definitions set forth in the Amended and Restated Declaration of Protective Covenants, Conditions, Easements, and Restrictions for Mill Run (the "Declaration") shall apply to terms used in these Bylaws.

2. **MEMBERS:**

2.1 **Qualifications.** The Members of the Association shall be the record owners of legal title to the Lots in the Property. In the case of a Lot subject to an agreement for deed, the purchaser in possession shall be deemed the Owner of the Lot for purposes of determining voting and use rights. Membership shall become effective upon the occurrence of the last to occur of the following events:

- (A) Recording in the Public Records of a Deed or other instrument evidencing legal title to the Lots.
- (B) Approval by the Board of Directors as provided for in the Declaration.
- (C) Delivery to the Association of a copy of the recorded deed or other instrument evidencing title.
- (D) Delivery to the Association, if required, of a written designation of a Primary Occupant.

2.2 **Voting Interest.** The Members of the Association are entitled to one (1) vote for each Lot owned by them. The total number of Voting Interests shall not exceed the total number of Lots subject to the Declaration. The vote of a Lot is not divisible. If a Lot is owned by one (1) natural person, his right to vote shall be established by the record title to the Lot. If a Lots is owned jointly by two (2) or more natural persons that are not acting as trustees, that Lot's vote may be cast by any one (1) of the Owners. If two (2) or more Owners of a Lot do not agree among themselves how their one (1) vote shall be cast, that vote shall not be counted for any purpose. If the Owner of a Lot is a corporation, partnership, limited liability company, trust, trustee or other entity other than a natural person, the vote of that Lot shall be cast by either of the Primary Occupants. If the Primary Occupants do not agree among themselves how their one (1) shall be cast, that vote shall not be counted for any purpose.

2.3 Approval or Disapproval of Matters. Whenever the decision or approval of the Owner of a Lot is required upon any matter, whether or not the subject of an Association meeting, such decision or approval may be expressed by any person authorized to cast the vote of such Lot at an Association meeting as stated in Section 2.2 above, unless the joinder of all Owners is specifically required.

2.4 Change of Membership. Following written approval of the Association, as elsewhere required herein, a change of membership in the Association shall be established by the new Member's membership becoming effective as provided in 2.1 above. At that time the membership of the prior Owner shall be terminated automatically.

2.5 Termination of Membership. The termination of membership in the Association does not relieve or release any former Member from liability or obligation incurred under or in any way connected with the Property during the period of his membership, nor does it impair any rights or remedies which the Association may have against any former Owner or Member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

**3. MEMBERS' MEETINGS: VOTING:**

3.1 Annual Meeting. There shall be an annual meeting of the Members in each calendar year at a day, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any business duly authorized to be transacted by the Members. The meeting must be held at a location that is accessible to a physically handicapped person if requested by the physically handicapped person who has a right to attend the meeting.

3.2 Special Members' Meetings. Special Members' meetings must be held whenever called by the President or by a majority of the Directors, and may also be called by Members having at least twenty-five percent (25%) of the Voting Interests. The business at any special meeting shall be limited to the items specified in the notice of meeting and shall be held in Collier County, Florida.

