

Prepared By and Return To:  
Vogler Ashton, PLLC  
2411 - A Manatee Ave. West  
Bradenton, Florida 34205

**DECLARATION**  
**OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR**  
**CANOPY**

This Declaration (the "Declaration") is made as of the 25 day of July, 2013, by **NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC**, a Florida limited liability company (the "Declarant" or "Developer"), whose mailing address is 5800 Lakewood Ranch Blvd., Sarasota, Florida 34240.

**WITNESSETH:**

**WHEREAS**, Declarant is the owner of and is developing that certain real property in Collier County, Florida, described on Exhibit "A", attached hereto and made a part hereof (the "Initial Property" or "Property"); and,

**WHEREAS**, the Initial Property has or will be platted as an initial phase of "Canopy", and Declarant desires to establish thereon a planned community of both residential and possible commercial uses, which community shall be subject to the terms of this Declaration as hereinafter provided; and,

**WHEREAS**, this Declaration does not and is not intended to create a condominium within the meaning of The Florida Condominium Act, Florida Statutes Section 718.01, et seq., and none of the Property falls within or under The Florida Condominium Act.

**NOW, THEREFORE**, Declarant declares that the Initial Property, and such additions thereto as may hereafter be made pursuant to Article 2, is and shall be held, transferred, sold, conveyed, leased, occupied and used subject to the covenants, restrictions, conditions, easements, limitations, terms, obligations, charges and liens hereinafter set forth.

**ARTICLE 1**  
**DEFINITIONS**

The following words and terms when used in this Declaration or any amendment or supplement hereto shall, unless the context clearly otherwise indicates, have the following meanings:

**1.01. "Architectural Review"** means the requirements of this Declaration that certain improvements or alterations to Lots or existing improvements be reviewed and approved, and where the context indicates, the review and approval procedures of Article 9.

**1.02. "ARC"** means the Architectural Review Committee described in Article 9.

**1.03. "Articles"** means the Articles of Incorporation of the Association. A copy of the initial Articles of Incorporation of the Association is attached hereto as Exhibit G.

1.04. "Assessment" means any charge levied by the Association in accordance herewith against a Lot and the Owner of such Lot. The term Assessment shall refer collectively to all types of Assessments issued by the Board, including the following types of Assessments:

(a) "Regular Assessment" means the recurring periodic Assessment for each Owner's share of the Common Expense.

(b) "Neighborhood Assessment" means any Assessment made for those expenses which are incurred primarily for the benefit of all Owner's within a Neighborhood(s), as such primary benefit is determined by the Board of Directors. By way of example only, Neighborhood Assessments shall be levied for expenses relating to unique Neighborhood amenities such as enhanced Lot Maintenance Services. Neighborhood Assessment shall be levied upon all Lots within the applicable Neighborhood at an equal rate, or, if elected by the Board, on the nominal size of the lot frontage as provided for in paragraph 5.06 hereof.

(c) "Special Assessment" means any Assessment made under the authority of this Declaration other than a Regular Assessment and a Neighborhood Assessment. Special Assessments may include, but shall not necessarily be limited to, amounts reasonably necessary to supplement Regular Assessments and Neighborhood Assessments, the cost of bringing a particular Owner or Lot into compliance with this Declaration, the Articles, By-Laws or rules and regulations, including any standards, specifications, guidelines, or the like, made pursuant thereto, costs of acquiring, maintaining, operating, repairing or replacing Common Property, or the cost of any service, material or combination thereof obtained by the Association for the use and benefit of such Owner or his Lot as provided herein.

1.05. "Association" means the **Canopy Neighborhood Association, Inc.**, a Florida corporation not-for-profit, its successors and assigns.

1.06. "Board" means the Board of Directors of the Association.

1.07. "By-Laws" means the By-Laws of the Association. A copy of the initial By-Laws of the Association is attached hereto as **Exhibit H**.

1.08. **Intentionally Deleted.**

1.09. "Code" means the Collier County Land Development Code and the Collier County Code of Ordinances, as they may have been amended, effective as of the date this Declaration is recorded.

1.10. "Common Expenses" means the actual and estimated cost of the following:

(a) The maintenance, management, operation, repair and replacement of any Common Property, and all other areas of the Subdivision maintained by or under the control of the Association, including those parts of the Lots, if any, that the Association is to maintain under this Declaration.

(b) Valid contractual obligations of the Association in excess of revenues, whether attributable to unpaid Assessments or otherwise.

- (c) Maintenance by the Association of areas within public rights-of-way or drainage easements or ditches adjoining or running through the Subdivision as may be provided in this Declaration or as determined by the Board.
- (d) Expenses of administration and management of the Association.
- (e) The cost of any insurance obtained by the Association.
- (f) Reasonable reserves as determined in accordance herewith.
- (g) Taxes and other governmental assessments and charges paid or payable by the Association, regardless of the current status to title of the Common Areas.
- (h) Utility charges and deposits therefor incurred in the carrying out of Association obligations hereunder, which may include electrical service charges to maintain and operate streetlights within the Subdivision if such lighting is installed by Declarant or the Association.
- (i) The cost of any other item or items designated herein as a Common Expense or reasonably or necessarily incurred by the Association or in furtherance of the purpose of the Association or a discharge of any obligations expressly or impliedly imposed on the Association by this Declaration or by law.

**1.11. "Common Property" or "Common Areas" or "Common Elements"** means all real property or interests therein, including easements, licenses and servitudes, owned by or granted or leased to the Association, or the use of which has been granted to the Association, together with all improvements thereto. The terms Common Property or Common Areas or Common Elements may be used interchangeably to mean each other and refer to the same things. Common Property also includes any personal property acquired by the Association if designated Common Property, and any property within the Subdivision which is not owned by the Association but is nevertheless to be maintained or administered by it pursuant to an easement, license, this Declaration, the Plat, or agreement with any person or entity, which maintenance/administration affords benefits to the Members.

**1.12. "County"** means Collier County, Florida, a political subdivision of the State of Florida. Where County action is contemplated hereby, that action may be taken by the agent, official or other designee of the County as provided by the Code.

**1.13. "Declarant"** means NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, a Florida limited liability company, or its successors or assigns.

**1.14. "Declarant Member"** means the Declarant and any successor or assignee of the Declarant having an interest in the Subdivision for the purpose of development and sale. Voting rights for Declarant Members are set forth in Article 3.

**1.15. "Declaration"** means this document, together with all exhibits, amendments and supplements hereto, including all rules, guidelines, specifications and the like set forth by the Association, its Board or the ARC.

**1.16. Intentionally Deleted.**

1.17. "Lot" means a discrete lot or building parcel, whether improved or not, reflected on a recorded subdivision plat of the Subdivision, but excluding any platted land that is Common Property. Where one or more platted lots are combined or otherwise reconfigured pursuant hereto, the term "Lot" means the reconfigured parcel.

1.18. "Lot Maintenance Services" means the various types of landscaping, exterior maintenance and repair, or other similar services which the Association, in its sole discretion, may elect to provide to Members' Lots for a monthly service charge/assessment.

1.19. "Member" means every person or entity qualified for membership in the Association.

1.20. "Neighborhood" means and refers to a portion of the Property, if any, defined herein or in a Supplemental Declaration as a unique geographic area for which Neighborhood Assessments may be applicable.

1.21. "Owner" or "Lot Owner" or "Unit Owner" means the single or multiple owner of record of the fee simple title to any Lot, excluding those having such interest merely as security for the performance of an obligation.

1.22. "Plat" means the plat of Canopy recorded in Instrument Number \_\_\_\_\_ of the Public Records of Collier County, Florida; and, (iii) any additional plats recorded as part of the addition of other real property as described in Article 2.

1.23. "Property" or "Properties" or "Initial Property" means the lands subject to this Declaration and as set forth in Exhibit "A", attached hereto, as same may be amended, supplemented, increased or decreased as set forth herein.

1.24. "Public Records" means the Public Records of Collier County, Florida.

1.25. "Regular Member" means all Owners with the exception of the Declarant Members. Voting rights for Regular Members are set forth in Article 3.

1.26. "Subdivision" means the Initial Property and any additions or reductions thereto pursuant to Article 2. The term Subdivision shall also include and refer to the overall Canopy project, including but not limited to all improvements to the Subdivision for or benefiting the Canopy project in anyway, as same may be reflected on any plat for Canopy, or as same are otherwise designed, built, constructed, manufactured or placed in, on, under, over, across or within the Canopy Subdivision, such as but not limited to, the roadways, stormwater ponds, stormwater pipes, water and sewer system and pipes, stormwater drainage such as swales, ponds and lakes, landscaping, walls, gates, fences, recreational amenities, trails, Common Areas, Common Elements, amenities such as pools, play equipment, benches, fountains, recreational centers, nature trails, walkways, sidewalks, boardwalks, benches, and any and all things constructed in, on, under, over and across the Subdivision, whatsoever, for the benefit of the Subdivision (herein collectively referred to as the "Project", "Subdivision" or "Subdivision Improvements", as these terms may be used interchangeably herein to mean and refer to each other and the same things).

1.27. "Turnover Date" means the earliest of the following dates:

(a) The effective date on which Declarant Member surrenders its right to Declarant membership in writing; or

(b) Such earlier date as may be required by law then in effect at the time of recordation of this Declaration.

1.28. "Unit" shall mean and refer to the individual residential structure constructed on a Lot.

**ARTICLE 2  
PROPERTY**

2.01. **Initial Property.** The Initial Property is subject to this Declaration, and is sometimes otherwise known as "Canopy". The Initial Property is set forth in Exhibit "A", attached hereto and incorporated herein.

2.02. **Additions.** Additional lands may become subject to this Declaration as follows:

(a) Declarant shall have the right, without further consent of the Association or any Owners, to bring within the plan and operation of this Declaration any property which is contiguous or nearly contiguous to the Subdivision. Such additional property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. Any additions under this Article shall be made by filing an Amended or Supplementary Declaration with respect to the additional property, which shall extend the operation and effect of the Covenants and this Declaration to such additional property. The Amended or Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants contained in this Declaration as may be determined by Declarant to reflect any unique characteristics of the additional property, provided that such additions and/or modifications are not materially and substantially inconsistent with this Declaration. Notwithstanding anything to the contrary herein, Declarant and/or Developer reserve the right to make any modifications, changes, or deletions to the Common Areas, including the landscaping, open space and landscape buffers of the Initial Property upon the addition of property to the Subdivision.

(b) Upon approval in writing of the Association, pursuant to an affirmative vote of the Owners of two-thirds (2/3rds) of all of the Lots then subject to the Declaration, the Owner (other than Declarant) of other property contiguous or nearly contiguous to the Subdivision who desires to add it to the plan of this Declaration and to subject it to the jurisdiction of the Association, may record an Amended or Supplementary Declaration with respect to the additional property, which shall extend the operation and effect of this Declaration to such additional property.

(c) Nothing herein, however, shall obligate Declarant to add any property to the Subdivision, or to develop any such future portions under a common scheme, development plan or the like, nor to prohibit Declarant from rezoning and changing plans with respect to such future portions. The Association, and all Owners, by acceptance of a deed to or other conveyance of their Lots, shall be deemed to have automatically consented to any such rezoning, change, addition or deletion thereafter made by Declarant to the Property, including the Common Areas, and shall evidence such consent in writing if requested to do so by Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this consent provision). Declarant reserves the right to change any of the lot types, sizes or configurations and to change the scheme of development, general development plan, and the like, in any way in Declarant's sole and absolute discretion.

**2.03. The Property.** Each of the Lots shall be developed and used solely for residential use in accordance with this Declaration. No business, commercial, religious, charitable or other enterprise of any kind shall be maintained upon or in connection with the use of any Lot. No residence or part thereof on any Lot shall be rented separately from the rental of the entire Lot. However, the Declarant shall have the right to maintain facilities on the Lots owned by the Declarant for sales and promotional purposes, and for maintenance purposes. The overall Canopy development project as depicted on the Plat, general development plan, site plans and drawings currently provides for a community of both residential uses on the Lots and possible commercial uses in areas designated as commercial on site plans, if any, or adjacent to the Property. Declarant specifically reserves the right to change, amend, add to, delete, modify and/or supplement in anyway the Canopy Project, the Subdivision and the Properties.

**2.04 Entrance and Boulevard Landscaping; Access Gates.** An entrance median and access gates may be installed by Declarant within the various roadways within the Subdivision. Declarant does hereby reserve to Declarant and hereby grants to the Association the right to (i) plant trees, hedges, grass and landscape, (ii) construct, operate, maintain, repair and replace electronic access gates, and (iii) construct an entryway and signs identifying the property as "Canopy" or any specific Neighborhood thereof, and to provide for irrigation and illumination of same, within the median strip dividing the roadway at the entrance, in any manner the Association, in its sole discretion, with the approval of the ARC, deems necessary and proper in order to identify and beautify such area. The maintenance of the median improvements, including the access gates (if any), perimeter walls and fences, shall be part of the Common Expenses.

**ARTICLE 3**  
**MEMBERSHIP IN ASSOCIATION**

**3.01. Membership.** The Owner of each Lot shall be a Member of the Association. There shall be no other Members except that the Declarant shall be a Member as hereinafter provided. Each Owner accepts membership and agrees to be bound by this Declaration, the Articles and By-Laws and the rules and regulations, including any standards, specifications, guidelines, or the like, made pursuant thereto. Membership is appurtenant to the ownership of a Lot and may not be transferred separately from the transfer of ownership of the Lot. Membership terminates upon the termination of an Owner's interest in a Lot.

**3.02. Voting Rights.** For the purposes of voting rights, the Association has two types of memberships, which are (a) Regular Member and (b) Declarant Member. Regular Members are all Owners with the exception of the Declarant Members, if any. Regular Members are entitled to one vote for each Lot in which such Members hold a required ownership interest. There shall be only one vote for each Lot, which vote shall be exercised among the Owners as provided in the By-Laws. Declarant Members are the Declarant and any successor or assignee of Declarant having an interest in the Subdivision for the purpose of development and sale. The Declarant Members shall have a number of votes equal to three (3) times the total number of votes then held by Regular Members, plus one additional vote. If there is more than one Declarant Member, they shall divide and apportion their votes as they may agree. Declarant membership shall terminate on the Turnover Date. After the Turnover Date, Declarant Members who then own Lot(s) shall be Regular Members.

**3.03. Control of Board During Development.** Prior to the Turnover Date, Declarant shall have the exclusive right to designate, appoint and remove members of the Board, and directors designated by Declarant need not be Members. Election of directors shall otherwise be as provided in the By-Laws. After the Turnover Date, the Declarant shall be entitled to elect at least one member of the Board as long as Declarant holds for sale in the ordinary course of business at least one (1) Lot within the

Subdivision, or such percentage of Lots as is required by law then in effect at the time of recordation of this Declaration.

**ARTICLE 4  
COMMON PROPERTY / COMMON AREAS**

**4.01. Description of Common Property / Common Areas.** The Common Property (also referred to herein as the Common Areas or Common Elements) shall consist of the following, provided however Common Property shall not include any portion of the Subdivision, which Declarant has conveyed to any other governmental authority:

(a) The Common Property owned by or granted or leased to the Association, or the use of which has been granted to the Association, together with all improvements thereto, as same may be described herein this Declaration and/or designated on the recorded Plat of the Initial Property. Such Common Property for which the Association shall have the power, authority and responsibility to operate and maintain, all as subject to this Declaration, shall include (i) the streets and roadways set forth on the Plat, including the areas identified as a private roadway easement or other easements thereon, including but not limited to, utility easements and facilities, conservation or preservation easements, tracts and facilities; (ii) the entrance and other roadway medians installed within such streets and roadways, including improvements therein and thereon, such as landscaping, irrigation, access gates, walls, fences, and appurtenances, signage and lighting; (iii) any areas identified as Common Areas on the Plat, including common landscaped areas and recreational areas, any linear parks, trails, walkways, and open space amenity areas created by Declarant, including any pools, recreational areas or recreational centers (if any); and (iv) the right to use the Common Areas and the amenities constructed therein.

(b) Individual mailboxes or clustered mailboxes attached to free-standing posts, which serve two or more Lots (the "Mailboxes"), if same are described as Common Areas by Declarant. The Mailboxes shall be located at such places throughout the Subdivision as may be designated by Declarant prior to the Turnover Date, and thereafter by the Board.

(c) Any and all signage, including, but not limited to, stop signs, warning signs, and speed limit signs, located anywhere within the Common Property.

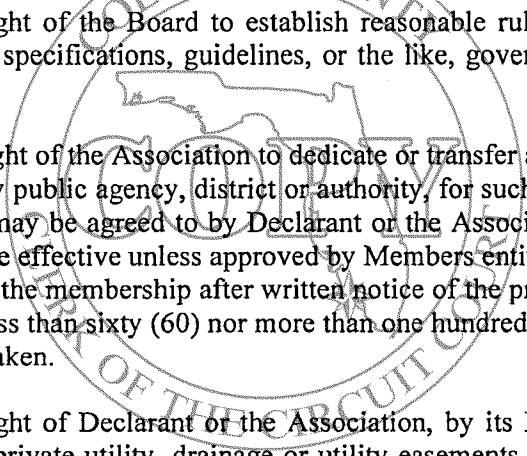
(d) Such additional Common Property as Declarant may elect to add and other Common Property that may be acquired by the Association as hereinafter provided. Declarant reserves the right to amend or alter the development plan or scheme of the Common Property; provided such amendment does not delete or convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property. Notwithstanding anything to the contrary herein, Declarant reserves the right to, and the Association, and all Owners by acceptance of a deed to any Lot, shall automatically be deemed to have consented to this reservation by Declarant to change the scheme of the development and general development plan of the Project, including but not limited to additions to, and deletions of the Common Property, reconfiguration of Lots, change of uses, change of Lot types, and all other changes to the Subdivision and Subdivision Improvements so implemented by Declarant pursuant hereto.

**4.02. Members Easement of Enjoyment.** Every Member shall have a non-exclusive easement for the use and enjoyment of the Common Property. Said easement is appurtenant to and passes with the Member's Lot. Each Member's easement with respect to the Mailboxes (if same are designated as Common Areas) is restricted to the Mailbox specifically assigned to the Lot owned by such Member. The easement is subject to this Declaration and rules and regulations, including any standards, specifications, guidelines, or the like promulgated by the Board.

**4.03. Delegation of Use.** Any Owner may delegate his right of use of the Common Property to the members of his family, tenants or social guests, subject to this Declaration.

**4.04. Waiver of Use.** No Owner may exempt himself from personal liability for Assessments nor release the Lot owned by him from the liens and charges for such Assessments by waiver of the use and enjoyment of the Common Property or non-use thereof, or the abandonment of his Lot.

**4.05. Extent of Member's Easement.** The rights and easements of enjoyment created herein are subject to the following:

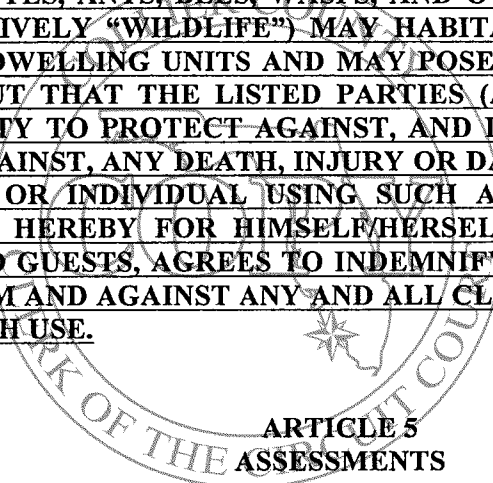
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- (a) The right of the Board to establish reasonable rules and regulations, including any standards, specifications, guidelines, or the like, governing the use of the Common Property.
  - (b) The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, district or authority, for such purposes and subject to such conditions as may be agreed to by Declarant or the Association. No such dedication or transfer shall be effective unless approved by Members entitled to cast two-thirds (2/3rds) of the votes of the membership after written notice of the proposed action is sent to every Member not less than sixty (60) nor more than one hundred twenty (120) days in advance of any action taken.
  - (c) The right of Declarant or the Association, by its Board, to dedicate or transfer any public or private utility, drainage or utility easements that are Common Property or are located on Common Property.
  - (d) The right of Declarant to reserve onto itself additional non-exclusive easements in, on, under, through or over Common Property, and the right of Declarant to grant additional non-exclusive easements in, on, under, through or over Common Property to owners of property not part of the Subdivision for the purposes of access, ingress, egress, utilities or drainage.
  - (e) The right of the Association through the Board, with the written consent of Declarant prior to the Turnover Date, and without such consent thereafter, to grant such drainage, utility and access easements in, on, under, through, or over the Common Property, or any part thereof, to governments having jurisdiction, providers of utilities or Declarant, provided such easement, in the judgment of the Board, will not unreasonably interfere with the use of the Common Property for its intended purpose.
  - (f) The right of the Association to suspend the rights of a Member, or a Member's tenants, guests, or invitees, to use the Common Property for infractions of this Declaration or any rules and regulations, including any standards, specifications, guidelines, or the like, governing the use of the Common Property.



(g) The terms of this Declaration, as amended and supplemented, the Code and the terms of all governmental approvals affecting the development of the Subdivision, and the rights of the County.

(h) MEMBERS' USE OF THE COMMON PROPERTY IS SUBJECT TO ALL THE PROVISIONS OF THIS DECLARATION, WITH SPECIAL ATTENTION TO ARTICLES 12.06, 12.08, 12.15, 12.16, 12.17 AND THE PROVISIONS SET FORTH BELOW:

DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL FOR ANY PARK, LAKE, RECREATION AREA, WETLAND, NATURE AREA OR ANY OTHER COMPONENT OF THE COMMON PROPERTY, INCLUDING POOL, POOL HOUSE, GATHERING AREA, TOT LOT/PLAYGROUND, BOARDWALK, OR OTHER AMENITIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE, INCLUDING BUT NOT LIMITED TO: ALLIGATORS, SNAKES, RODENTS, COYOTES, ANTS, BEES, WASPS, AND OTHER STINGING INSECTS (HEREINAFTER COLLECTIVELY "WILDLIFE") MAY HABITAT OR ENTER INTO THE PROPERTIES, LOTS AND DWELLING UNITS AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES (AS DEFINED IN ARTICLE 12.16) ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE. ANY OWNER OR INDIVIDUAL USING SUCH AREAS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES, OF ANY KIND, ARISING FROM SUCH USE.



**ARTICLE 5  
ASSESSMENTS**

**5.01. Personal Obligation and Lien for Assessments.** Subject to the provisions of Section 5.15, Declarant and each Owner of a Lot covenants and agrees to pay to the Association all Assessments levied with respect to such Lot so owned by an Owner or Declarant, in accordance herewith. The covenant and agreement of an Owner shall begin upon acquisition of such ownership interest in a Lot by any means whatsoever, whether or not it shall be so expressed in any deed or other instrument. Each Assessment, together with Delinquency Charges as provided in Section 5.14 hereof, shall be the personal obligation of the Owner of such Lot at the time when the Assessment is due and shall remain the personal obligation of such Owner notwithstanding that such Owner may no longer own the Lot. The personal obligation to pay all Assessments, including all past due Assessments and Delinquency Charges, shall also pass to the successors in title of an Owner (and a first mortgagee acquiring title by any means whatsoever shall be deemed a successor in title to the Owner), and both shall be jointly and severally liable for all of the Assessments, including all past Due Assessments and any Delinquency Charges. All Assessments, together with such Delinquency Charges, shall also be a charge on the land and a continuing lien upon the Lot, which lien shall remain on the Lot and run with the land, with respect to which such Assessment is levied and such continuing lien shall pass to the successors in title of an Owner (which successors in title includes a first mortgagee who may acquire title by any means, including deed in lieu of foreclosure and foreclosure), and both shall be jointly and severally liable for the Assessments, including all past due Assessments and any Delinquency Charges. The Association may record in the Public Records a "Notice of Lien" setting forth amounts claimed due the Association as to any one or

more Lots. The execution and recording of such notice is not required in order for the continuing lien for Assessments to be valid.

**5.02. Purposes of Assessments.** Assessments levied by the Association shall be used only for the purposes set forth in this Declaration, the Articles and By-Laws. Amounts assessed for Common Expenses shall be used for the general purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of the Subdivision, as may be authorized from time to time by the Board.

**5.03. Regular Assessments.** The amount and time of payment of Regular Assessments shall be determined by the Board after giving due consideration to the current maintenance, operational and other costs and the future needs of the Association. Regular Assessments may include amounts established for reserves (if authorized by the Board), and may include a pro rata portion of annual Unit insurance premiums to be paid in advance. Not later than thirty (30) days prior to the beginning of each fiscal year, the Board shall estimate the total Common Expenses to be incurred for such fiscal year and the amount of the Regular Assessment to be paid by each Owner to defray such costs. Each Owner shall thereafter pay the Regular Assessment to the Association at such times and in such installments as may be established by the Board. All mandatory Lot Maintenance Services, as provided for in Article 13, herein, shall be a Regular Assessment unless the Board authorized the Lot Maintenance Services to be collected as a Neighborhood Assessment.

**5.04. Neighborhood Assessments.** Neighborhood Assessments shall be determined in the same manner set forth in paragraph 5.03 hereof for Regular Assessments, provided that, any such Neighborhood Assessments shall apply only to the Lots or Units within the identified Neighborhood.

**5.05. Special Assessments.** The Association may levy such Special Assessments as are determined to be necessary or desirable in carrying out its responsibilities and duties under this Declaration. The amount and purpose of all Special Assessments shall be established by the Board, unless otherwise provided. All Special Assessments shall be due and payable at such times and in such installments as may be determined by the Board. Without limiting the generality of the foregoing, the Board may levy Special Assessments in the following circumstances:

- (a) Supplementary Amounts. If the Board determines that Regular Assessments or Neighborhood Assessments for the then current year are or will become inadequate to meet Common Expenses for any reason, it shall determine the estimated amount of such inadequacy and levy a Special Assessment against each Lot and Owner responsible for such Assessment.
- (b) Compliance. A Special Assessment shall be levied by the Board against a Lot and its Owner to reimburse the Association for costs incurred in bringing the Owner of such Lot and/or the Lot into compliance with this Declaration.
- (c) Improvement. The Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, improvement, acquisition, repair or replacement of a described improvement to the Common Property, or additional Common Property. After Turnover, Special Assessments for improvements must be approved by at least sixty (60%) percent of the votes entitled to be cast by Regular Members. Prior to Turnover Date, Special Assessments must be approved by Declarant. Special Assessments for improvements may be used only for such improvements.

(d) Services. If the Association provides materials or services which benefit individual Lots but which can be accepted or not by the Owner, then the amount paid or incurred by the Association on behalf of the Owner accepting or subscribing to such material or service shall be a Special Assessment against such Owner and his Lot. The Owner will be deemed to have agreed to such Assessment by subscribing to or requesting and accepting such material or service.

