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SECOND AMENDED AND RESTATED  
TIMACUAN MASTER DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

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**SECOND AMENDED AND RESTATED  
TIMACUAN MASTER DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

**THIS SECOND AMENDED AND RESTATED TIMACUAN MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made this 23 day of July, 2012, by TIMACUAN COMMUNITY SERVICES ASSOCIATION, INC., a Florida corporation not-for-profit (the "Association").**

WHEREAS, the Association is a corporation not-for-profit organized under the laws of the State of Florida in accordance with its Articles of Incorporation of Timacuan Community Services Association, Inc.; and

WHEREAS, the original Timacuan Master Declaration of Covenants, Conditions and Restrictions was recorded on March 2, 1988 at Official Records Book 1935, Page 1927 of the Public Records of Seminole County, Florida (hereinafter "Original Declaration"); and

WHEREAS, the Original Declaration was completely amended and restated by the Amended and Restated Timacuan Master Declaration of Covenants, Conditions and Restrictions recorded on March 28, 2001 at Official Records Book 4037, Page 1628 and amended on May 24, 2002 at Official Records Book 4416, Page 1748 both of the Public Records of Seminole County, Florida (hereinafter collectively "Amended and Restated Declaration"); and

WHEREAS, pursuant to Section 11.6 of the Amended and Restated Declaration, the Declaration can be amended upon the approval of at least sixty-six and two-thirds percent (66/23%) of the Members; and

WHEREAS, the Association desires to amend and restate the Amended and Restated Declaration as set forth in this recorded instrument.

WHEREAS, the Association desires to continue to provide for the preservation and enhancement of the value of and the quality of life in the Property (defined hereafter), the personal and general health, safety and welfare of the owners of the affected lands, and for the maintenance of stormwater drainage and retention areas and improvements, irrigation and sprinkler systems, open spaces, green belts, recreational areas and facilities, and other common areas and improvements located on the Property.

NOW, THEREFORE, the Association hereby declares that the Property described in Article II of this Declaration is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens set forth in this Declaration. This Second Amended and Restated Declaration of Covenants, Conditions and Restrictions specifically and completely supersedes and replaces the original Declaration and the Amended and Restated Declaration.

**ARTICLE I - DEFINITIONS**

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

1.1 "Additional Property" means and refers to any property which has not been submitted in this Declaration.

1.2 "ARB" means and refers to the Architectural Review Board as described in Article VII.

1.3 "Articles of Incorporation" or "Articles" means and refers to the Articles of Amendment and Restatement to the Articles of Incorporation of Timacuan Community Services Association, Inc., filed with the Department of State, Division of Corporation on March 12, 2001 and recorded at Official Records

Book 4037, Page 1667 of the Public Records of Seminole County, Florida, as Exhibit "C" to the Amended and Restated Declaration, and as further amended from time to time.

1.4 "Assessment" means and refers to a share of the funds required for payment of the expenses of the Association, which funds shall be assessed against an Owner from time to time, as further set forth in Article VI of this Declaration, and which shall include, but not be limited to, annual Assessments, special Assessments, capital improvement Assessments and General Special Assessments.

1.5 "Association" means and refers to TIMACUAN COMMUNITY SERVICES ASSOCIATION, INC., a Florida corporation not-for-profit.

1.6 "Board of Directors" means and refers to the board of directors of the Association.

1.7 "Builder" means and refers to a Person which purchases and owns a Lot in order to construct a Residence for sale to a third party, and is not constructing the Residence for his or its own use.

1.8 "Bylaws" means and refers to Bylaws of Timacuan Community Services Association, Inc., a nonprofit corporation recorded at Official Records Book 4037, Page 1676 as Exhibit "D" to the Amended and Restated Declaration and as amended pursuant to the Amendment to Bylaws of Timacuan Community Services Association, Inc., a not-for-profit corporation recorded at Official Records Book 4416, Page 1750 all of the Public Records of Seminole County, Florida, and as further amended from time to time.

1.9 "Common Area" means and refers to all real property (including the improvements thereto) and all personal property owned by the Association, to include all property designated as Common Area or for ownership and maintenance by the Association in any future recorded supplemental declaration or plat of Additional Property made subject to this Declaration, including, but not limited to, those so designated on the Plats referred to in Exhibit "A"; together with the landscaping and any improvements thereon, including, without limitation, all structures, recreational facilities, irrigation facilities, open space, retention areas, masonry walls, walkways, rights-of-way, entrance markers, signs, and street lights, if any, but excluding any public utility installations thereon.

1.10 "Declaration" means and refers to this Second Amended and Restated Timacuan Master Declaration of Covenants, Conditions and Restrictions, as recorded in the Public Records of Seminole County, Florida, and as the same may be supplemented or amended from time to time.

1.11 "Development Order" means and refers to the Development Order for Timacuan Development of Regional Impact adopted by the City of Lake Mary, Florida on May 15, 1986.

1.12 "Development Plan" means and refers to the non-binding, general scheme of intended uses of the lands included in the Timacuan Master Development Plan, as approved by the City of Lake Mary, Florida, as amended from time to time.

1.13 "Drainage Easements" means and refers to the drainage easements declared and reserved on the Plat.

1.14 "Entitled to Vote" means and refers to that Owner who shall cast a vote for a Lot at an Association meeting; provided, the Owner(s) right to vote has not been suspended as set forth herein. If more than one Person shall own any Lot, the Owners thereof shall determine among themselves who shall be the Member Entitled to Vote. That determination of the voting Member shall be manifested upon a voting certificate, signed by all Owners of that Lot, and given to the secretary of the Association for placement in the Association records. If an Owner fails to designate the voting Member in a voting certificate, the Association may accept the Person asserting the right to vote as the voting Member until notified to the contrary by the other Owner(s). Upon such notification, no affected Member may vote until the Owner(s) appoint the voting Member. Notwithstanding anything contained in this Declaration to the contrary, all Owners whether Entitled to Vote or not are assured of all other privileges, rights, and obligations of

Association membership and shall be Members of the Association. In no event shall any mortgagee or other party holding any type of security interest in a Lot or the Residence constructed thereon be Entitled to Vote for purposes hereof, unless and until any of those parties obtain or receive fee simple title to the Lot.

1.15 "Governing Documents" means and refers to the Articles of Incorporation and the Bylaws of the Association, this Declaration, and any Rules and Regulations promulgated hereunder, all as may be amended and/or supplemented from time to time.