3.3 Notice of Meetings; Waiver of Notice. Notice of all Members' meetings must state the time, date, and place of the meeting, and include an agenda for the meeting. The notice of meeting must be mailed to each Member at the address which appears on the books of the Association, or may be furnished by hand delivery, or by electronic transmission in the manner set forth in Section 617.0141, Florida Statutes, to the extent that a member has consented to receive notices by electronic transmission and has not revoked such consent. The Member is responsible for providing the Association with notice of any change of address. The Notice of Meeting must be mailed, delivered or electronically transmitted at least fourteen (14) days before the meeting. An affidavit of the officer or other person making such mailing shall be retained in the Association records as proof of mailing. Attendance at any meeting by a Member constitutes waiver of notice by that Member unless the Member objects to the lack of notice at the beginning of the meeting. A Member may waive notice of any meeting at any time, but only by written waiver. Notice to the Members of meetings of the Board, meetings of a committee requiring notice in the same manner as meetings of the Board, and annual and special meetings of the Members, may be electronically transmitted in the manner set forth in Section 617.0141, F.S. (except as limited by the Act and these Bylaws). Notice by electronic transmission is effective: when actually transmitted by facsimile telecommunication, if correctly directed to a number at which the Member has consented to receive notice; or when actually transmitted by electronic mail, if correctly directed to an electronic mail address at which the Member has consented to receive notice. Consent by a Member to receive notice by electronic transmission shall be revocable by the Member by written notice to the Association. Any such consent shall be deemed revoked if: the Association is unable to deliver by electronic transmission two (2) consecutive notices given by the Association in accordance with such consent; and such inability becomes known to the Secretary, Assistant Secretary or other authorized person responsible for the giving

of notice. However, the inadvertent failure to treat such inability as a revocation does not invalidate any meeting or other action. The Member is responsible for providing the Association with notice of any change of mailing address, facsimile number or electronic mail address. To the extent that a Member has provided the Association with a facsimile number or electronic mail address and consented to receive notices by electronic transmission, such information shall be considered an "official record" until the Member has revoked his consent. However, the Association is not liable for an erroneous disclosure of electronic mail address or facsimile number. As used in these Bylaws, the term "electronic transmission" means any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process. An affidavit of the Secretary, an Assistant Secretary, or other authorized agent of the Association that the notice has been given by a form of electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice.

3.4 Quorum. A quorum at meetings of the Members shall be attained by the presence, either in person or by proxy, of Members entitled to cast at least twenty-five percent (25%) of the votes of the entire membership. After a quorum has been established at a Members' meeting, the subsequent withdrawal of any Members, so as to reduce the number of voting interests represented below the number required for a quorum, shall not affect the validity of any action taken at the meeting before or after such persons leave.

3.5 Vote Required. The acts approved by a majority of the votes cast at a duly called meeting of the Members at which a quorum has been attained shall be binding upon all Members for all purposes, except where a greater or different number of votes is expressly required by law or by any provision of the Association Documents.

3.6 Proxy Voting. To the extent lawful, any Member entitled to attend and vote at a Members' meeting may establish his presence and cast his vote by proxy. A proxy shall be valid only for the specific meeting for which originally given and any lawful adjournment of that meeting, and no proxy is valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at the pleasure of the person executing it. To be valid, a proxy must be in writing, dated, signed by the person authorized to cast the votes, specify the date, time and place of the meeting for which it is given, and must be delivered to the Secretary by the appointed time of the meeting or adjournment thereof. A photostatic, facsimile, email or equivalent reproduction of a proxy is a sufficient proxy. Holders of proxies need not be Members. No proxy shall be valid if it names more than one (1) person as the holder of the proxy, but the holder shall have the right, if the proxy so provides, to substitute another person to hold the proxy. A Limited Proxy shall be used for membership votes on substantive matters, including, without limitation, amendments to the Association Documents. A General Proxy may be used only when there is no substantive business to be voted on at a Members' meeting and for purposes of: establishing a quorum; correcting typographical errors with respect to matters being voted on by the Members; and voting on parliamentary matters, including without limitation, a motion to approve minutes or to adjourn the meeting. However, no general proxy shall be used in connection with a regular election of Directors occurring at the annual meeting. Notwithstanding the foregoing, Members may vote in person at Members' meetings.

3.7 Adjourned Meetings. Any duly called meeting of the Members may be adjourned to be reconvened at a specific later time by vote of the majority of the voting interests present in person or by proxy, regardless of whether a quorum has been attained. When a meeting is adjourned it shall be necessary to give notice to all Members of the time and place of its continuance regardless of whether such are announced at the meeting being adjourned. Any business which might have been conducted at



the meeting as originally scheduled may instead be conducted at the continuance, provided a quorum is then present, in person or by proxy.