(e) Fines. If the Association levies a fine against an Owner for a violation of the Declaration, the Articles, By-Laws or rules and regulations, including any standards, specifications, guidelines, or the like, promulgated pursuant thereto, in accordance with Article 12.14, or elsewhere herein, then the amount of such fine shall be a Special Assessment against such Owner and his Lot.

**5.06. Sharing of Common Expense.** All Regular Assessments and Special Assessments (other than those for compliance, services or fines) shall be levied in the proportion by which the Lots share the Common Expenses, which proportion determination shall be based, in part, on the nominal size of the lot frontage, all as determined in a uniform and non-discriminatory manner by the Board. The Board shall assign each Lot into a lot size class based, in part, upon the nominal frontage of the Lot; provided however, irregular shaped lots, such as lots on a cul-de-sac, shall be assigned by the Board into a lot size class based upon factors other than lot frontage, which factors may include chassis size of the home or square footage of the proposed home. Lot size class assignments are subject to establishment and change by the Board. Special Assessments for compliance, services, fines or similar categories may not be uniform in amount or levied in the same proportions as Regular Assessments because of their nature, but shall be processed in a uniform and non-discriminatory manner. Neighborhood Assessment shall be levied upon all Lots within the applicable Neighborhood at an equal rate, or, if elected by the Board, on the nominal size of the lot frontage as provided for herein.

**5.07. Commencement of Regular Assessments.** Regular Assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot by Declarant to an Owner. Regular Assessments as to Lots brought under the Declaration pursuant to Section 2.02 shall commence on the first day of the month following the conveyance of the first Lot therein by Declarant to an Owner.

**5.08. Certificate of Payment.** The Association shall, upon request, furnish to any Owner a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the Assessments on a specified Lot have been paid, and the date and amount, if known, of the next Assessments or installments coming due, together with the amount of any delinquency. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid as to third parties without notice of facts to the contrary.

**5.09. Regular Assessment Rate.** The Regular Assessment shall be established by the Board as set forth above in Paragraph 5.03. The Board shall adopt and levy the Regular Assessment based upon the factors set forth in Paragraph 5.06, above, as well as the anticipated expense and number of Lots within the Subdivision, taking into consideration those Lots that may be exempt, if any, as provided for herein this Declaration.

**5.10. Reserves.** The Board may, in its discretion, establish reserve accounts funded from Regular Assessments or Neighborhood Assessments in reasonable amounts for such purposes and in such categories as are determined by the Board. Reserve amounts may be used by the Board on a temporary basis for cash flow management of the Association, even though such amounts are expended for purposes other than those for which the reserve was established. The amount of such reserve shall be

restored from revenues subsequently received, it being the intent that the Board may borrow from reserve accounts but same shall not diminish the obligation to levy and collect Assessments and charge fees and other revenues that will, upon collection, permit the restoration of all reserve accounts. Any decision of the Board with respect to reserves, including but not necessarily limited to, the establishment, non-establishment, continuation, discontinuation, level of funding or designation of purpose as to any particular reserve category, shall be subject to being modified or rescinded at any regular or special meeting of the Association called for such purpose, (i) by majority vote of the Board prior to Turnover, and (ii) after Turnover, by the vote of Owners of 60% or more of the Lots in the Subdivision. Use of any reserve for other than its designated purpose, other than as above provided, may be authorized only by a vote of Owners of 60% or more of the Lots in the Subdivision.

**5.11. No Offsets.** All Assessments shall be payable in the amount specified and no offsets shall be permitted for any reason, including without limitation, a claim that the Association is not properly exercising its authorities and carrying out its responsibilities as provided in this Declaration.

**5.12. Rights of Mortgagees.** The lien of all Assessments provided for herein which accrue and become due and payable with respect to any Lot after a mortgage is recorded with respect thereto, but prior to the transfer or conveyance of title as a result of a foreclosure or a conveyance in lieu of such foreclosure, shall be subordinate to the lien of such mortgage. An Owner acquiring title to a Lot as a result of foreclosure or conveyance in lieu thereof, including a mortgagee, shall be jointly and severally liable with the previous Owner for all unpaid Assessments and any Delinquency Charges that came due up to the time of transfer of title; and the Association shall deem such unpaid Assessments and Delinquency Charges due and payable from the Owner acquiring title through such foreclosure or conveyance in lieu thereof. All Assessments, together with such Delinquency Charges, shall also be a charge on the land and a continuing lien upon the Lot with respect to which such Assessment is levied and such continuing lien shall pass to the successors in title of an Owner (which successors in title includes a first mortgagee or any mortgagee who may acquire title by any means, including deed in lieu of foreclosure and foreclosure), and all shall be jointly and severally liable for the Assessments, including all past due Assessments and any Delinquency Charges. Nothing contained herein shall relieve an Owner from responsibility for Assessments for the period of time such Owner owned such Lot. Assessments against a Lot accruing prior to the recordation of a mortgage or after the acquisition of title as a result of foreclosure or conveyance in lieu of foreclosure shall be a lien against such Lot in the manner generally provided for herein. The Association shall make available for inspection upon request, during normal business hours and under reasonable circumstances, this Declaration, the Articles, By-Laws and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Subdivision. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor, such holder, insurer or guarantor (the "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

- (a) Any condemnation, loss or casualty loss which affects any material portion of the Common Property;
- (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and
- (d) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his obligations under this

Declaration, including but not limited to, any delinquency in the payments of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

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

**5.13. Budget.** The Board shall prepare annual budgets for Common Expenses associated with the Lots, and make copies thereof available to all Members requesting same. Copies shall be made available not less than thirty (30) days prior to the first day of the fiscal year to which such budget is applicable. After Turnover, any budget that provides for a Special Assessment for improvements or makes a provision for reserves inconsistent with a prior vote of the Members shall be submitted to the Members for vote as required herein. Failure of the Board to prepare, submit or adopt a budget in a timely manner shall not affect the validity of the budget once adopted, nor any Assessment adopted by the Board.

**5.14. Delinquency Charges.** All Assessments and other amounts due the Association pursuant to this Declaration shall bear interest at the highest rate permitted by law then in effect, or such lower rate as the Board may from time to time determine. If any such Assessment is not paid when due, then a late charge shall be levied. The initial late charge shall be Thirty Five and No/100 Dollars (\$35.00). The Board may from time to time increase the amount of the late charge authorized hereby, taking into consideration the declining purchasing power of the United States dollar, the costs reasonably expected to be incurred by the Association as a result of following up such delinquency, and the effectiveness of such late charge in assuring prompt and timely payment of Assessments. The liens in favor of the Association shall secure the amount of the Assessment, all interest accruing thereon, late charges and all costs incident to the collection thereof including a reasonable attorney's fee, whether enforced by suit or otherwise and, if by suit, whether at trial or any appellate level, and including fees for paralegals. The Association shall be entitled to recover such interest, late charges, costs and fees from any Owner personally liable for the Assessment as to which they apply. Such late charges, interest, costs and fees shall be collectively referred to as "Delinquency Charges."

**5.15. Remedies of Association Upon Non-Payment.** If any Assessment or installment thereof is not paid by the due date specified by the Board, then such Assessment (including the full amount of any such Assessment accelerated by the Board in accordance with the By-Laws) shall be delinquent and shall, together with Delinquency Charges with respect thereto, be a continuing lien on the Lot against which such Assessment was levied, running with the land, and also a personal obligation of the Owner binding the Owner thereof, his heirs, personal representatives, tenants, successors and assigns. Prior to bringing an action for foreclosure of a lien, the Association shall record a "Notice of Lien" among the Public Records unless in the opinion of the Board, recording such notice is contrary to or prohibited by any then existing court order, statute or rule. A copy of such notice, whether recorded or not, shall be sent to the then Owner by United States mail, either certified or registered, return receipt requested at the Owner's address on the Association's records. Failure of the Association to obtain a receipt shall not prevent enforcement of a lien. If such Assessments, together with Delinquency Charges with respect thereto, are not paid in full within thirty (30) days after the date such notice is deposited in the United States mail, then thereafter the Association may institute suit to foreclose its lien. The recorded notice and lien shall secure not only the Assessments and Delinquency Charges reflected therein, but all unpaid Assessments and Delinquency Charges with respect to all such amounts which may accrue subsequent to the recordation of such notice and prior to the entry of a final judgment of foreclosure. The Association may at any time bring an action at law with respect to any Assessments and Delinquency Charges then due and payable but which have not been paid. Upon the timely payment or

other satisfaction of all amounts specified in a Notice of Lien and all other Assessments and amounts which have become due and payable with respect to such Lot as to which such notice was recorded, together with Delinquency Charges as may be applicable, the Association shall furnish a release of such notice in recordable form, but shall not be responsible for the cost of recording. In addition to the foregoing remedies, the Association may also suspend the voting rights and suspend the use of any Common Areas of any Member for the nonpayment of Assessments that are delinquent in excess of ninety (90) days.

**5.16. Declarant Assessment.**

(a) Notwithstanding any provision of this Declaration, the Articles or By-Laws to the contrary, prior to the Turnover Date, Declarant shall not be obligated for nor subject to any Regular Assessment or Neighborhood Assessment for any Lot that it may own, nor shall it be responsible for any Special Assessment except those to which Declarant shall consent in writing.

(b) In consideration of such exemption, Declarant shall be responsible for paying any cash shortages which result from the Association's Common Expenses (excluding any reserves or expenses associated with Special Assessments for compliance, services or improvements) otherwise to be funded by the Initial Assessments, and Regular, Neighborhood and Special Assessments, exceeding the amount received or receivable from Owners other than Declarant for such Initial Assessments, Regular, Neighborhood and Special Assessments levied against such Owners or their Lots (the "Deficiency"). Notwithstanding the foregoing, the Association shall employ a fiscal management program designed to minimize the amount of any such Deficiency, including, without limitation, the deferral of expenses and elimination of reserves, to the extent reasonably possible. In addition, the Declarant shall loan to the Association such amounts as may be required by the Association to pay the Common Expenses not produced by all the Assessments actually received by the Association and the amount of the Deficiency paid by the Declarant. Such loans are intended to assist the Association in managing cash and provide short term borrowing to offset uncollected Assessments. The amount so loaned by the Declarant, together with interest at the rate then charged on delinquent assessments shall be repaid to the Declarant as funds are available to the Association, but in no event later than the Turnover Date.

(c) Declarant may at any time give written notice to the Association that it is withdrawing its obligation to fund the Deficiency, effective not sooner than sixty (60) days after such notice, whereupon Declarant shall waive its right to total exemption from Regular, Neighborhood and Special Assessments. Sixty (60) days after the giving of such notice or sixty (60) days after the Turnover Date, whichever first occurs, each Lot owned by Declarant shall thereafter be assessed at 100% of the Regular, Neighborhood and Special Assessment level established for Lots owned by Regular Members; provided, however, Declarant shall continue not to be responsible for any reserves or Special Assessments for compliance, services, fines or improvements not consented to in writing by Declarant. All such Assessments shall be prorated for the remaining months of the then current fiscal year, if applicable. Upon transfer of title of a Lot owned by Declarant by which more than fifty one percent (51%) of the beneficial ownership is transferred, the Lot shall then be assessed in the amount otherwise established for Lots owned by Owners other than the Declarant, prorated as of and commencing with the month following the date of transfer of title.

(d) Notwithstanding the foregoing, any Lots from which the Declarant derives rental income as a completed housing unit or as to which Declarant has a completed housing unit with a certificate of occupancy subject to possession by one holding a contractual right to purchase, shall be liable for Assessments with respect thereto in the same manner as any Regular Member, prorated to the date when both such possession and contractual interest have been created. In addition, Lots owned by Declarant upon which Declarant has constructed a "model" home will be subject to Assessments from the date that the certificate of occupancy is issued for the completed "model" home constructed by Declarant.

**5.17. Initial Assessments.** There shall be a one-time assessment (the "Initial Assessment") payable to the Association by each Owner who purchases a Lot from Declarant. The Initial Assessment shall be equal to the then-current annual Regular Assessment established for the Lot; and further provided, the Board may revise the Initial Assessment amount, at any time, to an amount not to exceed the then-current annual Regular Assessment established for the Lot. The Initial Assessment shall be established as of and paid at the time legal title to a Lot is conveyed by Declarant to such Owner. Initial Assessments shall be expended solely for regular Common Expenses. Initial Assessments are not advance payments of Assessments and shall not affect the liability of an Owner of a Lot for Assessments.

## ARTICLE 6 DUTIES AND POWERS OF ASSOCIATION

**6.01. General Duties and Powers.** In addition to the duties and powers enumerated herein and under the Articles and By-Laws, and without limiting the generality thereof, the Association shall:

- (a) enforce this Declaration, the Articles, By-Laws and rules and regulations, including any standards, specifications, guidelines, or the like, adopted pursuant thereto by appropriate means and carry out the duties and authority of the Association hereunder, including the establishment of rules and regulations to do same;
- (b) own, convey, maintain, regulate and otherwise manage and operate the Common Property;
- (c) pay any real and personal property taxes and other charges assessed against the Common Property unless same are separately assessed to the Owners;
- (d) obtain all required utility and other services associated with the carrying out of the Association's responsibilities hereunder;
- (e) contract for and maintain such policy or policies of insurance as may be required hereunder or as the Board deems necessary or desirable to further the purposes of and protect the interests of the Association and its Members; provided further that such policies of insurance shall cover all Common Areas, regardless of the current status of title to the Common Areas, and shall name Declarant, or its successors and assigns, as an additional named insured on such policies of insurance for so long as Declarant, or its successors and assigns, retains ownership or use of any portions of the Common Areas;
- (f) have the power of entry upon any Lot reasonably necessary in connection with the carrying out of Association responsibilities hereunder;

- (g) have the power to acquire, accept, maintain, repair, improve and replace Common Property;
- (h) have the power to negotiate and contract for such materials and services for the benefit of Owners who subscribe to or elect to accept such materials or services, with payment for same to be separately billed to the Owners or advanced by the Association and repaid to the Association by Special Assessment for services;
- (i) have the power and duty to maintain architectural control with respect to the Subdivision in accordance herewith;
- (j) sue and be sued, as further set forth in Article 12, below;
- (k) assess Members, establish fines, and enforce assessments and fines;
- (l) contract for other services and materials necessary to operate and maintain the Common Property, Common Element, and any other contract necessary to perform the Association's duties hereunder.

**6.02. Implied Powers of the Association.** The Association shall have all the power and authority reasonably necessary for it to carry out each and every of its duties set forth in this Declaration, the Articles, the By-Laws, or rules and regulations, including any standards, specifications, guidelines, or the like, made pursuant thereto, including any right or power reasonably to be inferred from the existence of any other right, power, duty or obligation given to it or reasonably necessary to effectuate its duties hereunder.

**ARTICLE 7  
REPAIR AND MAINTENANCE**

**7.01. By the Association.** Except as otherwise expressly provided, the Association shall be responsible for the maintenance, repair and replacement of the Common Property under its ownership, control or maintenance responsibility. Additionally, the Association may be responsible for any Lot Maintenance Services provided by the Association as set forth in Article 13, below. The expense of the foregoing Lot Maintenance Services and the maintenance, repair, and replacement of the Common Property in general will be a Common Expense; provided, however, that if an item of maintenance, repair or replacement is a result of any intentional or negligent act of an Owner, his family, agents, contractors, invitees or licensees, then the cost of such maintenance, repair or replacement, to the extent so caused, shall be the responsibility of the Lot Owner, and even though the cost thereof may be advanced as a Common Expense, same shall be billed to the Owner and his Lot for reimbursement as a Special Assessment hereunder. Regarding nuisance and exotic plant species within the Common Property, the Association hereby adopts the following Maintenance Plan for Common Property:

All upland areas including recreation, open space, conservation, wetland buffer and tree preserves areas are to be monitored annually to assure that no nuisance and exotic species is established. If any such species is found in the monitored areas, the vegetation will be removed by hand and stumps poisoned using appropriately labeled herbicides as needed. The hand removal of the nuisance and exotic species is to be done with care to not adversely impact surrounding vegetation.

**7.02. By Owners of Lots.** Except as provided for in Article 13, below, each Owner shall be responsible for the maintenance, repair and replacement of his Lot and all improvements thereto.



Each Owner shall maintain such Lot and improvements in good condition and repair and in an attractive condition in keeping with the standards of maintenance throughout the Subdivision. The Association may enact various rules and standards, from time to time, regarding maintenance of the Lots by Owners, and the Owners shall comply with same. All such maintenance and repair shall conform to such maintenance standards as may be promulgated from time to time by the Board in accordance herewith.

**7.03. Liability for Actions.** A Unit Owner shall be liable for any personal injuries and for the expense of any maintenance, repair or replacement of any real or personal property rendered necessary by his act, negligence or carelessness, or by that of his family, agent, guest, employee or lessee.

**7.04. Repair and Maintenance Standards.** The Board and the ARC may from time to time adopt and promulgate repair and maintenance standards, specifications, guidelines, rules, regulations or the like, for the Subdivision, so long as such standards, specifications, guidelines, rules, regulations or the like, are reasonable and not contrary to the provisions of this Declaration.

**7.05. Right of Association to Maintain.** If an Owner has failed to maintain or repair his Lot or the improvements thereon as required by this Declaration, then the Association may, but is not obligated to, perform such maintenance and make such repairs that the Owner has failed to perform and make. All costs of maintenance and repairs shall be assessed to the particular Owner and his Lot as a Special Assessment. Until so collected, such costs shall be treated as a Common Expense. The Association may rely upon duly promulgated standards, specifications, guidelines, rules, regulations or the like, of repair and/or maintenance in carrying out its responsibilities hereunder, and the Association shall not be liable for any act or negligence in carrying out the maintenance using duly promulgated standards, specifications, guidelines, rules, regulations or the like, of repair and/or maintenance. The Unit Owner shall hold harmless and indemnify the Association for all acts associated with the Association's performance of repair and/or maintenance on a Unit Owner's Lot as set forth herein. In proceeding under this Section, the Association shall employ the procedures hereinafter set forth:

a) In the case of an emergency, as determined by the Board, or when the Special Assessment to the Owner is \$500.00 or less (including, but not limited to routine mowing and landscape maintenance), the Board or the Manager of the Association shall authorize, approve and cause the repair or maintenance to be performed.

b) In all other cases:

i) Upon finding by the Board of a deficiency in maintenance, the Board shall provide notice thereof in writing to the Owner, briefly describing the deficiency and setting forth the action needed to correct the deficiency.

ii) If the Owner does not correct such deficiency to the reasonable satisfaction of the Board within fourteen (14) days of the Board's delivery of the notice, then thereafter the Association may perform such maintenance or repairs.

iii) All such maintenance and repair by the Association shall take place only during daylight hours on weekdays, excluding holidays, except in the case of an emergency.

**7.06. Transfer of Maintenance to Governmental Authority.** The Board may transfer any maintenance responsibility for any part of the Common Property, or for any item or items for which the Association has maintenance responsibility, to any special tax district, taxing unit, other public agency, authority or entity organized or having jurisdiction of such matters without the necessity of

Member approval, provided that such governmental authority or entity accepts such maintenance responsibility. If the transfer of such responsibility is accomplished, the Board shall retain the authority to supplement such maintenance to the extent such public authority does not maintain such items to an acceptable level as determined by the Board.

**ARTICLE 8  
INSURANCE AND RECONSTRUCTION**

**8.01. Insurance by Association.** The Association shall obtain and continue in effect such insurance in such amounts and coverages as the Board shall from time to time determine to be appropriate, necessary or desirable; provided further that such insurance shall cover all Common Areas, regardless of the current status of title to the Common Areas, and shall name Declarant, or its successors and assigns, as an additional named insured on such policies of insurance for so long as Declarant, or its successors and assigns, retains ownership or use of any portions of the Common Areas. All costs associated with such insurance shall be a Common Expense.

**8.02. Lot Owner's Insurance.** Each Owner shall be responsible for obtaining and maintaining in effect all such casualty, liability and other insurance with respect to such Owner and such Owner's Lot and Unit as the Owner may from time to time determine; provided however, the Owner shall be required to obtain and maintain in effect such casualty insurance policies in sufficient amounts to rebuild, repair or reconstruct the Unit in the event of a casualty. The Association shall not obtain any such insurance on behalf of an Owner, nor shall the Association insure the Lots, Units or improvements thereto in any manner.

**8.03. Destruction of Improvements.**

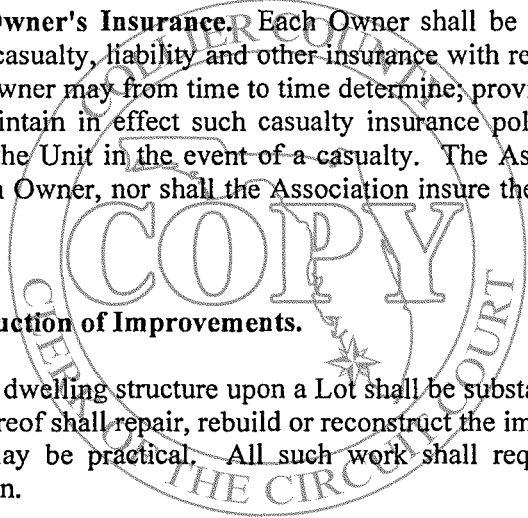
(a) If any dwelling structure upon a Lot shall be substantially damaged or destroyed, the Owner thereof shall repair, rebuild or reconstruct the improvements as soon after such casualty as may be practical. All such work shall require Architectural Review as provided herein.

(b) Notwithstanding damage to or destruction of improvements to a Lot, the Owner of such Lot shall remain liable to the Association for all Assessments in connection with such Lot, even though such Lot may not be fit for occupancy or habitation and even though such improvements are not reconstructed.

(c) Within a reasonable time after such casualty, the Lot Owner shall remove all debris and portions of the improvements that cannot be preserved for incorporation into the replacement structure. All dangerous conditions shall be addressed and neutralized immediately. Debris shall be removed from the Lot no later than thirty (30) days after the date of the casualty.

(d) Within thirty (30) days of the date of the casualty, the Owner of the affected Lot shall notify the Board in writing of the intention to rebuild or reconstruct, shall initiate Architectural Review within ninety (90) days of such notification, and shall commence rebuilding or reconstruction within sixty (60) days after final approval by the ARC as herein defined in Section 9.02, and prosecute same to completion.

(e) If an Owner fails to comply with any of the requirements of Sections 8.02 and 8.03, then the Association may at its option, but is not obligated to, perform such acts as



are of the responsibility of the Owner and the cost of same shall be treated initially as a Common Expense, but charged and assessed against the Lot and its Owner as a Special Assessment.

(f) Upon written application of an Owner, any of the time periods set forth in this Section may be extended by the Board for good cause.

(g) The duties of the Association hereunder shall be performed by the Board.

**ARTICLE 9  
AUTHORIZED BUILDER AND ARCHITECTURAL REVIEW**

**9.01. Authorized Builder.** In order to assure that the improvements within the Subdivision will be constructed with the level of quality and consistency desired by the Declarant, no improvements may be constructed on any Lot within the Subdivision by any builder or contractor other than the builder(s) approved by Declarant (the "Authorized Builder").

**9.02. Architectural Review Committee.** There is hereby established an Architectural Review Committee (the "ARC"). The ARC shall use its best efforts to promote and insure a high level of design, quality, harmony and appearance throughout the Subdivision consistent with this Declaration. Prior to the Turnover Date, unless the Declarant shall otherwise specify in writing, the Declarant shall constitute the ARC, and may approve Plans and Submissions, as defined in Section 9.05, or take other actions on behalf of the ARC in Declarant's own name or in the name of the ARC. After the Turnover Date or earlier determination by Declarant no longer to serve as the ARC, the ARC shall be composed of at least three (3) individuals appointed by the Board, each of whom shall be an Owner. The ARC shall act by simple majority vote. In the event of the death, resignation or other removal of any Board appointed member of the ARC, the Board shall appoint a successor. No member of the ARC shall be entitled to compensation for, or be liable for claims, causes of action or damages arising out of services performed pursuant to this Declaration. Members of the ARC shall serve terms established by the Board, and may be removed with or without cause.

**9.03. Architectural Standards.** The ARC may, from time to time, adopt and modify design and development standards, rules and specifications for the Subdivision (the "Standards"). The Standards may be different for each Neighborhood. The Standards may include, but are not necessarily limited to standards for (a) architectural design and size of improvements to be constructed upon a Lot; (b) fences, walls, pools, spas and similar structures; (c) exterior building materials and colors; (d) exterior lighting; (e) lawn and landscaping materials and minimum requirements; (f) setback, height, bulk and design criteria; (g) design, materials and colors for homes, roofs, improvements, drives and walks; and other matters assigned to the ARC by this Declaration, or the Board. The Standards shall be deemed to include any mandatory architectural requirements, prohibitions and guidelines contained in this Declaration.

**9.04. Approval Required.** Architectural Review and the written approval of the ARC shall be required for the construction, restoration, reconstruction or expansion of any improvement upon a Lot; for any reasonably visible exterior alteration or modification to an existing improvement on a Lot; for any maintenance or repair of an improvement to a Lot which will result in the application or use of materials of a different type, color or quality than those in use prior to this maintenance or repair; for any landscaping or material change or addition or reduction to the landscaping or lawn of any Lot, other than for plantings within a substantially enclosed courtyard area; and for the construction, installation, restoration, reconstruction, enlargement or alteration of any fence, wall, tennis court, screen enclosure, pool, patio, utility line, solar energy device, decorative structure, outbuilding or other installation, device,

equipment or structure which will alter the appearance of the Lot or existing improvements located thereon when viewed from adjacent Lots, the adjacent street or in any other instance where architectural review is required under this Declaration (collectively, the "Improvements"). Anything contained herein to the contrary notwithstanding, all such Improvements, alterations, installations, facilities and applications made by the Declarant as part of the original construction, improvement, development and sale of the Subdivision, including, without limitation, the construction of homes and units by Declarant, whether made before or after turnover of control of the Association, shall not require architectural review nor approval of the ARC. Notwithstanding anything to the contrary herein, in the event the Association is responsible for exterior maintenance of any dwelling unit, such as but not limited to painting or roof maintenance, then the ARC may, in its sole and absolute discretion, prohibit any exterior attachment, modification, restoration, reconstruction, expansion or other improvement of any kind whatsoever.

**9.05. Procedure.** In order to obtain the approval of the ARC for any proposed Improvements, there shall be submitted to the ARC a written application for approval and at least one (1) complete set of plans and specifications for the proposed Improvements (the "Plans"). The Plans shall include, as appropriate to the proposed Improvements, (a) a site plan for the Lot showing location and dimensions of all proposed and existing structures, pavement and landscaping to be installed or removed; (b) complete floor plans and exterior elevations of all proposed structures, drawn to scale and reflecting the number of square feet within air conditioned living areas and other areas; (c) specification of all materials to be used, including type, color and nature; (d) specification of plant and other materials proposed for landscaping; (e) location, dimension, description and specifications for any other proposed Improvements; and (f) samples of material and proposed colors for external application. The ARC may also require the submission of additional information and materials as may be reasonably required by the ARC to evaluate the proposed Improvements (the "Submissions").

