

INSTR # 2008206001
BK 07774 PGS 1475-1558 PG(s)84
RECORDED 12/09/2008 03:15:41 PM
RICHARD M WEISS, CLERK OF COURT
POLK COUNTY
RECORDING FEES 715.50
RECORDED BY V Epperson

This Instrument Prepared By
& Requested Be Returned To:
Craig B. Hill, Esquire
Clark, Campbell, Mawhinney & Lancaster, P.A.
500 South Florida Avenue, Suite 800
Lakeland, Florida 33801

**MASTER DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
BAY LAKE RESORT**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BAY LAKE RESORT, is made this 2nd day of December, 2008, by **MSD-MATTIE, L.L.C.**, a Florida limited liability company ("Declarant") for itself and its successors, grantees, and assigns.

RECITALS

WHEREAS, Declarant is the fee simple owner of certain real property located in Polk County, Florida, which property is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference ("Lands");

WHEREAS, Declarant intends to create on the Lands a planned residential development, which may include, without limitation, improvements consistent with the recreational vehicle lifestyle, improved pads and related recreational and other common facilities and amenities to be known as Bay Lake Resort, and may be sometimes referred to herein as the "Community";

WHEREAS, to preserve, protect and enhance the values of the Lands and amenities in the Community, and the general health, safety and welfare of the residents, Declarant deems it desirable to subject the Community to certain protective covenants, conditions, and restrictions;

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, Bay Lake Resort Owners' Association, Inc., a Florida not for profit corporation (the "Association") has been incorporated;

Page 1 of 60

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD M WEISS, CLERK

WHEREAS, Declarant may, in its sole and absolute discretion, from time to time, convey, or grant a license or other use right to any portion of the Lands within or other property outside of the Community by deed, easement, or otherwise to the Association (which shall accept the same) for the purpose of operation, maintenance, landscaping, drainage, recreation or other purposes for the use and benefit of the Members (hereinafter defined) and their families, tenants and guests;

WHEREAS, the Association joins in and agrees to be bound by this Declaration and be a beneficiary thereof as to any terms, conditions and provisions herein that relate to it, as applicable;

WHEREAS, Mastercraft Homes, LLC, a Florida limited liability company, and its successors and assigns ("Mastercraft"), joins in and agrees to be bound by this Declaration and be a beneficiary thereof as to any terms, conditions and provisions herein that relate to it, including, without limitation, Section 5.33 hereof, as applicable;

WHEREAS, MX Communication Services, LLC, and its successors and assigns ("MX") joins in and agrees to be bound by this Declaration and be a beneficiary thereof as to any terms, conditions and provisions herein that relate to it, including, without limitation, Section 7.2 hereof pertaining to the System (hereinafter defined), as applicable; and

NOW, THEREFORE, the Declarant and any other person owning an interest in the Lands who consents to or joins in the making of this Declaration, hereby declares that the Lands described in Exhibit "A" attached hereto, as such description may be amended from time to time, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Lands and be binding on all parties having any right, title or interest in the Lands or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner (hereinafter defined) thereof. Additional real property may be added to the Lands, by Declarant in its sole and absolute discretion, by an amendment to this Declaration, including, without limitation, an amendment to Exhibit "A" hereto, consented to or joined in only by the Declarant and all persons having a record ownership interest in the property being added. The express intent of Declarant is to add additional real property in its sole and absolute discretion to the Lands by an amendment to this Declaration; however, Developer shall be under no obligation to do so. The additional real property may include, by way of example but without limitation, additional Lots (hereinafter defined), amenities, recreational vehicle and boat storage, storage barns, and other items necessary in the sole and absolute discretion of the Developer. Nothing herein contained, and no violation of these covenants, conditions and restrictions shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of Declarant

Page 2 of 60

A TRUE COPY
CERTIFIED BY ON LAST PAGE
RICHARD A. WEISS, CLERK

is that substantive contract rights created hereunder shall not be retroactively affected by any local, state, or federal legislation enacted subsequent to the recording of this Declaration.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits.
 - 1.1 **“Architectural Review Committee” or “ARC”** means the Architectural Review Committee as established and empowered in Section 6 of this Declaration.
 - 1.2 **“Assessment” or “Assessments”** means a share of the funds required for the payment of the expenses of the Association which from time to time are assessed against the Members, including, without limitation, annual assessments and special assessments, as authorized by Section 9 of this Declaration.
 - 1.3 **“Association”** means Bay Lake Resort Owners’ Association, Inc., a Florida not for profit corporation, which has its principal place of business in Polk County, Florida, and its successors and assigns.
 - 1.4 **“Board of Directors” or “Board”** means the Board of Directors of the Association.
 - 1.5 **“Common Areas”** means any and all real property and improvements thereon depicted and/or designated on any plat of the Community by Declarant as “Common Areas” or words of similar import, or designated as such in a recorded amendment to this Declaration, or as otherwise determined or designated by Declarant until it owns no property in the Community, and thereafter the Board of Directors. As of the date of recording of this Declaration, the Common Areas are owned by Declarant. It is anticipated that the Common Areas will be subsequently owned by, or dedicated to, the Association for the use and benefit of some or all of its Members. Common Areas may or may not include platted Tracts.
 - 1.6 **“Community”** means all real property comprising Bay Lake Resort now or in the future.
 - 1.7 **“Conservation Area”** means the wetland preserve areas and the upland preserve areas within the Community, if any. At the time of recording this Declaration, any Conservation Area is owned by Declarant. At the discretion of Declarant, any Conservation Area shall be granted or dedicated to the Association.
 - 1.8 **“County”** means Polk County, Florida.

Page 3 of 60
A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD H. WEISS, CLERK

- 1.9 **"Declarant"** means MSD-Mattie, L.L.C., a Florida limited liability company. The Declarant shall continue to be the Declarant until all Lots in the Community have been sold to Owners who are not a successor Developer.
- 1.10 **"Developer"** means Declarant, or any other developer to which the Declarant specifically assigns all or a portion of the rights it may have under this Declaration to develop part or all of the Community. The Declarant is initially the Developer. The Declarant shall continue to be the Developer until all Lots in the Community have been sold to Owners who are not a successor Developer.
- 1.11 **"District"** means the Southwest Florida Water Management District.
- 1.12 **"Governing Documents"** means this Declaration, and the Articles of Incorporation, and Bylaws of the Association, as amended from time to time. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority as listed in this Section 1.12.
- 1.13 **"Institutional Mortgagee"** means:
- (A) a lending institution having a first mortgage lien upon a Lot, Parcel or Tract, including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or
 - (B) a governmental, quasi-governmental or private agency that is engaged in the business of holding, guaranteeing or insuring residential mortgage loans (including without limitation the Federal National Mortgage Association), Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and which holds, guarantees or insures a first mortgage upon a Lot; or
 - (C) the Developer, and any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Developer to acquire, develop, or construct improvements upon the Community and who have a mortgage lien on all or a portion of the Community securing such loan. An "Institutional Mortgage" is a mortgage held by an Institutional Mortgagee encumbering a Lot.
- 1.14 **"Lands"** means the land described in Exhibit "A" to this Declaration, as it may be amended from time to time.