3.8 Order of Business. The order of business at Members' meetings shall be substantially as follows:

- (A) Call of the roll or determination of quorum.
- (B) Reading or disposal of minutes of the last Members' meeting.
- (C) Reports of Officers.
- (D) Reports of Committees.
- (E) Unfinished Business.
- (F) New Business.
- (G) Adjournment.

3.9 Minutes. Minutes of all meetings of Members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by Members or their authorized representatives and Board members at reasonable times and for a period of seven (7) years after the meeting. Minutes must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

3.10 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall guide the conduct of the Association meeting when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a Parliamentarian whose decision on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.11 Action by Members Without Meeting. Except for the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the members may be taken by mail without a meeting if written consents or other instruments expressing approval of the action proposed to be taken are signed and returned by members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved by vote of the members at a meeting of the members held on the sixtieth (60<sup>th</sup>) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 3.2 above, or by law. If the vote is taken by the method described in this Section 3.11, the list of owners on record with the Secretary at the time of mailing the voting material shall be the list of qualified voters. The written consents used to authorize an action without a meeting shall become part of the Association's records.

4. **BOARD OF DIRECTORS:** The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Governing Documents, shall be exercised by the Board, subject to approval or consent of the Owners only when such is specifically required.

4.1 Number and Terms of Service. The affairs of the Association shall be managed by a Board of Directors consisting of five (5) directors. The directorships of those whose terms have expired shall be elected from the membership of the Association for a term of two (2) years. Director terms are

staggered, with three (3) Directors elected in even numbered years and two (2) Directors elected in odd numbered years. A Director's term will end at the annual election at which his successor is to be duly elected, unless he sooner resigns, or is removed as provided by Section 4.5 below. Directors may be elected for successive terms. Directors shall be elected by the members as described in Section 4.3 below, or in the case of a vacancy, as provided in Section 4.4 below. In the event that an election contains vacant Director seats for different term lengths, the candidate(s) receiving the highest number of vote(s) shall be elected to the longer term.

4.2 Qualifications. Directors must be a Member or the spouse of a Member; provided, however, that if a Lot is required to designate Primary Occupants, any Primary Occupant for that Lot shall be eligible to be a Director. No two individuals from the same Lot or spouses shall be eligible to serve on the Board at the same time. A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the association on the day that he or she could last nominate himself or herself or be nominated for the board may not seek election to the board, and his or her name shall not be listed on the ballot. A person serving as a board member who becomes more than 90 days delinquent in the payment of any fee, fine, or other monetary obligation to the association shall be deemed to have abandoned his or her seat on the board, creating a vacancy on the board to be filled according to law. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, may not seek election to the board and is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date on which such person seeks election to the board. The validity of an action by the Board of Directors is not affected if it is later determined that a person was ineligible to seek election to the Board or that a member of the Board of Directors is ineligible for Board of Directors membership due to having been convicted of a felony. A Director more than ninety (90) days delinquent in the payment of any monetary obligation due the Association shall be deemed to have abandoned the office, creating a vacancy in the office to be filled according to Florida law. A Director charged by information or indictment with a felony theft or embezzlement offense involving the Association's funds or property must be removed from office, creating a vacancy in the office to be filled according to Florida law until the end of the period of the suspension or the end of the Director's term of office, whichever occurs first. While such Director has such criminal charge pending, he or she may not be appointed or elected to a position as a Director. However, if the charges are resolved without a finding of guilt, the Director shall be reinstated for the remainder of his or her term of office, if any.

4.3 Nomination and Elections. On the day of each annual meeting the Members shall elect as many Directors as there are regular terms of Directors expiring. The Board of Directors may not appoint a committee for the purpose of nominating candidates for the election of Directors. However, the Board of Directors may appoint a search committee to encourage qualified persons to become candidates.