The ARC may waive formalities in the approval process, and may waive specific requirements if it deems the Plans and Submissions submitted provide the information reasonably necessary for ARC review. The ARC shall review and evaluate all applications and either approve or disapprove, or approve in part and disapprove in part, the application. The ARC shall issue its approval or disapproval in writing, and specify its reasons for disapproval and annotate its decision by reference to this Declaration and the Standards, if applicable. To the extent practical, the ARC shall indicate as part of any disapproval, the general or type of changes necessary in the submittal in order to achieve approval. The ARC may specify conditional approval, setting forth written stipulations for changes required for approval. If the applicant accepts such stipulations, the proposal shall be deemed approved, subject to the stipulations.

No work shall proceed except in strict compliance with this Declaration and the approval by the ARC, and any Improvements or work performed without such approval may be required to be removed by the Board. If any landscaping, construction or other improvements or alterations requiring ARC approval shall be commenced and completed without Architectural Review and approval by the ARC, or at variance with approved Plans and Specifications, then such construction or other Improvements may at any time thereafter be required to be removed or altered to comply with such Plans and Submissions as may be approved by the ARC. Nothing shall prevent an Owner from making application to the ARC for approval of Improvements already commenced or completed, but during the period of such application the Owner shall not perform any more work until the ARC has acted. The ARC shall not have any increased obligation to approve merely because an Owner has already commenced or completed Improvements in violation of this Declaration.

**9.06. Routine Matters.** In instances in which ARC has established standards approving certain colors, materials, decorative or other items of routine maintenance, repair or minor

improvements, an Owner may comply with such standards without the necessity of submitting an application to or obtaining formal approval of the ARC.

**9.07. Scope of Review.** The ARC shall review and approve or disapprove all Plans and Submissions solely on the basis of aesthetic standards as to the aesthetic quality of materials and workmanship to be used, suitability and harmony of location, structure and external design in relation to surrounding topography, structures and the overall benefit or detriment which would result to the immediate vicinity and to the Subdivision as a whole, and any other factors deemed relevant to the review by the ARC in its opinion, reasonably exercised. The ARC shall take into consideration the aesthetic aspects of the architectural design, placement of buildings, color schemes, exterior finishes and materials and similar features, and shall not be responsible for reviewing, nor shall its approval of any Plans be deemed approval of any design or plan from the standpoint of structural safety or conformance with building or other codes.

**9.08. Miscellaneous Provisions.** The Board and the ARC may adopt reasonable rules and regulations, including any standards, specifications, guidelines, or the like, for the conduct of its authority, and the Board may establish reasonable fees for Architectural Review. The Association shall maintain records of all Architectural Review proceedings, and shall furnish a certificate in recordable form upon the request of any Owner verifying the compliance or non-compliance of such Owner and his Lot with the Architectural Review provisions of this Declaration.

**9.09. Mandatory Tree Planting and Maintenance.** Unless provided for in the Lot Maintenance Services of Article 13, below, the Owner of each Lot shall be responsible for the planting and maintenance of replacement trees on such Lot as required by Collier County pursuant to final site plan approvals for Canopy and pursuant to applicable provisions of the Collier County Land Development (the "LDC" or "Code"). The number of trees to be planted and the location thereof shall be set forth on the Plans and Submissions approved by the ARC, as provided for herein. Existing native trees can be used to fulfill these requirements whenever they meet spacing and size requirements as set forth herein. The Developer shall initially be responsible for the initial installation and maintenance of the trees until such time as the Lot is sold or transferred to a subsequent Lot Owner, at which time that Lot Owner shall be fully responsible for the maintenance and replacement of any street trees, all as set forth herein. Any costs borne by the Developer associated with the installation and maintenance of the street trees may be passed on and charged to the subsequent Lot Owner. In the event a street tree dies or is removed, the Lot Owner is responsible for replacing the street tree (per the requirements set forth herein and the LDC) within thirty (30) days. If an Owner has failed to comply with the requirements of this Section 9.09, then after notice and compliance with the procedural requirements of this Declaration, the Association may take such action as is necessary to achieve compliance. All costs of the Association in so doing shall be assessed to the particular Owner and his Lot as a Special Assessment. Until so collected such costs shall be treated as a Common Expense. No certificate of occupancy will be issued for any home to be constructed on a Lot until the conditions of this Section have been satisfied. ARC approval as required by this Article 9 shall be withheld until such time as the Plans and Submissions presented for each Lot comply with the replacement tree planting obligations provided for herein. Upon such initial planting, each Lot Owner shall be responsible for maintenance of the replacement trees and such trees may not be removed without appropriate permits and authorizations provided by Collier County, Florida.

**9.10. Sidewalks.** The Lot Owner must install a sidewalk. The plans submitted to the ARC for the construction of the initial improvements on each Lot shall provide that the Owner install and construct at the time of initial improvement to the Lot, at the Owner's expense, a five (5) foot wide sidewalk along the entire front Lot line (the exact location of which to be specified by Declarant or the ARC) in the area between the front Lot line and the paved surface of the roadway adjacent thereto.

Following installation such sidewalk shall be maintained by Owner at Owner's expense.

**ARTICLE 10  
USE RESTRICTIONS**

The following protective restrictions, limitations, conditions and agreements are hereby imposed upon the Subdivision and shall apply to all Owners and their tenants and their respective guests, families, invitees, agents, employees, contractors, licensees and all other persons occupying such Lots or in actual or constructive possession or control thereof.

**10.01. Residential Use.** No Lot shall be used for anything other than residential purposes and in accordance with the Code and other applicable zoning and governmental land use regulations and this Declaration.

**10.02. Height Limitation.** No dwelling house or other building shall be more than two (2) stories in height, nor more than thirty five (35) feet above the grade of the crown of the street upon which the Lot fronts.

**10.03. Garages and Outbuildings.** All garages shall be private garages with a capacity for at least one (1) and no more than three (3) passenger vehicles.

**10.04. Gate Transponders.** All transponders or similar devices used to operate any gates or fences on the Property shall be and remain the property of the Association. Each Lot shall be allowed to use no more than two (2) transponders. In the event an Owner loses, misplaces, destroys or damages the transponders, the Association shall charge the Owner all costs, including any administrative costs, with replacing the transponder. Transponders shall be surrendered to the Association by the Owner upon demand.

**10.05. Setbacks.** All structures shall be so located upon a Lot so as to comply with the setback requirements of the zoning regulations and Code. The ARC may require a greater, or approve a lesser, setback if it finds that under the specific circumstances such alteration is reasonable and appropriate and will result in a Lot developed and used in an appropriate manner not detrimental to surrounding properties; provided, however, that the approval by the ARC of a reduced setback shall not affect the obligation of the Owner of a Lot to comply with the Code.

**10.06. Recreational Vehicles.** No trailer, camper, motor home, boat, boat trailer, canoe or motorcycle shall be permitted to remain upon a Lot unless within an enclosed garage, other than for temporary parking, unless prior approval has been granted by the ARC. Temporary parking shall mean the parking of such vehicles belonging to or being used by Owners or their guests for loading and unloading purposes only. All temporary parking shall be restricted to paved driveways. The ARC may approve special storage arrangements for such vehicles, imposing such locational, time and other conditions as it may determine.

**10.07. Other Vehicles.** No trucks, commercial vans, tractors, service vehicles or other commercial vehicles shall be permitted to remain within the Subdivision other than for temporary parking unless parked within an enclosed garage. Temporary parking shall mean the parking of such vehicles while being used in the furnishing of services or materials to occupants of Lots, or being used by occupants of Lots for loading and unloading purposes only. This provision applies to trucks and utility vehicles whether used for commercial purposes or not. Notwithstanding the foregoing, Owners or other appropriate occupants of a Lot having a van or pick up truck for personal transportation purposes only,

and not for commercial use, may park such vehicle on the driveway of their Lot, but no Lot may have more than one such vehicle regularly parked in the driveway. No vehicle shall be permitted to park overnight in the Subdivision streets and street right of ways; nor shall any vehicle be permitted to park on the Subdivision streets and street right of ways during the day, except that temporary day time parking shall be permitted for moving, construction, deliveries, and the like; and the Association has the right to remove and tow, at the owner's expense, any vehicle which violates the provisions of this Section 10.07 or any other rule, regulation, standard, specification or the like, promulgated by the Board or the ARC regarding vehicles and parking in the Subdivision. The Board and the ARC may adopt rules, regulations, guidelines, standards, specifications, and the like, which are more stringent regarding permitted vehicles and parking restrictions in the Subdivision. Each Owner shall comply, and shall cause the Owner's family, guests, tenants, and invitees to comply, with the restrictions and covenants, as well as all rules, regulations, standards, guidelines, specifications, and the like, set forth in this Declaration, and any amendments hereto, applicable to such Owner's Lot, as well as parking in the Subdivision streets and right of ways.

**10.08. Animals and Pets.** Only common domesticated household pets may be kept on any Lot or improvements thereto, and in no event may such pets be kept for breeding or any commercial purposes. No other animals, livestock, reptiles or poultry of any kind shall be kept, raised, bred or maintained on any portion of the Subdivision. Approved household pets may not be kept in unreasonable numbers. Permitted pets shall be kept only subject to and in accordance with such rules and regulations as shall be promulgated from time to time by the Board, and unless otherwise provided by the Board, shall be kept on a leash and accompanied by its owner except when within a fenced or other enclosed area, and further provided, while outside, such dogs and permitted pets shall not be permitted to bark or otherwise become a nuisance or annoyance to a neighbor. Any such pets, whether from number, disposition or otherwise, that cause, create or contribute to a nuisance or unreasonable disturbance or annoyance, may be required to be permanently removed within ten (10) days of receipt of written notice from the Board to the Owner or other person responsible for such pet. Pet owners are responsible for cleaning up any mess created by their pets within the Subdivision. Excrement which is not picked up shall be deemed a nuisance hereunder. All pet owners are responsible for the actions of their pets, and each pet owner agrees to indemnify the Association and Declarant and hold them harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal on or within the Subdivision. The Board may adopt rules and regulations, including any standards, specifications, guidelines, or the like, which are more restrictive than the provisions of this Declaration.

Failure of any Owner to fully comply with the provisions of this Article shall result in fines of Fifty Dollars (\$50.00) per diem for each day of noncompliance.

**10.09. Antennae and Masts.** No television, radio or other electronic or communications antenna, mast, dish, disk or other similar device for sending or receiving television, radio or other communication signals shall be permitted upon any Lot or improvement thereto, except in conformance with uniform rules and standards established by the ARC. No such device is permitted under any circumstances if it sends, contributes to or creates interference with any radio, television or other communication reception or interferes with the operation of other visual or sound equipment located within any part of the Subdivision. In the event the Association is responsible for exterior maintenance of any dwelling unit, such as but not limited to painting or roof maintenance, then the ARC may, in its sole and absolute discretion, prohibit any such antenna, mast, dish, disk or similar device.

**10.10. Miscellaneous Visual Restrictions.**

(a) No clothes lines or clothes poles shall be erected, and no outside clothes drying is permitted, except where such activity is advised or mandated by governmental authorities

for energy conservation purposes, in which event the ARC shall be required to approve the portions of any Lot used for outdoor clothes drying purposes and the types of devices to be employed.

(b) Garage doors shall be kept in a closed position when not in use for ingress and egress.

(c) All garbage and refuse containers, air conditioning units, whole house generators, oil tanks, bottled gas tanks, and permanently affixed swimming pool equipment and housing shall be underground or placed in walled-in or landscaped areas as approved by the ARC so that they shall be substantially concealed or hidden from any eye-level view from any street, adjacent property, or Common Property. No window or wall air conditioning units shall be permitted on any Lot.

(d) The personal property of any resident shall be kept inside the residence dwelling, or a fenced or walled-in yard, except for patio furniture and accessories, and other personal property commonly kept outside, which must be kept in the rear of the Lot and must be neat appearing and in good condition.

(e) Window treatments shall consist of drapery, blinds, decorative panels or other tasteful window covering. No newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one week after an Owner or tenant first moves into a dwelling or when permanent window treatments are being cleaned or repaired.

(f) Subject to the provisions of Section 9.04, above, all permitted solar heating and other alternative energy resource systems shall be so installed and maintained as not to be visible from the street upon which the dwelling fronts, unless specifically otherwise authorized by the ARC. It is the intent hereof not to prohibit the use of renewable energy sources, but rather to direct that same be so designed, installed and maintained as to minimize visibility from the street in front of the dwelling.

**10.11. Fences.** No fence of any kind (vertical or underground electric) shall be erected or maintained upon any Lot until the plans and specifications therefor have been approved in writing by the ARC. Underground electric fences will not be permitted in the front yard of any Lot. It shall be a condition of approval of any fence that the bottom of all fences along or within any drainage easements shall be elevated above ground to allow for the free flow of drainage.

**10.12. Yards and Drives.** Yards shall be sodded with natural grass at the time of original construction of improvements, and lawns shall thereafter be maintained in good condition and replaced as may be necessary. Gravel or stone yards are prohibited. All driveways, walks and parking areas shall be approved by the ARC, must be constructed of concrete, Stampcrete, Bomanite, paver bricks, or other comparable material approved by the ARC. Poly-pebbled driveways are prohibited. This community has been developed using standards of the Florida Green Building Coalition. This Declaration does not prohibit xeriscape or "Florida-Friendly" landscaping; provided however, all such landscaping must be approved by the ARC.

**10.13. Environmental Provisions.**

(a) No tree with a diameter of four (4) inches or more measured at the height of four feet above grade shall be removed, unless the removal of same is



necessary for the erection and maintenance of structures and outbuildings permitted hereby, or driveways or walkways providing access thereto, unless such tree is diseased, except with the consent of the ARC. No tree within any tree preservation area created within the Subdivision shall be removed except as permitted by such tree preservation easement.

(b). **Compliance with Collier County and SFWMD.** Each Owner is hereby notified that the Initial Property within the Subdivision is subject to the requirements of Surface Water Management Permit(s) issued by the South Florida Water Management District. Each property Owner within the subdivision at the time of construction of a building, residence or structure shall comply with the construction plans for the surfacewater management system, approved and on file with the South Florida Water Management District (SFWMD). No construction activities may be conducted relative to any portion of the surface water management system facilities without the prior approval of the Association and SFWMD. The term "surface water management system facilities" is hereby defined to include, but is not limited to, 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. The surface water management system facilities shall be located on land designated as Common Areas on the plat for Canopy, land over which the Association has an easement in its favor for operation, control and maintenance of the surface water management system facilities, or on land dedicated to and controlled by the Association as set forth on the plat for Canopy. Prohibited activities include, but are not limited to: the removal of littoral shelf vegetation (including cattails) from wet detention ponds, digging or excavation; depositing fill, debris or any other material or item; constructing or altering a water control structure; or any other construction to modify the surface water management system facilities. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp. SFWMD shall have the right to take enforcement actions to enforce the terms hereof, including a civil action for injunction and/or penalties against the Association to compel it to correct any outstanding problems with the surface water management system facilities. In the event the Association is dissolved or otherwise fails to maintain the surface water management system facilities in accordance with the applicable permits and regulations, SFWMD, upon reasonable notice and hearing, may enter the Common Property for the purpose of maintaining same. The cost of such maintenance by the SFWMD shall be assessed pro-ratedly against the Lots and such charges are payable by the Owners within sixty (60) days after receipt of a statement therefor from the SFWMD, and if unpaid at the end of such period shall become a lien on the Lots. Alternatively, at the option of the SFWMD, and subject to the limitations provided for herein, if the Association ceases to exist, all of the Lot Owners shall be jointly and severally responsible for operation and maintenance of the surfacewater management system facilities in accordance with the requirements of the Environmental Resource Permit unless and until an alternate entity assumes responsibility. Notwithstanding any other provision in this Declaration to the contrary, neither this Section nor any provision of this Declaration affecting the surfacewater management system facilities or the operation and maintenance of the surfacewater management system facilities may be amended without the prior written consent of SFWMD.

(c) Sedimentation and erosion control measures will be in compliance with the codes and ordinances of Collier County. To prevent sedimentary runoff during construction, staked hay bales, staked silt screens or inlet debris control screens are to be placed at storm inlets, outfall locations and adjacent property lines as required prior to any construction activities. The contractor is responsible for maintaining the sedimentation barriers in a working manner for the duration of construction and should be checked daily. Siltation accumulations greater than the lesser of 12 inches or one-half of the depth of the sedimentation barrier shall be immediately removed and replaced in upland areas, in addition to specified erosion control locations, the contractor shall perform daily site inspections for potential erosion problems. If problems occur, the contractor is responsible for installing appropriate erosion control immediately. The contractor is responsible for removing temporary erosion control devices following completion of all construction and final stabilization.

(d) The Association shall maintain the surface water management system for the Subdivision (including littoral zone planting, maintenance of littoral zone vegetation, removal of exotic and nuisance species from littoral zones and wetlands mitigation areas, any periodic dredging and silt removal from stormwater retention areas) in compliance with all applicable regulations of Collier County, SFWMD, and other governmental authorities with jurisdiction over the Subdivision property.

(e) The Association shall provide all stormwater, hydroperiod, wetland mitigation, littoral zone planting, and wetland planted buffer monitoring data collection and reporting required by Collier County, SFWMD, or other governmental authorities with jurisdiction over the Subdivision property.

(f) Nothing set forth herein in this Article or the Declaration shall be construed to abrogate the Association's responsibility hereunder to operate and maintain the surface water management system of the Property in compliance with all applicable regulations of Collier County, SFWMD, and other governmental authorities with jurisdiction over the Subdivision property. Any amendment to this Declaration which materially affects the interests of the SFWMD in and to the surfacewater management system facilities shall require the prior consent of SFWMD.

(g) No fishing shall be permitted within any of the lakes within the Property, unless specifically approved by the Association.

(h) No owner of property within the Canopy subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the wetlands, wetland mitigation areas, buffer areas, upland conservation areas and drainage easements described in the approved permit and recorded plat of the subdivision, unless prior approval is received from the South Florida Water Management District.

(i) Each Owner of a Lot within the Canopy subdivision at the time of constructions of a building, residence, or structure shall comply with the

construction plans for the surface water management system approved and on file with the South Florida Water Management Department.

**10.14. Swimming Pools.** No above-ground swimming pools are permitted within the Subdivision. This provision does not prohibit hot tubs, therapy pools or hydro-spas when they are incorporated into improvements and approved by the ARC. The ARC may approve pools incorporated into improvements even though such pools may be above grade. All pools shall be enclosed and constructed to comply with applicable regulations and standards of governments having jurisdiction. All pools, enclosures, screening and caging shall be subject to Architectural Review.

**10.15. Utility Easements.** Easements for installation, maintenance, repair and replacement of utilities and drainage facilities are reserved and established as reflected on the recorded Plat of the Subdivision. Also, a ten (10) foot minimum utility easement will be located along all front Lot lines. Within those easements no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction, obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained by the Owner thereof except for those improvements and facilities for which the Association, or a public authority or utility company is responsible.

**10.16. Pool Cage Restrictions.** Any pool cages or other screened cages upon any Lot shall not exceed the height of the home and shall utilize materials and colors as approved by the ARC.

**10.17. Subdivision's Central Irrigation System & Mandatory Lot Irrigation System.**

(a) Subdivision Water is a Common Element of Association. Subject to Declarant's reserved rights herein, including Declarant's right to control and use the Water, the Association shall have the exclusive right to control the use of all of the waters (surface and subsurface) on, under, within, beneath, or in any way connected to or with the Property (excluding potable water provided by a county or municipal source), including, without limitation, (i) water located on the surface of the Property from time to time within any natural or man made feature, drainage, retention or stormwater ponds or lakes, (ii) water pumped onto or delivered to the Property by any natural causes, or any third party in any manner, and (iii) subsurface water located under or beneath the Property, including any portion thereof brought to the surface by pumps, natural or any other cause (hereinafter "Water"). The Water shall be considered a Common Element of the Association.

(b) Restrictions. No use of the Water may be made by any person or entity which acquires an interest in the Property, or any other person or entity without Association's prior written consent, which consent may be withheld for any reason deemed sufficient by Association; but provided however, for so long as Declarant owns one (1) Lot in the Subdivision for sale in the ordinary course of business, then Declarant may control and use the Water without Association's prior consent.

(c) Easements. The Association and Declarant shall have easements for the benefit of Association and Declarant, and their employees, subcontractors, successors, transferees, licensees, and assigns in, on, under, through or over all the Property in of the Subdivision, as may be expedient or necessary for (i) access to and use of the Water as reserved herein and (ii) installing, operating and maintaining equipment, and ingress and egress to all of Association's or Declarant's equipment, and connecting any water, or effluent water lines within the Property to additional properties, as may be brought under this Declaration by Declarant. The easements herein described shall be perpetual and at all times inure to the benefit of and be binding upon the Association, the Declarant, and all of their grantees and respective successors, transferees, designees, and assigns.

(d) Central Irrigation System and Lot Irrigation System. Each Lot shall be required by the Association and this Declaration to have an automated lawn irrigation system with automated timers (the "Lot Irrigation System"). Such system shall be connected to the Central Irrigation System of the Subdivision, which Central Irrigation System is part of the Common Property of the Association. The Central Irrigation System is defined as the community master irrigation system supplying water for irrigation of all Common Property and each Lot within the Subdivision. The Lot Irrigation System shall be installed and connected to the Central Irrigation System at the time of original construction of Lot improvements at the cost and expense of the Owner of such Lot, and the Lot Irrigation System shall be maintained by each Lot Owner at his sole cost and expense. The design and specification of materials used for the Lot Irrigation System and its connection to the Central Irrigation System for each particular Lot shall be as specified and approved by the Declarant and after Turnover by the Association; and the Association shall enforce same against all Lot Owners and Lots. In order to ensure the efficient operation of the Central Irrigation System and the individual Lot Irrigation Systems, the timer settings for each individual Lot Irrigation System shall be set in accordance with a watering schedule as established by the Association, which schedule shall be adjusted from time to time. All costs and expenses of the Association associated with the use, in any way, of the Central Irrigation System, including watering of the Common Property and Lots shall be included in the budget of the Association as a Common Expense. The respective obligations for maintenance, repair and replacement of the Central Irrigation System and the Lot Irrigation Systems shall be as follows:

(i) All components of the Central Irrigation System not located within a Lot up to the point of connection to each Lot (but not including the separate Lot Irrigation Systems of the Lot Owners on their respective Lots) shall be owned and maintained by the Association as a Common Element; provided, however, the Owner of a Lot shall do nothing to interfere with the operation of the Central Irrigation System, and shall be liable to the Association for any damage to the Central Irrigation System caused by the willful acts or negligence of such Owner, his tenants and their respective families, guests, contractors, licensees and invitees. The Declarant and the Association, and their employees, subcontractors, and agents, shall have the right to enter upon any Lot to (i) monitor and set Lot Irrigation System timers; and (ii) inspect, maintain, repair and replace portions of the Central Irrigation System on such Lot, and shall have the right to relocate such installations from time to time.

(ii) All components of the Lot Irrigation System and automatic timers up to the point of connection to the Central Irrigation System shall be regularly and properly maintained, repaired and replaced at the cost and expense of the Owner of such Lot.

**10.18. Reclaimed Effluent Irrigation System.** It shall be the responsibility of each Owner at the time of construction of a building, residence or structure, to comply with the requirements (if any), of the Collier County Public Works Department to connect into any system for reclaimed effluent irrigation which may be installed prior to Certificate of Occupancy for the Lot and Unit or in the future. In connection therewith, if and when reclaimed water may be available, each Owner shall install an effluent meter, backflow preventer, and such other equipment required for connection to the reclaimed effluent irrigation system with effluent irrigation water provided by Collier County; and each Lot shall have an individual lot irrigation system which is connected to the effluent irrigation system; and further, all costs and expenses of constructing, installing and maintaining same including costs for the effluent water shall be the sole responsible of the Lot Owners. In the event the Declarant or the Association enter into any reclaimed water rights agreements with Collier County, or any third party (hereinafter the "Reclaimed Water Agreements"), all Lot Owners do hereby consent to and appoint Declarant their agent

to execute any and all documents related to, including amendments to or assignments of, the Reclaimed Water Agreements, in Declarant's sole discretion, without any further consent by the Lot Owners.

**10.19. Prohibition Against Further Subdivision.** Except as provided for herein, the Lots shall not be further subdivided, but lot lines may be reconfigured, as set forth herein, without the requirement for re-platting. The prohibition against re-subdivision of any Lot shall not prevent the conveyance of several Lots and/or portions of Lot(s) to the Owner of a contiguous Lot to the end that platted Lot lines may be reconfigured without the need for re-platting. Upon any such conveyance, the parcel so created shall be deemed a "Lot" subject to the provisions hereof, as though originally platted as such. Where said Lots are combined or reduced and reconfigured as set forth herein, the outside boundaries of the building site (which building site is the newly configured Lot) shall automatically carry the reconfigured side Lot Line Easements (and any previously identified or platted Lot Line Easements shall be then automatically released without the need for re-platting), as set forth and reserved on the Plat, for the purpose of accommodating surface and underground utilities and drainage; and further provided, the Owner of the reconfigured Lot shall be solely responsible for reimbursement to the utility for any and all costs of relocating any existing facilities affected by the reconfiguration of the Lot. Notwithstanding anything to the contrary herein, (i) any easements granted to the County shall require the prior written consent of the County prior to removal or relocation; and (ii) any easements granted to a utility shall require the consent of the utility prior to relocation and further the relocation of such utility easement shall be at the Owner's expense. The Declarant reserves the right to re-plat any one or more Lots to create a modified Lot or Lots, and/ or to decrease or combine Lots by reconfiguration as set forth herein without re-platting and to convey such combined or reduced Lots with reconfigured boundaries all as set forth herein.

**10.20. Conservation Easements** The foregoing supplements that set forth on the Plat. The following acts and activities are expressly prohibited within the boundaries of the areas designated on the Plat as Conservation Easements without the prior consent of Collier County; provided however, all construction, activities and use of the Conservation Easement consistent with the approved Preliminary and Final Site Plans and Construction Drawings or the like for the Property shall be permitted uses of the Conservation Easement area without further consent by Collier County:

- a) Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground.
- b) Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.
- c) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.
- d) Removal, mowing, or trimming of trees, shrubs or other vegetation, except for permitted maintenance.
- e) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.
- f) Surface use except for purposes that permit the land or water areas to remain in its natural condition.
- g) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.