- 1.15 **“Lot”** means one (1) or more of the platted portions of land into which the Community has been subdivided, upon each of which pad improvements have been or are intended to be constructed or located. Unless the context clearly requires a different interpretation, the term “Lot” shall be interpreted as if it were followed by the words “and the pad improvements constructed thereon or located thereon.”
- 1.16 **“Member”** means any or all of those persons who are entitled to membership in the Association, as provided in the Governing Documents.
- 1.17 **“Motor Home”** means a Class “A” motor home (as defined by the Recreational Vehicle Industry Association), and certain Class “C” motor homes (as defined by the Recreational Vehicle Industry Association) manufactured by Kingsley Coach, Dynamax, Renegade, Haulmark, Optima or Silver Crown, with any and all such Class “C” motor homes being subject to the prior written approval of Declarant, which approval shall be in Declarant’s sole and absolute discretion. All Class “A” Motor Homes shall be a minimum length of 26 feet. All Class “C” Motor Homes, as may be approved subject to this Declaration, shall be a minimum length of 32 feet. All Motor Homes that may be permitted pursuant to this Declaration shall be no older than ten (10) years at the time each Owner closes on the purchase of his respective Lot (for example, if an Owner closes on the purchase of his Lot in 2009, any Motor Home located on his Lot, for so long as he owns the Lot, shall be a 1999 model year or newer). Declarant, in its sole and absolute discretion, shall have the right to make exceptions to the foregoing Motor Home requirements (including, but not necessarily limited to, as to manufacturers, length, and model year) on a case-by-case basis, without the necessity of an amendment to this Declaration.
- 1.18 **“Owner”** means the record owner of legal title to any Lot, Tract or Parcel.
- 1.19 **“Parcel”** means any and all unplatted portions of the Community.
- 1.20 **“Service Assessment”** means a charge against one (1) or more Lots for any service, material or combination thereof which may be provided by the Association for the use and benefit of the Owner(s) on a voluntary basis, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Association on behalf of the Owners accepting or receiving such material or service shall be a service assessment against the Lots so benefitted. An Owner is deemed to have agreed to such assessment by the act of subscribing to, requesting, or accepting the material or service.

- 1.21 **“Structure”** means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words “or part thereof.” The term includes, without limitation, all pad improvements including ancillary buildings such as casitas, pavilions, and outdoor kitchens, and any spas and flagpoles.
- 1.22 **“Surface Water Management System Facilities”** means without limitation, all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas.
- 1.23 **“Tract”** means any and all platted portions of the Community other than the Lots.
- 1.24 **“Turnover Date”** means the time at which any of the events set forth in Section 4.1(B) of this Declaration occurs first.
2. **GENERAL DEVELOPMENT PLAN.** It is contemplated that the Community will be developed in one or more phases; however, Declarant shall be under no obligation to do so. The primary development objective is the construction and development of improvements consistent with the recreational vehicle lifestyle. Notwithstanding the foregoing, the Declarant has the right in its sole and unbridled discretion, but not the obligation, to further expand the Community by adding additional land (including without limitation, additional real property to the Lands), or Lots, or recreational amenities, facilities or memberships.
- 2.1 **Renderings, Plans and Models.** From time to time, Declarant and others may present to the public certain renderings, plans and models showing possible development of the Community. Declarant does not warrant in any way the concepts in these renderings, plans or models or how the future improvements in the Community will actually be developed. Any such renderings, plans or models are primarily schematic and in no way represent a guaranteed final development plan.
- 2.2 **Quiet Enjoyment.** Because of its size, the development of the Community will span a number of years. Incident to the development process, the quiet enjoyment of the Community will be unavoidably interfered with to some extent by construction operations.
3. **THE ASSOCIATION’S PURPOSES AND POWERS.** One purpose of the Association is to hold title to, operate and maintain the Common Areas of the Community. The

A TRUE COPY
 CERTIFICATION ON LAST PAGE
 EDWARD R. WEISS, CLERK

Page 6 of 60

Association's primary purposes are to enforce this Declaration and the provisions, conditions, and restrictive covenants applicable to the Community, to provide architectural and aesthetic control, and to take such other action(s) as the Association is authorized or required to take with regard to the Community pursuant to the Governing Documents and applicable law. The Association shall operate, insure, maintain and repair all property and related improvements conveyed or otherwise transferred to the Association by Declarant as Common Areas.

- 3.1 **Common Areas.** The Association shall operate, maintain and, if and when deeded or otherwise conveyed by the Developer (as consented to or joined in by any other person or entity having a record ownership), hold record title to the Common Areas. The Association shall be required to take the Common Areas. The Board of Directors may promulgate reasonable rules and regulations regarding the use of the Common Areas. Use of the Common Areas shall be available to all Members and their invitees, guests, family members and tenants, subject to any rules and regulations, any applicable fees or charges, the Governing Documents, and applicable law. The costs of operating, maintaining, repairing, insuring and protecting the Common Areas and the improvements and facilities located thereon or connected therewith shall be assessed equally against all Lots in accordance with Section 9 hereof.
- 3.2 **Manager and Contracts.** The Association may contract, employ and pay for the services of an entity or person to assist in managing its affairs and carrying out its responsibilities, and may employ other personnel as the Association shall determine to be necessary or desirable, including, without limitation, the Association may contract with and employ a contractor to perform lawn maintenance services for the Lots and Common Areas.
- 3.3 **Personal Property.** The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.
- 3.4 **Insurance.** The Association at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary and as required in Section 11 below. The Association additionally shall cause all persons with access to Association funds to be insured or bonded with adequate fidelity insurance or bonds, as may be deemed appropriate and as may be required by applicable law .
- 3.5 **Express and Implied Powers.** The Association may exercise any right, power or privilege given to it expressly by the Governing Documents or by the law in effect at the time this Declaration is recorded, as such law may be amended from time to time, and every other right, power or privilege reasonably inferable therefrom.

THREE COPY
SERIALIZED ON LAST PAGE
RICHARD W. WEISS, CLERK

Page 7 of 60

- 3.6 **Acts of the Association.** Unless the approval or affirmative vote of the Members is specifically made necessary by some provision of applicable law or the Governing Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Members. The officers and Board of Directors of the Association have a fiduciary relationship to the Members. A Member does not have the authority to act for the Association by reason of being a Member.
- 3.7 **Member Approval of Certain Litigation.** Notwithstanding any other provisions of the Governing Documents, the Board of Directors shall be required to obtain the prior approval of at least two-thirds (2/3) of all classes of the voting interests of the Association prior to the payment of, or contracting for the payment of, legal fees to any person engaged by the Association for the purpose of commencing any lawsuit, other than for the following purposes:
- (A) the collection of Assessments;
 - (B) the collection of other charges which Members are obligated to pay;
 - (C) the enforcement of the Governing Documents;
 - (D) in an emergency, when waiting to obtain the approval of the Members creates a substantial risk of irreparable injury to the Association or its Members; or
 - (E) filing a compulsory counterclaim.
- 3.8 **Articles of Incorporation.** The Articles of Incorporation of the Association shall be the Articles of Incorporation attached hereto as **Exhibit "B"** and incorporated herein by reference, as they may be amended from time to time.
- 3.9 **Bylaws.** The Bylaws of the Association shall be the Bylaws attached hereto as **Exhibit "C"** and incorporated herein by reference, as they may be amended from time to time.
- 3.10 **Official Records.** The official records of the Association shall be maintained within the State of Florida and in accordance with the law in effect at the time this Declaration is recorded, as such law may be amended from time to time. The requirement for maintenance and inspection of the official records of the Association may be complied with by having a copy of the official records available for inspection or copying within the Community. The Association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspection, and may impose fees to cover the

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD J. WEISS, CLERK

Page 8 of 60

costs of providing copies of the official records, including, without limitation, the costs of copying. The Association shall maintain an adequate number of copies of the recorded Governing Documents, to ensure their availability to Members and prospective members, and may charge its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them. Pursuant to Florida law, including, without limitation, Florida Statutes, Section 720.303(5), certain records shall not be accessible to Members or Owners, including, without limitation, any record protected by the lawyer-client privilege and any record protected by the work-product privilege, and medical records of Owners.