4.3.1 First Notice. The First Notice of each annual election shall be mailed, hand-delivered or electronically transmitted to all Owners at least sixty (60) days in advance. Any person eligible to serve as a Director who wishes to qualify as a candidate shall notify the Association in writing of his or her desire to be a candidate at least forty (40) days prior to the annual election, and must be eligible to serve on the Board of Directors at the time of such notification deadline in order to have his or her name listed as a proper candidate on the election ballot or to serve on the Board of Directors. Notice shall be deemed effective when received by the Association. Any person indicating his or her desire to qualify as a candidate may also return a separate information sheet, no larger than 8 1/2 inches by 11 inches, which describes the candidate's background, education and qualifications for office, and any other information deemed relevant by the candidate, which information sheet must be furnished by the candidate at least thirty-five (35) days prior to the election. The Association has no liability for the contents of the information sheets prepared by the candidates.

4.3.2 Second Notice. The Association shall mail, hand-deliver or electronically transmit a Second Notice of the election, together with the candidate information sheets and ballot/limited proxy which shall list all candidates in alphabetical order by surname, at least fourteen (14) days in advance of the election; provided, however, that if the number of candidates does not exceed the number of vacancies, then no election shall be required, and the candidates become members of the Board of Directors effective upon the adjournment of the annual meeting. Any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted Board even if the Directors constitute less than a quorum or there is only one (1) Director.

4.3.3 Balloting. Directors shall be elected by a plurality of the votes cast. General proxies may not be used in elections, but voting may occur by limited proxy. In the event of a tie, the tie vote shall be broken by agreement among the candidates that are tied. If an agreement cannot be reached, then the Association shall proceed with a runoff election pursuant to rules adopted by the Division. Notwithstanding the foregoing, a Member who needs assistance in casting the ballot by reason of blindness, disability, or inability to read or write or other reasons as set forth in Section 101.051, Florida Statutes, may obtain such assistance. In the election of Directors, there shall be appurtenant to each Living Unit as many votes for Directors as there are Directors to be elected, but no Living Unit may cast more than one (1) vote for any candidate, it being the intent hereof that voting for Directors shall be non-cumulative. The Association may conduct elections through an Internet-based online voting system in accordance with the requirements set forth in Section 720.317, Florida Statutes.

4.3.4 Certification. Within ninety (90) days after being elected or appointed, each newly elected or appointed Director shall certify in writing to the Secretary of the Association that he or she has read the Declaration of Covenants, Articles of Incorporation, Bylaws and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the Members. In lieu of this written certification, within ninety (90) days after being elected or appointed, the newly elected or appointed Director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division-approved education provider within one (1) year before or ninety (90) days after the date of election or appointment. The written certification or educational certificate is valid and does not have to be resubmitted as long as the Director serves on the Board of Directors without interruption. A Director who fails to timely file the written certification or educational certificate is suspended from service on the Board of Directors until he or she complies with the requirements set forth above. The Board of Directors may temporarily fill the vacancy during the period of suspension. The Secretary shall cause the Association to retain a Director's written certification or educational certificate for inspection by the Members for five (5) years after a Director's election. Failure to have such written certification or educational certification on file does not affect the validity of any Board action.

4.3.5 Challenge. Any challenge to the election process must be commenced within sixty (60) days after the election results are announced.

4.4 Vacancies on the Board. If the office of any Director becomes vacant for any reason, other than recall by the Members at a membership meeting, a majority of the remaining Directors, though less than a quorum, shall promptly choose a successor to serve until the next annual meeting. If the Association fails to fill vacancies on the Board sufficient to constitute a quorum, or if no Director remains on the Board, the vacancy may be filled by the Members (via a special meeting of the Membership) or any Member may apply to the Circuit Court for the appointment of a receiver to manage the Association's affairs, in the manner provided by Florida law.

4.5 Removal of Directors. Any or all Directors may be removed with or without cause by a majority vote of the entire membership, either by a written petition, or at any meeting called for that purpose, in the manner required by Section 720.303(10) of the Act.