- h) Acts or uses detrimental to such retention of land or water areas.
- i) Application of fertilizers, pesticides, or herbicides.

**10.21 Signs.** No sign of any kind shall be displayed on any Lot except as follows:

- a) Individual, ornamental house number and name plates may be displayed, provided their size, color, design, and location is approved by the ARC. Either Developer or the ARC may require the use of standard house number and name signage.
- b) During the course of construction of a home on a Lot, a construction sign not exceeding four square feet identifying the builder may be displayed on the Lot. Such sign shall be promptly removed upon issuance of a Certificate of Occupancy by Collier County for the home.
- c) Other signs may be displayed if such signs are approved by the Developer as to size, design, location and content.

**10.22 Temporary Structures.** No structure of a temporary character, whether a trailer, tent, shack, garage, barn or any other such building, shall be placed on any Lot, provided, however, a temporary construction trailer and/or a storage or out-building for materials and supplies may be used in connection with and during the construction of a dwelling provided that any such temporary structure shall be removed immediately from the Lot upon the completion of such construction.

**10.23 Completion of Construction and Repairs.** The construction of any new building or the repair of the exterior of any building damaged by fire or otherwise shall be completed with reasonable promptness.

**10.24 Sales Office of Declarant.** Notwithstanding anything in this Declaration to the contrary, Declarant may construct and maintain a sales office, together with a sign or signs relating thereto, on Lots or a Lot of its choosing until such time as all of the Lots have been sold by Declarant. Declarant's sales office shall not be required to undergo architectural review. Declarant may maintain a garage sales office consisting of a garage with french doors facing the street, or such other sales office as Declarant deems appropriate in Declarant's sole discretion. In addition, Declarant may place sales and other promotional signs on the entrances, roadways, gates and all other Common Property as Declarant may choose, until such time as all of the Lots have been sold by Declarant.

**10.25 Garage or Yard Sales.** No garage or yard sale may be conducted on any Lot within the Subdivision without the prior approval of the Association. The Association shall have the authority to prescribe reasonable rules and regulations for the conduct of any such sale, including, without limitation, rules regarding the manner of conducting such sales, permitted frequency, duration, hours and the type, size, location and number of signs advertising such sales. The Association may authorize a specific date or dates for garage and yard sales within the entire Subdivision, or any Neighborhood, and may limited garage or yard sales to those dates. The failure of an Owner to observe such rules and regulations shall be grounds for the Association to withhold its approval of any future sales by such Owner, as well as the imposition of a fine or other sanctions as authorized in this Declaration.

**10.26 Easements.** Easements are referenced on the recorded Plat and herein this Declaration.

**10.27 Elevations.** All proposed building finished floor elevations are to be a minimum of eighteen (18) inches above the crown of the adjacent roadway or if within the 100-year flood plain, a minimum of one (1) foot above the 100-year flood elevation and comply with all other FEMA requirements. Any encroachment of the 100-year flood plain or flood way shall be mitigated in accordance with FEMA and Collier County standards.

**10.28 Docks.** No boat docks, common boat dock or boat ramps are permitted within this development, and no boats, canoes, electric boats or watercraft of any nature or type shall be permitted on or within any of the Property or any lakes constructed thereon..

**10.29 Leases/Rentals.** No portion of a Lot or Unit (other than an entire Lot and Unit) may be rented. All leases shall be in writing and shall provide (or be automatically deemed to provide) that the Association shall have the right to terminate the lease in the name of and as agent for the lessor/landlord upon default by lessee/tenant in observing any of the provisions of this Declaration, as same may be amended, the Articles of Incorporation and By-Laws of the Association and its applicable rules and regulations or other applicable provisions of any agreement, document or instrument governing the Subdivision or administered by the Association. The leasing of Lots and Units shall also be subject to the prior written approval of the Association, which approval shall not be unreasonably withheld and which shall be deemed given if the Association does not deny approval within fifteen (15) days of its receipt of a request for approval together with a copy of the proposed lease and all supporting information reasonably requested by the Association. No Unit or Lot may be leased/rented for a term of less than six (6) consecutive months, nor more than twice per year, without (i) approval of the ARC, which may be granted, withheld, or conditioned at its sole and absolute discretion, or (ii) specific written approval by the Declarant or Developer (which may be granted, withheld, or conditioned at its sole and absolute discretion), which written approval shall be recorded in the Public Records of Collier County, Florida; provided however, the provisions set forth herein shall not apply to the Developer's leasing of any Unit or Lot owned by Developer.

Owners wishing to lease their Lots and Units (i) shall be required to obtain and provide to the Association a contract for providing landscaping and irrigation services to the Lot or Unit, and (ii) may, if the Board so elects, be required to place in escrow with the Association a sum of up to \$500.00 which may be used by the Association to repair any damage to the Common Areas or other portions of the Subdivision resulting from acts or omissions of lessees/ tenants (as determined in the sole discretion of the Association). The Association shall not be required to pay or remit any interest on any such escrowed funds. The Owner will be jointly and severally liable with the tenant to the Association for any amount in excess of such sum which is required by the Association to effect such repairs or to pay any claim for injury or damage to property caused by the negligence of the lessee/tenant. Any balance remaining in the escrow account, less an administrative charge not to exceed \$50.00 and exclusive of any interest retained by the Association, shall be returned to the Owner within sixty (60) days after the tenant vacates the Unit.

**10.30. Awnings.** No awnings are permitted on any structures within the Lots unless approved by the ARC.

**10.31. Play Equipment.** No play equipment, tot lots or similar structures shall be permitted on the Lots unless approved by the ARC.

**10.32. Decks.** No decks shall be permitted unless approved by the ARC.

**10.33. Screened Porches.** All screened porches shall be approved by the ARC.

**10.34. Storm Shutters.** Storm shutters may only be placed on a structure once a Storm Warning is issued by the appropriate governmental authority and shall not remain on the structure for more than seven (7) day after the storm event; provided however, clear storm shutters may remain on the structures for a reasonable period of time while the Lot Owner(s) is not present.

**10.35 Nature Trails.** Nature trails and boardwalks, if any, permitted and constructed within the Property shall be constructed in such a way to comply with the Conservation Easement and Restriction Agreement, and further, shall be constructed of such materials and in such a way as determined by Developer, in its sole and absolute discretion, to allow the land and water area below to remain predominantly in its natural condition.

**10.36 No Mining or Exploration.** No Owner shall permit or consent to any mining or exploration for oil, gas, minerals or the like on, within or under any Lot.

#### ARTICLE 11 COMPLIANCE WITH CODE

The following provisions are mandated by the Code and are applicable to the Subdivision.

**11.01. Alternate Maintenance by County.** In the event the Association fails to maintain the Common Property in reasonable order and condition in accordance with applicable governmental approvals, the provisions of the Code allow for the County, upon specified notice and hearing, to enter the Common Property for the purpose of maintaining same. The cost of such maintenance by the County shall be assessed pro-rata against the Lots and such charges are payable by the Owners within sixty (60) days after receipt of a statement therefor from the County, and if unpaid at the end of such period shall become a lien on the Lots.

**11.02. Further Disposition of Common Property.** With respect to such portions of the Common Property or any interest therein that may be deemed required common open space under applicable governmental regulations, subsequent to the conveyance to the Association, there shall be no further disposition of such Common Property that is real property by sale, dissolution of the Association or otherwise, except to an organization conceived and organized to own and maintain such property without first offering to dedicate the same to the County or other appropriate governmental agency.

**11.03. Disturbance of Common Property.** No portion of the Common Property shall be denuded, defaced or otherwise disturbed in any manner at any time, except for maintenance, repair and improvement, without the prior written approval of both the Association and the director of the County Planning, Permitting and Inspection Department, or such successor agency as may assume the duties of that department.

**11.04. Right of Entry by County.** A right of entry upon the Common Property is hereby granted to the County and other governmental law enforcement officers, health and pollution control personnel, emergency medical service personnel, and firefighting personnel, and to governmental suppliers of utilities, while in pursuit of their duties. The right of entry will be governed by a Right of Entry and Compliance with Collier County Land Development Code Agreement, attached hereto as **Exhibit F.**

**11.05. Compliance with Law.** Notwithstanding any other provision of this Declaration to the contrary, there shall be no violation of federal, state or local law permitted within the Subdivision.



**11.06. Required Materials.** The Code mandates certain documents be submitted to the planning director of the County, which documents must be reviewed and approved by the planning director and, once approved, said documents must be recorded as part of the documentation for the Subdivision. The following described documents have been submitted, reviewed and approved by the planning director in accordance with the Code, and are attached hereto as exhibits in compliance with the Code.

(a) Attached hereto as **Exhibit B** is a Fiscal Program for the Association for a period of ten (10) years. The Fiscal Program reflects funds estimated to be adequate for the maintenance and care of the Common Property under the ownership or control of the Association. The Fiscal Program is in part based upon the assumption that the Association will follow the maintenance program described below.

(b) There is attached hereto as **Exhibit C** a Maintenance Program providing a recommended program for the maintenance of all major facilities to be maintained by the Association.

(c) There is attached hereto as **Exhibit D** a proposed Notice to Buyer that will be given to prospective buyers regarding the flood zone determinations, organization of the Association, Assessments and the Fiscal Program.

(d) There is attached hereto as **Exhibit E** a List of Holdings of the Initial Property subject to the Plat, which are the proposed Common Areas as set forth on the Plat, all of which are subject to maintenance by the Association as set forth herein this Declaration.

**11.07. Limitation.** The Maintenance Program and Fiscal Program are estimates only prepared by the Declarant based upon its experience, and reviewed and approved by the planning director of the County. The actual Maintenance Program will be as determined by the Association in accordance with this Declaration and the actual budget and amount of Assessments will be as determined by the Association in accordance with this Declaration. All amounts reflected on the Fiscal Program are estimates only, based on currently anticipated costs without taking into consideration the fluctuating purchasing power of the United States dollar. Such amounts can reasonably be expected to fluctuate with time, the economy, market conditions and in response to actual (as opposed to estimated or assumed) experience, unexpected circumstances, and specific services and levels of service determined by the Association. There is no guarantee, representation or warranty, either express or implied, by either the Declarant or the County of the figures contained in the Fiscal Program, nor is the Maintenance Program represented or warranted as representative of the actual maintenance that will be required. No one to whom the precision of these figures or programs is of any consequence should enter a purchase agreement to acquire a Lot in the Subdivision except with a full understanding of the purpose and nature of such materials.

**11.08. Limitation on Amendment.** Notwithstanding any other provision in this Declaration to the contrary, neither this Article 11 nor any provision of this Declaration directly affecting this Article 11 may be amended without the written consent of the County.

**ARTICLE 12  
GENERAL PROVISIONS**

**12.01. Enforcement.** Subject to the provisions set forth below, the Association or any Owner shall have the right to enforce by proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such provisions and the right to recover damages for such violations; provided, however, that with respect to Assessments and Assessment liens, the Association, on determination of the Board, shall have the exclusive right to the enforcement thereof. Notwithstanding anything to the contrary herein this Declaration, no enforcement proceedings may be maintained by the Owners of fewer than fifteen (15) Lots, and further provided, no enforcement proceedings by Lot Owners may be brought, exclusive of a proceeding by the Association, unless and until the provisions of Article 12.13 have been fully satisfied as a condition precedent to the bringing of the enforcement proceeding. Failure of 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.

**12.02. Severability.** Invalidation of any part of this Declaration by a court of competent jurisdiction shall not affect any other provisions, which shall remain in full force and effect.

**12.03. Covenants.** The covenants, conditions, restrictions, easements and terms of this Declaration shall run with the land, bind all the Property subject hereto and inure to the benefit of and be enforceable as provided above, for a term of fifty (50) years from the date this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the Owners of at least two-thirds (2/3) of the Lots and institutional mortgagees holding first mortgages encumbering two-thirds (2/3) of all Lots encumbered by first mortgages and held by institutional mortgagees has been recorded at least one (1) year prior to end of any such period, agreeing to terminate this Declaration. In such event, this Declaration shall be terminated upon the expiration of the fifty (50) year term or applicable ten (10) year extension during which such instrument was recorded. In the event the Association is dissolved or otherwise terminated, then in addition to the restrictions set forth in Section 10.13(b) regarding the ability for SFWMD to maintain certain surfacewater management system facilities on Common Property, the Owners shall establish a similar non-profit entity to own, operate and maintain the Common Property.

**12.04. Scheme of Development & Construction.**

A. This Declaration shall be liberally construed to give effect to its purpose of creating a plan for a residential community with possible commercial and other non-residential uses and development planned; and for the maintenance of the Common Property and those portions of the Lots (if any) herein required to be maintained by the Association. The Declarant and Developer specifically and exclusively reserve the right to change, amend, modify, alter, supplement and clarify the scheme or general plan of development of the Canopy Project, to include, but not limited to, (i) amend, modify, alter, and change the site and development plans, permits and approvals for the Subdivision; (ii) replat the Subdivision; (iii) add or delete property from the Subdivision; (iv) reconfigure the Lots without replatting, including granting variances from the provisions of this Declaration; (v) change the number, type, location and size of Lots and the architectural style and design of improvements to be constructed thereon; (vi) change, modify or alter all Subdivision Improvements; (vii) change, modify, alter, relocate and reconfigure the Common Property; and (viii) to amend this Declaration to effectuate the above and any other change or amendment deemed reasonable by the Declarant or Developer; and further provided, any such amendment or change shall be automatically deemed to be "REASONABLE" by the

Association and Owners and shall not be deemed to unreasonably change the general scheme or plan of the Canopy Subdivision, provided such change, amendment, modification or the like continues to maintain the Canopy Subdivision as a residential development with possible commercial and non-residential uses. No Owner should rely upon, and the Developer and Declarant make no representation or warranty of any kind, whatsoever, as to whether the Subdivision shall be built out in conformance with any current plans, approvals, or permits, including any marketing related plans, brochures, posters or the like provided by Declarant, Developer and any Approved Builders. The Declarant, Developer and any Approved Builder, including their agents, employees and sales agents, make no representation as to (i) changing market conditions which may affect future sales prices of the Lots and Units, including any future sales or promotions which may reduce Lot and Unit prices; or (ii) the general scheme, layout, dimensions, architectural style, design or plan of the Canopy development, other than that it is a residential development with possible commercial and non-residential uses and development planned. THIS ABSOLUTE RESERVATION BY DECLARANT AND DEVELOPER OF THE RIGHT TO AMEND, MODIFY, CHANGE, SUPPLEMENT, ALTER AND CLARIFY THE GENERAL SCHEME AND PLAN OF THE CANOPY DEVELOPMENT, IN ANYWAY DEEMED REASONABLE BY DECLARANT AND DEVELOPER, IN THEIR SOLE AND ABSOLUTE DISCRETION, AND THE REQUIREMENT THAT THE ASSOCIATION AND ALL OWNERS BY ACCEPTANCE OF A DEED TO THEIR LOT, DO HEREBY AUTOMATICALLY CONSENT TO AND ACKNOWLEDGE DECLARANT AND DEVELOPER'S SPECIFIC RESERVED RIGHT TO AMEND, CHANGE, MODIFY, ALTER, SUPPLEMENT AND CLARIFY THE GENERAL SCHEME AND PLAN OF THE CANOPY DEVELOPMENT, IS A MATERIAL INDUCEMENT TO DECLARANT AND DEVELOPER TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES. THE ASSOCIATION AND ALL LOT OWNERS HEREBY CONSENT TO, ACKNOWLEDGE, DEEM REASONABLE, ANY CHANGES TO THE GENERAL SCHEME OR PLAN OF DEVELOPMENT AS SET FORTH HEREIN, AND DO HEREBY APPOINT DECLARANT OR DEVELOPER AS THEIR AGENT TO EXECUTE ANY AND ALL DOCUMENTS RELATED TO DECLARANT AND DEVELOPER'S RESERVED RIGHTS HEREIN WITHOUT THE NEED FOR FURTHER CONSENT OF OR BY ASSOCIATION OR THE OWNERS.

B. Article and section headings have been inserted for convenience only and shall not be considered in interpretation or construction of the document. This Declaration shall be construed under the laws of Florida, and shall not be construed more strongly against any party regardless of the extent to which any party may have participated in the drafting of the Declaration or any amendment thereto. Whenever the context of this Declaration, the Articles or By-Laws require, the singular shall include the plural and the plural the singular, and any one gender may refer to any other gender. Venue for any dispute shall lie in Collier County, Florida.

**12.05. Approval of Association Lawsuits.** Notwithstanding anything herein contained to the contrary, the Association shall be required, at a duly called meeting of the Members at which a quorum is present, to obtain the approval of the Owners of three-fourths (3/4ths) of all of the Lots in the Subdivision prior to the payment of legal or other fees or costs to persons or entities engaged by the Association for the purpose of suing or making, preparing or investigating any lawsuit, or commencing any lawsuit other than for the following purposes:

- (a) The collection of Assessments and foreclosure of liens for Assessments;
- (b) The collection of other charges which Owners are obligated to pay pursuant to this Declaration, the Articles, By-Laws or rules;
- (c) In an emergency where waiting to obtain the approval of the Owners creates a substantial risk of irreparable injury to the Common Property or to the Owner(s) (the

eminent expiration of a statute of limitation shall not be deemed an emergency obviating the need for the requisite vote); or,

- (d) Filing a compulsory counter claim.

Further, prior to filing the lawsuit, it shall be a material condition precedent to the institution of any lawsuit that: (i) the party or parties bringing same shall have first given written notice to Declarant or other party against whom relief or recovery is sought (the "Defendant") of the specific matter complained of and what action steps are necessary to cure or correct same, and (ii) the Defendant shall have been given at least one hundred twenty (120) days (subject to extension by reason of matters beyond the control of the Defendant or because of the nature of the applicable matter(s) and the time necessary to correct same) in which to cure or correct the applicable matters, and (iii) if the Defendant does not cure same as provided for herein, then the Association may not file the lawsuit without holding a meeting of the Members to reasonably consider its Attorney Statement Letter. The Attorney Statement Letter shall be a letter obtained by the Association from its legal counsel, which letter opines as to the following: (a) the likelihood for success by the Association of the lawsuit and all matters contained therein, and (b) the total cost of litigation (and all matters related thereto) and how the imposition of Assessments by the Association to pay for such cost of litigation will affect each Lot Owner.

**12.06. Amendment.** This Declaration may be amended only in accordance with this Section.

(a) Prior to the Turnover Date, Declarant reserves the right to amend this Declaration, the Articles and By-Laws in any reasonable manner whatsoever, without the requirement of Association consent or the consent of any Owner or the mortgagee of any Lot, so long as such amendments do not delete or convey to another party any Common Property designated, submitted or committed to common usage if such deletion or conveyance would materially and adversely change the nature, size and quality of the Common Property. Notwithstanding anything to the contrary herein, the Declarant reserves the right to relocate or reconfigure the Common Areas, including the right to substitute relocated or similar Common Areas in other locations within the Subdivision, thereby deleting the Common Areas in the prior location. The right of Declarant to amend as herein set forth shall prevail, anything else contained herein to the contrary notwithstanding.

(b) This Declaration may be amended at any time by the affirmative vote of Members owning two-thirds (2/3) of all Lots in the Subdivision together with the approval or ratification of a majority of the entire Board. Provided, however, that at any time by a majority vote of the Members of the Association, this Declaration may be amended where necessary to comply with regulations of the Veterans' Administration, the Federal Housing Administration, the Office of Interstate Land Sales Registration, the Federal National Mortgage Association, the Federal Home Loan Corporation, the Federal Home Loan Bank Board or other similar governmental agency. Provided further, no amendment shall be made that is in conflict with Section 11.08 or Sections 12.04 and 12.08, and any amendment to Section 12.05 shall require the approval of the Owners of eighty percent (80%) of all Lots in the Subdivision. Anything contained in this Subsection to the contrary notwithstanding, no amendment adopted by the Members pursuant hereto shall be effective prior to the Turnover Date, except with the prior written consent of the Declarant, which consent may be withheld in the Declarant's sole and absolute discretion.

(c) Any amendment approved by the Owners pursuant to this Section shall be approved at an annual, regular or special meeting called for that purpose, pursuant to written notice setting forth the proposed amendment or a summary of the changes to be effected thereby, such notice to be given within the time and in the manner provided for in the By-Laws. In lieu of voting at an annual, regular or special meeting as herein provided, amendments may be approved in writing executed by the requisite number of Owners and directors.

(d) After the Turnover Date, this Section may only be amended by the affirmative vote of the Owners of not less than eighty percent (80%) of all Lots in the Subdivision.

**12.07. Attorney's Fees.** In the event any action is instituted to enforce or construe the provisions of this Declaration, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment reasonable attorney's fees and the costs of such suit. If the Association is not a prevailing party in such action, the amount of such attorney's fees and costs owed by the Association shall be collected as a Special Assessment with respect to all Lots within the Property.

**12.08. Declarant Provisions.**

(a) Declarant for itself, and its designees, further reserves the right to erect temporary structures for use in its development business and otherwise to establish and use any part of the Property covered hereby for the development, construction, marketing, promotion and sale of Lots and improvements thereto. So long as Declarant owns any Lot of record in the Subdivision, it may (i) establish licenses, reservations, easements and rights-of-way in favor of itself, suppliers of utility and similar services, and other public or private authorities as may from time to time be reasonably consistent with use of the Subdivision for its intended purposes, and (ii) retain the right to further license, sell or transfer its rights to third parties for consideration, including, but not limited to, the right to collect fees, royalties, commissions, and other residual and financial benefits in connection therewith. In any instance where a structure has been erected upon a Lot, or the construction thereof is substantially advanced in a manner that violates the restrictions of this Declaration or in such a manner that same encroaches on any Lot line, Lot Line Easement, easement area as shown on the Plat or set forth herein or setback, Declarant reserves the right to release the Lot from the restriction and to grant an exception or variance to permit the encroachment by the structure so long as Declarant, in the exercise of its sole discretion, determines that the release, waiver, variance or exception will not materially and adversely affect the appearance of the Subdivision. The Declarant may grant franchises or concessions to commercial concerns on all or part of the Common Areas and/or common facilities and shall be entitled to all income derived therefrom.

(b) Declarant hereby reserves easements for the benefit of Declarant, its employees, subcontractors, successors, and assigns, in, on, under, through, across or over the Subdivision's Common Property, and the front, side, and rear yards of all Lots within the Subdivision, as may be expedient or necessary, for the purpose of ingress/egress, installing any of its equipment, inspection or maintenance related matters, connecting any water, sewer or effluent water lines within the Subdivision to additional properties, or any other matter as Declarant determines in its sole and absolute discretion as necessary to carry out the goals and rights of Declarant as set forth herein this Declaration. The easements herein described shall be perpetual and at all times inure to the benefit of and be binding upon the undersigned, all of their grantees and respective heirs, successors, personal representatives, and assigns.

(c) Notwithstanding the provisions of Section 12.06 to the contrary, there shall be no amendment to this Declaration which shall abridge, impair, prejudice, amend or alter the rights, privileges or priorities of Declarant without the prior written consent thereto by Declarant for so long as Declarant holds at least one (1) Lot for sale in the ordinary course of business.

(d) For so long as Declarant holds at least one (1) Lot for sale in the ordinary course of business, Declarant and its nominees shall have the right, at any time, to hold marketing and promotional events within the Common Property and Common Areas and any common facilities, without any charge for use. Declarant or its nominees, agents, affiliates, or assignees shall have the right to market the Subdivision and Lots in advertisements and other media by making references to the Subdivision, including, but not limited to, pictures or drawings of the Common Property and Common Areas and common facilities, Lots and completed homes within the Subdivision.

(e) Declarant and Developer hereby reserve easements for the benefit of Declarant, Developer, their employees, subcontractors, successors, and assigns, in, on, under, through or over the Subdivision's Common Property, and the front, side, and rear yards of all Lots within the Subdivision, as may be expedient or necessary for the purpose of access/ingress & egress, and installing any of its equipment, and connecting any water, sewer or effluent water lines within the Subdivision to additional properties, as Declarant determines in its sole and absolute discretion. The easements herein described shall be perpetual and at all times inure to the benefit of and be binding upon the undersigned, all of their grantees and respective heirs, successors, personal representatives, and assigns.

(f) The Declarant, for so long as it is developing any property with the Project, shall be permitted to grant variances to any provisions in the Declaration, including any easements reserved therein and easements reserved on the Plat, such as but not limited to, Lot Line Easements, which the Declarant deems necessary for development.

**12.09. Assignment by Declarant.** Declarant's rights hereunder may be assigned to any successor to all or any part of Declarant's interest in the Subdivision by express assignment incorporated in a deed or by separate instrument. Declarant may designate in writing one or more successor developers as to portions of the Subdivision, which instrument shall detail the extent and nature of the rights of Declarant assigned thereby. After any such assignment is recorded among the Public Records, the assignee shall stand in the place of Declarant as fully as if it had originally been the Declarant hereunder to the extent of the assignment described therein, upon which the Declarant hereunder shall automatically be released by the Association and its Members, including all Owners, from any and all obligations or responsibilities as a "Declarant" or "Developer" hereunder.

**12.10. Rights of Mortgagees.** The Association shall make available for inspection upon request, during normal business hours and under reasonable circumstances, this Declaration, the Articles, By-Laws and the books, records and financial statements of the Association to Owners and the holders, insurers or guarantors of any first mortgages encumbering any portion of the Subdivision. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor, such holder, insurer or guarantor (the "Listed Mortgagee") of a mortgage encumbering a Lot and the legal description of such Lot, the Association shall provide such Listed Mortgagee with timely written notice of the following:

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

- (b) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (c) Any proposed action which would require the consent of mortgagees holding a mortgage encumbering a Lot; and
- (d) Any failure by an Owner owning a Lot encumbered by a mortgage held, insured or guaranteed by such Listed Mortgagee to perform his obligations under this Declaration, including but not limited to, any delinquency in the payments of Assessments, or any other charge owed to the Association by said Owner where such failure or delinquency has continued for a period of sixty (60) days.

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

**12.11 Incorporation of the Land Use Documents.** Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration, the Plat, the Code, and any and all development approvals, plans, permits, conditions, stipulations or the like related in anyway to the Canopy Project.

**12.12 Release from Minor Violations.** Where a building has been erected on a Lot or the construction thereof substantially advanced, in such manner that the same constitutes a violation or violations of the covenants set forth in Articles 10.02 or 10.15, either the Declarant or the Board may and each of them shall have the right at any time to release such Lot from such paragraph or paragraphs as are violated, provided, however, that neither the Declarant or the Board shall release a violation or violations of such Article or Articles except as to violations that the party releasing the same shall determine to be minor.