1.16 "Lot" means and refers to any Lot shown on a Plat of any portion of the Property, which Plat is designated by the Association or by any other recorded instrument to be subject to this Declaration (and to the extent additional property is to be added to this Declaration and the Association is not the Owner thereof, then designated by the Association and joined by the Owner thereof), any Lot shown upon any resubdivision of any Plat, and any other property hereafter declared as a Lot by the Association and thereby made subject to this Declaration.

1.17 "Member" means and refers to all those Owners who are members of the Association as provided in Article III of this Declaration, and shall include both Class A and Class B Members.

1.18 "Multi-Family Parcel" means and refers to that certain real property owned by Bentley Park Associates, Ltd., a Florida limited partnership, and described in Exhibit "B" attached hereto and incorporated by reference herein. Such Multi-Family Parcel was originally added to the Property pursuant to the Timacuan Supplemental Declaration of Covenants, Conditions and Restrictions recorded at Official Records Book 3590, Page 1710 of the Public Records of Seminole County, Florida.

1.19 "Owner" means and refers to the record owner, whether one or more Persons of the fee simple title to any Lot situated upon the Property.

1.20 "Occupant" means and refers to an individual or individuals occupying and residing in a residence, and does not require that said individual(s) be an Owner.

1.21 "Party Wall" means and refers to the entire wall, from front to rear, all or a portion of which is used for support, situate or intended to be situate on the boundary line between adjoining, separately owned improvements.

1.22 "Pedestrian" means and refers to any person afoot or on any human-powered vehicle. For the purposes of sidewalk usage, a pedestrian may include individuals walking, jogging, running, cycling, skateboarding, using a child stroller, or any other means of transportation that is human powered and does not exceed 20 mph.

1.23 "Person" means and refers to an individual, corporation, limited liability company, governmental agency, business trust, estate, trust, partnership, association, sole proprietorship, joint venture, two or more persons having a joint or common interest, or any other legal entity.

1.24 "Plat" means and refers to the Plats referenced in Exhibit "A" attached hereto, together with any plat of Additional Property made subject to this Declaration and to the jurisdiction of the Association.

1.25 "Property" or "Properties" means and refers to all of the property as described in Article II of this Declaration, and additions thereto, as are now or hereafter made subject to this Declaration and to the jurisdiction of the Association.

1.26 "Residence" means and refers to any residential building constructed on a Lot.

1.27 "Rules and Regulations" means and refers to any rules and regulations promulgated from time to time by the Association, the Architectural Review Board (the "ARB"), or the other committees established

by the Board of Directors pursuant to duly authorized power granted in the Governing Documents.

1.28 "Single Family" means and refers to one or more persons occupying a Residence, and all such persons must be related by blood, marriage or adoption, except that a single family may include not more than two (2) unrelated adults.

1.29 "Street" means and refers to the streets as shown on the Plat, whether designated as street, avenue, boulevard, drive, place, court, road, terrace, way, circle, land, walk or other similar designation.

1.30 "Timacuan Golf and Country Club" or "Golf Course" means and refers to the real property depicted in the Development Plan to the extent devoted to and developed for golf course use.

1.31 "Tract" means and refers to those certain parcels of property shown as lettered tracts on the Plat.

1.32 "Vehicle" means and refers to any self-propelled vehicle not operated on rails or guideway, including but not limited to, cars, vans, motorcycles, sports utility vehicles, trucks, and an electric powered mobility scooter for elderly or disabled persons, but does not include any human-powered vehicles such as bicycles, tricycles, skateboards, baby strollers, or similar devices.

## **ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO:**

2.1 Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Seminole County, Florida, and is more particularly described as follows:

See Exhibits "A" and "B" attached hereto and incorporated by reference herein.

This real property, and all Additional Property, is collectively referred to in this Declaration as the "Property" or the "Properties."

## **ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

3.1 Membership. Every Person who is an Owner shall be a Member. Notwithstanding anything else to the contrary set forth in this Article, any Person who holds the interest merely as security for the performance of an obligation shall not be a Member. Membership in the Association shall be appurtenant to each Lot and may not be separated from ownership of that Lot. The record title holder to each Lot shall automatically become a Member and shall be assured of all rights and privileges thereof. To the extent that the deed shall pass title to a new Owner from an existing Owner, membership in the Association shall be transferred from the existing Owner to the new Owner. In no event shall any mortgagee or other party holding any type of security interest in a Lot or the Residence constructed thereon be a Member unless and until any of those parties obtain or receive fee simple title to the Lot.

3.2 Voting Rights. The Association will have two (2) classes of voting membership:

3.2.1 Class A. Class A Membership shall include all those Owners as defined in this Article. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by this Article. When more than one Person holds the interest or interests in any Lot, all the Persons shall be Members, but the vote for the Lot shall be exercised only by that one Person who is Entitled to Vote. In no event shall more than one vote be cast with respect to any Lot.

3.2.2 Class B. The Class B Membership shall be BENTLEY PARK ASSOCIATES, LTD., a Florida limited partnership, its successors and or assigns, and shall be entitled to ONE HUNDRED (100) votes, which voting rights are appurtenant to its ownership of the Multi-Family Parcel. The Class B Member shall be



obligated to pay annual assessments in the amount of \$46,500.00, payable in quarterly installments, as required pursuant to that certain Agreement between the Class B Member and the Association dated February 10, 1999 (the "Agreement"), a copy of which Agreement is on file with the Association. The Association shall have the right to lien the Multi-Family Parcel in accordance with this Declaration if the Class B Member fails to comply with the terms and conditions of this Declaration and/or the Agreement.

**3.2.3 Joint Ownership.** When any Lot is titled in the name of two or more Persons, or if two or more Persons have the same fiduciary relationship respecting the same Lot, then unless the instrument or order appointing them or creating the tenancy otherwise directs, and a copy thereof is filed with the secretary of the Association, the Owners will select one voting Member to qualify for voting in the Association and will notify in writing the Association of the name of such individual. The vote allocated to any Lot may not be divided or cast in any fraction, and the vote of each voting Member will be considered to represent the will of all the Owners with respect to that Lot. If the Owners fail to designate the voting Member, the Association may accept the Person asserting the right to vote as the voting Member until notified to the contrary by the other Owner(s). Upon such notification, no affected Member may vote until the Owner(s) appoint the voting Member pursuant to this subsection.