- 3.11 **Treated Effluent.** The Developer or Association may (but shall not be obligated) negotiate an agreement with any effluent supplier for the use of treated sewage effluent within the Community for irrigation purposes throughout the Community, including the Common Areas. In such event, the Association (or an entity or organization with which the Association contracts) would be responsible for providing all on-site piping and pumping facilities from the point of delivery to the Community and negotiate with the effluent supplier to provide full or partial on-site storage facilities, as may be required by the Florida Department of Environmental Protection ("FDEP") and other governmental agencies consistent with the volume of treated wastewater to be utilized. All Owners within the Community, by the act of purchasing, are deemed to have irrevocably consented to the irrigation of property in the Community, including the Common Areas, with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from FDEP, or other such agency with jurisdiction. The cost of such treated effluent and all administrative, operational, maintenance and support costs related to it, are expenses of the Association but will be assessed to all the Lands by the Association.
4. **ASSOCIATION MEMBERSHIP VOTING RIGHTS.** Every Owner of record legal title to a Lot within the Community shall be a Member of the Association as further described in Section 4.1 below. The Declarant shall hold Declarant membership as provided for in Section 4.1(B) below. Membership is appurtenant to, and may not be separated from ownership of a Lot. The rights, powers, duties and privileges of Members shall be as set forth in this Declaration, and in the Articles of Incorporation and Bylaws of the Association.
- 4.1 **Classes of Membership.** Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. The Association will initially have two (2) classes of voting membership, as follows:
- (A) Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds

A TRUE COPY
CERTIFIED ON LAST PAGE
RICHARD W. WISS, CLERK

Page 9 of 60

an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners of each Lot shall determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Any Member who is delinquent in excess of ninety (90) days in the payment of any charges, Assessments or otherwise, duly levied by the Association against the Lot shall not be entitled to vote until all such charges together with any penalties, interest, late fees, and attorneys' fees and costs as imposed have been paid. Class A Members shall be obligated to timely pay all charges, Assessments and dues in the amount established by the Board of Directors. A membership shall not be transferable other than through the sale or conveyance of the record legal title to the Lot to which it is appurtenant.

(B) Class B Members shall consist of the Declarant and its successors and assigns and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier ("Turnover Date"):

(a) at such time as Declarant has sold one hundred percent (100%) of the Lots in the Community to Owners who are not a successor Developer; or

(b) when Declarant, in its sole and absolute discretion, so determines.

Upon the earliest to occur of (a) or (b) in this Section 4.1(B), Declarant shall record an instrument in the public records of the County, which expresses that the Class B membership has ceased and shall be converted to Class A membership.

Except to the extent otherwise expressly provided herein, all of the Declarant's rights and privileges as the Declarant, as set forth elsewhere in this Declaration or in the Bylaws or the Articles of Incorporation, shall continue as long as the Declarant owns any Lots or any other property within the Community. If the Declarant conveys undeveloped property within the Community to a successor Developer, the Declarant may assign its Declarant membership and/or some or all of its voting rights and privileges to the successor Developer.

4.2 Association Rights and Easements. Members in good standing have the non-exclusive right to access and use the Common Areas, subject to:

(A) The right of the Association, by and through its Board of Directors, to adopt the annual budget and to determine the Assessments to be paid by Members;

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD W. WILSON, CLU

Page 10 of 60

- (B) The right of the Association, by and through its Board of Directors, to charge any admission, use, or other fees for any Common Areas, as the Board may deem appropriate. The fees may be higher for non-owners than for Owners;
- (C) The right of the Association, by and through its Board of Directors, to suspend a Member's right to use Common Areas, for the period during which any Assessment or charge against the Member's Lot remains unpaid and past due as set forth herein;
- (D) The right of the Association, by and through its Board of Directors, to dedicate or transfer all or any part of the Common Areas, to any governmental agency, public authority, or utility;
- (E) The right of the Association, by and through its Board of Directors, to grant easements over, across or through the Common Areas;
- (F) The right of the Association, by and through its Board of Directors, to open the Common Areas, for use by non-members of the Association, or non-owners;
- (G) The right of the Association, by and through its Board of Directors, with the prior assent of a majority of the voting interests of the Association, to borrow money for the purpose of improving the Common Areas, and in aid thereof, to mortgage Common Areas, except that such assent of a majority of the voting interests of the Association shall not be required prior to the Turnover Date;
- (H) The right of the Association, by and through its Board of Directors, to close or restrict access to the Common Areas, for limited periods of time to conduct special events, including those intended primarily to benefit the Developer or its sales and/or leasing efforts;
- (I) The provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association; and any rules and regulations governing use and enjoyment of the Common Areas, adopted by the Association, including, without limitation, those by and through the Board of Directors;
- (J) The right of the Association to dedicate or transfer ownership or control of all or any part of the Common Areas, if any, to a governmental agency, public authority, or utility.

ALL INFORMATION ON LAST PAGE
 RICHARD E. WEISS, CLERK

So long as there is a Declarant Member, any and all rights of Members, and any all restrictions, limitations, conditions and rules and regulations that a Member shall be subject to, shall not be amended without the prior written consent of the Declarant, which consent shall be in Declarant's sole and absolute discretion. In the event the Declarant conveys or transfers the Common Areas to the Association while Declarant still owns one or more Lots or any other property in the Community, Declarant hereby reserves an easement over, across, through and under the Common Areas for purposes including, without limitation, construction, ingress and egress, and for other purposes incidental to the development of the Community.

4.3 Use Rights In Common Areas. Guests accompanied by a Member shall have the right to use the Common Areas, but only to the extent provided in this Declaration, the Bylaws, and any rules and regulations promulgated by the Association, and subject to the conditions, limitations and restrictions as may be stated in this Declaration, the Bylaws, or such rules and regulation. Each Member shall be financially and legally responsible to the Association for the actions and debts to the Association of any person to whom the Member has delegated his right to use the Common Areas. The Member may not delegate the obligation to pay Association Assessments. Upon the lease of a Lot to which a membership is appurtenant, the lessor Member may delegate the right to use the Common Areas for the term of the tenancy; or the lessor Member may retain the right to use the Common Areas for the term of the tenancy (in which case the tenant shall have no such rights). If a Member delegates his privileges to a tenant occupying his Lot, the Member shall not be entitled to use of the Common Area facilities during the period of the delegation. A fee may be imposed for such usage delegation, not necessarily limited by or related to the cost of processing the delegation. In the event of a usage delegation, the lessor Member shall give written notice thereof to the Association, which written notice shall set forth the pertinent identifying and contact information as to and for the tenant, and the term of the delegation (i.e., the start and end dates). The use of any Common Area facilities shall be subject to the Governing Documents, any rules and regulations of the Association, and applicable law, and all Owners, Members, tenants, guests and invitees shall comply with same.

4.4 Separation of Ownership. The ownership of a Lot, and the ownership of any pad improvements constructed thereon, may not be separated or separately conveyed, nor may any person who does not own record legal title to at least one (1) Lot, Tract or Parcel hold membership in the Association.