**12.13 Dispute.** Notwithstanding anything to the contrary in this Declaration, in the event there is any dispute as to whether the use of the Property complies with the rules, covenants, conditions and restrictions contained in this Declaration, such dispute shall be referred to the Board, and the determination rendered by the Board with respect to such dispute shall be final and binding on all parties thereto. In the event Lot Owners seek to bring enforcement proceedings at law or in equity regarding the Declaration, restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or any amendment hereto, including the right to prevent the violation of any such provisions and the right to recover damages for such violations (except for enforcement of Assessments per Article 12.01), then as a condition precedent to the filing of such suit or proceeding at law or in equity, the Lot Owners shall refer the matter to the Board for a final determination before filing a suit or claim at law or in equity; at which time, all other provisions of this Declaration regarding pre-suit conditions, including but not limited to, the Attorney Statement Letter, must be fully complied with and met.

**12.14 Fines and Suspensions.** Each Owner shall comply, and shall cause the Owner's family, guests, tenants, and invitees to comply, with the restrictions and covenants, as well as all rules, regulations, standards, guidelines, specifications, and the like, set forth in this Declaration, and any amendments hereto, applicable to such Owner's Lot, as well as parking in the Subdivision streets and right of ways and use of all Common Areas. Each Owner shall further comply, and shall cause the Owner's family, guests, tenants, and invitees to comply with the architectural criteria established by the ARC and any and all rules and regulations established by the Association. Upon lack of compliance of an Owner, or the Owner's family, guests, tenants and invitees, the Association may, in addition to all other

available remedies, impose a fine upon the Owner and/or suspend the rights of the Owner, or the Owner's family, tenants, guests, or invitees, to use the Common Property pursuant to the following provisions:

(a) Notice. The Association shall afford an opportunity for hearing to the Owner, after notice of not less than fourteen (14) days or such longer period as may be required by law. The notice shall include a statement of the date, time, and place of the hearing and a statement of the matters constituting the alleged violation. The hearing shall be 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. Notwithstanding anything to the contrary herein, in the event the Association, in its reasonable discretion, deems the violation of the Declaration, including all rules, regulations, standards, specifications, guidelines and the like, to be an emergency, such as, but not limited to, a violation of the Association's vehicle and parking restrictions, then the Association may declare the violation an emergency and follow the procedures set forth in Section 7.05(a), above, to immediately cure the violation without further notice, and any and all costs or expenses incurred by the Association in curing the violation shall become a Special Assessment against the Owner, individually, and the Owner's Lot. All vehicle and parking violations within the Subdivision shall be deemed emergency circumstances, and the Board shall be authorized to immediately remove and tow the offending vehicle at the owner's expense.

(b) Hearing. At the hearing, the Owner shall have the opportunity to review, challenge, and respond to any material considered; to present evidence; and to provide written and oral arguments on all issues involved.

(c) Imposition of Fine. The committee, by majority vote, may impose a fine not in excess of the maximum amount permitted by law per day from the date of the Owner's violation until such violation ceases. Any fine levied by the committee against an Owner shall be a Special Assessment applicable to the Owner's Lot.

(d) Application of Fines. All proceeds received by the Association from fines shall be applied to the payment of the Common Expenses, or as the Board in its discretion may determine.

(e) Suspensions. In addition to or instead of imposing a fine, the committee, by majority vote, may suspend the rights of the Owner, or the Owner's family, tenants, guests, or invitees, to use the Common Property for a reasonable period of time.

(f) Nonexclusive Remedies. Fines and/or suspensions shall not be construed as exclusive remedies and shall exist in addition to all other rights and remedies to which the Association may be legally entitled; however, any fine paid by an Owner shall be deducted or offset against any damages that the Association may otherwise be entitled to recover from Owner.

**12.15. Notice as to On-Site and Off-Site Activities.** ALL OWNERS, OCCUPANTS, AND USERS OF THE PROPERTIES ARE HEREBY PLACED ON NOTICE THAT DECLARANT AND OTHERS, WHETHER RELATED OR UNRELATED, MAY FROM TIME TO TIME CONDUCT DEVELOPMENT, CONSTRUCTION, RANCHING, FARMING, AGRICULTURAL, MINING, BLASTING, PLANT OPERATION AND OTHER ACTIVITIES NOT NORMALLY ASSOCIATED WITH A RESIDENTIAL SUBDIVISION, EITHER WITHIN, NEARBY OR WITHIN SIGHT OR SOUND OF THE PROPERTIES. SUCH ACTIVITIES MAY INCLUDE SITE



CLEARING (INCLUDING THE REMOVAL OF LARGE AMOUNTS OF TREES), BLASTING, KEEPING OF LIVE STOCK, SPRAYING, FERTILIZING, EARTH MOVING, TRAFFIC-GENERATING AND OTHER PRACTICES CREATING UNSIGHTLY CONDITIONS, NOISE (AT ALL HOURS) AND DISTURBING ODORS.

ALL OWNERS, OCCUPANTS AND USERS OF THE PROPERTIES ARE HEREBY NOTIFIED OF THE FOREGOING ACTIVITIES AND, BY ACCEPTANCE OF TITLE TO THEIR RESPECTIVE PORTIONS OF THE PROPERTY OR MAKING ANY USE THEREOF, AUTOMATICALLY ACKNOWLEDGE, STIPULATE AND AGREE (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE AREAS WHERE SUCH ACTIVITIES ARE BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DECLARANT AND ANY OTHER PARTY CONDUCTING OR PARTICIPATING IN SUCH ACTIVITIES SHALL NOT BE LIABLE FOR ANY LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (iv) ANY PURCHASE OR USE OF ANY PORTION OF THE PROPERTIES HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING AND (v) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE AND/OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTIES.

**12.16. Notices and Disclaimers as to Water Bodies, Common Areas, and Other Matters.** NEITHER DECLARANT, THE ASSOCIATION, NOR ANY OF THEIR OFFICERS, DIRECTORS, MEMBERS, COMMITTEE MEMBERS, EMPLOYEES, AGENTS, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR, WITH AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK.

ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS, SNAKES, MICE AND OTHER WILDLIFE (AS DEFINED IN ARTICLE 4.05) MAY HABITAT OR ENTER INTO WATER BODIES, COMMON PROPERTY, COMMON AREAS, LOTS OR DWELLING UNITS WITHIN OR NEARBY THE PROPERTIES AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

THE LISTED PARTIES SHALL NOT BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY OF, OR TO PROVIDE SUPERVISORY PERSONNEL FOR ANY LAKE, RECREATION AREA, NATURE AREA OR ANY OTHER COMPONENT OF THE COMMON AREAS OR THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. ANY OWNER OR INDIVIDUAL USING SUCH AREAS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES, PROPERTY DAMAGE, PERSONAL INJURY OR DEATH ARISING FROM SUCH USE.

THE LISTED PARTIES SHALL NOT BE LIABLE FOR LOSS OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY OR DEATH ARISING DIRECTLY OR INDIRECTLY FROM ENTRY BY ANY PERSON INTO THE PROPERTIES OR FROM THE CONSEQUENCES ARISING FROM SUCH ENTRY. EVERY OWNER OR INDIVIDUAL SHALL BE RESPONSIBLE FOR THEIR OWN SECURITY AND PERSONAL PROTECTION AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES, PROPERTY DAMAGE, PERSONAL INJURY OR DEATH ARISING DIRECTLY OR INDIRECTLY FROM ENTRY BY PERSONS INTO THE PROPERTIES OR FROM THE CONSEQUENCES ARISING FROM SUCH ENTRY. REGARDLESS OF WHETHER THE PROPERTY HAS A GATE, SECURITY DEVICE, SECURITY CAMERA, SECURITY PERSONNEL, IS MONITORED, OR THE LIKE, DECLARANT AND DEVELOPER MAKE NO REPRESENTATION OR WARRANTY, WHATSOEVER, WHETHER EXPRESS OR IMPLIED, AS TO THE SAFETY OF ANY OWNER AND HIS GUEST INCLUDING THE SAFETY OF ANY PROPERTY, AND ALL OWNERS AND THEIR GUESTS SHALL USE SUCH PROPERTY AND ENTER THE SUBDIVISION AT HIS OWN RISK.

THE LISTED PARTIES SHALL NOT BE LIABLE OR RESPONSIBLE FOR OR MAKE ANY GUARANTY OR WARRANTY WITH REGARD TO THE INSTALLATION, MAINTENANCE AND OPERATION OF ANY THIRD PARTY EQUIPMENT, FACILITIES, SYSTEMS AND RELATED IMPROVEMENTS, INCLUDING, WITHOUT LIMITATION, UTILITY FACILITIES, WATER AND SEWER UTILITY FACILITIES, AND LIFT STATION EQUIPMENT (HEREINAFTER REFERRED TO AS "THIRD PARTY UTILITIES"), EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. THE LISTED PARTIES SHALL NOT BE LIABLE FOR LOSS OR DAMAGE TO PROPERTY OR FOR PERSONAL INJURY OR DEATH ARISING DIRECTLY OR INDIRECTLY FROM THE INSTALLATION, MAINTENANCE OR OPERATION OF ANY SUCH THIRD PARTY UTILITIES. EVERY OWNER OR INDIVIDUAL SHALL BE RESPONSIBLE FOR THEIR OWN USAGE OF AND RELIANCE UPON SUCH THIRD PARTY UTILITIES AND HEREBY FOR HIMSELF/HERSELF AND HIS/HER FAMILY MEMBERS, TENANTS, AND GUESTS, AGREES TO INDEMNIFY AND HOLD THE LISTED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR LOSSES ARISING DIRECTLY OR INDIRECTLY FROM THE INSTALLATION, MAINTENANCE AND OPERATION OF SUCH THIRD PARTY UTILITIES.

THE LISTED PARTIES SHALL NOT BE LIABLE OR RESPONSIBLE FOR OR MAKE ANY GUARANTY OR WARRANTY WITH REGARD TO THE NATURAL GROWTH OF ANY TREES OR OTHER LANDSCAPING INSTALLED ON THE PROPERTY AND FOR ANY IMPACT THAT

SUCH GROWTH MAY IMPACT ON SIDEWALKS, UTILITIES, FOUNDATIONS OR OTHER IMPROVEMENTS CONSTRUCTED ON THE LOTS.

LANDS WITHIN THE STATE OF FLORIDA, INCLUDING CANOPY, HAVE HISTORICALLY BEEN WIDELY USED FOR AGRICULTURAL PURPOSES AND CONTINUE TO BE USED FOR SUCH PURPOSES. ALL OR PART OF THE PROPERTY ON WHICH THE SUBDIVISION IS BEING DEVELOPED IS KNOWN TO HAVE BEEN USED AT SOME TIME FOR AGRICULTURAL PURPOSES, WHICH, IN ALMOST ALL CASES, WOULD HAVE INVOLVED THE USE OF SOME FORMS OF PESTICIDES, HERBICIDES, FERTILIZERS OR OTHER AGRICULTURAL AGENTS. REMNANTS OF THESE COMPOUNDS AND THEIR DERIVATIVES, INCLUDING, WITHOUT LIMITATION, PHOSPHATES, NITRATES, NITRITES, ARSENIC, CHROMIUM, LEAD AND PESTICIDES ARE MOST CERTAINLY PRESENT IN THE SOIL AND WATER WITHIN FORMER AGRICULTURAL AREAS AND EXPOSURE TO THESE AGENTS MAY PRESENT POTENTIAL HEALTH RISKS. EXPOSURE TO THESE AGENTS MAY OCCUR THROUGH CONTACT WITH THE SOIL AND GROUNDWATER. NO GROUND DISTURBANCE, DIGGING OR EXCAVATION OF EIGHTEEN INCHES OR MORE DEEP SHALL BE PERMITTED ON A LOT OR ANYWHERE WITHIN THE SUBDIVISION PROPERTY WITHOUT PRIOR APPROVAL OF THE ARC AND SAME SHALL BE CONDUCTED IN CONFORMITY WITH ALL ARC RULES REGARDING DIGGING AND EXCAVATION. ALL PERSONS, BUT ESPECIALLY INFANTS, CHILDREN, AND WOMEN WHO ARE PREGNANT OR MAY BECOME PREGNANT, SHOULD NOT BE EXPOSED TO SOIL OR WATER OF UNKNOWN CONTENT.

RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING OR UNIT IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH DEPARTMENT.

ALL OWNERS ARE DEEMED BY ACCEPTANCE OF THEIR LOT TO ACKNOWLEDGE THAT THE PROPERTY MAY CONTAIN OR MAY BE ADJACENT TO A COUNTY OR STATE PROTECTED PRESERVE, WETLAND, OR ENVIRONMENTALLY SENSITIVE LAND AND THAT THE ABILITY TO BUILD, TRIM, CUT, MOW, OR OTHERWISE PERFORM ANY ACTIVITY THEREIN MAY BE LIMITED.

JUST AS THIS DEVELOPMENT WILL IMPACT THE SURROUNDING AREAS, THE EXISTING AND FUTURE DEVELOPMENT OF SURROUNDING AREAS WILL IMPACT THE SUBDIVISION AND YOUR USE AND ENJOYMENT OF YOUR PROPERTY. AS SURROUNDING AREAS ARE DEVELOPED, PEOPLE LIVING IN THIS SUBDIVISION MAY BE IMPACTED BY NEW OR EXPANDED ROADWAYS, EXISTING AND INCREASED POPULATION AND TRAFFIC, INCLUDING THE POSSIBILITY THAT RESIDENTS AND THEIR CHILDREN IN THE SURROUNDING DEVELOPMENTS MAY ENTER AND USE PUBLIC INFRASTRUCTURE IN THE SUBDIVISION, AND ADDITIONAL NOISE AND OTHER EFFECTS OF LAND AND ROADWAY DEVELOPMENT. DECLARANT AND DEVELOPER MAKE NO REPRESENTATIONS TO OWNER AS TO THE NATURE OF CURRENT AND FUTURE ROADWAYS IMPROVEMENTS, INCLUDING COUNTY THOROUGHFARE PLANS.

THE NAMES AND ADDRESSES OF SEXUAL OFFENDERS AND PREDATORS ARE AVAILABLE UNDER THE PUBLIC SAFETY INFORMATION ACT, FLORIDA SEXUAL OFFENDER/PREDATOR REGISTRATION AND NOTIFICATION PROGRAM, FLORIDA STATUTE § 775.21. INFORMATION CAN BE OBTAINED BY CALLING 1-888-357-7332 OR VIA

THE INTERNET AT <http://offender.fdle.state.fl.us/offender/About.htm> OR [WWW.FDLE.STATE.FL.US](http://WWW.FDLE.STATE.FL.US). OWNERS ARE URGED TO EXERCISE DUE DILIGENCE AND SEEK OUT THIS INFORMATION BEFORE BUYING A LOT WITHIN THE SUBDIVISION.

TRANSMISSION POWER LINES MAY CROSS OVER AREAS OF THE SUBDIVISION. TRANSMISSION POWER LINES EMIT TWO TYPES OF FIELDS, ELECTRIC AND MAGNETIC, TOGETHER THEY ARE CALLED ELECTRO-MAGNETIC FIELDS (EMF). EMF MAY CAUSE CERTAIN ELECTRONIC DEVICES AND CELL PHONES IN CLOSE PROXIMITY TO THE EMF TO OPERATE IMPROPERLY. WHILE THERE IS LITTLE EVIDENCE THAT EMF DIRECTLY IMPACTS HUMAN HEALTH, DIRECT EXPOSURE TO MAGNETIC FIELDS MAY CAUSE OR INCREASE HEALTH RISKS, ESPECIALLY TO CHILDREN AND PREGNANT WOMEN.

**12.17. Express Disclaimer of Warranty.** EXCEPT FOR ANY SPECIFIC WARRANTIES CONTAINED IN THE DEED OF CONVEYANCE AND ANY SPECIFIC WRITTEN WARRANTIES DELIVERED AT CLOSING, NO WARRANTIES, EXPRESSED OR IMPLIED, REPRESENTATIONS, UNDERSTANDINGS, GUARANTIES OR PROMISES HAVE BEEN MADE TO OR SHALL BE RELIED UPON BY ANY LOT OWNER, HIS AGENTS, HEIRS, REPRESENTATIVES OR ASSIGNS (OR ANY MORTGAGEE OR ITS ASSIGNS HOLDING A SECURITY INSTRUMENT FOR ANY LOT IN THE SUBDIVISION) PURCHASING A LOT IN THE SUBDIVISION OR UNDER THE TERMS OF THIS DECLARATION AGREEMENT; AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL WARRANTIES, INCLUDING IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND HABITABILITY, AND ALL WARRANTIES IMPOSED BY STATUTE AND CASE LAW (EXCEPT TO THE EXTENT THEY CANNOT BE DISCLAIMED) ARE HEREBY FULLY AND COMPLETELY DISCLAIMED. AS TO ANY IMPLIED WARRANTIES WHICH CANNOT BE DISCLAIMED EITHER IN WHOLE OR IN PART, INCIDENTAL AND CONSEQUENTIAL DAMAGES ARE DISCLAIMED AND AFFIRMATIVELY WAIVED, AND DECLARANT AND/OR DEVELOPER SHALL HAVE NO RESPONSIBILITY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, ANY CLAIMS FOR PERSONAL INJURY, DEATH, PROPERTY DAMAGE, OR EMOTIONAL DISTRESS. DECLARANT AND DEVELOPER MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE NOR MERCHANTABILITY NOR HABITABILITY OF THE SUBDIVISION IMPROVEMENTS, AS SAME MAY BE REFLECTED ON THE PLAT FOR THIS SUBDIVISION OR ARE OTHERWISE CONSTRUCTED IN, ON, OVER, UNDER OR ACROSS THE SUBDIVISION, INCLUDING BUT NOT LIMITED TO, ANY AND ALL PRODUCTS AND MATERIALS USED IN, ON OR IN CONNECTION WITH THE SUBDIVISION IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, MATERIALS ASSOCIATED WITH THE ROADWAYS, INCLUDING ASPHALT. DECLARANT AND DEVELOPER SPECIFICALLY DISCLAIM ANY AND ALL NEGLIGENCE ASSOCIATED WITH THE SUBDIVISION IMPROVEMENTS, INCLUDING BUT NOT LIMITED TO, THINNING, WEARING OR OTHER DESTRUCTION TO ASPHALT OR CONCRETE ON THE ROADWAYS RESULTING IN WEAR AND TEAR, THINNING, HOLES, SUBSURFACE FAILURES, CRACKS AND THE LIKE; IMPROPER DRAINAGE OR RETENTION FAILURES ASSOCIATED WITH THE STORMWATER SYSTEM, LAKES, PONDS, DRAINS AND SWALES; AND ANY DEFECTS ASSOCIATED WITH FAILURES OF THE WATER AND SEWER SYSTEM. ALL LOT OWNERS, TO THE EXTENT PERMITTED BY LAW, SHALL RECEIVE THIS PROJECT AND THE SUBDIVISION IMPROVEMENTS THEREIN "AS IS" AND PRIOR TO PURCHASING ANY LOT IN THE SUBDIVISION SHOULD CONDUCT WHATEVER INSPECTION OR INQUIRY AS MAY BE CONSIDERED NECESSARY TO BE CERTAIN OF THE QUALITY AND CONDITION OF THE SUBDIVISION IMPROVEMENTS. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE OF THIS DOCUMENT. THIS ABSOLUTE DISCLAIMED OF WARRANTY OF ALL SUBDIVISION

IMPROVEMENTS IS OF THE ESSENCE OF THIS AGREEMENT AND BY PURCHASING A LOT HEREIN SUBJECT TO THE RESTRICTIONS, RESERVATIONS AND COVENANTS SET FORTH HEREIN THIS AGREEMENT, ALL LOT OWNERS (AND MORTGAGEES) AGREE, ACCEPT AND ACKNOWLEDGE DEVELOPER AND DECLARANT HAVE HEREBY DISCLAIMED ANY AND ALL LIABILITY AND NEGLIGENCE ASSOCIATED WITH THE SUBDIVISION IMPROVEMENTS.

**ARTICLE 13  
LOT MAINTENANCE SERVICES**

**13.01. Lot Maintenance Services.** Developer, and after the Turnover Date, the Association, in its discretion may elect that the Association provide from time to time certain Lot Maintenance Services, which are defined, by way of example, to include services for lawn maintenance, mowing, fertilizing, yard pest control, tree trimming, landscape maintenance or other similar services. Notwithstanding anything to the contrary herein, any and all costs and expenses of any Lot Maintenance Services which is caused or necessitated by any act or omission, of any nature whatsoever, by any Owner, including his agents, assigns, guests, or invitees, shall be a personal liability of the Owner in the form of a Special Assessment to be paid directly by the Owner to the Association and shall be a continuing lien upon his Lot until paid.

Developer, and after the Turnover Date, the Association, shall have the discretion of implementing such services on an optional or mandatory basis for some or all of the Lots in the Subdivision. Mandatory Lot Maintenance Services shall be an obligation of each Owner of the affected Lot unless and until discontinued by the Developer or Association, as set forth below. Each Owner shall be obligated to pay its respective share of the monthly service charges and other costs and expenses of the Association in providing such mandatory Lot Maintenance Services, which service charges, costs and expenses are hereby deemed to be Regular Assessments against both the Lot and Lot Owner, and which shall be assessed and collected from the Owners in accordance with the provisions of this Declaration for the imposition and collection of Regular Assessments. Such Lot Maintenance Services shall be provided and may be discontinued at the discretion of the Developer, and after the Turnover Date, by the Association. The Association shall have a non-exclusive, perpetual easement on, over, under and across all Common Property and Lots in the Subdivision for use by the Association in any way whatsoever to reasonably perform the afore-mentioned Lot Maintenance Services.

(SIGNATURE PAGE TO FOLLOW; REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, Declarant has caused these presents to be executed in its name by its partners thereunto duly authorized as of the day and year first above written.

Signed, sealed and delivered in the presence of:

NEAL COMMUNITIES OF SOUTHWEST FLORIDA, LLC, a Florida limited liability company

[Signature]  
Witness  
Christopher Reese  
Print Name of Witness

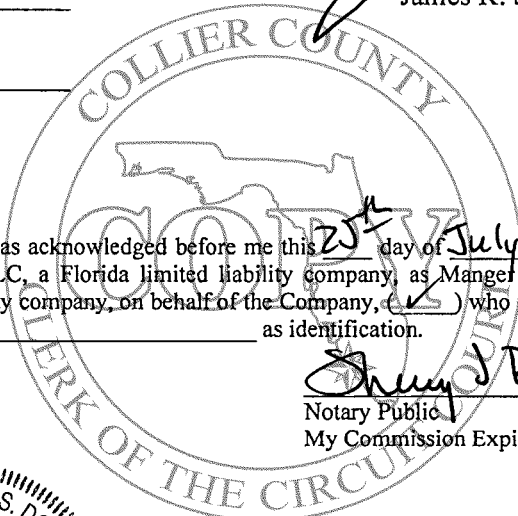
By: NCDG Management, LLC  
Its: Manager

[Signature]  
Witness  
Chris Clark  
Print Name of Witness

By: [Signature]  
James R. Schier, its Manager

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of July, 2013, by James R. Schier, as Manager of NCDG Management, LLC, a Florida limited liability company, as Manger of Neal Communities of Southwest Florida, LLC, a Florida limited liability company, on behalf of the Company, () who is personally known to me or () who has produced \_\_\_\_\_ as identification.



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_



**JOINDER BY ASSOCIATION**

The **CANOPY NEIGHBORHOOD ASSOCIATION, INC.**, a Florida not for profit corporation, hereby joins in and consents to this Declaration for the purpose of accepting all rights, obligations and responsibilities of the Association as set forth therein the Declaration.

IN WITNESS WHEREOF, the undersigned parties have executed this document on the 25 day of July, 2013.

**CANOPY NEIGHBORHOOD ASSOCIATION, INC.**, a Florida not for profit corporation

By: [Signature]  
James R. Schier, its President

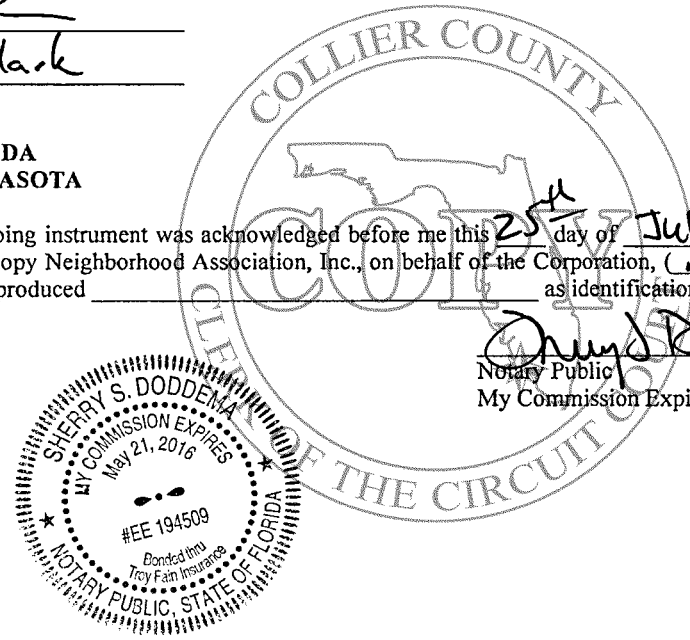
[Signature]  
Signature  
Christopher Reese  
Printed Name

[Signature]  
Signature  
Chris Clark  
Printed Name

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of July, 2013, by James R. Schier, as President of the Canopy Neighborhood Association, Inc., on behalf of the Corporation, () who is personally known to me or () who has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_



**MORTGAGEE'S JOINDER IN AND RATIFICATION OF  
(I) THE SUBDIVISION PLAT FOR CANOPY AND ALL DEDICATIONS,  
EASEMENTS AND RESERVATIONS THEREON, AND (II) THE DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CANOPY AND ALL  
DEDICATIONS, EASEMENTS, RESTRICTIONS AND RESERVATIONS THEREIN**

IBERIABANK, organized under the laws of the State of Louisiana and authorized to do business in the State of Florida, the owner and holder of that certain Mortgage and Security Agreement between Neal Communities of Southwest Florida, LLC, and Iberiabank, dated June 19, 2013, and recorded on June 25, 2013, in Official Records Book 4936, Page 2531, of the Public Records of Collier County, Florida; together with a State of Florida Uniform Commercial Code Financing Statement Form, as recorded in Official Records Book 4936, Page 2553, of the Public Records of Collier County, Florida; and an Assignment of Leases, Contracts, Rents and Profits, dated June 19, 2013, and recorded on June 25, 2013, in Official Records Book 4936, Page 2547, of the Public Records of Collier County, Florida, (collectively the "Mortgage"), covering all or some portion of the real property located in Collier County, Florida, constituting the subdivision plat of CANOPY, and described as follows:

(LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A")

For good and valuable consideration in hand paid by the record owner of said real property, receipt whereof is hereby acknowledged, hereby specifically joins in and ratifies said subdivision plat entitled "Canopy" (the "Plat"), including the Declaration of Covenants, Conditions and Restrictions for Canopy (the "Declaration"), and all dedications, easements, covenants, restrictions and reservations thereon and therein, and releases from the lien of said Mortgage all land, improvements, easements and other interests (such as, but not limited to, streets, alleys, walks, thoroughfares, parks and other open spaces, required utilities, canals, lakes, surfacewater facilities and drainage or other easements) which are dedicated to or reserved specifically for the public on the Plat or as set forth within the Declaration.