**3.3 General Matters.** When reference is made in the Governing Documents, management contracts or otherwise, to a majority or specific percentage of Members, the reference shall be deemed to be reference to a majority or specific percentage of the votes of Members Entitled to Vote and not of the Members themselves.

#### **ARTICLE IV PROPERTY RIGHTS IN THE COMMON AREAS; OTHER EASEMENTS**

**4.1 Member Easements.** Each Member, and each lessee, agent and invitee of the Member or lessee, shall have a nonexclusive permanent and perpetual easement over and upon the Common Area for the intended use and enjoyment thereof in common with all other Members, their lessees, agents and invitees, in such manner as may be regulated by the Association. Without limiting the generality of the foregoing, these rights of use and enjoyment are hereby made subject to the following:

**4.1.1** The right and duty of the Association to levy Assessments against each Lot for the purpose of maintaining the Common Area and facilities in compliance with the provisions of this Declaration, the restrictions on the Plats of portions of the Properties from time to time recorded, and/or with any additional restrictions that may be from time to time recorded;

**4.1.2** The right of the Association to suspend the Owner's voting rights for the nonpayment of regular annual Assessments that are delinquent in excess of ninety (90) days, including late fees, interest, and the costs of collection;

**4.1.3** The right of the Association to suspend the right to use the Common Area by any Owner, his/her family members, lessees, guests, licensees, and agents, for any period during which charges, user fees or any Assessment owed by Owner to the Association or assessed against that Owner's Lot remains unpaid, and for any infraction by an Owner, his or her family members, lessees, or guests of this Declaration, the Articles, the Bylaws or of the Association's published Rules and Regulations. However, such suspension shall not absolve the Owner from paying any Assessment, or other fees, costs, and expenses and no suspension may occur without first complying with the provisions of Chapter 720, Florida Statutes.

**4.1.4** The right of the Association to adopt at any time and from time to time and enforce Rules and Regulations governing the use of the Lots and Common Area and all facilities at any time situated thereon, including the right to fine Members as provided for in this Declaration. Any rule and/or regulation so adopted shall apply until rescinded or modified as if originally set forth at length in this Declaration; and

**4.1.5** The right to the use and enjoyment of the Common Area and facilities thereon shall extend to all permitted user's immediate family who reside with him subject to regulation from time to time by the

Association in its lawfully adopted and published Rules and Regulations.

4.2 Easements Appurtenant. The easements provided in this Article shall be appurtenant to and shall pass with the title to each Lot.

4.3 Maintenance. The Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as required, the Common Area, together with the paving, drainage structures, masonry walls, lighting fixtures and appurtenances, landscaping, sprinkler systems, entrance markers, signs, improvements and other structures installed by the Association situated on the Common Area, with all the work to be done as ordered by the Board of Directors. In order to maintain, manage and operate the Common Area and any appurtenances which are described above, the Association shall have the right and authority to enter into any contracts or agreements as the Board of Directors deem appropriate, including without limitation entering into any agreements providing for the Association's payment of its fair share of the maintenance and repair costs of any adjacent property used for the drainage of stormwater from the Properties or for purposes otherwise benefitting the Property as determined by the Board of Directors. Maintenance of these lighting fixtures shall include and extend to payment for all electricity consumed in their illumination. The Owner shall be responsible for the maintenance, replacement, and repair of all walls, gates, paving, structures and improvements located on his Lot, other than those specifically provided to be maintained by the Association. All work pursuant to this Section and all expenses incurred hereunder shall be paid for by the Association through Assessments (either general or special) imposed in accordance herewith. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Area or Lots or abandonment of the right to use the Common Area.

4.4 Utility Easements. The Association shall have the right to grant permits, licenses, and easements over the Common Area for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property. For purposes of this Section cable, internet and security services shall be considered utilities. In addition, easements over, upon, under, through and across the Common Area are reserved to the Association.

4.5 Drainage Easements. Drainage Easements have been declared and reserved as shown on and created by the Plat. Each Owner of any Lot encumbered by a Drainage Easement upon which a drainage swale is located shall be solely responsible for the repair and maintenance of the drainage swale as set forth in this Declaration. Alteration, filling, obstruction or removal of any drainage swale or drainage control facility or structure is expressly prohibited. In the event any Owner fails to repair and maintain any drainage swale or alters or obstructs any drainage swale or other drainage facility or structure, the Association may repair, replace, and/or maintain the drainage swales, facilities and structures and assess the Owner for the costs and expenses incurred in order to accomplish the foregoing. Each Owner hereby grants an easement and license to the Association over, upon and across the Owner's Lot in order to facilitate and accomplish the foregoing. Further, no Owner shall place, erect or construct any wall, fence, or other improvement or otherwise permit anything to occur within any Drainage Easement area which would in any way obstruct or affect the Surface Water or Stormwater Management System (as hereinafter defined), a Drainage Easement or any swale, pipe or drainage control facility or structure located in or on the Drainage Easement, unless, in the event of construction of any improvements, the improvements have been approved by the ARB.

4.6 Ownership. As shown on the Plat, the Common Area is hereby dedicated nonexclusively to the use, in common, of the Owners of all Lots that may from time to time constitute part of the Property and the Owners' lessees, guests and invitees. The Association is responsible for the maintenance of the Common Area and the maintenance shall be performed in a continuous and satisfactory manner. It is intended that all real estate taxes, if any, assessed against that portion of the Common Area owned or to be owned by the Association shall be proportionally assessed against and payable as part of the taxes of the Lots within the Properties. However, in the event that, notwithstanding the foregoing, any taxes are assessed directly against the Common Area, the Association shall be responsible for the payment of the same, including taxes on any improvements and any personal property located thereon. The Common Area cannot be

mortgaged or conveyed without the consent of a majority of the Board of Directors. If ingress or egress to any Residence is through the Common Area, any conveyance or encumbrance of the Common Area shall be subject to the Owner's easement for ingress and egress.

**4.7 Easements Benefitting Neighboring Subdivisions.** The Association shall have the right to grant permits, licenses and easements over the Common Area, except for any portion of the Common Area dedicated to Seminole County, Florida, or other governmental authority, for signage, drainage, storm water retention/detention, and other purposes for the benefit of neighboring subdivisions, provided that the Common Area concerned is not unreasonably burdened by the additional use and provided that any neighboring subdivision is required as a provision of the permit, license or easement to indemnify the Association from any loss or claim concerning same and to maintain the easement areas and improvements thereto and thereon to the satisfaction of the Association and/or to compensate the Association for its maintenance, management and operation of same in advance by one (1) annual payment or by quarterly or semiannual installments and with provisions for reserves, insurance, overhead, capital improvements and special Assessments, on a full or prorated basis as appropriate (or alternatively to reimburse the neighboring subdivision or other entity accepting responsibility for the maintenance for the Association's fair share of same), and provided that any necessary governmental approval is first obtained. The Board of Directors shall have the right to authorize an officer of the Association to grant the permits, licenses or easements.