4.6 Organizational Meeting. The annual organizational meeting of the new Board of Directors shall be held within ten (10) days after the annual meeting. The organizational meeting may be held immediately following the annual meeting, in which case the noticing of such meeting may be effectuated by the Board existing prior to the election.

4.7 Other Meetings. Meetings of the Board may be held at such time and place, as shall be determined from time to time by the President or a majority of the Directors. Notice of meetings shall be given to each Director, personally or by mail, telephone or telegram at least forty-eight (48) hours prior to the day named for such meeting. The meeting must be held at a location that is accessible to a physically handicapped person if requested by the physically handicapped person who has a right to attend the meeting.

4.8 Notice to Owners. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers to conduct Association business. All meetings of the Board of Directors shall be open to Members except for meetings between the Board and its attorney with respect to: proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege; personnel matters; or those meetings permitted to be closed by the Act. Notices of all Board meetings shall be posted conspicuously in the Property for at least forty-eight (48) continuous hours in advance of each Board meeting, except in an emergency. In the event of an emergency meeting, any action taken shall be noticed and ratified at the next regular meeting of the Board. In the alternative to the posting requirements discussed above, notice of each Board meeting must be mailed or delivered to each Member at least 7 days before the meeting, except in an emergency. An Assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that Assessments will be considered and the nature of the Assessments. Members have the right to speak, for at least three (3) minutes, on any matter that is placed on the Board meeting agenda by petition of the membership pursuant to Section 720.303(2)(d) of the Act. The Association may adopt reasonable, written Rules and Regulations expanding the rights of Members to speak and governing the frequency, duration, and other manner of Member statements, (including a sign-up sheet requirement), which Rules and Regulations must be consistent with the minimum requirements of Section 720.303(2)(b) of the Act. Notices of Board of Directors meetings may be given by electronic transmission (to those Members who have so consented) in lieu of mail or hand-delivery, when the latter two (2) methods are otherwise required pursuant to the Act. Tape recording and videotaping of Board of Directors meetings shall be governed by the Rules and Regulations.

4.9 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice. If all Directors are present at a meeting, no notice to Directors shall be required.

4.10 Quorum of Directors. A quorum at a Board meeting shall exist when at least a majority of all Directors are present at a duly called meeting. Directors may participate in any Board meeting by a conference telephone call or similar communicative arrangement whereby all persons present can hear all other persons. Participation by such means shall be deemed equivalent to presence in person at a Board meeting.

4.11 Vote Required. The acts approved by a majority of those Directors present and voting at a meeting at which a quorum exists shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Association Documents or by applicable

statutes. Directors may not vote by proxy or by secret ballot at Board meetings, except that secret ballots may be used in the election of officers.

4.12 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a specific time and date.

4.13 The Presiding Officer. The President, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of the Directors present.

4.14 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be reimbursed for all actual and appropriate out-of-pocket expenses relating to the proper discharge of their respective duties.

4.15 Committees. The Board of Directors may appoint from time to time such standing or temporary committees as the Board deem necessary and convenient for the efficient and effective operation of the Association. Any such committee shall have the powers and duties assigned to it in the resolution creating the committee. If required by the Act, as the same may be amended from time to time, committee meetings shall be open to attendance by any Member, and notice of committee meetings shall be posted in the same manner as required in Section 4.8 above for Board meetings, except for such committee meetings between the committee and its attorney with respect to: proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege; personnel matters; or other meetings permitted to be closed under the Act. As of the effective date of these Bylaws, Section 4.8 also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of Association funds, and to the Architectural Review Committee, if one has been established pursuant to the Declaration.