DATED, this 31<sup>st</sup> day of July, 2013.

WITNESSES:

[Signature]  
(Witness Signature)

DAVID W. BOOKER  
(Print or Type Name)

[Signature]  
(Witness Signature)

ARNEY WALLACE  
(Print or Type Name)

By: [Signature]  
(Mortgagee Signature)

Jeremy Young  
(Printed Name)

Its: Vice President



MORTGAGEE'S JOINDER

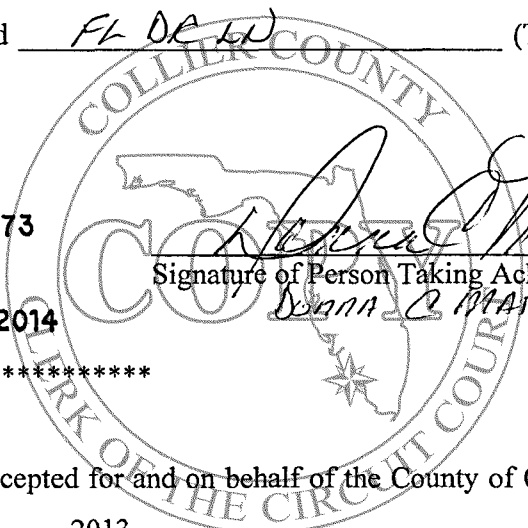
NOTARY ACKNOWLEDGMENT

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me, this 31<sup>st</sup> day of July, 2013, by Jeremy Young as VP of IBERIABANK, organized under the laws of the State of Louisiana and authorized to do business in the State of Florida, who is personally known to me or who has produced FL DL (Type of Identification) as identification.

NOTARY STAMP:

DONNA C. MATEER #564673  
NOTARY PUBLIC  
SARASOTA, FLORIDA  
COMMISSION EXPIRES 9/2/2014



Donna C. Mateer  
Signature of Person Taking Acknowledgment  
DONNA C. MATEER

\*\*\*\*\*

Approved and accepted for and on behalf of the County of Collier, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

BOARD OF COUNTY COMMISSIONERS  
OF COLLIER COUNTY, FLORIDA

BY: \_\_\_\_\_  
Chairman

ATTEST: \_\_\_\_\_  
Clerk of Circuit Court

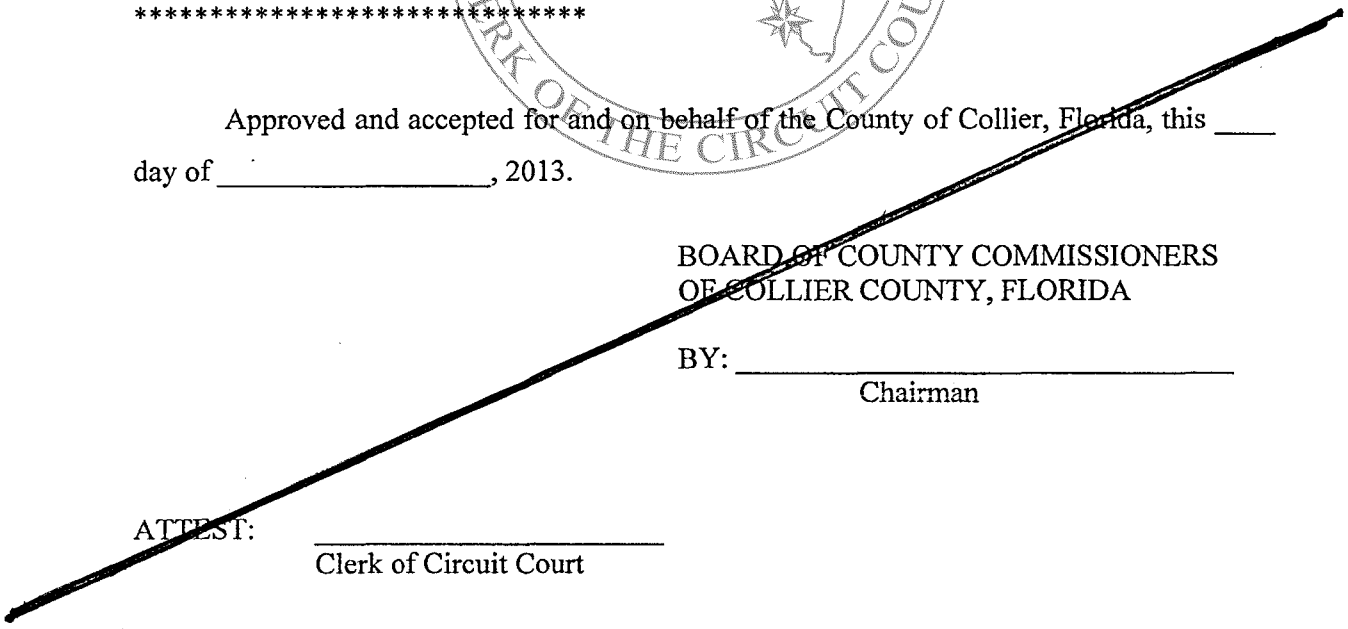


EXHIBIT "A"

## LEGAL DESCRIPTION (OVERALL)

BEING A PORTION OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 26 EAST, TOGETHER WITH PORTIONS OF TRACTS 1 AND 2, GREEN HERON ACRES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 70, COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA; THENCE SOUTH 02°15'35" EAST, ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 30.02 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF TREE FARM ROAD; THENCE CONTINUE SOUTH 02°15'35" EAST, ALONG THE WEST LINE OF SAID FRACTION AND TREE FARM ROAD RIGHT-OF-WAY, A DISTANCE OF 15.01 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF THAT CERTAIN 45 FOOT RIGHT-OF-WAY RECORDED IN OFFICIAL RECORDS BOOK 4290, PAGE 3356 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA, ALSO KNOWN AS TREE FARM ROAD RIGHT-OF-WAY; THENCE NORTH 89°57'58" EAST, ALONG THE SOUTHERLY BOUNDARY OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,322.15 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE SOUTH 02°16'13" EAST, ALONG THE EAST LINE OF LAST SAID FRACTION, DISTANCE OF 623.91 FEET TO A BOUNDARY CORNER OF VANDERBILT COUNTRY CLUB - 2, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 42 THROUGH 55 (INCLUSIVE) OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE RUN THE FOLLOWING TWO (2) COURSES ALONG THE BOUNDARY OF LAST SAID PLAT; COURSE NO. 1: CONTINUE SOUTH 02°16'13" EAST, 668.95 FEET TO A BOUNDARY CORNER OF SAID PLAT; COURSE NO. 2: SOUTH 89°56'51" WEST, A DISTANCE OF 1,322.12 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE NORTH 02°16'54" WEST, ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 669.28 FEET TO THE SOUTHEAST CORNER OF TRACT 2, GREEN HERON ACRES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 70 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE SOUTH 89°58'12" WEST, ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT 2, A DISTANCE OF 30.02 FEET TO THE NORTHEAST CORNER OF BRISTOL PINES, PHASE II, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 46, PAGES 67 THROUGH 70 (INCLUSIVE), OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE RUN THE FOLLOWING THREE (3) COURSES ALONG THE BOUNDARY OF LAST SAID PLAT; COURSE NO. 1: CONTINUE SOUTH 89°58'12" WEST, 630.61 FEET TO THE SOUTHWEST CORNER OF TRACT 1 OF SAID GREEN HERON ACRES; COURSE NO. 2: SOUTH 89°58'46" WEST, 330.76 FEET; COURSE NO. 3: NORTH 02°15'47" WEST, A DISTANCE OF 77.13 FEET TO A POINT ON THE BOUNDARY OF BRISTOL PINES PHASE I, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 43, PAGES 78 THROUGH 81 (INCLUSIVE), OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE ALONG SAID BRISTOL PINES PHASE I NORTH 02°15'47" WEST, A DISTANCE OF 562.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF SAID TREE FARM ROAD; THENCE LEAVING SAID BRISTOL PINES PHASE I AND CONTINUE ALONG SAID RIGHT-OF-WAY LINE, NORTH 89°58'46" EAST, A DISTANCE OF 991.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,341,538 SQUARE FEET OR 53.754 ACRES, MORE OR LESS.

**EXHIBITS**

- Exhibit "A"    Legal Description**
- Exhibit "B"    Fiscal Program**
- Exhibit "C"    Maintenance Program**
- Exhibit "D"    Notice to Buyer**
- Exhibit "E"    List of Holdings**
- Exhibit "F"    Right of Entry**
- Exhibit "G"    Articles of Incorporation for Association**
- Exhibit "H"    By-Laws for the Association**



EXHIBIT "A"

## LEGAL DESCRIPTION (OVERALL)

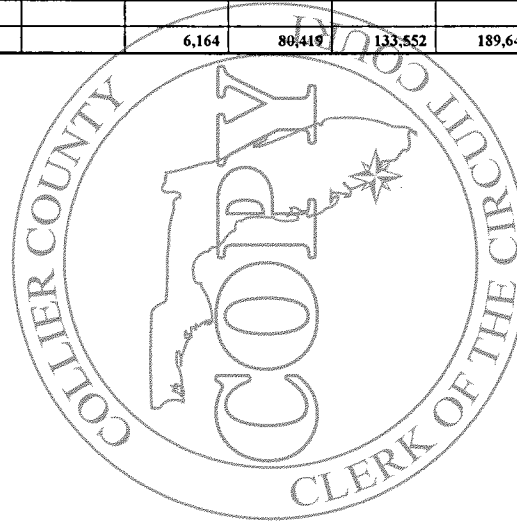
BEING A PORTION OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 26 EAST, TOGETHER WITH PORTIONS OF TRACTS 1 AND 2, GREEN HERON ACRES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 70, COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA; THENCE SOUTH 02°15'35" EAST, ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 30.02 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF TREE FARM ROAD; THENCE CONTINUE SOUTH 02°15'35" EAST, ALONG THE WEST LINE OF SAID FRACTION AND TREE FARM ROAD RIGHT-OF-WAY, A DISTANCE OF 15.01 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF THAT CERTAIN 45 FOOT RIGHT-OF-WAY RECORDED IN OFFICIAL RECORDS BOOK 4290, PAGE 3356 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA, ALSO KNOWN AS TREE FARM ROAD RIGHT-OF-WAY; THENCE NORTH 89°57'58" EAST, ALONG THE SOUTHERLY BOUNDARY OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,322.15 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE SOUTH 02°16'13" EAST, ALONG THE EAST LINE OF LAST SAID FRACTION, DISTANCE OF 623.91 FEET TO A BOUNDARY CORNER OF VANDERBILT COUNTRY CLUB - 2, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 42 THROUGH 55 (INCLUSIVE) OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE RUN THE FOLLOWING TWO (2) COURSES ALONG THE BOUNDARY OF LAST SAID PLAT; COURSE NO. 1: CONTINUE SOUTH 02°16'13" EAST, 668.95 FEET TO A BOUNDARY CORNER OF SAID PLAT; COURSE NO. 2: SOUTH 89°56'51" WEST, A DISTANCE OF 1,322.12 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE NORTH 02°16'54" WEST, ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 669.28 FEET TO THE SOUTHEAST CORNER OF TRACT 2, GREEN HERON ACRES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 70 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE SOUTH 89°58'12" WEST, ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT 2, A DISTANCE OF 30.02 FEET TO THE NORTHEAST CORNER OF BRISTOL PINES, PHASE II, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 46, PAGES 67 THROUGH 70 (INCLUSIVE), OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE RUN THE FOLLOWING THREE (3) COURSES ALONG THE BOUNDARY OF LAST SAID PLAT; COURSE NO. 1: CONTINUE SOUTH 89°58'12" WEST, 630.61 FEET TO THE SOUTHWEST CORNER OF TRACT 1 OF SAID GREEN HERON ACRES; COURSE NO. 2: SOUTH 89°58'46" WEST, 330.76 FEET; COURSE NO. 3: NORTH 02°15'47" WEST, A DISTANCE OF 77.13 FEET TO A POINT ON THE BOUNDARY OF BRISTOL PINES PHASE I, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 43, PAGES 78 THROUGH 81 (INCLUSIVE), OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE ALONG SAID BRISTOL PINES PHASE I NORTH 02°15'47" WEST, A DISTANCE OF 562.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF SAID TREE FARM ROAD; THENCE LEAVING SAID BRISTOL PINES PHASE I AND CONTINUE ALONG SAID RIGHT-OF-WAY LINE, NORTH 89°58'46" EAST, A DISTANCE OF 991.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,341,538 SQUARE FEET OR 53.754 ACRES, MORE OR LESS.

Canopy Neighborhood Association, Inc.													
ESTIMATED BUDGET FOR 2013 THROUGH 2022													
SUBJECT TO CHANGE WITHOUT NOTICE BY DEVELOPER AT ANY TIME													
	ANNUAL	%	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	TOTAL
<b>SALES</b>													
Annual			2	24	24	24	24	10			-	-	108
Cumulative			2	26	50	74	98	108	108	108	108	108	
Cost of Living			100%	103%	106%	109%	112%	115%	118%	121%	124%	127%	
Annual Assessment													
COMMUNITY ASSESSMENTS (All Lots)			\$ 2,055	\$ 2,116	\$ 2,178	\$ 2,240	\$ 2,301	\$ 2,363	\$ 2,424	\$ 2,486	\$ 2,548	\$ 2,609	
<b>ESTIMATED REVENUES</b>													
Community Assessments	\$ 2,055		2,055	29,628	82,761	138,853	197,904	243,373	261,844	268,501	275,158	281,815	
Capital Contribution	\$ 2,055		4,109	50,791	50,791	50,791	50,791	21,163	-	-	-	-	
<b>TOTAL ASSESSMENTS</b>			6,164	80,419	133,552	189,644	248,694	264,536	261,844	268,501	275,158	281,815	
<b>ESTIMATED COMMUNITY EXPENSES</b>													
<b>COMMON LANDSCAPE</b>													
Lawn & Grounds Maint. Contract	\$ 15,000	6.8%	417	5,436	9,028	12,819	16,811	17,882	17,700	18,150	18,600	19,050	
Mulch	\$ 3,500	1.6%	97	1,268	2,106	2,991	3,923	4,172	4,130	4,235	4,340	4,445	
General/Misc. Maintenance	\$ 3,500	1.6%	97	1,268	2,106	2,991	3,923	4,172	4,130	4,235	4,340	4,445	
Irrigation Maintenance	\$ 1,750	0.8%	49	634	1,053	1,496	1,961	2,086	2,065	2,118	2,170	2,223	
Irrigation Electric	\$ 3,000	1.4%	83	1,087	1,806	2,564	3,362	3,576	3,540	3,630	3,720	3,810	
Park Maintenance	\$ 1,640	0.7%	46	594	987	1,402	1,838	1,955	1,935	1,984	2,034	2,083	
Preserve Maintenance	\$ 2,000	0.9%	56	725	1,204	1,709	2,241	2,384	2,360	2,420	2,480	2,540	
<b>COMMUNITY MGMT &amp; ADMIN</b>													
Management Fee	\$ 12,000	5.4%	333	4,349	7,222	10,256	13,449	14,306	14,160	14,520	14,880	15,240	
Misc. Administrative Exp.	\$ 250	0.1%	7	91	150	214	280	298	295	303	310	318	
Insurance	\$ 4,250	1.9%	118	1,540	2,558	3,632	4,763	5,067	5,015	5,143	5,270	5,398	
Filing, Licenses & Pool Permits	\$ 62	0.0%	2	22	37	53	69	74	73	75	77	79	
Legal Expense	\$ 250	0.1%	7	91	150	214	280	298	295	303	310	318	
Postage & Printing	\$ 200	0.1%	6	72	120	171	224	238	236	242	248	254	
Uncollectible / Bad Debt	\$ 100	0.0%	3	36	60	85	112	119	118	121	124	127	
<b>COMMON AREA REPAIRS &amp; MAINTENANCE</b>													
Gate Monitoring	\$ 14,280	6.4%	397	5,175	8,594	12,204	16,004	17,024	16,850	17,279	17,707	18,136	
Gate Repairs and Maintenance	\$ 2,500	1.1%	69	906	1,505	2,137	2,802	2,980	2,950	3,025	3,100	3,175	
Gate Electric	\$ 660	0.3%	18	239	397	564	740	787	779	799	818	838	
Gate Internet	\$ 1,260	0.6%	35	457	758	1,077	1,412	1,502	1,487	1,524	1,562	1,600	
Entrance Monument R&M	\$ 750	0.3%	21	272	451	641	841	894	885	908	930	953	
Mailboxes R&M	\$ 750	0.3%	21	272	451	641	841	894	885	908	930	953	
Lakes R&M	\$ 18,000	8.1%	500	6,523	10,833	15,383	20,173	21,458	21,240	21,780	22,320	22,860	
Fountain R&M	\$ 750	0.3%	21	272	451	641	841	894	885	908	930	953	
Fountain Electric	\$ 3,500	1.6%	97	1,268	2,106	2,991	3,923	4,172	4,130	4,235	4,340	4,445	
Street Lights R&M	\$ 750	0.3%	21	272	451	641	841	894	885	908	930	953	
Street Light Electric	\$ 1,080	0.5%	30	391	650	923	1,210	1,288	1,274	1,307	1,339	1,372	
Sidewalk/Roads R&M	\$ 500	0.2%	14	181	301	427	560	596	590	605	620	635	
Park R&M	\$ 500	0.2%	14	181	301	427	560	596	590	605	620	635	

Canopy Neighborhood Association, Inc.													
ESTIMATED BUDGET FOR 2013 THROUGH 2022													
SUBJECT TO CHANGE WITHOUT NOTICE BY DEVELOPER AT ANY TIME													
	ANNUAL	%	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	TOTAL
<b>LOT SUPPLEMENTAL MAINTENANCE</b>													
Lawn Maintenance	\$ 67,392	30.4%	1,872	24,423	40,560	57,595	75,529	80,340	79,523	81,544	83,566	85,588	
Irrigation Contract	\$ 14,256	6.4%	396	5,166	8,580	12,184	15,977	16,995	16,822	17,250	17,677	18,105	
Irrigation Maintenance	\$ 1,500	0.7%	42	544	903	1,282	1,681	1,788	1,770	1,815	1,860	1,905	
Lawn & Ornamental Pest Control	\$ 28,512	12.8%	792	10,333	17,160	24,367	31,955	33,990	33,644	34,500	35,355	36,210	
Mulch	\$ 12,960	5.8%	360	4,697	7,800	11,076	14,525	15,450	15,293	15,682	16,070	16,459	
<b>COMMON AREA RESERVE</b>													
Wall	\$ 2,000	0.9%	56	725	1,204	1,709	2,241	2,384	2,360	2,420	2,480	2,540	
Fountain	\$ 500	0.2%	14	181	301	427	560	596	590	605	620	635	
Roads	\$ 2,000	0.9%	56	725	1,204	1,709	2,241	2,384	2,360	2,420	2,480	2,540	
<b>TOTAL COMMUNITY EXPENSES</b>	<b>\$ 221,902</b>	<b>100.0%</b>	<b>6,164</b>	<b>80,419</b>	<b>133,552</b>	<b>189,644</b>	<b>248,694</b>	<b>264,536</b>	<b>261,844</b>	<b>268,501</b>	<b>275,158</b>	<b>281,815</b>	
<b>TOTAL EXPENSES</b>			<b>6,164</b>	<b>80,419</b>	<b>133,552</b>	<b>189,644</b>	<b>248,694</b>	<b>264,536</b>	<b>261,844</b>	<b>268,501</b>	<b>275,158</b>	<b>281,815</b>	



**EXHIBIT C**

**CANOPY**

**MAINTENANCE PROGRAM**

A Maintenance Program has been established for the operation and care of the Subdivision amenities. The following is a schedule for the inspection and maintenance of all lands, signs and facilities considered Common Property and under the purview of the Canopy Neighborhood Association, Inc.,

- Weekly: Landscape and lawn service.  
Irrigation sprinkler head inspection and maintenance.
- Monthly: Cleaning of streets from construction of homes.  
Inspection and repair of irrigation pump and lines.  
Inspection and maintenance of pond and lake areas.
- Quarterly: Fertilization (based on fertilization schedule, may not be as often as quarterly.)
- Yearly: Mulch and labor on Common Property.  
Inspect and repair mailboxes (if listed as Common Property).  
Inspection of and maintenance on entry medians and sign.  
Inspection of and maintenance of streets, sidewalks and reclaimed water (if any) lines, or irrigation lines.  
Exotic species maintenance and removal
- Bi-Yearly: Inspection and report to South Florida Water Management District.

Items listed above may be performed more often or less often than scheduled depending on circumstances beyond the control of the Association. Other items as shown on the Fiscal Program such as utilities, fees, insurances and other line items will be paid in accordance with contracts or as invoiced.

It is anticipated that the budgetary information submitted for the first year of operations indicates more than adequate funds for maintenance as well as operation of the facilities provided by Declarant.

Subsequent years may require additional funds, which will be assessed and collected as required by the Declaration to which each Lot is subject.

The pond and lake areas require constant inspection and maintenance, provision for which is being made at least quarterly in compliance with various regulatory permits, not limited to South Florida Water Management Districts and Collier County. The above permit conditions are regulated and performed by the Association, to which the Declaration is subject.

At all events, a program is being established and will be established respecting all areas of the Subdivision, responsibility for which is Declarant and/or the Association, and which will comply in all respects with the requirements of the regulatory bodies of Collier County and specifically its Land Development Code.

**EXHIBIT "D"**

**CANOPY**

**NOTICE TO BUYERS**

To the Purchasers of Lots in the Canopy Subdivision, Collier County, Florida:

YOU ARE HEREBY NOTIFIED that the purchase of your Lot is subject to:

1. The Declaration of Covenants, Conditions and Restrictions for Canopy, as amended from time to time, including all rules and regulations of the Canopy Neighborhood Association, Inc., (collectively the "Canopy Declaration").
2. Ownership of a Lot in said Subdivision automatically makes you a member of Canopy Neighborhood Association, Inc., and you are subject to its By-Laws, the Declaration, the Articles of Incorporation, and rules and regulations made pursuant thereto. Each Lot entitles its Owner to one vote in the affairs of the Association.
3. Canopy Neighborhood Association, Inc., (the "Association") has the right and power to assess and collect, as provided in its By-Laws and the Canopy Declaration, the costs of maintenance of the Common Property and Common Areas under its ownership or maintenance control which you have a right to enjoy, in accordance with the Canopy Declaration. A copy of the proposed ten (10) year budget for the Association is attached to the Declaration as Exhibit "B", and it may be revised from time to time.
4. You are hereby notified that the Association may increase the budget and Assessments as may be required to maintain the amenities of the Subdivision. There shall be a one-time assessment (the "Initial Assessment ") payable to the Association by each Owner who purchases a Lot from Declarant. The Initial Assessment shall be in the amount equal to the then-current annual Regular Assessment for a Lot. The Initial Assessment shall be established as of and paid at the time legal title to a Lot is conveyed to any Owner. Initial Assessments shall be expended solely for regular Common Expenses. Initial Assessments are not advance payments of Assessments and shall not affect the liability of an Owner or a Lot for Assessments.
5. The Owner of each Lot shall be responsible for the planting and maintenance of replacement trees on such Lot as required by Collier County pursuant to final site plan approval for Canopy and any and all codes, ordinances and regulations established by Collier County, Florida, including the Collier County Land Development Code. The number of trees to be planted and the location thereof shall be set forth on the Plans and Submissions approved by the ARC for the Association. Existing native trees can be used to fulfill these requirements whenever they meet spacing and size requirements as set forth herein. The Developer shall initially be responsible for the initial installation and maintenance of the trees until such time as the Lot is sold or transferred to a subsequent Lot Owner, at which time that Lot Owner shall be fully responsible for the maintenance and replacement of any street trees, all as set forth herein. Any costs borne by the Developer associated with the installation and maintenance of the street trees may be passed on and charged to the subsequent Lot Owner. In the event a street tree dies or is removed, the Lot Owner is responsible for replacing the street tree (per the requirements set forth herein and Collier County, Florida) within thirty (30) days. If an Owner has failed to comply with these requirements, then after notice and compliance with the procedural requirements of this Canopy Declaration, the Association may take such action as is necessary to achieve compliance. All costs of the Association in so doing shall be assessed to the particular Owner and his Lot as a Special Assessment. Until so collected such costs shall be treated as a Common Expense. In no event shall Declarant or the Association be responsible, in any manner or form, for the natural growth of trees and other



landscaping over time, or for any impact that such growth may impart on sidewalks, utilities, foundations or other improvements constructed on the Lots. No certificate of occupancy will be issued for any home to be constructed on a Lot until the conditions of this Section have been satisfied. ARC approval as required herein shall be withheld until such time as the Plans and Submissions presented for each Lot comply with the replacement tree planting obligations provided for herein. Upon such initial planting, each Lot Owner shall be responsible for maintenance of the replacement trees and such trees may not be removed without appropriate permits and authorizations provided by Collier County, Florida. Neither Collier County nor the Developer/Declarant shall be responsible for any damage to the Lots and impacts to sidewalks, utilities, foundations or other improvements constructed thereon due to natural growth of street trees.

6. The following language is included as part of the deed restrictions for each Lot:

- No Owner within the Subdivision may construct or maintain any building, residence, or structure, or undertake or perform any activity in the buffer area(s) and drainage easement(s) described in the approved permit and recorded Plat of the Subdivision, unless prior approval is received from the South Florida Water Management District (the "District" or "SFWMD").
- 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 Subdivision includes a wetland mitigation area 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 the District in the Environmental Resource Permit may be conducted without specific written approval from the District.
- The District has the right to take enforcement measures, including a civil action for injunction and/or penalties, against the Association to compel it to correct any outstanding problems with the surface water management system facilities.
- Any amendment of the declaration of protective covenants, deed restrictions or declaration of condominium affecting the surface water management system facilities.
- If the Association ceases to exist, all of the Lot Owners, parcel owners or unit 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.
- For Subdivisions which have on-site wetland mitigation, which requires on going monitoring and maintenance, the declaration of protective covenants, deed restrictions or declaration of condominium shall include a provision requiring the Association to 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 (are) successful in accordance with the Environmental Resource Permit.
- Each property Owner within the Subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the South Florida Water Management District.