5. GENERAL COVENANTS AND USE RESTRICTIONS. The Community may be used for those purposes provided in any ordinances, governmental plans, land development regulations, development orders and development permits applicable thereto, as modified

Page 12 of 60

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD A. WEISS, CLERK

from time to time. Declarant reserves the right and the power to assign and reassign various land uses within the Community in accordance with any variations from, modifications to, or amendments of any other governmental plans, land development regulations, development orders and development permits applicable to the Community.

5.1 **Subdivision and Regulation of Land.** No Lot may be divided or subdivided without the express written consent of the Declarant, which consent shall be in Declarant's sole and absolute discretion. However, notwithstanding the foregoing or anything to the contrary contained herein, an Owner may combine Lots, subject to the prior express written consent of the Declarant and compliance with all applicable ordinances, laws or regulations pertaining to the development of the Community. No Owner shall initiate, undertake or attempt to inaugurate or implement any variation from, modification to, or amendment to any governmental plans, land development regulation, development orders or development permits applicable to the Community, or to any Lot, Tract or Parcel, without the prior written approval of Declarant, which approval may be denied at the sole discretion of Declarant. Nothing herein is intended to prohibit judicial partition of a Lot owned by two (2) or more persons.

5.2 **Surface Water Management System Facilities.**

(a) No construction activities may be conducted relative to any portion of the Surface Water Management System Facilities. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the Surface Water Management System Facilities. If the project (Community) includes a wetland mitigation area (as defined in the District rules), or a wet detention pond, no vegetation in these areas shall be removed, cut, trimmed or sprayed with herbicide without specific written approval from the District. Construction and maintenance activities which are consistent with the design and permit conditions approved by District in the environmental resource permit pertaining to the Community ("Environmental Resource Permit") may be conducted without specific written approval from the District.

(b) The Association is responsible for operation and maintenance of the Surface Water Management System Facilities. Operation and maintenance and reinspection reporting shall be performed in accordance with the terms and conditions of the Environmental Resource Permit.

(c) The District has the right to take enforcement measures, including a civil action for

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD E. WEISS, CLERK

Page 13 of 60

injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the Surface Water Management System Facilities.

(d) If the Association ceases to exist, all of the Owners shall be jointly and severally responsible for operation and maintenance of the Surface Water Management System Facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility as allowed by and pursuant to applicable law.

(e) If there is on-site wetland mitigation (as defined in the District rules) which requires ongoing monitoring and maintenance, the Association shall allocate sufficient funds in its budget for monitoring and maintenance of the wetland mitigation area(s) each year until the District determines that the area(s) is successful in accordance with the Environmental Resource Permit.

(f) The Surface Water Management System Facilities are located on land that is designated common property on the plat(s) of the Community, are located on land that is owned by the Association, or are located on land that is subject to an easement in favor of the Association and its successors.

5.3 Lakes and Water Retention Ponds.

(a) Except as set forth in this Section 5.3, no Structure of any kind (including docks) shall be constructed or erected in or on, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in, any portion of any water management area including, but not limited to lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters, without the specific written permission of the Declarant, except that the Declarant may without any Owner's consent place docks and/or marinas on such lands.

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

(c) No Lot, Tract or Parcel shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No person other than Declarant (and the Association following the Turnover Date) shall fill, dike, rip-rap, block, divert or change the

Page 14 of 60
CERTIFIED TRUE AND CORRECT COPY ON LAST PAGE
RICHARD A. WEISS, CLERK

established water retention and drainage areas that have been or may be created without the prior written consent of the Declarant prior to the Turnover Date. No person other than the Declarant may draw water for irrigation or other purposes from any lake, pond or other water management area.

(d) The Conservation Areas, if any, will be the ultimate responsibility of the Association.

NO PERSON OTHER THAN THE ASSOCIATION (SUBJECT TO AUTHORIZATION BY DECLARANT PRIOR TO THE TURNOVER DATE, IF NECESSARY) MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.

(e) Nothing in this Section 5.3 shall be construed to allow any person to construct any new water management facility, or to alter the Surface Water Management System Facilities or Conservation Areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction, including the District.

LOTS MAY CONTAIN OR ABUT CONSERVATION AREAS, WHICH ARE PROTECTED UNDER APPLICABLE ENVIRONMENTAL PERMITS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH ANY RESTORATION PROGRAM INCLUDED IN THE ENVIRONMENTAL PERMIT OR GOVERNMENTAL REGULATIONS, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING, WITHOUT LIMITATION MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. THE DECLARANT OR THE ASSOCIATION SHALL INSTALL AND MAINTAIN AS NECESSARY, SIGNAGE REQUIRED BY ANY ENVIRONMENTAL PERMIT.

5.4 **Conservation Areas.** The Association shall be responsible for the maintenance and regulatory compliance of all Conservation Areas in the Community, regardless of where located, in accordance with rules, regulations and permitting requirements set forth by the County and other permitting agencies, including the District. No person other than the Association (subject to authorization by Declarant prior to the Turnover Date, if necessary) or any appropriate governmental agency shall undertake or perform any activity in Conservation Areas described in the approved permits or plats of the Community, or remove native vegetation that becomes established within the Conservation Areas. Prohibited

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD B. WEISS, CLERK

Page 15 of 60

activities within Conservation Areas include the removal of native vegetation, excavation, placement or dumping of soil, trash or land clearing debris, and construction or maintenance of any improvements, building, or other Structure. "Removal of native vegetation" includes dredging, application of herbicides, and cutting.

- 5.5 Open Space.** Any land subjected to this Declaration and designated as open space, landscape buffer, preserve area, Conservation Area or words of similar import on any plat, declaration of covenants and restrictions, site plan, permit or other document shall be preserved and maintained by the owner of such land as open space. If such land or an easement over such land has been conveyed or dedicated to the Association, the Association shall preserve and maintain such land. No development may occur on such land except Structures or improvements which promote the use and enjoyment of the land for open space purposes, and subject to any applicable laws, ordinances or regulations.
- 5.6 Lawns, Landscaping, Irrigation Systems.** Except for designated Conservation Areas, buffer zones, open space or similar areas, all areas not covered by Structures, walkways or paved parking facilities shall be maintained by the Association or its designee as lawns to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas. The Association shall cause the lawn on each Lot to be mowed and edged on a schedule determined by Association, but the Association shall have no responsibility for fertilization of lawns or landscaping or the replacement, trimming and maintenance of any landscaping on the Lot, including, without limitation, trees, hedges, flowers and plant beds; all of such landscape maintenance being the responsibility of the Owner. All mulched areas on a Lot shall be regularly re-mulched by the Owner. The Association, through its authorized agents and employees, shall have a perpetual easement over, through and across all Lots and Common Areas and all other areas maintained by Association and its authorized agents and employees, and the right to enter upon such Lots, Common Areas and all other areas maintained by Association, at reasonable hours to perform lawn maintenance as contemplated in this Section 5.6. Stone, gravel, or paving may not be used as a substitute for grass in a lawn. The type of grass allowed in the Community, on Lots or otherwise, shall be subject to the approval of Declarant in its sole and absolute discretion. Certain areas as determined by the Developer shall remain in a natural or unimproved state. All lawns and landscaping shall be completed at the time of completion of the pad improvements as evidenced by the issuance of a Certificate of Occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition as contemplated in this Section 5.6. The irrigation lines to each Lot line shall be the responsibility of the Association, upon transfer to the Association, and to the extent the irrigation lines are not dedicated to any governmental body or entity by Developer. Any and all costs and expenses associated with water and irrigation on each Lot is the responsibility of the Owner. Further,

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD E. WEISS, CLERK

Page 16 of 60

the components of the irrigation system on each Lot, including but not limited to, the tap into the main line, timers, switching devices and heads shall be the responsibility of the Owner at its cost and expense. Each Owner acknowledges that some Lots may have larger or smaller yards than other Lots in the Community. However, notwithstanding the foregoing, all lawn maintenance expenses shall be deemed part of the operating costs of the Association, and each Owner shall pay an equal share of such costs, as assessed.