**4.8 Surface Water or Stormwater Management System.**

**4.8.1 Definition.** "Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges.

**4.8.2 Duties of Association.** The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the applicable water management district (the "Water Management District"). Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted or, if modified, as approved by the Water Management District.

**4.8.3 Maintenance Assessments.** Assessments shall be used for the maintenance and repair of the Surface Water or Stormwater Management System including but not limited to work within retention areas, drainage structures and Drainage Easements. The annual Assessment shall include, as necessary, an amount for reserves for extraordinary repairs of the Surface Water or Stormwater Management System. The reserves provided for in this Section shall be held in an account separate and apart from all other Association funds.

**4.8.4 Easement for Access and Drainage.** The Association shall have a perpetual nonexclusive easement over all areas of the Surface Water or Stormwater Management System for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the Surface Water or Stormwater Management System, at a reasonable time and in a reasonable manner, to operate, maintain or repair the Surface Water or Stormwater Management System as required by and in accordance with the applicable Water Management District permit. Additionally, the Association shall have a perpetual nonexclusive easement for drainage over the entire Surface Water or Stormwater Management System. No Person shall alter the drainage flow of the Surface Water or Stormwater Management System, including buffer areas or swales, without the prior written approval of the ARB.

**4.8.5 Swale Maintenance.** Notwithstanding anything in this Declaration to the contrary, each Owner,

including Builders, shall be responsible for the maintenance, operation and repair of any drainage swale, if any, located on the Lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the Water Management District. Filling, excavation, construction of fences or otherwise obstructing the surface water flow in drainage swales and the alteration of drainage swales is prohibited. Any damage to a drainage swale, whether caused by natural or manmade phenomena, shall be repaired and the drainage swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the drainage swale is located.

#### **4.9 Golf Course Easement.**

**4.9.1 Easement Reserved.** There is hereby created and reserved a nonexclusive easement of ingress and egress over any Lot (but not over any building constructed thereon) that is contiguous at any point to any part of the Golf Course (including, without limitation, any part of the Golf Course that may be unimproved, that may consist of pathways between trees and greens, or that may be practice areas) that is developed or may hereafter be developed in Timacuan, for the benefit of any person engaged in playing golf on the Golf Course, for the purpose of allowing any such person ingress to and egress from the Lot to retrieve such person's golf ball (but not to strike or play the ball).

**4.9.2 Limitation of Liability.** The Association and the owner of Timacuan Golf and Country Club, and their respective successors, assigns, employees, officers and directors shall not be liable in any respect to the Owner or any member of the Owner's family, or any lessee, guest, or invitee of any Owner of any Lot over which this easement may exist for injury to persons or damage to property caused by or arising out of the acts or omissions of any person who may use this easement, with or without the consent of the Association or the owner of Timacuan Golf and Country Club. The Owners hereby indemnify, hold harmless and agree to defend the Association and its successors and assigns from any liability for any such injury to persons or damage to property and any costs and attorney's fees in connection therewith. This limitation of liability is not intended to benefit a person who actually and directly causes such injury or damage (for example, a person who strikes a golf ball that causes injury or damage), but is solely for the benefit of the Association and the owner of the Timacuan Golf and Country Club, and their respective successors, assigns, employees, officers and directors.

**4.9.3 Limitations on Owners.** No Owner shall have any right to trespass on or over any part of the Golf Course or to use the Golf Course or any part of it in any manner whatsoever, unless the Owner is a member, licensee or guest of Timacuan Golf and Country Club, and then only to the extent permitted by the rules and regulations governing such members, licensees or guests.

**4.9.4 Binding Effect and Assignment.** All provisions of this easement run with the land and are binding upon each Owner of a Lot encumbered by this easement.

**4.9.5 Enforcement.** The Association and the owner of Timacuan Golf and Country Club may enforce any of the provisions of this Article by injunction or other equitable relief or by an action at law for damages, or both, and the prevailing party shall be entitled to recover its attorney's fees and expenses.

### **ARTICLE V STREETS**

The Board of Directors shall have the right to adopt and enforce reasonable rules and regulations concerning street usage. In addition to the rules and regulations, the following restrictions shall apply:

**5.1 Street Parking.** Refer to Article 8.12 for additional restrictions regarding street parking. Any vehicle parked on the street shall be parked in accordance with Sections 316.1945 and 316.145, Florida Statutes, (incorporated by reference). To ensure the safety and well-being of the residents and to maintain the overall appearance of the community, vehicles of guests who are visiting an Owner may park in the Street for a period not exceeding six (6) hours if there is no room in the Owner's driveway. Convenience of the

owner and/or guest(s) does not constitute an exception to this requirement. Parked vehicles shall not be parked in any way as to hinder the ability to pass on the Street, access any driveway, block any sidewalk, impair visibility of the roadway ahead, or to create a safety hazard. Overnight street parking of vehicles is prohibited. Vehicles parked in violation of the Governing Documents and Florida Statutes are subject to ticketing, towing, or other remedies as described in Florida Statutes. Vehicles parked in violation of the Governing Documents are also subject to fines as outlined in Article X (10.3) of this Declaration. The amount of the fine may be progressive based on frequency. At the option of the Association and at the expense of the vehicle owner, the vehicle may also be towed as specified in Article 8.12 of this Declaration.

5.2 Prohibited Vehicles. Each of the following vehicles is prohibited from using the Streets within the Properties: electric or fuel-powered motor scooters, all-terrain vehicles, dune buggies or similar vehicles. Exception: electric-powered mobility/accessibility scooters (such as those for elderly or disabled persons).

5.3 Emergency Vehicles; Utilities. Notwithstanding any of the other provisions of this Article, there is granted a perpetual easement over the Streets within the Properties for purpose of providing access to police, fire, ambulance and other emergency vehicles; for refuse collection, and for the maintenance and operation of utilities serving the Properties. The Association shall have the right to designate a single refuse collection service to enjoy the easement hereby granted.