- The operation and maintenance entity shall submit inspection reports in the form required by the District, in accordance with the following schedule.

For systems utilizing retention or wet detention, the inspections shall be performed two (2) years after operation is authorized and every two (2) years thereafter.

- The removal of littoral shelf vegetation (including cattails) from wet detention ponds is prohibited unless otherwise approved by the District. Removal includes dredging, the application of herbicide, cutting, and the introduction of grass carp.

7. Conservation Easements. The following acts and activities are expressly prohibited within the boundaries of the areas designated on the Plat as Preserve or Conservation Easements without the prior consent of Collier County; provided however, all construction, activities and use of the Conservation Easement consistent with the approved Preliminary and Final Site Plans, Construction Drawings and any other approved plan, approval or permit of any kind for the Property shall be permitted uses of the Conservation Easement area without further consent by Collier County:

- a) Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above the ground.
- b) Construction or placing of utilities on, below or above the ground without appropriate local, state and federal permits or other authorization.
- c) Dumping or placing of soil or other substances or material as landfill or dumping or placing trash, waste, unsightly or offensive materials.
- d) Removal, mowing, or trimming of trees, shrubs or other vegetation, except for permitted maintenance.
- e) Excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substances in such manner as to affect the surface.
- f) Surface use except for purposes that permit the land or water areas to remain in its natural condition.
- g) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife habitat preservation.
- h) Acts or uses detrimental to such retention of land or water areas.
- i) Application of fertilizers, pesticides, or herbicides

The foregoing statements are only summary in nature and shall not be deemed to supersede or modify the provisions of the Declaration, or any Lot sales contract between buyer and Declarant.

8. Each Lot Owner is encouraged to participate in the Florida Yards and Neighborhood Program. This is a program sponsored in part by the Florida Department of State which describes how to minimize non-point source pollution from landscapes, especially residential ones. More detailed information about this program can be obtained online at [www.dep.state.fl.us/water/nonpoint/pubs.htm](http://www.dep.state.fl.us/water/nonpoint/pubs.htm) or by contacting the Florida Department of State at 850-245-8336.

9. All Lot Owners are put on notice that the Collier County Board of County Commissioners could impose an impact fee or special assessment against each Lot due at the time of Certificate of Occupancy.
10. The lowest quality water possible shall be used for irrigation.
11. Lot Owners are hereby notified that neighboring agricultural uses of surrounding properties exists, which agricultural uses may possibly include the use of pesticides and herbicides with possible odors associated with such uses.
12. Declarant and/or Developer reserve the right to make any modifications, changes, or deletions to the landscaping and landscape buffers of the Property upon the addition of property to the Subdivision and to change any of the lot types, sizes and sizes of dwelling units and to further change, alter, amend or modify the general scheme or plan of development. Further, access to and from other developments and subdivisions may be made through the Canopy Subdivision's streets, alleys, easements and roadways.
13. Owners of Lots which are required to have sidewalks per approved construction drawings for Canopy shall be responsible for the installation and continued maintenance of such sidewalks. These sidewalks shall be constructed in the dedicated right-of-way (or easement, if necessary), as set forth in the Collier County codes, rules and regulations. Sidewalks on individual lots shall be installed prior to issuance of a Certificate of Occupancy for the construction on that lot. Once constructed, the Owner shall be responsible for maintenance, cleaning and repair to the sidewalks at the Owner's expense per Association guidelines and requirements.
14. JUST AS THIS DEVELOPMENT WILL IMPACT THE SURROUNDING AREAS, THE FUTURE DEVELOPMENT OF SURROUNDING AREAS WILL IMPACT THE SUBDIVISION AND YOUR USE AND ENJOYMENT OF YOUR PROPERTY. AS SURROUNDING AREAS ARE DEVELOPED, PEOPLE LIVING IN THIS SUBDIVISION MAY BE IMPACTED BY NEW OR EXPANDED ROADWAYS, INCREASED POPULATION AND TRAFFIC, ADDITIONAL NOISE AND OTHER EFFECTS OF LAND AND ROADWAY DEVELOPMENT.
15. The Property is located in Flood Zones X and AH with a base flood elevation of 14.5' per the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Panel Number 12021C 0218H dated May 16, 2012. Flood Information is subject to change, and Purchasers should consult the latest flood zone maps for current flood zone information.
16. This Property was approved as Buttonwood Preserve RPUD, PUD Ord. No. 2007-42, as amended 13-18.

**EXHIBIT E**  
**LIST OF HOLDINGS FOR**  
**CANOPY**

The list of holdings at CANOPY which have been or will be completed per approved final site plans and construction drawings are as set forth on the Canopy Plat.

**THE FOLLOWING TRACTS ARE COMMON AREAS TO BE MAINTAINED BY THE CANOPY NEIGHBORHOOD ASSOCIATION, INC.:**

1. TRACT "R", FOR ROAD RIGHT-OF-WAY (R.O.W.), SUBJECT TO EASEMENTS AND SHARED USES AS HERINAFTER SET FORTH, WITH RESPONSIBILITY FOR MAINTENANCE. SAID TRACT "R" IS A PRIVATE RIGHT-OF-WAY FOR WHICH COLLIER COUNTY HAS NO RESPONSIBILITY FOR MAINTENANCE.
2. TRACTS "01", "02", "03" AND "04" (OPEN SPACE), FOR THE PURPOSE OF INSTALLATION AND MAINTENANCE OF LANDSCAPING AND IRRIGATION, SUBJECT TO THE EASEMENTS DEPICTED HEREON, WITH RESPONSIBILITY FOR MAINTENANCE.
3. TRACTS "L1", "L2" AND "L3" AS LAKE, FOR THE PURPOSE OF CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF STORMWATER/DRAINAGE FACILITIES, SUBJECT TO THE EASEMENTS DEPICTED HEREON, WITH RESPONSIBILITY FOR MAINTENANCE.
4. ALL DRAINAGE EASEMENTS (D.E.) AS DEPICTED, FOR THE PURPOSE OF CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF STORMWATER/DRAINAGE FACILITIES, WITH RESPONSIBILITY FOR MAINTENANCE.
5. ALL LAKE MAINTENANCE EASEMENTS (L.M.E.), AS DEPICTED, WITH RESPONSIBILITY FOR MAINTENANCE.
6. ALL ACCESS EASEMENTS (A.E.) AS DEPICTED, WITH RESPONSIBILITY FOR MAINTENANCE.
7. AN IRRIGATION EASEMENT (I.E.) OVER TRACT "R" FOR THE PURPOSE OF CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF IRRIGATION FACILITIES WITH RESPONSIBILITY FOR MAINTENANCE PROVIDED THAT SUCH USES BE SUBJECT TO AND NOT INCONSISTENT WITH USES BY THE COLLIER COUNTY WATER-SEWER DISTRICT.
8. ALL LANDSCAPE BUFFER EASEMENTS (L.B.E.) AS DEPICTED, FOR THE PURPOSE OF CONSTRUCTION, INSTALLATION AND MAINTENANCE OF LANDSCAPING, IRRIGATION, LIGHTING, AND COMMUNITY SIGNAGE, SUBJECT TO THE EASEMENTS DEPICTED HEREON, WITH RESPONSIBILITY FOR MAINTENANCE.
9. A RIGHT OF ACCESS OVER THOSE AREAS INDICATED ON THE PLAT AS DRAINAGE EASEMENTS (D.E.) AS DEPICTED, FOR THE PURPOSE OF ACCESS TO THE SAME FOR CONSTRUCTION, INSTALLATION AND OPERATION OF STORMWATER/DRAINAGE FACILITIES, WITH RESPONSIBILITY FOR MAINTENANCE.
10. THE PRESERVE TRACTS (TRACTS "P1", "P2" AND "P3") ARE DEDICATED AS COMMON AREAS. THEY SHALL BE THE PERPETUAL RESPONSIBILITY OF THE CANOPY HOMEOWNERS ASSOCIATION, INC., WITH MAINTENANCE RESPONSIBILITIES AND MAY IN NO WAY BE ALTERED FROM THEIR NATURAL OR PERMITTED STATE. ACTIVITIES PROHIBITED WITHIN THE PRESERVES 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 WITH THE EXCEPTION OF EXOTIC/NUISANCE VEGETATION REMOVAL; 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.

**EXHIBIT F**

**CANOPY**

**RIGHT OF ENTRY  
and**

**COMPLIANCE WITH COLLIER COUNTY CODES, RESOLUTIONS AND ORDINANCES**

The following provisions are hereby incorporated as part of the Declaration of Covenants, Conditions, and Restrictions for Canopy.

- I. **Right of Entry by County.** The Collier County law enforcement officers, health and pollution control personnel, emergency medical service personnel, and fire fighters, while in pursuit of their duties, are hereby granted authority to enter upon any and all portions of the Common Property as may be necessary to perform those duties.
- II. **Ownership of the Community Common Areas.** Subject to the Declaration, the Association shall not dispose of any Common Property, by sale or otherwise, except to an organization conceived and organized to own and maintain such Common Property, without first offering to dedicate the same to Collier County or other appropriate governmental agency.
- III. **Disturbance of Common Areas.** Subject to the Declaration, no lands in the Common Property shall be denuded, defaced, or otherwise disturbed in any manner at any time, except for maintenance or repair, without the prior written approval of the Association.
- IV. **Maintenance and Care.** In the event the Association, or its successors fail to maintain the Common Property in reasonable order and condition, Collier County, upon notice and hearing, has the right but not the obligation to enter said Common Property for the purpose of maintaining same. The cost of such maintenance by the County shall be assessed pro-ratedly and such charges will be made payable by property Owners within sixty (60) days after receipt of a statement therefor, and shall become a lien on the property if unpaid at the end of such period.
- V. **Violations.** No violation of federal, state, or local law shall be permitted.
- VI. **Amendments.** This Exhibit shall not be amended without the written consent of Collier County.

**EXHIBIT "G"**

**ARTICLES OF INCORPORATION  
OF  
CANOPY NEIGHBORHOOD ASSOCIATION, INC.,  
a Corporation Not For Profit**

The undersigned hereby forms a corporation not for profit under Chapter 617, Florida Statutes, and certifies as follows:

**ARTICLE I. NAME AND ADDRESS**

The name of the corporation shall be **CANOPY NEIGHBORHOOD ASSOCIATION, INC.**, a corporation not for profit. For convenience, the corporation shall herein be referred to as the "Association". The initial address of the corporation's principal office shall be 5800 Lakewood Ranch Blvd, Sarasota, Florida, 34240.

**ARTICLE II. PURPOSE**

2.1 Purpose: The purpose for which the Association is organized is to provide an entity for the maintenance, preservation, and management of the Lots and Common Property within Canopy (the "Subdivision"), a subdivision located in the unincorporated area of Collier County, Florida, same to be in accordance with the "Declaration of Covenants, Conditions and Restrictions for Canopy", herein called the "Declaration", which is to be recorded in the Public Records of Collier County, Florida, as same may be amended as provided for therein.

2.2 Distribution of Income: The Association shall make no distribution of income to its members, directors, or officers.

**ARTICLE III. POWERS**

3.1 Common Law and Statutory Powers: The Association shall have all of the common law and statutory powers of a corporation not for profit, which powers are not in conflict with the terms of these Articles of Incorporation, the Declaration, or the Purposes of the Association as described in Paragraph 2.1 above.

3.2 Specific Powers. The Association shall have all of the powers and duties set forth in the Declaration, as amended from time to time, except as validly limited by these Articles and by said Declaration, and all of the powers and duties reasonably necessary to own and/or operate the Common Property of the Subdivision pursuant to said Declaration and to perform the maintenance, administration, managerial and other functions for the Subdivision as provided in said Declaration, as it may be amended from time to time, including, but not limited to the following:

- (a) To make and collect Assessments against Members as Lot Owners to defray the cost of Common Expenses of the Subdivision as provided in the Declaration.
- (b) To use the proceeds of Assessments in the exercise of its powers and duties.

- (c) To accept, hold title to, own, purchase, acquire, replace, improve, manage, maintain, sell, convey and administer the use of the Common Property of the Subdivision in accordance with the Declaration.
- (d) To purchase insurance upon the Common Property, and for the protection of the Association and its Members.
- (e) To reconstruct improvements to the Common Property after casualties and further to improve the Common Property in accordance with the Declaration.
- (f) To adopt and amend reasonable rules and regulations respecting the use of the Common Property in accordance with the Declaration.
- (g) To enforce by legal means against an Owner as defined in the Declaration, the provisions of the Declaration, the By-Laws of the Association and rules and regulations duly adopted by the Association.
- (h) To furnish or otherwise provide for private security, fire protection or such other services as the Board in its discretion determines necessary or appropriate.
- (i) To pay any real and personal property taxes and other charges assessed against the Common Property unless same are separately assessed to the Owners.
- (j) To obtain all required utility and other services for the Common Property.
- (k) To maintain architectural control over the Subdivision in accordance with the Declaration.
- (l) To operate and maintain the surface water management system facilities, including 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, unless same are maintained by another entity.
- (m) To exercise such further authority as may be reasonably necessary to carry out each and every of the obligations of the Association set forth in the Declaration, these Articles or the By-Laws.
- (n) Sue and be sued, as set forth in the Declaration.

3.3 Assets Held in Trust: All funds and the title of all properties acquired by the Association and the proceeds thereof shall be held in trust for the Members, in accordance with the provisions of the Declaration, these Articles of Incorporation and the By-Laws of the Association. Upon the dissolution or winding up of this Association, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Association shall be distributed pro-rata among all Members, or, alternatively, upon the affirmative vote of two thirds (2/3) of the Owners of Lots in the Subdivision, the assets of the Association may be conveyed or dedicated to (i) a public body willing to accept such assets; or (ii) a not for profit organization located in Collier County, Florida, or the one closest to the Association, if none are located in Collier County, having the same or similar purposes; provided that in the event of the dissolution of the Association, the property consisting of the surface water management system of the

Subdivision shall be conveyed to an appropriate agency of local government, and if not accepted, the surface water management system shall be dedicated to a similar non-profit corporation.

3.4 Limitation on Exercise of Powers: The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the laws of the State of Florida, the Declaration, these Articles and the By-Laws of the Association.

**ARTICLE IV. MEMBERS**

4.1 Members: The Members of the Association shall consist of all of the record Owners of Lots in the Subdivision subject to the Declaration and operated hereby.

4.2 Change of Membership: Change of membership in the Association shall be established by the recording in the Public Records of Collier County, Florida, of a deed or other instrument establishing a change of record title to a Lot in the Subdivision. A copy of such instrument shall be delivered to the Association. The Owner designated in such instrument shall thereupon become a member of the Association and the membership of the prior owner shall thereupon be terminated, as provided in the By-Laws.

4.3 Limitation on a Transfer of Shares of Assets: The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to the Member's Lot.

4.4 Voting: Subject to the provisions of Section 3.02 of the Declaration and any other provision of the Declaration of or concerning voting, the Owner of each Lot shall be entitled to one vote as a member of the Association, provided, however, that the Declarant shall, during development, be entitled to the number of votes as provided in the Declaration, which votes may be apportioned to successor developers, or partial successor developers, as provided in the Declaration. The manner of exercising voting rights shall be determined by the By-Laws of the Association. Subject to the provisions of Section 3.02 of the Declaration, Owners owning more than one Lot shall be entitled to one vote for each Lot owned.

**ARTICLE V. DIRECTORS**

5.1 Board of Directors: The affairs of the Association shall be managed by a Board of Directors consisting of an odd number of Members determined from time to time in accordance with the By-Laws. In no event shall the Board of Directors consist of fewer than three (3) directors. Directors shall be Members of the Association except as otherwise provided herein or in the Declaration.

5.2 Election of Directors: Directors of the Association shall be elected at the annual meeting of the Members, in the manner provided by the By-Laws. Directors may be removed and vacancies on the Maser Board shall be filled in the manner provided by the By-Laws.

5.3 First Board of Directors: The names and addresses of the initial Board of Directors, who have been selected by the Declarant and Landowner and who shall serve until their successors are elected and have qualified or until they resign or are removed, are as follows:

James R. Schier  
5800 Lakewood Ranch Blvd.  
Sarasota, FL 34240



Karen Byrnes  
5800 Lakewood Ranch Blvd.  
Sarasota, FL 34240

Priscilla Heim  
5800 Lakewood Ranch Blvd.  
Sarasota, FL 34240

The initial Board of Directors designated by Declarant herein, and any directors subsequently designated or appointed or elected by Declarant need not be members of the Association. All other Board members shall be Members of the Association.

**ARTICLE VI. OFFICERS**

6.1 Officers: The affairs of the Association shall be administered by a President, Vice President, Secretary, Treasurer and such other officers as may from time to time be created by the Board of Directors as permitted by the By-Laws. Officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the Association and shall serve at the pleasure of the Maser Board. Offices may be combined as provided in the By-Laws. The names and addresses of the officers who shall serve until their successors are designated by the Mater Board of Directors are as follows:

President: James R. Schier  
5800 Lakewood Ranch Blvd.  
Sarasota, FL 34240

Vice President/Treasurer: Priscila Heim  
5800 Lakewood Ranch Blvd.  
Sarasota, FL 34240

Secretary: Karen Byrnes  
5800 Lakewood Ranch Blvd.  
Sarasota, FL 34240

**ARTICLE VII. INDEMNIFICATION**

7.1 Indemnification: Every director and every officer of the Association shall be indemnified by the Association against all expense and liabilities, including legal fees, reasonably incurred by, or imposed upon him in connection with any proceeding or the settlement of any proceeding to which he may be a party, or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, except when the director or officer is adjudged guilty of willful and wanton misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

7.2 Insurance: The Board of Directors of the Association may purchase liability insurance to insure all directors, officers or agents, past and present, against all expenses and liabilities as set forth above. The premiums for such insurance shall be paid by the Members of the Association as part of the common expenses.

**ARTICLE VIII. BY-LAWS**

8.1 By-Laws or By-Laws: The first By-Laws of the Association shall be adopted by the Board of Directors, and may be altered, amended or rescinded by a majority of the Board, except as otherwise may be provided by the By-Laws and the Declaration.

**ARTICLE IX. AMENDMENTS**

9.1 Amendments: These Articles may be altered, amended or modified upon the affirmative vote of the owners of two thirds (2/3) of the Lots in the Subdivision. Provided, however, that these Articles may be altered, amended or modified by Declarant, or its Successor as such Declarant, during the time that Declarant has the right to and does control the Association in accordance with the Declaration without the prior approval or consent of any Owners. Amendments may be proposed by resolution of the Board of Directors or by the owners of any three (3) Lots. Provided, however, that no amendment affecting the Declarant, or its successors or assigns as the developer of the Subdivision, as defined in the Declaration, shall be effective without the prior written consent of the Declarant, its successors or assigns as such Declarant. Provided, further, that no amendment shall make any change in the qualification for membership nor the voting rights of Members without the approval of all Members. No amendment shall be made which is in conflict with the Declaration.

**ARTICLE X. EXISTENCE**

10.1 Term: The term of the Association shall be perpetual; provided, however, in the event that the Association is ever dissolved, the control or right of access to the Subdivision property containing the surface water management system facilities shall be conveyed or dedicated to an appropriate governmental unit or public utility and that if not accepted, then the surface water management system facilities shall be conveyed to a non-profit corporation similar to the Association.

**ARTICLE XI. INCORPORATOR**

11.1 Incorporator: The name and address of the incorporator of this Corporation is as follows: Vogler Ashton, PLLC, 2411 - A Manatee Ave. West, Bradenton, Florida 34205.

**ARTICLE XII. REGISTERED OFFICE AND AGENT**

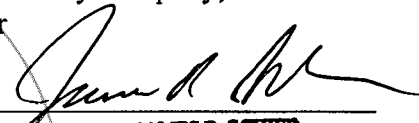
12.1 Registered Office and Agent: The Association hereby appoints Neal Communities of Southwest Florida, LLC, whose address is 5800 Lakewood Ranch Blvd., Sarasota, Florida, 34240, as its Resident Agent under the Laws of Florida. By affixing its signature hereto, the said Registered Agent does hereby accept said designation and appointment, and the office of the Resident Agent shall be at said address.

**ACCEPTANCE BY REGISTERED AGENT**

Having been named as Registered Agent and to accept service of process for the above stated corporation at the place designated in this certificate, the undersigned hereby accepts the appointment as Registered Agent and agrees to act in this capacity. The undersigned further agrees to comply with the provisions of all statutes relating to the proper and complete performance of its duties, and is familiar with and accepts the obligations of its position as Registered Agent.

NEAL COMMUNITIES OF SOUTHWEST  
FLORIDA, LLC, a Florida limited liability  
company

By: NCDG Management, LLC, a Florida  
limited liability company, its  
Manager

By:   
JAMES R. SCHIER

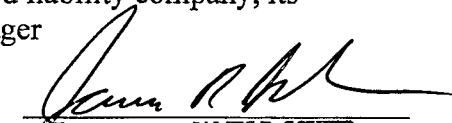
Its: Manager

**THESE ARTICLES HEREBY AMEND AND RESTATE ANY PRIOR ARTICLES OF  
INCORPORATION OF THE ASSOCIATION, INCLUDING THOSE FILED WITH THE  
STATE OF FLORIDA AT INCORPORATION OF THE ASSOCIATION.**

IN WITNESS WHEREOF, the undersigned subscriber executed these Articles of  
Incorporation as of the 25 day of July, 2013,

NEAL COMMUNITIES OF SOUTHWEST  
FLORIDA, LLC, a Florida limited liability  
company

By: NCDG Management, LLC, a Florida  
limited liability company, its  
Manager

By:   
JAMES R. SCHIER

Its: Manager

## *Certificate of Status*

I certify from the records of this office that CANOPY NEIGHBORHOOD ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed electronically on April 26, 2013, effective April 26, 2013.

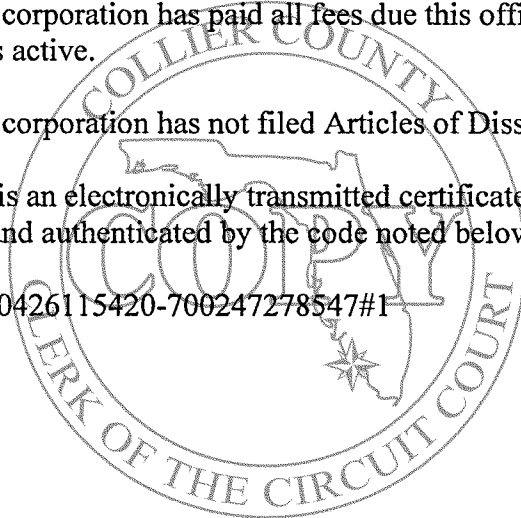
The document number of this corporation is N13000003989.

I further certify that said corporation has paid all fees due this office through December 31, 2013, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code noted below.

Authentication Code: 130426115420-700247278547#1



Given under my hand and the  
Great Seal of the State of Florida  
at Tallahassee, the Capital, this the  
Twenty Sixth day of April, 2013

**EXHIBIT H**

**BY-LAWS  
OF**

**CANOPY NEIGHBORHOOD ASSOCIATION, INC., a Corporation Not For Profit**

**ARTICLE I. IDENTIFICATION**

1.01 Identity: These are the By-Laws of **CANOPY NEIGHBORHOOD ASSOCIATION, INC.**, a corporation not for profit organized and existing under the laws of Florida, hereinafter called "Association".

1.02 Purpose: The Association has been organized for the purpose of maintaining, preserving, and managing the Lots and Common Property within Canopy (the "Subdivision"), a subdivision located in the unincorporated area of Collier County, Florida, same to be in accordance with the "Declaration of Covenants, Conditions and Restrictions for Canopy", herein called the "Declaration."

1.03 Office: The office of the Association shall be at 5800 Lakewood Ranch Blvd., Sarasota, Florida 34240, until otherwise changed by the Board of Directors.

1.04 Fiscal Year: The fiscal year of the Association shall be the calendar year.

1.05 Seal: The seal of the corporation shall bear the name of the corporation, the word "Florida", and the words "Corporation Not For Profit" and the year of incorporation.

**ARTICLE II. MEMBERS**

2.01 Qualification: The Members of the Association shall consist of all of the record Owners of Lots in the Subdivision which are subject to the Declaration, in accordance with the Declaration.

2.02 Change of Membership: Change of membership in the Association shall be established by the recording in the Public Records of Collier County, Florida, of a deed or other instrument establishing a change of record title to a Lot in the Subdivision. A copy of such instrument shall be delivered to the Association. Upon recording, the owner established by such instrument of conveyance shall thereupon become a member of the Association and the membership of the prior owner shall thereupon be terminated.

2.03 Multiple Owners: When a Lot is owned by more than one person, whether as co-tenants, joint tenants, tenants by the entirety or otherwise, each owner shall be a member of the Association by virtue of being a record Owner of an interest in a Lot. Lessees of Lots shall not be members. All matters of voting shall, however, be determined on a Lot basis, as provided in Article III.

2.04 Restraint upon Assignment of Membership, Shares and Assets: The membership of an Owner, and the share of a member in the funds and assets of the Association shall not be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Lot.

2.05 Evidence of Membership: There shall be no stock or membership certificates in the Association. Membership shall be determined by ownership as herein provided.

### ARTICLE III. VOTING

3.01 Voting Rights: The Member, Members, or Regular Members who are the record Owners of each Lot in the Subdivision shall be collectively entitled to one (1) vote for each such Lot, as provided in the Declaration and the Articles of Incorporation. Subject to Section 3.02 of the Declaration, if Members own more than one Lot, they shall be entitled to one vote for each Lot owned. A Lot vote may not be divided. As provided in Section 3.02 of the Declaration, and notwithstanding the number of Lots actually owned by the Declarant, the Declarant, together with any partial successor declarants, shall originally be entitled to three (3) times the total number of votes then held by Regular Members (as defined in Section 3.02 of the Declaration), plus one additional vote. If there is more than one Declarant, they shall divide and apportion their votes as they may agree. The number of votes that the Declarant Member is entitled to cast shall be decreased from time to time as provided in the Declaration and any amendments thereto, until such time as the Declarant Member shall be deemed to be a Regular Member.

3.02 Voting Procedure: Subject to Section 3.02 of the Declaration, the single or multiple owners of each Lot who are Regular Members shall have one vote for each Lot, and the Declarant Member shall have the number of votes provided for in the Declaration. All determinations of requisite majorities and quorums for all purposes under the Declaration, the Articles of Incorporation and these By-laws shall be made by reference to the number of votes to which the Member is entitled. Decisions of the Association shall be made by a simple majority of votes entitled to be cast by Members represented at a meeting at which a quorum is present, unless a greater percentage is required by the Declaration, the Articles of Incorporation, or these By-Laws.

3.03 Quorum: A quorum shall exist when Members entitled to cast not less than twenty five percent (25%) of all votes are present, either in person, by designated voting representative or by proxy.