- 5.7 **Maintenance of Premises.** Except for Conservation Areas and other areas designated by the Developer to remain in a natural state, no high weeds, underbrush, high grass or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse or waste shall be allowed to be placed or suffered to remain upon any Lot, except that while Developer or its affiliates are constructing improvements within the Community, the foregoing shall not be applicable except as to Lots sold to Owners other than a successor Developer. If an Owner permits such weeds, high grass, underbrush or other unsightly growths, and fails to correct same after five (5) days notice by the Association, the Association shall have the right to enter upon the premises and make such corrections and shall charge the Owner for the cost of the corrections. Said charge, until paid, shall be a lien against the offending Lot. All lawns, landscaping and sprinkler systems and all Structures, improvements and appurtenances shall at all times be kept in safe, and attractive condition, and all Structures shall be maintained in a finished, painted and attractive condition. The Association will maintain all roadways and lift station pumps (and related facilities), which are not dedicated to any governmental body or entity, within the Community to the extent necessary to maximize their useful life.
- 5.8 **Sidewalks.** Declarant may construct sidewalks in various locations within the Community for pedestrian traffic in its sole and absolute discretion.
- 5.9 **Litter.** In order to preserve the beauty of the Community, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept within the Community except in closed containers, dumpsters or other garbage collection facilities deemed suitable by the Declarant, or in proper-sized, closed plastic bags for curbside pickup as required. All containers, dumpsters and other garbage collection facilities shall be screened from view, kept in a clean condition, and without noxious or offensive odors emanating. Each Owner shall contract directly with the City of Auburndale for garbage service for his own Lot. Notwithstanding the foregoing provisions of this Section 5.9, while Developer or its affiliates or Developer or its affiliates' approved builder are constructing improvements within the Community, this Section 5.9 shall not be applicable except as to Lots sold to Owners other than a successor Developer.

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD W. WEISS, CLERK

Page 17 of 60

- 5.10 **Walls, Fences, Hedges, etc.** Unless approved in writing by Declarant, which approval shall be in Declarant's sole and absolute discretion, no wall, fence, hedge, or other divider shall be constructed or maintained above the ground level of any adjoining Lot. No wall, fence, or hedge shall be constructed on any Lot unless its height, length, type, design, composition, material and location shall have first been approved in writing by the Declarant, and subsequently the Association following the Turnover Date. Height shall be measured from the finished grade of adjoining developed property. Any dispute as to height, length, type, design, composition or material shall be resolved by the Declarant, whose decision shall be final. Approval may not be given for the construction of any wall, fence or hedge which materially interferes with the water view of any Lot.
- 5.11 **Driveways and Parking Areas.** Driveways, pads and any parking areas must be paved with brick pavers approved by Declarant in its sole and absolute discretion, including, without limitation, with respect to the color of any such brick pavers. Driveways, pads and parking areas must be kept clean and free from excessive oil, rust or other unsightly stains. Maintenance and repair of all roadways, parking and other paved parking facilities owned by the Association shall be the responsibility of the Association.
- 5.12 **Color.** No exterior colors on any Structure shall be permitted that, in the judgment of the Declarant, would be inharmonious, discordant or incongruous with the Community. The initial exterior color and design of Structures shall be as approved by Declarant.
- 5.13 **Underground Utilities.** No lines or wires for communication or the transmission of current shall be constructed, or placed, or permitted to be placed within the Common Areas unless the same shall be protected cables; all such lines or wires which are not located in buildings shall be constructed or placed and maintained underground, unless otherwise approved in writing by Declarant. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained above the surface of the ground, except hoses and movable pipes used for irrigation purposes.
- 5.14 **Water Supply; Wells; Water Rights.** In the event that an Owner is required by law and/or any governmental entity or agency to use non-potable water for irrigation purposes, it shall be the responsibility of the Owner at its cost and expense, and not the Declarant, to connect to any non-potable water lines and facilities and the Owner shall be responsible for any maintenance, repair or replacement with respect to such connection, to the extent that any governmental body, entity or agency is not otherwise responsible. The Declarant shall not be liable or responsible for any Owner's failure to comply with any governmental laws or regulations requiring the Owner to connect to and/or use non-potable water. All underground irrigation systems, if required by the laws or regulations of any governmental

entity or agency to use non-potable water, must be connected to a non-potable water line and all outside spigots must be connected to a non-potable water line. Each Owner shall be required to connect the water lines on his Lot to the lines of the utility provider(s) providing potable water service to the Community. No Owner may install or operate a private well. The Declarant, and its heirs, successors or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Lands for any legal purpose, including the transport and use of such waters beyond the Lands, and the conveyance of any Lot by Declarant does not include the right to develop or utilize any ground water or sub-surface water resources within such Lot.

5.15 Temporary Factory-Built or Existing Structures. No structure of any kind of what is commonly known as "factory-built", "modular", or "mobile home" type construction shall be erected. No tent, trailer or temporary structure other than those used by Declarant for construction and sales activities shall be permitted.

5.16 Antennas and Flagpoles: Display of Flags. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or Tract or upon any improvements thereon, unless expressly approved in writing by the Declarant except that this prohibition shall not apply to those antennae specifically covered by the federal Telecommunications Act of 1996, as amended from time to time. The Developer, until it owns no Lot in the Community and then the Association, shall be empowered to adopt rules governing the types of antennas, restrictions relating to safety, location and maintenance of antennas. No tower type antenna is permissible. The Developer, until it owns no Lots in the Community, and then the Association, may adopt and enforce reasonable rules limiting installation of permissible dishes or antennas to side or rear yard locations, not visible from the street or neighboring properties, and integrated with the Lot and any improvements thereon and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennas shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. Owners shall have the right to display a portable, removable flag(s) in a respectful manner in accordance with Florida law, specifically including Florida Statutes, Section 720.304(2), as it may be amended from time to time. Owners shall have no right to display a flag(s) other than the right of Owners to display a flag(s) as expressly afforded pursuant to Florida law. The Association shall have the right to adopt and enforce rules and regulations with respect to the display of flags, so long as any such rules and regulations are not in conflict with applicable Florida law. An approved flagpole shall not be used to mount an antenna. This provision

A TRUE COPY
CERTIFIED BY THE CLERK
WALTER J. WEISS, CLERK
Page 19 of 60

is intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment. This Section 5.16 shall not apply to the Declarant and any Lots and property that Declarant owns in the Community.