5.4 Construction Vehicles. Access shall be permitted for construction vehicles during daylight hours for the purpose of constructing improvements which have received prior approval of the ARB.

## **ARTICLE VI ASSOCIATION-COVENANT FOR MAINTENANCE ASSESSMENTS**

6.1 Creation of the Lien and Personal Obligations of the Assessments. Except as provided elsewhere in this Declaration, each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in the deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual Assessments or charges for the maintenance, management, operation and insurance of the Common Area, the Surface Water or Stormwater Management System, and other properties that may be otherwise used for the benefit of the Property as provided elsewhere in this Declaration, including such reasonable reserves as the Association may deem necessary, capital improvement Assessments, as provided elsewhere in this Declaration and all other charges and Assessments referred to in this Declaration, all the Assessments to be fixed, established and collected from time to time as provided in this Declaration. In addition, special Assessments may be levied against particular Owners and Lots for fines, expenses incurred against particular Lots and/or Owners to the exclusion of others and other charges against specific Lots or Owners as contemplated in this Declaration, and General Special Assessments maybe levied against all Lots and Owners, as further set forth in Section 6.7 herein. The annual Assessments, special Assessments, capital improvement Assessments, General Special Assessments and all other Assessments, together with the interest thereon and costs of collection thereof as provided in this Declaration, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made, and is subject to all remedies available at law or equity, including, but not limited to, foreclosure proceedings. Each Assessment, together with the interest thereon and costs of collection thereof as provided in this Declaration, shall also be the personal obligation of the Person who is the Owner of the Lot at the time when the Assessment fell due. Except as provided in this Declaration with respect to special Assessments which may be imposed on one or more Lots and Owners to the exclusion of others, all Assessments imposed by the Association shall be imposed against all Lots subject to its jurisdiction equally. Reference in this Declaration to Assessments shall be understood to include reference to any and all of those charges whether or not specifically mentioned.

6.2 Purpose of Assessments. The regular Assessments levied by the Association shall be used exclusively for maintenance, repair, renovation, and construction upon the Common Area, the maintenance and repair of the Surface Water or Stormwater Management System, and the maintenance

and repair of the other properties as may be used for the benefit of the Property, as specifically provided in this Declaration, capital improvements, reserves, operating costs of the Association and to promote the health, safety, welfare and aesthetics of the Members and their families residing with them, their guests and lessees, all as provided for in this Declaration.

6.3 Reserves for Replacement. The Association shall be required to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area. The reserve fund shall be maintained separately from annual Assessments.

6.4 Working Capital. Upon the closing of the sale or the occupation of a Residence, the buyer (or Owner) of the Residence shall pay to the Association an amount equal to FIVE HUNDRED DOLLARS (\$500.00) for the Lot, which amount shall be maintained in an account by the Association as working capital for the use and benefit of the Association, and shall not be considered as advance payment of annual Assessments. The maximum amount for working capital required hereunder may be increased each year, upon approval by a majority of the Board of Directors without a vote of the Membership, by an amount not greater than fifteen percent (15%) above the maximum amount for working capital for the previous year. The Board of Directors may fix the amount for working capital at an amount not in excess of the maximum. Any increase in excess of fifteen percent (15%) shall require the approval of at least sixty-six and two-thirds percent (66 2/3%) of the Members.

6.5 Maximum Annual Assessment. The maximum annual Assessment per Lot shall be established by the Board of Directors. The maximum annual Assessments may be increased each year, upon approval by a majority of the Board of Directors without a vote of the Membership, by an amount not greater than ten percent (10.0%) above the maximum Assessment for the previous year. The determination of whether the maximum Assessment for the previous year exceeds ten percent (10.0%) shall exclude reserves for repair or replacement as required in Section 6.3 herein, reserves for deferred maintenance as set forth in Section 9.1(b) of the Bylaws and such other reserves as may be required by the Governing Documents or Section 720.303(6), Florida Statutes, as amended from time to time. The Board of Directors may fix the annual Assessment at an amount not in excess of the maximum. Any increase in excess of ten percent (10.0%) shall require the approval of at least sixty-six and two-thirds percent (66 2/3%) of the Members.

6.6 Specific Damage. Owners (on their behalf and on behalf of their children, invitees, lessees and guests) causing damage to any portion of the Common Area shall be liable to the Association, and an appropriate special Assessment may be levied therefore against the Owner or Owners. The special Assessments shall be subject to all of the provisions hereof relating to other Assessments, including, but not limited to, the lien and foreclosure procedures.

6.7 General Special Assessment. In addition to the other Assessments set forth herein, the Association may levy a General Special Assessment for the purpose of (i) expenses other than those contemplated by the annual budget; (ii) expenses in excess of those budgeted; and (iii) such other Association expenses determined by the Board to be necessary and which are not inconsistent with the terms of the Governing Documents; provided, however, in order for the Board to levy such a General Special Assessment without Member approval, the Board must determine, in its sole discretion, that failure to levy such a General Special Assessment will result in damage to the Common Area or Lots. If the Board fails to make this determination, then a General Special Assessment can only be levied upon the approval of a majority of the voting interests present, in person or by proxy, at a duly called meeting at which a quorum is present. The General Special Assessments shall be subject to all of the provisions hereof relating to other Assessments, including, but not limited to, the lien and foreclosure procedures.

6.8 Exterior Maintenance. The Owner of each Lot shall maintain the exterior of the Residence and the Lot at all times in a neat and attractive manner and as provided elsewhere in this Declaration. Upon the Owner's failure to do so, the Association may at its option, after giving the Owner ten (10) days written notice sent to his last known address, or to the address of the subject premises, perform the reasonable maintenance and make the repairs as may be required to restore the neat and attractive appearance of the Lot and the exterior of the Residence located on the Lot. The cost of any of the work performed by the

Association upon the Owner's failure to do so shall be immediately due and owing from the Owner of the Lot and shall constitute a special Assessment against the Lot on which the work was performed, collectible in a lump sum and secured by the lien against the Lot as provided for in this Declaration. No bids need to be obtained by the Association for any of this work and the Association shall designate the contractor in its sole discretion. The Association shall not be liable to the Owner for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of the exercise of the rights in this Section.