3.04 Designation of Voting Representative: The right to cast the vote attributable to each Lot shall be determined, established and limited pursuant to the provisions of this Section:

- (a) Single Owner: If the Lot is owned by one natural person, that person shall be entitled to cast the vote for his Lot.
- (b) Multiple Owners: If a Lot is owned by more than one person, either as co-tenants or joint tenants, the person entitled to cast the vote for the Lot shall be designated by a certificate signed by all of the record Owners and filed with the Secretary of the Association.
- (c) Life Estate with Remainder Interest: If a Lot is owned by a life tenant, with others owning the remainder interest, the life tenant shall be entitled to cast the vote for the Lot. If the life estate is owned by more than one person, the authority to vote shall be determined as herein otherwise provided for voting by persons owning a Lot in fee in the same manner as the life tenants own the life estate.
- (d) Corporations: If a Lot is owned by a corporation, the officers or employees thereof entitled to cast the vote for the Lot shall be designated by a certificate

executed by an executive officer of the corporation and attested by the Secretary or an Assistant Secretary, and filed with the Secretary of the Association.

- (e) Partnership: If a Lot is owned by a general or limited partnership, the general partner entitled to cast the vote for the Lot shall be designated by certificate executed by all general partners and filed with the Secretary of the Association.
- (f) Trustees: If a Lot is owned by a trustee or trustees, such trustee or trustees shall be entitled to cast the vote for the Lot. Multiple trustees may designate a single trustee, or a beneficiary entitled to possession, and a single trustee may likewise designate such beneficiary as the person entitled to cast the vote for the Lot by a certificate executed by all trustees and filed with the Secretary of the Association.
- (g) Estates and Guardianships: If a Lot is subject to administration by a duly authorized and acting Personal Representative or Guardian of the property, then such Personal Representative or Guardian shall be entitled to cast the vote for such Lot upon filing with the Secretary of the Association a current certified copy of his Letters of Administration or Guardianship.
- (h) Tenants by the Entirety: If a Lot is owned by a husband and wife as tenants by the entirety, they may designate a voting member in the same manner as other multiple owners. If no certificate designating a voting member is on file with the Association, and only one of the husband and wife is present at a meeting, he or she may cast the vote for their Lot without the concurrence of the other owner. If both spouses are present, they may jointly cast the vote for their Lot, but if they are unable to agree on the manner of casting such vote, they shall lose their right to vote on such matter, although the Lot may still be counted for purposes of a quorum.
- (i) Leases: If a Lot is leased, the owner-lessor shall be entitled to cast the vote for the Lot, except that the owner may designate a lessee as the person entitled to cast the vote for the Lot by a certificate executed by all owners and filed with the Secretary of the Association.
- (j) Certificate: Whenever a certificate designating a voting representative is permitted or required, such certificate shall, once filed, be valid until revoked. In the absence of a valid certificate, a Lot shall not be counted in determining a quorum unless all owners required to execute such certificate are present, in person or by proxy, and such Lot Owners shall lose their vote on any particular matter unless they concur on the manner in which the vote of the Lot is to be cast on that matter.

3.05 Approval or Disapproval of Matters: Whenever the decision of a Lot Owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such Owner if at an Association meeting, unless the joinder of record Owners is specifically required by the Declaration or these By-Laws.

3.06 Proxies: Votes may be cast in person or by proxy. A proxy shall be in writing and signed by the designated voting representative, or the Owner, if no voting representative has been designated. A proxy shall be valid only for the particular meeting designated in the proxy,

and must be filed with the Secretary of the Association before the appointed time of the meeting or any adjournments thereof. A properly executed and delivered proxy may be revoked by a writing delivered to the Secretary prior to the appointed time of the meeting or any adjournments thereof, or by the attendance in person of the persons executing said proxy at any meeting or adjournment thereof. No one person may be designated to hold more than fifteen (15) proxies. In no event shall a proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given.

3.07 Method of Voting: Subject to the provisions of the Declaration, voting may be by roll call, voice vote or by written ballot; provided, however, that whenever written approval is required by the Declaration, or whenever any amendment to the Declaration is proposed, or when any borrowing of funds, pledge, or other disposition of common properties or assets is proposed, the voting shall be by written ballot. Routine matters such as approval of minutes, adjournment, acceptance of reports, parliamentary questions and social business may be determined by "Yeas" and "Nays" provided that any five (5) voting Members, or the chairman, may require a roll call vote or vote by written ballot.

#### ARTICLE IV. MEETINGS OF MEMBERS

4.01 Annual Meeting: The annual meeting of the Members shall be held during the month of November of each year on a day and at a time determined by the Board of Directors; provided that notice pursuant to Section 4.03 is given at least thirty (30) days prior to the date set for the annual meeting. The annual meeting shall be for the purpose of electing directors, and transacting any other business authorized to be transacted by the Members. No annual meeting shall be held until such time as the Regular Members are entitled to elect a director pursuant to the provisions of the Declaration.

4.02 Special Meetings: Special meetings of the Members shall be held whenever called by the President or Vice President, or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from voting members entitled to cast not fewer than fifteen percent (15%) of the total number of votes.

4.03 Notice of Meetings: Notice of all meetings of the Members, stating the time, place and subjects for which the meeting is called, shall be given by the President or Vice President or Secretary, unless waived in writing. All such notices shall be given in writing to each member's address, as it appears on the books of the Association; as the Member may have otherwise directed in writing; or as it appears upon the instrument of conveyance establishing the membership interest. The notice shall be mailed or delivered not fewer than ten (10) days, nor more than thirty (30) days, prior to the date of the meeting. A duplicate notice shall be furnished to the designated voting representative if such voting representative is not also an Owner. The notice for any meeting at which assessments against Lot Owners are to be considered shall contain a statement of the nature of such assessments and that such assessments will be considered. Proof of such mailing or delivery shall be given by an Affidavit of the person giving the notice. Notice of meetings may be waived in writing before, during or after meetings.

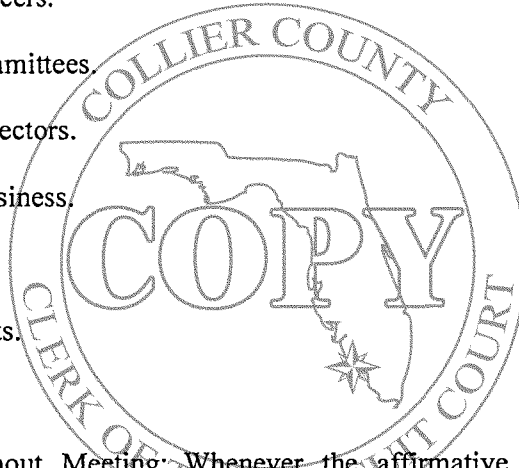
4.04 Place: Meetings of the Association Members shall be held at such place in Collier County, Florida, as the Board of Directors may designate in the Notice of Meeting; or at such other location as the Board of Directors may designate in the Notice of Meeting.



4.05 Adjournments: If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

4.06 Order of Business: The order of business at annual meetings, and as far as practical at all special meetings, shall be:

- (a) Election of Chairman of the meeting (if necessary).
- (b) Calling of the roll and certifying of the proxies.
- (c) Proof of notice of the meeting or waiver of notice.
- (d) Reading and disposal of any unapproved minutes.
- (e) Reports of officers.
- (f) Reports of committees.
- (g) Election of directors.
- (h) Unfinished business.
- (i) New business.
- (j) Announcements.
- (k) Adjournment.



4.07 Action Without Meeting: Whenever the affirmative vote or approval of the Members is required or permitted by the Declaration or these By-Laws, such action may be taken without a meeting if Members entitled to cast not fewer than seventy five percent (75%) of the votes if such meeting were held, shall agree in writing that such action be taken and waive the necessity of such meeting. Provided, however, that if a greater percentage approval is required, then not less than such percentage must so agree in writing. Provided further that the Declaration, Articles of Incorporation and these By-Laws may not be amended without a meeting. Notice of the action so taken shall be given in writing to all Members who did not approve such action in writing within ten (10) days of such approval.

4.08 Proviso: Provided, however, that until the Declarant has terminated its control of the Association and its affairs in accordance with the Declaration, the proceedings of all meetings of the Members of the Association shall have no effect unless approved by the Board of Directors, except for the rights of the Regular Members to elect directors.

**ARTICLE V. DIRECTORS**

5.01 Number: The affairs of the Association shall be managed by a Board of not less than three (3) nor more than seven (7) directors (the "Directors") the exact number to be determined by the Members from time to time prior to the annual election of Directors. The Board of Directors shall at all times be comprised of an odd number of Members. Until otherwise determined by the Members, there shall be three (3) Directors.

5.02 Election of Directors: The election of Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual meeting of the Members. A nominating committee of not less than three (3) nor more than five (5) Members may be appointed by the Board of Directors not less than thirty (30) days prior to the annual meeting of the Members. The nominating committee shall nominate at least one (1) person for each directorship. Other nominations may be made from the floor, and nominations for additional directorships, if any, created at the meeting shall be made from the floor.

(b) The election shall be by ballots, unless dispensed with by unanimous consent, and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(c) Any Director may be recalled and removed from office, with or without cause, by the vote or agreement in writing by a majority of all Lot Owners. A special meeting of the Lot Owners to recall a Member or Members of the Board may be called by ten percent (10%) of the Lot Owners giving notice of the meeting as required for a meeting of Lot Owners, and the notice shall state the purpose of the meeting. The vacancy in the Board of Directors so created shall be filled by vote of the Members of the Association at the same meeting.

(d) The Declarant shall be vested with the power to designate the initial Board of Directors, the Members of which need not be owners of Lots. The initial Board of Directors shall serve until the first election of Directors. Any vacancies occurring prior to the first election shall be filled by the remaining Directors.

(e) The first election of Directors shall be held when Declarant membership terminates.

(f) When Declarant membership terminates and the Declarant Member is deemed to be a Regular Member pursuant to the Declaration, then the Declarant shall call a special meeting within sixty (60) days after such date, as provided in the Declaration. At such special meeting all Regular Members shall elect a Board of Directors, to serve until the next annual meeting. Thereafter, Directors shall be elected annually at the annual meeting.

(g) Declarant may waive its right to elect or designate any one or more Directors it otherwise has the right to designate under the Declaration and these By-Laws, which waiver shall, however, apply only to the specific election at which the waiver is made. If Declarant does waive such right, the Regular Members shall elect the Board member or members who would otherwise have been elected or designated by Declarant.

5.03 Term: Subject to the provisions of Section 5.02, the term of each Director's service shall extend to the next annual meeting of the Members and thereafter until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.

5.04 Qualifications: All Directors shall be Members of the Association; provided, however, that any Director elected or designated by Declarant pursuant to these By-Laws need not be Members. An officer of any corporate owner and a general partner of any partnership owner shall be deemed Members for the purposes of qualifying for election to the Board of Directors.

5.05 Vacancies: Except as otherwise provided herein, if the office of any Director becomes vacant, whether by reason of death, resignation, retirement, disqualification, incapacity or otherwise, a majority of the remaining Directors shall select a successor, who shall hold the office for the unexpired term of the Director he is replacing. Vacancies following removal of office pursuant to Section 5.02(c) shall be filled as therein provided.

5.06 Disqualification and Resignation: Any Director may resign at any time by sending written notice to the Secretary of the Association. Such resignation shall take effect upon receipt by the Secretary, unless otherwise specified in the resignation. Any Director who must be a member of the Association shall be deemed to have resigned if he transfers his Lot so that he ceases to be a member of the Association. After the Declarant membership status has terminated pursuant to the Declaration, more than three (3) consecutive unexcused absences from regular Board meetings shall be deemed a resignation, which shall be effective upon acceptance by the Board.

5.07 Voting: All voting for the election of Directors shall be as provided in Article III hereof. Notwithstanding the foregoing, 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. 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.

5.08 Organization Meeting: The organization meeting of a newly elected Board of Directors shall be held within thirty (30) days of its election, at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

5.09 Regular Meetings: The Board may, from time to time, establish a schedule of regular meetings to be held at such time and place as the Board may designate. Any regular scheduled meetings may be dispensed with upon written concurrence of not less than two-thirds (2/3) of the Members of the Board.

5.10 Special Meetings: Special Meetings of the Directors may be called by the President and must be called by the Secretary or an Assistant Secretary at the written request of one-third (1/3) of the Directors.

5.11 Notice:

- (a) To Directors: Notice of each regular or special meeting shall be given to each Director personally or by mail, telephone or telegraph at least three (3) days prior to the meeting date. All notices shall state the time and place of the meeting, and if a special meeting, the purposes thereof. Any Director may waive notice of a meeting before, during or after the meeting, and all such waivers shall be deemed equivalent to the giving of notice. Attendance by a Director at a meeting shall be deemed a waiver of notice by him.

- (b) To Members: Notices of all Board meetings, and meetings of any committee or similar body of the Board, shall be posted in a conspicuous place in the Subdivision at least forty eight (48) hours in advance of the meeting except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the Subdivision, notice shall be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency. Notwithstanding the foregoing, in the event the number of Members is in excess of 100, a reasonable alternative to posting or mailing may be provided, including publication of notice or provision of a schedule of Board meetings. The notice for any meeting at which assessments against Lot Owners are to be considered shall contain a statement of the nature of such assessments and that such assessments will be considered. Proof of such posting, mailing or delivery shall be given by an Affidavit of the person giving the notice. Notice of meetings may be waived in writing before, during or after meetings.

5.12 Quorum: A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the act of the Board of Directors; except where approval of a greater number of Directors is required by the Declaration or these By-Laws.

5.13 Adjourned Meeting: If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

5.14 Joinder in Meeting by Approval of Minutes: The joinder of a Director in the action of a meeting, by signing and concurring in the minutes thereof shall constitute the concurrence of such Director for the purpose of determining requisite majorities on any action taken and reflected in such minutes or to create a quorum. Directors may join in minutes under this Section only after an open meeting, for the purposes herein provided.

5.15 Meetings Open: Meetings of the Board of Directors shall be open to all Members, except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would be otherwise be governed by the attorney/client privilege.

5.16 Presiding Officer: The presiding officer at Directors' meetings shall be the President. In the absence of the President, the Vice President shall preside. In the absence of both, the Directors shall designate one of their Members to preside.

5.17 Directors' Fees: Directors shall not be entitled to receive Directors' fees, but may be reimbursed out of pocket expenses advanced by the Director.

5.18 Order of Business: The order of business of Directors' meetings shall be:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading and disposal of any unapproved minutes.

- (d) Reports of officers and committees.
- (e) Election of officers, if any.
- (f) Unfinished business.
- (g) New business.
- (h) Announcements.
- (i) Adjournment.

**ARTICLE VI. POWERS AND DUTIES OF BOARD OF DIRECTORS**

The Board of Directors shall have all powers, authority, discretion and duties necessary for the administration of the Association and operation of the Subdivision, except as may be reserved or granted to the Lot Owners, Declarant or a specific committee or committees of the Association by the Declaration, Articles of Incorporation, or these By-Laws. The powers of the Board shall include, but shall not be limited to, the following:

6.01 General Powers: All powers specifically set forth in the Declaration, Articles of Incorporation and these By-Laws, and all powers incident thereto or reasonably to be inferred therefrom.

6.02 Enforcement: The Board of Directors shall, when deemed necessary by the Board, enforce by legal means, provisions of the Declaration, the Articles of Incorporation, the By-Laws and rules and regulations for the use of the Common Property.

6.03 Budget and Assessments: To adopt budgets and make assessments, and to use and expend assessments and other receipts of the Association to carry out the powers and duties of the Association pursuant to the Declaration and these By-Laws.

6.04 Employment: To employ, dismiss, control and contract for personnel and contractors for the administration of the Association, including but not limited to managers, maintenance personnel, attorneys, accountants and other professionals, by employment or contract, as the Board may determine.

6.05 Rules and Regulations: To adopt, amend and rescind reasonable rules and regulations relating to the administration of the Association and operation and use of any Common Property, subject to the Declaration and By-Laws. Provided, however, that any rules or regulations adopted by the Board may be supplemented, amended or rescinded by affirmative vote of the Owners of not less than two-thirds (2/3) of the Lots subject to the Declaration. Any such rules or regulations approved by the Owners shall not thereafter be amended or rescinded except upon affirmative vote of the Owners of not less than two-thirds (2/3) of the Lots in the Subdivision subject to the Declaration.

6.06 Committees: To create and disband such committees as the Board may from time to time determine as reasonably necessary or useful in and about the administration of the Association, and to delegate such authority to such committees as may be reasonable in connection with their purpose, subject always to the provisions of the Declaration, Articles of

Incorporation and By-Laws. All committees of the Association shall keep records and conduct meetings in the same manner, to the extent applicable, as is required of the Board of Directors.

## ARTICLE VII. OFFICERS

7.01 Officers and Election: The officers of the Association shall be a President, who shall be a Director; a Vice President, who shall be a Director; a Treasurer, a Secretary and such other officers as may be determined from time to time by the Board, all of whom shall be elected annually by the Board of Directors, and who may be peremptorily removed by a majority vote of all Directors at any meeting. Any person may hold two offices except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors shall designate the powers and duties of such other officers as it may create.

7.02 President: The President shall be the chief executive officer of the Association. The President shall have all of the powers and duties which are usually vested in the office of President of an Association; including but not limited to the power to appoint advisory committees from time to time, from among the Members or others as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association. The President shall serve as Chairman at all Board and membership meetings.

7.03 Vice President: The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also generally assist the President, and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

7.04 Secretary and Assistant Secretary: The Secretary shall keep the minutes of all proceedings of the Directors and the Members. The Secretary shall attend to the giving and serving of all notice to the Members and Directors. The Secretary shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association, as may be required by the Directors or the President. The Assistant Secretary, if such office is created, shall perform the duties of the Secretary, when the Secretary is absent. The minutes of all meetings of the Members and the Board of Directors shall be kept in books available for inspection by Members, or their authorized representatives, and Board members at any reasonable time. All such records shall be retained for not less than seven (7) years.

7.05 Treasurer: The Treasurer shall have the custody of all the property of the Association including funds, securities and evidences of indebtedness. The Treasurer shall keep the books of the Association in accordance with good accounting practices, and provide for collection of assessments, and perform all other duties incident to the office of Treasurer.

7.06 Compensation: The compensation of all officers and employees of the Association shall be fixed by the Directors. The provisions that Directors' fees shall be determined by Members shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude contracting with a Director for the management services. No officer who is a designee of the Declarant shall receive any compensation for his services.

7.07 Indemnification of Directors and Officers: Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to

which such Director or officer may be a party or in which such Director or officer may become involved by reason of being or having been a Director or officer of the Association, whether or not such Director or officer is a Director or officer at the time such expenses are incurred, except in such cases when the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of such Director's or officer's duties. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

7.08 Term: All officers shall hold office until their successors are chosen and qualify.

### ARTICLE VIII. FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Declaration shall be supplemented by the following provisions:

8.01 Accounting: Receipts and expenditures of the Association shall be credited and charged to Association accounts in accordance with generally accepted accounting principles consistently applied.

8.02 Budget: The Board of Directors shall adopt a budget for each calendar year which shall include the estimated funds required to defray the current expenses and funds for required reserves if deemed necessary by the Board. The budget may provide funds for specifically proposed and approved improvements.

8.03 Procedure: The Board of Directors shall adopt a budget in accordance with the Declaration.

8.04 Assessments: Regular annual assessments against a Lot Owner for such Owner's share of the items of the budget shall be made in advance on or before December 20 preceding the year for which the assessment is made. Such assessment shall be due either annually or, at the discretion of the Board, in periodic installments, which shall come due on intervals established by the Board. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment and monthly payments thereon shall be due from the 1st day of each month until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget may be amended at any time by the Board and a supplementary assessment levied. The supplementary assessment shall be due on the 1st day of the month next following the month in which the supplementary assessment is made or as otherwise provided by the Board of Directors.

8.05 Acceleration of Assessments: Upon default in payment the Board may elect to accelerate remaining installments of any assessments in accordance with the Declaration.

8.06 Expenditures: All funds of the Association shall be expended only upon authorization of the Board of Directors. Approval of the budget shall be deemed authority to expend funds for the items and contingency funds within the budget. Funds derived from special assessments and funds in specifically designated reserves shall be expended solely for the purpose for which such assessment was made or reserve established. Contingency funds may be expended for any legitimate purpose by action of the Board.

8.07 Depository: The depository of the Association shall be in such bank or banks as shall be designated from time to time by the Directors, and in which the moneys of the Association shall be deposited.

Withdrawal of moneys from such accounts shall be only by checks signed by such persons as are authorized by appropriate resolution of the Board of Directors. Funds of the Association may be co-mingled or kept in separate accounts, except as otherwise required by the Declaration.

8.08 Audit: After Declarant transfers complete control of the Association, a report of the accounts of the Association shall be made annually by the Board, and a copy of the report shall be furnished to each member not later than April 1 of the year following the year for which the report is made.

8.09 Fidelity Bonds: Fidelity Bonds may be required by the Board of Directors from all persons handling or responsible for the Association's funds. The amounts of such bonds shall be determined by the Directors of the Association. The premiums on such bonds, if required by the Board, shall be paid by the Association as a Common Expense.

**ARTICLE IX. PARLIAMENTARY RULES**

Roberts Rules of Order, the latest edition, shall govern the conduct of the meetings of the Association, the Board of Directors and Committees of the Association when not in conflict with the Declaration, Articles of Incorporation or these By-Laws.

**ARTICLE X. AMENDMENT**

These By-Laws may be amended by the Members of the Association at any regular or special meeting duly called for that purpose by the affirmative vote of an absolute majority of all votes entitled to be cast. Notwithstanding the foregoing, no amendment shall be made that is in conflict with the Declaration or the Articles of Incorporation, except as provided in said Declaration or Articles. Provided, however, that these By-Laws may be amended at any time by the Declarant Members, without the vote or consent of the Members, during the time that the Declarant Members have and exercise the right to control the Association, provided that such amendment is not in conflict with the Declaration.

**ARTICLE XI. MISCELLANEOUS**

The provisions of these By-Laws shall be construed together with the Declaration and the Articles of Incorporation. In the event of a conflict between the provisions hereof and the provisions of the Declaration or Articles, the provisions of the Declaration or Articles shall control. Unless otherwise specifically provided, terms used herein shall have the meanings set forth in the Declaration. The provisions hereof shall be liberally construed to grant to the Association sufficient practical authority to implement its obligations and authorities under the Declaration. Whenever the context so requires, the use of any gender herein shall be deemed to include all genders, and the use of the plural shall include the singular and the singular shall include the plural.



The foregoing was adopted as the By-Laws of the Association at the first meeting of the Board of Directors on the 25 day of July, 2013.

**CANOPY NEIGHBORHOOD ASSOCIATION INC.,** a  
Florida not for profit corporation

By:

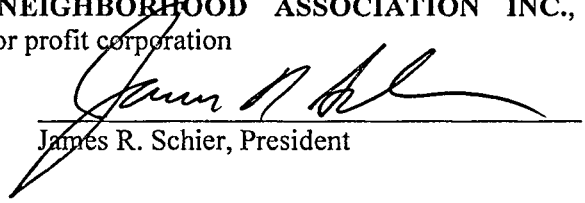
  
James R. Schier, President



EXHIBIT "A"

LEGAL DESCRIPTION (OVERALL)

BEING A PORTION OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 26 EAST, TOGETHER WITH PORTIONS OF TRACTS 1 AND 2, GREEN HERON ACRES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 70, COLLIER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 26 EAST, COLLIER COUNTY, FLORIDA; THENCE SOUTH 02°15'35" EAST, ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 30.02 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED AND A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF TREE FARM ROAD; THENCE CONTINUE SOUTH 02°15'35" EAST, ALONG THE WEST LINE OF SAID FRACTION AND TREE FARM ROAD RIGHT-OF-WAY, A DISTANCE OF 15.01 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF THAT CERTAIN 45 FOOT RIGHT-OF-WAY RECORDED IN OFFICIAL RECORDS BOOK 4290, PAGE 3356 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA, ALSO KNOWN AS TREE FARM ROAD RIGHT-OF-WAY; THENCE NORTH 89°57'58" EAST, ALONG THE SOUTHERLY BOUNDARY OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,322.15 FEET TO A POINT ON THE EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE SOUTH 02°16'13" EAST, ALONG THE EAST LINE OF LAST SAID FRACTION, DISTANCE OF 623.91 FEET TO A BOUNDARY CORNER OF VANDERBILT COUNTRY CLUB - 2, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 32 AT PAGES 42 THROUGH 55 (INCLUSIVE) OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE RUN THE FOLLOWING TWO (2) COURSES ALONG THE BOUNDARY OF LAST SAID PLAT; COURSE NO. 1: CONTINUE SOUTH 02°16'13" EAST, 668.95 FEET TO A BOUNDARY CORNER OF SAID PLAT; COURSE NO. 2: SOUTH 89°56'51" WEST, A DISTANCE OF 1,322.12 FEET TO A POINT ON THE WEST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 35; THENCE NORTH 02°16'54" WEST, ALONG THE WEST LINE OF SAID FRACTION, A DISTANCE OF 669.28 FEET TO THE SOUTHEAST CORNER OF TRACT 2, GREEN HERON ACRES, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 22, PAGE 70 OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE SOUTH 89°58'12" WEST, ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT 2, A DISTANCE OF 30.02 FEET TO THE NORTHEAST CORNER OF BRISTOL PINES, PHASE II, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 46, PAGES 67 THROUGH 70 (INCLUSIVE), OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE RUN THE FOLLOWING THREE (3) COURSES ALONG THE BOUNDARY OF LAST SAID PLAT; COURSE NO. 1: CONTINUE SOUTH 89°58'12" WEST, 630.61 FEET TO THE SOUTHWEST CORNER OF TRACT 1 OF SAID GREEN HERON ACRES; COURSE NO. 2: SOUTH 89°58'46" WEST, 330.76 FEET; COURSE NO. 3: NORTH 02°15'47" WEST, A DISTANCE OF 77.13 FEET TO A POINT ON THE BOUNDARY OF BRISTOL PINES PHASE I, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 43, PAGES 78 THROUGH 81 (INCLUSIVE), OF THE PUBLIC RECORDS OF SAID COLLIER COUNTY, FLORIDA; THENCE ALONG SAID BRISTOL PINES PHASE I NORTH 02°15'47" WEST, A DISTANCE OF 562.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY OF SAID TREE FARM ROAD; THENCE LEAVING SAID BRISTOL PINES PHASE I AND CONTINUE ALONG SAID RIGHT-OF-WAY LINE, NORTH 89°58'46" EAST, A DISTANCE OF 991.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,341,538 SQUARE FEET OR 53.754 ACRES, MORE OR LESS.