- 5.17 **Outdoor Equipment.** All garbage and trash containers, bottled gas tanks, spa equipment, and other such outdoor equipment must be underground, or placed in areas not readily visible from adjacent streets, or adequate landscaping must be used as screening around these facilities and maintained by the Owner. Outside toilets may not be installed nor will they be allowed on any Lot. Tables, chairs, benches and mobile grills, all in good condition, may be erected and kept upon a Lot; however, no other personal property shall be permitted to remain where it can be seen by other Owners or visitors to the Community, except when the Lot is actually occupied and in use, and in such event personal property shall be kept clean, neat, orderly and in good condition, all to be determined in the Declarant's (and the Association's after the Turnover Date) sole and absolute discretion.
- 5.18 **Clothes Drying Area.** Subject to applicable law, no outdoor clothes drying area, including, without limitation, a clothes line, shall be allowed unless its location and design are approved in writing by the Association. Owners are prohibited from hanging any clothing or other articles whatsoever for drying purposes of any other purpose from a Motor Home, including, without limitation, the awning, guardrails or steps thereof.
- 5.19 **Lighting.** All exterior lighting of Structures, Lot improvements, or landscaping shall be accomplished in accordance with plans approved in writing by Declarant. Except as may be initially installed or approved by Declarant, no spotlights, floodlights or similar high intensity lighting shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Lot or the improvements thereon, or upon any Common Areas or any part thereof, without the approval of the Association. Other types of low intensity lighting, including normal and customary Christmas or other holiday decorations, which do not unreasonably disturb other Owners or occupants of the Community, shall be allowed.
- 5.20 **Air Conditioners and Heating Units.** No window air conditioning or heating units are permitted. Notwithstanding the foregoing, Motor Homes may have factory installed air conditioning or heating units on the roof of the Motor Homes.

5.21 **Solar Collectors; Roof Vents.** Solar collectors, roof vents and other installations on the roofs of Structures are prohibited, except as may be permitted by Florida law. Notwithstanding the foregoing, initially the Declarant, and subsequently the Association and Architectural Review Committee, in order to promote and preserve the architectural uniformity and the aesthetic appearance of the Community shall have the right pursuant to Florida law to determine the specific location where solar collectors, roof vents and other installations may be installed on the roofs of Structures provided that such determination does not impair the effective operation of the solar collectors, roof vents, and other installations on the roofs of Structures.

5.22 **Signs.** No signs, banners, billboards or advertisements of any kind, including, without limitation, those of realtors, politicians, contractors or subcontractors, or "for sale" signs, shall be erected or displayed anywhere within the Community, including on Lots, in windows of Motor Homes, and on motor vehicles, except that the Declarant or a realtor chosen by Declarant in its sole and absolute discretion shall have the right to erect signs as it, in its discretion, deem appropriate. If any sign is erected in violation of this provision, the Declarant or the Association shall have the right to enter the property on which the sign is located and remove it, as well as levy a fine of One Hundred and No/100 Dollars (\$100.00) per day for each day's violation and suspend the violator's use privileges of the Common Areas. Said action to enter one's property and remove the sign, if necessary, shall be deemed expressly permitted by the Owner of the property on which the sign is located. The foregoing shall not apply to signs, banners, flags, billboards or advertisements used or erected by Declarant, nor to entry and directional signs installed by Declarant, and signs required by law.

5.23 **Trucks, Commercial Vehicles, Recreational Vehicles, Motor Homes, Mobile Homes, Boats, Campers, Trailers and Other Vehicles.**

- (A) No commercial vehicle of any kind shall be parked in the Community except for construction or service vehicles temporarily present on business.
- (B) No boats, boat or utility trailers, semi-tractor trailers, house trailers of any kind, campers (pop-ups or otherwise), motor homes or recreational vehicles (except for Motor Homes as expressly permitted in this Declaration), buses, truck campers, disabled vehicles, inoperative vehicles, unlicensed vehicles, or vehicles in disrepair or showing rust or needing paint, may be parked or kept in the Community unless kept fully enclosed inside a Structure ("Restricted Vehicles"). Campers, buses, motor homes and recreational vehicles (other than Motor Homes as expressly permitted in this Declaration), truck campers, and the like are

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD M. WEISS, CLERK

Page 21 of 60

permitted to be parked in the Community temporarily for loading and unloading purposes only and in no event shall any vehicle be parked in any street other than on a temporary basis. Vehicles that are not Restricted Vehicles may be parked in the driveway of a Lot. Developer until it owns no Lots in the Community, and thereafter the Association, reserves the right to enact reasonable rules and regulations with respect to the parking of any vehicle on a Lot. Notwithstanding the foregoing, trailers, cargo trailers and tow dollies which are pulled behind Motor Homes, may be parked on improved pads on Lots, but only during such times as the Motor Home is present and occupied on the Lot. If a Motor Home is not present and occupied on a Lot, then at all such times, any and all trailers, cargo trailers and/or tow dollies must be stored in any onsite or offsite storage area developed by Declarant, which storage area shall be available on a first-come first-served basis, at a fee as determined by Declarant, and subject to any rules and regulations adopted by Declarant (which rules may be adopted without amending this Declaration) so long as Declarant owns any Lots or property within the Community. Motorcycles with appropriate noise arresting systems are allowed in the Community, however such motorcycles may be driven only for purposes of ingress and egress from outside the Community directly to the Lot and from the Lot to a location outside the Community. No work on any vehicle shall be permitted within the Community without the prior approval of Declarant, which approval may be withheld in Declarant's sole and absolute discretion.

- (C) No motor vehicle shall be parked anywhere other than on paved or other areas designated for that purpose, or in garages, if any. Parking of motor vehicles, trailers, cargo trailers and tow dollies on lawns or landscaped areas is prohibited.
- (D) No motor vehicle shall be used as a domicile or residence, either permanent or temporary, other than a Motor Home as permitted and contemplated herein.
- (E) Any vehicles and any trailers, cargo trailer and tow dollies parked in violation of this Section 5.23 shall be subject to being towed away at the owner's expense.

5.24 **Motor Homes.** The Community is planned as a development with improvements consistent with the recreational vehicle lifestyle and the occupancy of a Motor Home upon each Lot. As such, an Owner shall have the right to place a Motor Home upon an improved Lot, which improvements shall include but are not necessarily limited to, a pad, ancillary buildings such as casitas, pavilions, and outdoor kitchens, and all necessary and customary utilities so that the Lot is physically habitable and usable for Owner's intended purpose of placing a Motor Home thereon for use as Owner's residence. Only one Motor

A TRUE COPY
CERTIFIED ON LAST PAGE
RICHARD H. WEISS, CLERK

Page 22 of 60

Home may be placed and kept on any Lot. No ancillary buildings shall be used as a domicile or residence, either permanent or temporary, and no bedrooms nor any other sleeping quarters shall be permitted in casitas or any other ancillary buildings. Ancillary buildings are not living quarters. All living quarters shall be located within the Motor Home located on a Lot. In order to preserve and promote the aesthetic appearance of the Community, each Motor Home and any and all improvements constructed in connection therewith, including, without limitation, ancillary buildings, shall be kept in a good state of repair and maintenance without showing rust or needing paint. All pads upon which a Motor Home is located must be kept clean and free from excessive oil, rust or other unsightly stains. As set forth in Section 1.17 of this Declaration, all Class "C" Motor Homes shall be subject to the prior written approval of Declarant, which approval shall be in Declarant's sole and absolute discretion; all Class "A" Motor Homes shall be a minimum length of 26 feet; all Class "C" Motor Homes, as may be approved subject to this Declaration, shall be a minimum length of 32 feet; and all Motor Homes that may be permitted pursuant to this Declaration shall be no older than ten (10) years at the time each Owner closes on the purchase of his respective Lot (for example, if an Owner closes on the purchase of his Lot in 2009, any Motor Home located on his Lot, for so long as he owns the Lot, shall be a 1999 model year or newer). Declarant, in its sole and absolute discretion, shall have the right to make exceptions to the foregoing Motor Home requirements (including, but not necessarily limited to, as to manufacturers, length, and model year) on a case-by-case basis, without the necessity of an amendment to this Declaration.