4.16 Emergency Powers. In the event of any "emergency" as defined in Section 4.16(G) below, the Board of Directors may exercise the emergency powers described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

- (A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.
- (B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.
- (C) During an emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practicable manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.
- (D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

- (E) Any officer, director, or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.
- (F) These emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.
- (G) For purposes of this Section 4.16, an "emergency" may be found to exist only when the , or a larger geographic area in which the Property is located, is subjected to:
  - (1) a state of emergency declared by law enforcement authorities;
  - (2) a hurricane warning;
  - (3) a partial or complete evacuation order;
  - (4) designation by federal or state government as a "disaster area;" or
  - (5) a catastrophic occurrence, whether natural or man-made, which seriously damages or threatens serious damage to the Property, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or acts of terrorism.

## 5. OFFICERS:

5.1 Officers and Elections. The executive officers of the Association shall be a President and a Vice-President, who must be Directors, and a Treasurer and a Secretary, who need not be Directors. All officers shall be elected annually by the Board of Directors. Any officer may be removed with or without cause by vote of a majority of all Directors at any meeting. Any person may hold two (2) or more offices as long as he qualifies for both offices; except the President and Secretary may not be the same person. The Board may, from time to time, appoint such other officers, and designate their powers and duties, as the Board deems necessary to manage the affairs of the Association. If the Board so determines, there may be more than one (1) Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts requiring seal of the Association, except where such are permitted by law to be otherwise signed and executed, and the power to execute is delegated by the Board of Directors to some other officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall assign.

5.4 Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members and shall cause all votes and the minutes of all proceedings to be recorded in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the Members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to

any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Association Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if one has been designated, or the Association's manager/management company.

5.5 Treasurer. The Treasurer shall be responsible for Association funds and securities, the keeping of full and accurate amounts of receipts and disbursements in books belonging to the Association, and the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall oversee the disbursement of the funds of the Association, keeping proper vouchers for such disbursements, and shall render to the President and Directors, at the meetings of the Board, or whenever they may require it, an accounting of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated, or the Association's manager/management company.

5.6 Resignation of Officer. Any Director or Officer may resign his office at any time, in writing, and such resignation shall take effect from the time of its receipt by the Association, unless some later time be fixed in the resignation, and then from that date.

6. **FISCAL MATTERS**: The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

6.1 Depository. The Association shall maintain its funds in such financial institutions authorized to do business in the State of Florida as shall be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles.

6.2 Budget. The Board of Directors shall adopt in advance an annual budget of common expenses for each fiscal year. The proposed budget must reflect the estimated revenues and expenses for the next fiscal year, and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities. A copy of the proposed budget and a notice stating the time, date and place of the meeting of the Board at which the budget will be considered shall be mailed to each Member not less than fourteen (14) days prior to that meeting. The proposed budget shall be detailed and shall show the amounts budgeted by income accounts and expense classifications. The minutes of the Association shall reflect the adoption of the budget, and a copy of the proposed and adopted budgets shall be maintained as part of the financial records of the Association. If an annual budget has not been adopted at the time the first quarterly installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last quarterly payment, and payments shall be continued at such rate until a budget is adopted and new quarterly installments are calculated, at which time an appropriate adjustment shall be added to or subtracted from each Lot's next due quarterly installment.

6.2.1 Reserves for Capital Expenditures and Deferred Maintenance. In addition to annual operating expenses, each proposed budget may include reserve accounts for capital expenditures and deferred maintenance as provided for in Section 720.303(6), Fla. Stat. The amount to be reserved shall be computed by a formula based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The Association may adjust replacement reserve Assessments annually to take into account any changes in estimates or extensions of the useful life of a reserve item caused by deferred maintenance. These reserves shall be funded unless the Members determine by a majority vote at a duly called meeting of the Members, to fund no reserves or less reserves than required by Section 720.303(6). Funding formulas for reserves authorized shall be

based on either a separate analysis of each of the required assets or a pooled analysis of two or more of the required assets. The Board of Directors may schedule its budget meeting to occur immediately after the adjournment of a membership meeting held for purposes of voting on reserve funding for the subsequent fiscal year. Reserves funded under this Section 6.2.1, and all interest earned on such reserves, shall not be commingled with operating funds (unless combined for investment purposes), and shall be used only for the purposes for which they were reserved, unless their use for other purposes is approved in advance by a majority vote at a Members' meeting called for that purpose. Operating and reserve funds may be invested in combined accounts, but such funds shall be accounted for separately, and the combined account balance may not, at any time, be less than the amount identified as reserve funds. Operating and reserve funds may be combined in the Assessments paid by Members, provided that the operating and reserve funds are segregated within 30 days after receipt (unless combined for investment purposes).