**6.9 Date of Commencement of Annual Assessments; Due Dates.** The annual Assessments provided for in this Article shall commence on the first day of the month next following the recording of this Declaration and shall be applicable through December 31 of the year. Each subsequent annual Assessment shall be imposed for the year beginning January 1 and ending December 31. The annual Assessments shall be payable in advance by one (1) annual payment, or by quarterly or semiannual installments in the discretion of the Board of Directors. At the time of the closing of the sale of any Lot upon which a Residence has been constructed by any Builder, the purchaser thereof shall pay to the Association an amount equal to the annual Assessment multiplied by a fraction, the numerator of which is the number of days remaining in the year of closing (including the date of closing) and the denominator of which is 365. The due date of any special Assessment shall be fixed in the Board of Directors resolutions authorizing the Assessment.

**6.10 Duties of the Board of Directors.** The Board of Directors shall fix the date of commencement and the amount of the Assessment against each Lot subject to the Association's jurisdiction for each Assessment period, to the extent practicable, at least thirty (30) days in advance of the date or period, and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment shall then be sent annually to every Owner subject thereto thirty (30) days prior to payment of the first installment thereof, except as to emergency Assessments. Nothing in this Section shall require the Association to prepare or send written notices of Assessment to every Owner more frequently than once per year. Subject to other provisions hereof, the Association shall upon demand at any time furnish to any Owner liable for an Assessment a certificate in writing signed by an officer of the Association, setting forth whether the Assessment has been paid as to any particular Lot. The certification shall be conclusive evidence of payment of any Assessment to the Association therein stated to have been paid. The Association may charge a reasonable fee for the certificate. The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more Persons, firms or corporations for management services or for other services beneficial to the Association or the proper operation and maintenance of the Properties. The Association shall have all other powers provided elsewhere in this Declaration, in its Articles of Incorporation and its Bylaws.

**6.11 Effect of Nonpayment of Assessment; Personal Obligation; Lien; Remedies of the Association.** If the Assessments (or installments), whether annual, special, capital improvement, General Special or any other Assessments, are not paid on the date when due, then the Assessments (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as provided in this Declaration, then become a continuing lien on the Lot which shall bind the property. Each Assessment against a Lot shall also be the personal obligation of the Owner at the time the Assessment fell due.

**6.11.1** IF ANY INSTALLMENT OF AN ASSESSMENT IS NOT PAID WITHIN FIFTEEN (15) DAYS AFTER THE DUE DATE, REGARDLESS OF WHETHER THE OWNER ACTUALLY RECEIVED NOTICE THAT SUCH PAYMENT IS DUE, AT THE OPTION OF THE ASSOCIATION, A LATE CHARGE NOT TO EXCEED THE GREATER OF \$25.00 OR 5 PERCENT OF THE AMOUNT OF EACH INSTALLMENT THAT IS PAID PAST THE DUE DATE MAY BE IMPOSED AND ALL THE SUMS SHALL BEAR INTEREST FROM THE DATES WHEN DUE UNTIL PAID AT THE HIGHEST LAWFUL RATE, AND THE ASSOCIATION MAY BRING AN ACTION AT LAW AGAINST THE OWNER(S) PERSONALLY OBLIGATED TO PAY THE SAME, MAY RECORD A CLAIM OF LIEN AGAINST THE LOT ON WHICH THE ASSESSMENT AND LATE CHARGES ARE UNPAID, AND MAY FORECLOSE THE LIEN AGAINST THE LOT ON WHICH THE ASSESSMENTS AND LATE CHARGES ARE UNPAID, AND THE OWNER

SHALL BE LIABLE TO THE ASSOCIATION FOR ALL REASONABLE LEGAL FEES AND COSTS INCURRED BY THE ASSOCIATION AS A RESULT OF THE OWNER'S FAILURE TO TIMELY PAY THE ASSESSMENT OR INSTALLMENT. IN ANY ACTION OR ACTIONS, THE ASSOCIATION SHALL ALSO HAVE THE RIGHT TO RECOVER ITS ATTORNEYS' FEES (INCLUDING PARALEGAL FEES) AND COSTS, WHETHER INCURRED BEFORE TRIAL, AT TRIAL AND UPON ALL APPELLATE LEVELS.

6.11.2 In addition to the rights of collection of Assessments stated in this Article, any and all Persons acquiring title to or an interest in a Lot as to which the Assessment is delinquent, including without limitation Persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of the Lot or the enjoyment of the Common Area or Community Amenities until the time as all unpaid and delinquent Assessments due and owing from the selling Owner have been fully paid. No sale or other disposition of Lots shall be permitted until an estoppel letter is received from the Association acknowledging payment in full of all Assessments and other sums due; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees.

6.11.3 It shall be the legal right of the Association to enforce payment of the Assessment hereunder. Failure of the Association to send or deliver bills shall not, however, relieve Owners from their obligations hereunder.

6.12 Subordination of the Lien. The lien of the Assessments provided for in this Article shall be subordinate to tax liens and to the lien of any first mortgage in favor of an institutional lender which is now or hereafter placed upon any property subject to Assessment; provided, however, that any mortgagee, when in possession, or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any mortgagee acquiring a deed in lieu of foreclosure, and all Persons claiming by, through or under the purchaser or mortgagee, shall hold title subject to the liability and lien of any Assessment coming due after the foreclosure (or conveyance in lieu of foreclosure). A first mortgagee, who acquires title to a Lot by foreclosure or by a deed in lieu of foreclosure, shall be responsible for the unpaid assessments that became due before the mortgagee's acquisition of title as set forth in Section 720.3085(2)(c), Florida Statutes, as amended from time to time. Any unpaid Assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an Assessment divided equally among, payable by and a lien against all Lots subject to Assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

6.13 Collection of Assessments. The Association shall collect the Assessments. No provision of this Declaration requires mortgagees to collect Assessments.

6.14 Association's Right to Receive Lease Payments. If an Owner has rented his Residence and is delinquent in the payment of any amount owed to the Association, the Association may demand of the lessee in that Residence that the lessee make lease payments directly to the Association and the Association may deduct from all the lease payments the amount owed by the applicable Owner to the Association. The balance of all the lease payments received by the Association will be forwarded to the Owner. All tenants occupying a Residence are authorized by this provision to make lease payments directly to the Association as further provided in Section 720.3085(8), Florida Statutes. All Owners agree to hold their lessees harmless for their lessees' payment of rent to the Association pursuant to this provision.

6.15 Trust Funds. The portion of all regular Assessments collected by the Association for reserves for future expenses, and the entire amount of all special Assessments, shall be held by the Association for the Owners of all Lots, as their interests may appear, and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States.