- 5.25 **Residential Use; Realtors; Use of Sales Center and Clubhouse.** Each Lot, and specifically the Motor Home located thereon, shall be used as a single family residence and for no other purpose. No business or commercial activity shall be conducted in or from any Lot, Motor Home or ancillary building, nor may the address or location of the Lot be publicly advertised as the location of any business or commercial activity. This restriction shall not be construed to prohibit any Owner from maintaining a personal or professional library, from keeping personal, business or professional records in his Motor Home, or from handling personal, business or professional telephone calls and written correspondence in and from his Motor Home. Such uses are expressly declared customarily incident to residential use. However, notwithstanding anything to the contrary set forth herein, for so long as Declarant owns any Lot or any other property in the Community, any Owner, tenant, or guest of an Owner that is a realtor is expressly prohibited from engaging in business activities (from any location in the Community, including, without limitation, the Common Areas, a Lot or a Motor Home) pertaining to the sale or lease of a Lot within the Community, including, without limitation, the operation of an internet website or solicitation of Owners or prospective Owners, whether

2009 CALIFORNIA REALTORS ASSOCIATION

in person, or by telephone. For so long as Declarant owns any Lot or other Property in the Community, only realtors chosen by Declarant, in its sole and absolute discretion, shall be allowed entry into the Community and shall be permitted to conduct business activities pertaining to the sale or lease of any Lot. The Declarant may at its sole and absolute discretion utilize any of its property, including the sales center and clubhouse, if any, to conduct commercial activities of any kind. If any Owner, whether a realtor or not, or any realtor not approved by Declarant in Declarant's sole and absolute discretion, solicits or approaches any customer or prospective Owner brought into the Community by Declarant (or brought into the Community by a realtor approved by Declarant in Declarant's sole and absolute discretion), in any attempt whatsoever to promote or conduct business activities with such customer or prospective Owner pertaining to the sale or lease of any Lot, such Owner or realtor shall be subject to a fine in the amount of \$100 per occurrence to be paid to Declarant. In the event that an Owner, on his own behalf, or by using a realtor (other than a realtor approved by Declarant), consummates the sale of his Lot, upon the closing of the sale, Owner shall pay to Declarant the sum of two percent (2%) of the purchase price for such sale in consideration of and for Declarant's efforts in developing, marketing, advertising and promoting the Community and the value thereof, which efforts directly result in and have a material effect upon the generation of interest amongst and the information of prospective purchasers regarding the Community and the subsequent purchase of Lots in the Community by such prospective purchasers. The right of Declarant to receive the sum as set forth in the immediately preceding sentence shall expire at such time as Declarant no longer owns any Lots or any other property within the Community. Each Owner expressly acknowledges the receipt of valuable and adequate consideration from Declarant, including, but not limited to, Declarant's efforts in developing, marketing, advertising and promoting the Community and the value thereof, and thus, each Owner agrees that the two percent (2%) sum set forth in this Section 5.25 is fair and reasonable and is not a penalty, and each Owner agrees to be bound by this Section 5.25. Notwithstanding the foregoing, in the event that an Owner enters into an exclusive listing agreement with a realtor approved by Declarant in Declarant's sole and absolute discretion and the Owner's Lot is not under contract for sale prior to the expiration of the exclusive listing agreement (which is contemplated to be approximately six (6) months in duration), and the Owner then utilizes a realtor not approved by Declarant and consummates the sale of his Lot, the Owner will not be required to pay the two percent (2%) sum to Declarant as set forth in this Section 5.25.

5.26 Leasing; Rental Program. The Developer is permitted to enter into lease back programs, guest house programs, or other lease programs, as a part of its sales effort in Developer's discretion. Further, the Developer shall have the right to establish, operate, administer and maintain a rental pool program with respect to Lots in the Community ("Rental

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD H. WEISS, CLERK

Page 24 of 60

Program"). So long as the Rental Program is established and in operation, Owners shall have the right to participate in same, subject to the terms and conditions pertaining thereto as determined by Developer. Developer shall remain in exclusive control of the Rental Program in perpetuity unless and until such time as Developer transfers control of the Rental Program to the Association, in Developer's sole and absolute discretion, which transfer of control, if any, may occur before or after the Turnover Date. If Developer decides to transfer control of the Rental Program to the Association, the Association shall be obligated to take control thereof for the sum of \$1.00, and in consideration of the Developer's conveyance of the Common Areas to the Association. Owners acknowledge that Developer is experienced with the development of communities similar to the Community, and that Developer's efforts in developing, marketing, advertising and promoting the aesthetic value of the Community have a material effect upon the generation of interest amongst and the information of prospective lessees regarding the Community and the lease of Lots within the Community, and accordingly, Developer is well positioned to establish, operate, administer and maintain the Rental Program and shall be entitled to payment in accordance therewith, subject to the terms and conditions of the Rental Program.

- 5.27 **Pets and Animals.** Not more than two (2) commonly accepted household pets such as a dog or cat, and reasonable numbers of tropical fish or caged birds may be kept on a Lot, subject to other reasonable regulation by the Association. All animals shall be leashed (if outdoors), or kept within the Motor Homes and shall not be permitted to roam free. The Association may restrict the walking of pets to certain areas. Owners must clean up after their pets and promptly dispose of any waste in an appropriate manner. Owners shall, in addition, comply with all codes, laws and ordinances with respect to pets. Pets may not be left unattended or leashed in yards (including outside of a Motor Home) or on pads or outside of any ancillary buildings. Commercial activities involving pets, including, without limitation, boarding, breeding, grooming or training, are not allowed. The ability to keep a pet is a privilege, not a right. If in the opinion of the Board of Directors, any pet becomes a nuisance or the source of unreasonable annoyance to others, or the owner (whether or not an Owner) of the pet fails or refuses to comply with the restrictions herein, the pet owner, upon written notice, may be required to remove the pet from the Community. A determination by the Board of Directors that an animal or pet is a nuisance or has become the source of unreasonable annoyance to others, or the owner of the pet has failed or refused to comply with the restrictions herein, shall be conclusive and binding on all parties. When notice of removal of any pet is given by the Board of Directors, the pet shall be removed from the Community within forty-eight (48) hours of the giving of the notice. Owners shall be liable for and shall defend, indemnify and hold Developer and the Association harmless for all personal injury or property damage caused by pets.

A TRUE COPY
CERTIFIED ON LAST PAGE
RICHARD A. WEISS, CLERK

Page 25 of 60

- 5.28 **Visitation.** Children (defined as a person under 21 years of age) and other persons 21 years of age and older may, as guests at the invitation of the Owner, visit Owners on a Lot on a temporary basis during the months of October through May of any calendar year, but such visitation shall be limited to no more than fifteen (15) consecutive days or thirty (30) days annually. Further, Children and other persons 21 years of age and older may, as guests at the invitation of the Owner, or as a tenant, visit or rent, as the case may be, a Lot on a temporary basis during the months of June through September of any calendar year. However, in no event shall any person under 21 years of age reside upon any Lot as a Permanent Resident (hereinafter defined); and, in all instances, all Lots having visitors or guests or renters thereon shall be occupied by at least one person 55 years of age or older, so that at least eighty percent (80%) of the occupied Lots in the Community shall be occupied by at least one (1) person who is 55 years of age or older, as required in this Declaration. Owners shall be responsible for the behavior of visitors and guests, whether Children or otherwise, and shall properly supervise Children, including, without limitation, in or around any Common Area facilities.
- 5.29 **Nuisances / Violation of Law.** Nothing may or shall be done which is, or may become, a source of unreasonable annoyance or nuisance to residents of the Community. Any question with regard to the interpretation of this Section shall be decided by the Declarant so long as it owns any property in the Community and thereafter by the Association whose decision shall be final. No Owner of a Lot may violate any local, state, or federal laws or ordinances.
- 5.30 **Correction of Health and Safety Hazards.** Any conditions of the physical property which are reasonably deemed by the Board of Directors to be an immediate hazard to the public health or safety may be corrected as an emergency matter by the Association and the cost thereof shall be charged to the responsible Owner.
- 5.31 **Approval Rights/Assignment.** Subject to the immediately following sentence, the Declarant shall have all rights to approve or disapprove any construction, alteration or other aspect of the physical property in the Community. At such time as neither Declarant nor any subsequent Developer hold any Lots in the Community for sale in the ordinary course of business, or at such earlier time as Declarant may determine in its sole discretion, all rights of Declarant to approve or disapprove any construction, alteration or other aspect of the appearance of the physical property in the Community shall automatically devolve upon and be deemed assigned to the Association.