6.2.2 Contingency Funds. In addition to the statutory reserves provided in Section 6.3.1 above, or in place of them if the Members so vote, the Board may establish one or more "contingency funds" for contingencies and operating expenses for the Association. The purpose of these contingency funds is to provide financial stability and to avoid the need for Special Assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget as a line item in the operating portion of the budget.

6.3 Assessments. Regular Annual Assessments based on the adopted budget shall be paid either quarterly or annually, as determined by the Board. Failure to send or receive notice of Assessments shall not excuse the obligation to pay. If an annual budget has not been adopted at the time the first installment for a fiscal year is due, it shall be presumed that the amount of such installment is the same as the last installment and shall be continued at such rate until a budget is adopted and pro rata Assessments are calculated, at which time any overage or shortage shall be added or subtracted from each unit's next due installment.

6.4 Special Assessments. Special Assessments may be imposed by the Board of Directors when necessary to meet unusual, unexpected, unbudgeted, or non-recurring expenses. Special Assessments are due on the day specified in the resolution of the Board approving such Special Assessments. An Assessment may not be levied at a Board meeting unless a written notice of the meeting is provided to each Member at least fourteen (14) days before the meeting, which notice includes a statement that Assessments will be considered at the meeting and the nature of the Assessments. Written notice of any meeting at which Special Assessments will be considered must be mailed, delivered, or electronically transmitted (to the extent permitted by law) to the Members and posted conspicuously at Mill Run, not less than fourteen (14) days before the meeting.

6.5 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all other persons having access to or control of Association funds, shall be bonded in such amounts as may be required by law or otherwise determined by the Board of Directors. The premiums on such bonds shall be a common expense.

6.6 Financial Reporting. Within ninety (90) days after the end of the fiscal year, the Association shall prepare and complete, or cause to be prepared and completed by a third party the financial statement or report required by the Act, as amended from time to time. Within twenty-one (21) days after that statement or report is completed or received from the third party, the Association shall mail or hand deliver to each Member a copy of the financial statement or report, as required by the Act, or a notice that a copy of the financial statement or report is available upon request at no charge to the Member.



6.7 Fiscal Year. The fiscal year shall be the calendar year, unless modified by the Board of Directors.

7. **RULES AND REGULATIONS: USE RESTRICTIONS:** The Board of Directors may, from time to time, adopt and amend Rules and Regulations subject to any limits contained in this Declaration. Written notice of any meeting at which Rules and Regulations that regulate the use of Lots may be adopted, amended, or revoked must be mailed, delivered, or electronically transmitted (to the extent permitted by law) to the Members not less than fourteen (14) days before the meeting. A written notice concerning changes to the Rules and Regulations that regulate the use of Units must include a statement that changes to the Rules and Regulations regarding the use of Units will be considered at the meeting. Copies of such Rules and Regulations shall be furnished to each Owner. Any Rules and Regulations created and imposed by the Board must be reasonably related to the promotion of health, happiness and peace of mind of the Owners, and, unless otherwise permitted by law, uniformly applied and enforced.

8. **COMPLIANCE AND DEFAULT: REMEDIES:** In addition to the remedies provided elsewhere in the Declaration, the following provisions shall apply:

8.1 Obligations Of Members; Remedies At Law Or In Equity; Levy Of Fines And Suspension Of Use Rights.

- (A) Each Member and the Member's tenants, guests and invitees, are governed by, and must comply with the Act and the Governing Documents. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with the Act and the Association Documents may be brought by the Association or by any Members against:
- (1.) The Association;
  - (2.) A Member;
  - (3.) Any Director or officer who willfully and knowingly fails to comply with the provisions of the Act and the Association Documents; and
  - (4.) Any tenants, guests, or invitees occupying a Lot.