## **ARTICLE VII ARCHITECTURAL CONTROL**

**7.1 Architectural Control.** No building, wall, addition, fence, drainage swale, athletic or recreational facility or other structure or improvement of any nature or kind (including significant landscaping and exterior paint and finish) (collectively, the "Improvements") shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping, and composition of the materials used therefore, such as may be required by the ARB, have been approved in writing by the ARB and all necessary governmental permits are obtained. Each Improvement shall be erected, placed or altered upon the premises only in accordance with the approved plans and specifications and plot plan, and applicable governmental permits and requirements. The ARB shall have the right, in its sole and absolute discretion, to refuse approval of plans, specifications and plot plans, or any of them, based on any reasonable ground, including purely aesthetic grounds. Any action affecting the exterior appearance of any Lot or Improvement thereon shall be deemed an alteration requiring approval. The ARB shall have the power to promulgate the Rules and Regulations and establish the architectural standards, as it deems necessary to carry out the provisions and intent of this Section.

**7.2 Appointment of ARB.** The ARB shall be a committee composed of or appointed by the Board of Directors. The ARB shall have any number of members, but never less than three (3), as deemed appropriate by the Board of Directors.

**7.3 Approval or Disapproval.** The ARB should act on submissions to it, or request further information thereon, within thirty (30) days after receipt of the initial submission .

**7.4 Variances.** Notwithstanding anything in this Declaration to the contrary, the ARB, in its sole and absolute discretion, may grant a variance as to any of the restrictions, conditions and requirements set forth in this Article so long as, in the judgment of the ARB, the noncompliance for which the variance is granted is not of a substantial nature and the granting of the variance shall not unreasonably detract from the use and enjoyment of adjoining Lots and the Properties. In no event shall the granting of a variance in one instance require the ARB to grant a similar or other type of variance in any other instance, it being understood that the granting of variances from the restrictions, conditions and requirements of this Article shall be in the sole and absolute discretion of the ARB.

**7.5 Waiver of Liability.** The ARB and any and all officers, directors, employees, agents and members of the Association shall not, either jointly or severally, be liable or accountable in damages or otherwise to any Owner or other Person whomsoever, by reason of or on account of any decision, approval or disapproval of any plans, specifications or other materials required to be submitted for review and approval pursuant to provisions of this Section, or for any mistake in judgment, negligence, misfeasance, or nonfeasance related to or in connection with any decision, approval or disapproval, and each Owner by acquiring title to any Lot or interest therein, shall be deemed to have agreed that he or it shall not be entitled to and shall not bring any action, proceeding or suit against the parties.

**7.6 Term of Approval.** Approval by the ARB shall be effective for a period of one (1) year from the date the approval is given. If construction has not commenced within this one (1) year period, the approval shall have expired and no construction shall thereafter commence without written renewal of the prior approval.

## **ARTICLE VIII - RESTRICTIVE COVENANTS**

The Property shall be subject to the following restrictions, reservations and conditions which shall be binding upon each and every Owner and its heirs, personal representatives, lessees , invitees, successors and assigns, as follows:

**8.1 Water and Sewage Facilities.** No individual water supply system or individual sewage disposal

system shall be permitted on any Lot. This Section does not restrict the right of any Owner to install, operate and maintain a water well for use only for air conditioning/heating, and irrigation purposes.

8.2 Landscaping. Landscaping on each Lot and stormwater drainage and retention features located on and serving only that Lot shall be continuously maintained in good, aesthetically pleasing condition by the Owner thereof. The Owner of each Lot abutting a body of water or any canal shall maintain the shoreline of said Lot free of debris and weeds consistent with applicable environmental regulations. All landscaped and grassed areas on each Lot shall be watered by means of an automatic underground sprinkler system which shall be employed so as to keep all vegetation in excellent condition. Landscaping as approved by the ARB shall be installed within ninety (90) days of occupancy or completion of any buildings (as evidenced by a certificate of occupancy or its equivalent), whichever occurs first. No vegetable or other garden for raising produce shall be permitted within the Property unless concealed from direct view of streets and rights-of-way.

8.3 Driveways and Mailboxes. All driveways shall be maintained in the style originally established or approved by the Association. With respect to driveways, culverts installed therein shall be of a type and quality approved by the Association and the grade of same shall be set by the Association. Individual mailboxes shall be prohibited on the Property unless approved by the ARB.

8.4 Window Coverings. Reflective window coverings are prohibited. No awnings, canopies, or shutters shall be permanently installed on the exterior of any building unless first approved by the ARB.

8.5 Pools. No above-ground pools shall be erected, constructed, or installed on any Lot except that above ground spas or Jacuzzi may be permitted in designated Lots with approval of the ARB. Any in-ground pool to be constructed on any Lot shall be subject to the requirement of the ARB, which include, but are not limited to the following: (a) composition to be of material thoroughly tested and accepted by the industry for such construction; and (b) all screening material shall be of a color in harmony with the exterior of the Lot. No raw aluminum color screen will be allowed.

8.6 Nuisances. No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept on any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done on the Property tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature that may diminish or destroy the enjoyment of the Property. No outside burning of wood (small recreational fire pits excluded), leaves, trash, garbage, or household refuse shall be permitted within the Property.

8.7 Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on the Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions, shall not be undertaken on any part of the Property.

8.8 Rules and Regulations. Rules and regulations promulgated by the Board of Directors of the Association as to the use and enjoyment of the Property shall be observed by the Owners and occupants thereof. Such rules and regulations may involve such matters as multi-family structures, air conditioning units, signs, mailboxes, temporary structures, noisy mufflers or other nuisances, garbage and trash disposal, parking, vehicle traffic and the state of repair of vehicles, tree removal, gutters, pets, game and play structures, swimming pools, television antennae, driveways, walkways, sight distance at intersections, garages, and fences. These matters are set out by way of illustration only and shall not be construed to

limit the authority of the Board of Directors to promulgate and enforce rules and regulations. Such rules and regulations may augment or clarify the terms of this Master Declaration or any provision, covenant, or restriction herein contained. Copies of such rules and regulations shall be made available to each Owner prior to the time same become effective

**8.9 Animals and Pets.** No animals, wildlife, livestock, reptiles, or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats, or other usual and common household pets not to exceed a total of four (4) may be permitted in a Residence or on a Lot. All pets shall be leashed when on the Common Property. Those pets which, in the sole discretion of the Association endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the other Owners or the owner of any portion of the Property shall be removed upon request of the Board of Directors. No pets shall be kept, bred, or maintained for any commercial purpose. Pets shall only be permitted on the Common Property if such portions thereof are so designated by the Association. All persons bringing a pet onto the Common Property or any Property that is not their own shall be responsible for immediately removing any solid waste of said pet. See also Lake Mary city ordinance Chapter 90 on Animal Control.