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD M. WEISS, CLERK

Page 26 of 60

- 5.32 **Declarant's Exculpation and Use.** The Declarant or any Developer may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required, without any liability of any nature or kind to any Owner, the Association or any other person for any reason whatsoever, and any permission or approval granted shall be binding upon all persons. The use restrictions of Section 5 of this Declaration shall not apply to any property owned by a Developer prior to its conveyance to an Owner other than a successor Developer.
- 5.33 **Lot Improvements; Exclusive Contractor.** Notwithstanding anything to the contrary contained in this Declaration, so long as Developer owns any Lot or any other property in the Community, all improvements constructed upon a Lot, including, without limitation, any improvements related to Motor Homes and the use thereof as a domicile or residence, including any and all ancillary buildings, such as casitas, pavilions, and outdoor kitchens shall be constructed by Declarant or its affiliate, Mastercraft, or Declarant's or Mastercraft's approved builder. No improvements whatsoever shall be constructed other than by Declarant or Mastercraft, or Declarant's or Mastercraft's approved builder. All Lots shall be improved (at a minimum with a pad) at such time as an Owner takes title to a Lot, unless otherwise approved in writing by Declarant. There shall be one (1) standard paver pad color, five (5) color selections for the exterior on vertical improvements such as casitas and pavilions, and one (1) metal roof color/style for all vertical improvements such as casitas and pavilions, all as determined in Declarant's sole and absolute discretion. Such colors or styles, as applicable, shall be kept on file by Declarant. It is contemplated that the vertical improvements to be constructed on Lots in the Community will be ancillary buildings such as casitas, pavilions and outdoor kitchens. All such improvements shall be constructed in accordance with this Declaration, shall be subject to the approval of Declarant in its sole and absolute discretion, and additionally shall comply with the following requirements: the maximum size for a carriage casita shall be 12 feet by 16 feet; the maximum size for a pavilion shall be 12 feet by 16 feet; and the minimum size for a casita shall be 486 square feet. The setback requirements for all Lots in the Community are as follows: five feet (5') on each side, ten feet (10') in the rear, and twenty feet (20') in the front. Declarant, in its sole and absolute discretion, shall have the right to make exceptions to the foregoing Lot improvement requirements on a case-by-case basis, without the necessity of an amendment to this Declaration. All Owners (other than Declarant) in the Community, by taking title to a Lot, are deemed to have irrevocably consented and agreed to be bound by this Section 5.33. It is contemplated that Declarant will construct, erect or install, as the case may be (but Declarant shall not be obligated to do so) a grass berm along the rear of certain Lots, which may include, but are not necessarily limited to, Lots 180-186 and Lot 260, to be shown on a plat of the Community ("Berm"). The Berm, if constructed, will help to enhance the entranceway to the Community in an architectural and aesthetic manner. It is contemplated that the Berm will

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD M. WEISS, CLERK

Page 27 of 60

lie within the property boundary of any Lots upon which it is constructed, and it will not be a separate Tract or Parcel unless otherwise determined and so designated by Declarant. The Berm, including any landscaping such as the planting of trees, hedges or shrubs thereon, shall be maintained by the Association, and the cost thereof shall be part of the operating costs of the Association, and each Owner shall pay an equal share of such costs, as assessed. No Owner shall in any way change, alter or modify the Berm or any landscaping thereon.

6. ARCHITECTURAL AND AESTHETIC CONTROL

6.1 General. Except for the initial construction of pad improvements, including, without limitation, ancillary buildings such as casitas, pavilions, and outdoor kitchens, and Common Areas and Common Area facilities, if any, and related improvements by the Developer and further subject to the provisions of Section 5.31, no building, Structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any Structure or Lot be performed without the prior written approval of the Declarant, and ultimately the Association in accordance with Section 5.31 through the ARC. In obtaining said written approval, an Owner or any other person applying shall comply with all applicable requirements and procedures.

6.2 Architectural Review Committee. Subject to the provisions of Section 5.31, the architectural and aesthetic review and control functions of the Community shall be administered and performed by the ARC. The ARC shall consist of not less than three (3) individuals, who need not be Members of the Association. The Developer shall have the right and authority to determine, including, without limitation, the term of office, composition, compensation (if any), qualifications and meeting procedures of the ARC so long as Developer owns any property in the Community, and thereafter by the Board of Directors.

6.3 Powers. Subject to the provisions of Section 5.31, the ARC shall have the power, subject to and limited by the guidelines of the approved regulatory permits, if any, of the District, the County, and the U.S. Army Corps of Engineers to:

- (A) Propose the adoption, modification or amendment by the Board of Directors, of written architectural review guidelines or standards which shall set forth such things as design requirements, landscape materials, construction standards and colors and materials which the ARC finds acceptable ("Guidelines"). The Guidelines shall be consistent with provisions of this Declaration, and shall not be effective until adopted by at least a majority of the whole Board of Directors at a meeting duly

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD M. WEISS, CLERK

Page 28 of 60

called and noticed. Notice of any adoption, modification or amendment of the Guidelines, including a verbatim copy of the proposed modification or amendment thereof, shall be mailed to each at least twenty (20) days prior to the Board meeting at which such action is to occur. Any Guidelines shall be published.

- (B) Require submission to the ARC of complete plans and specifications for any building, Structure, or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which materially alters the exterior appearance of any Structure or Lot. The ARC may also require submission of samples of building materials or colors proposed for use on any Lot, and may require such additional information as may reasonably be necessary for the ARC to fully evaluate the proposed work;
- (C) Approve or disapprove the erection or alteration of any building, Structure or other improvement; or any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any Structure or Lot. All decisions of the ARC shall be forwarded in writing to the Board. Any person aggrieved by a decision of the ARC shall have the right to make a written appeal to the Board within thirty (30) days after notification of the decision. The determination by the Board, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;
- (D) Adopt procedures and a schedule of reasonable fees for processing requests for ARC review. Fees, if any, shall be payable to the Association, in cash or check, at the time the request is submitted to the ARC; or
- (E) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.

6.4 **Enforcement.** Any decisions of the ARC shall be enforced by the Association.

6.5 **Declarant's Rights.** Notwithstanding the foregoing, the Declarant shall have the right, so long as any Developer owns any property in the Community, to appoint all of the members of the ARC, or such lesser number as it may choose. During this time, the Declarant shall also have the power, right, and authority (but not the obligation) in its sole discretion to establish, amend, or revoke any and all Guidelines, and to enforce the Guidelines or cause the enforcement thereof by the Association.

A TRUE COPY
CERTIFICATION ON LAST PAGE
RICHARD H. WEISS, CLERK

Page 29 of 60