The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs. This section does not deprive any person of any other available right or remedy. Disputes subject to presuit mediation under Section 720.311, Fla. Stat. shall not include the collection of any Assessment, fine, or other financial obligation, including attorney's fees and costs, claimed to be due or any action to enforce a prior mediation settlement agreement between the parties. In any dispute subject to presuit mediation where emergency relief is required, a motion for temporary injunctive relief may be filed with a court without first complying with the presuit mediation requirements of Section 720.311, Fla. Stat. An aggrieved party shall serve on the responding party a written demand to participate in presuit mediation pursuant to Section 720.311, Fla. Stat.

- (B) The Association may levy reasonable fines or suspend the use rights of an Owner, in those cases in which the Owner commits violations of the Act or the provisions of the Association Documents, or condones such violations by his family members, tenants, guests and invitees, in which case the suspension may also apply to those individuals. The fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed \$1,000, except for violations of the Architectural Review Criteria which fines may accrue as a continuing violation in an amount not to exceed \$100 a day until the violation is rectified. Fines may be levied by the Board's representative according to a preapproved schedule of fines subject to the notice and hearing rights set forth below. Fines can be secured by a lien against a Lot only as

permitted by the Act. The procedure for imposing such fines or suspensions shall be as follows:

- (1.) A fine or suspension may not be imposed without notice of at least fourteen (14) days to the person sought to be fined or suspended and opportunity for 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, or a person residing in the household of a director and the notice shall include:
  - (i) A statement of the date, time and place of the hearing;
  - (ii) A statement of the provisions of Florida law and the Association Documents which have allegedly been violated; and
  - (iii) A short and plain statement of the matters asserted by the Association.
- (2.) The party against whom the fine may be levied or suspension imposed shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. The Owner shall be the party ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a tenant, family member, invitee or guest.
- (3.) If the Committee, by majority vote, does not approve the fine or suspension, it may not be imposed. The role of the Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board.
- (4.) Exceptions to Hearing and Notice Requirements. The notice and hearing requirements of this Section 8.1 do not apply to the imposition of suspensions or fines against a Unit Owner or Occupant because of failing to pay any fee, fine or other monetary obligation due the Association. If such a fine or suspension is imposed, the Association must levy the fine or impose a reasonable suspension at a properly noticed Board meeting, and after the imposition of such fine or suspension, the Association must notify the Unit Owner and, if applicable, the Units Occupant, licensee or invitee by mail or hand delivery.

8.2 Availability of Remedies. Each Member, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default and abatement of violations regardless of the harshness of the remedy utilized by the Association and regardless of the availability of other legal remedies. It is the intent of all Members to give the Association methods and procedures which will enable it to operate on a businesslike basis, to collect those monies due it and to preserve the majority's right to enjoy the community free from unreasonable restraint and annoyance.

9. AMENDMENT OF BYLAWS: Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Procedure; Vote Required. Amendments to these Bylaws may be proposed by the Board of Directors at a duly noticed Board meeting. Alternatively, amendments to these Bylaws shall be submitted to a vote of the Owners if the Board receives a written petition to the Board signed by at least twenty-five percent (25%) of the Voting Interests. Upon receipt of such petition, the Board shall submit the amendment to a vote of the Owners no later than the next annual meeting for which notice may be

properly given. Amendments to these Bylaws must receive approval from at least a majority of the Voting Interests present and voting at a meeting at which a quorum is attained, provided that the text of each proposed amendment has been given to the Members with notice of the meeting.

9.2 Certificate; Recording. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Bylaws, which certificate shall be in the form required by law and shall be executed by the President or Vice-President with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

**10. MISCELLANEOUS:**

10.1 Gender. Whenever the masculine or singular form of a pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

10.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