**8.10 Garbage, Trash, and Recyclable Items.** No trash, garbage, recyclable items, or other waste material or refuse shall be placed or stored on any part of The Properties except in covered or sealed sanitary containers. All such sanitary containers must be stored within each building, buried underground, or placed within an enclosure or concealed by means of a screening wall of material similar to and compatible with that of the building. These elements shall be integrated with the concept of the building plan, shall be designed so as not to attract attention, and shall be located in the most inconspicuous manner possible. There may be no burning of trash or any other waste material, except within the confines of an incinerator, the design and location of which must be approved by the ARB.

**8.11 Oil and Gas Tanks, Pool Equipment, Outdoor Equipment.** All fuel tanks, oil tanks, bottled gas tanks, and swimming pool equipment and housing must be underground or placed in walled-in areas or landscaped areas so that they are not visible from any adjoining Lot or any street. Adequate landscaping must be installed and maintained by the Owner. On-site storage of gasoline or other fuels is prohibited on any part of the Property, with the exception of up to five (5) gallons of fuel stored on each Lot for emergency purposes and operations of lawn mowers or similar tools or equipment; and the Association will be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. All of the foregoing must be approved in writing by the ARB and comply with all applicable laws, codes, and ordinances.

**8.12 Parking, Storage, Repair and Vehicular Restrictions.** Parking on the Property shall be restricted to private vehicles intended primarily to carry passengers and only limited cargo. No vehicle shall be parked so as to block a sidewalk, driveway, or intersection. Passenger vehicles displaying company markings shall be garaged at all times, unless such markings are obscured through the use of covers approximating the vehicle color. No owner, resident, or visitor shall conduct repairs (except in an emergency) or restorations of any motor vehicle, or other vehicle upon any portion of the Property, except in an enclosed area with the doors to that area closed at all times.

No commercial vehicles, or campers, mobile homes, motor homes, house trailers or trailers of any type, recreational vehicles, motorcycles, mopeds, or boats shall be permitted to be parked or to be stored at any place within the Property, except in an approved garage on the Owner's Lot with the garage door closed. No Owner, resident or visitor shall keep any vehicle on the Common Property which is deemed a nuisance by the Board. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive of whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of the Association, nor shall the prohibitions apply to municipal, county, or federal law enforcement and emergency vehicles such as police cars, Sheriff's cars, ambulances, fire trucks, and similar government vehicles. No overnight on-street parking or parking on lawns shall be permitted.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained in this Declaration may be towed by the Association at the sole expense of the owner of the vehicle if the vehicle remains in violation for a period of 24 hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of that vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of the towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes, and trailers. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

8.13 Temporary Structures. No building or structure of a temporary character, including trailers, tents and shacks shall be permitted in the Property; provided, however, temporary improvements used solely in connection with the construction of approved permanent improvements shall be permitted so long as located as inconspicuously as possible and removed immediately upon completion of such construction; provided further, however, temporary party tents shall be permitted only with prior written approval from the ARB.

8.14 Signs. No signs, banners, advertisements, or vendor solicitations shall be displayed in the front or back of the property with the exception of professional signs marketing the sale or lease of the property or directional signs to same. All other signs require prior written approval of the ARB, with the exception of house numbers and/or name signs on the individual Residence. No sign shall be nailed or hung on trees surrounding the property. These restrictions do not apply to the Association, which may put up yard sale or yard of the month signs, or posting of official information of interest to all residents.

8.15 Air Conditioning Equipment. No window air conditioning units are permitted. Installation of conventional air conditioning units by authorized professional services on the exterior of the property does not need pre-approval of the ARB.

8.16 (Reserved)

8.17 Antennas, Aerials, Dishes and Flagpoles. Satellite dishes one meter (39") or less in diameter and other antennas, which are permitted under the Telecommunications Act of 1996 (the "Act") and the rule promulgated by the FCC to implement the Act are allowed. If possible, these devices shall be installed as to best screen them from view, provided these screening measures do not unreasonably increase cost or use of the device, or preclude reception of an acceptable quality signal.

Flagpoles and one US flag or official flag of the State of Florida displayed in a respectful manner are permitted on a Lot and do not need ARB approval. In addition, one portable, removable official flag, displayed in a respectful manner, not larger than 4 ½ feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps or Coast Guard or a POW –MIA flag are permitted on a Lot and do not need ARB approval.

8.18 Occupancy and Single Family. There shall be no more than two (2) persons per bedroom residing within any Residence. Further, all Residences shall only be occupied by a Single Family, as defined herein. Boarding homes, group homes and other similar types of homes are not occupied by a Single Family, as defined herein, and are specifically prohibited.

8.19 Completion of Construction. After commencement of construction of any improvements in the Property, the Owner shall diligently prosecute the work thereon, and the work shall be completed within six (6) months, unless an extension of time is granted by the ARB. The Owner of the Lot on which improvements are being constructed shall at all times keep the streets contiguous to the Lot free from any dirt, mud, garbage, trash or other debris which might be occasioned by construction of the improvements.

8.20 Excavation. No clearing or excavation shall be made except in connection with the construction,

maintenance, or repair of an improvement; and upon completion thereof exposed openings shall be backfilled, and disturbed ground shall be leveled, graded and seeded, as provided on the approved plans for landscaping.

8.21 Maintenance of Protective Screening. Excluding that comprising an Area of Common Responsibility to be maintained by the Association, any protective screening constructed along exterior Lot lines as a buffer against the encroachment of noise, dust and/or visual pollution, or other adverse influences, shall be maintained by the Owner of such Lot, at such Owner's expense, including the repair and replacement thereof from time to time, for so long as such buffer shall continue necessary by virtue of the continued adverse influence on the adjacent Property, which such necessity shall be determined by the ARB.

8.22 Storage Areas. Unless specifically approved in writing by the ARB, no materials, supplies or equipment (except during the construction of improvements) shall be stored in any area of any Commercial Lot except inside an approved an enclosed building, or behind a visual barrier screening such areas from the view of the adjoining Lots and any street.

8.23 Utility Service. No "service lines" shall be constructed, placed or maintained anywhere in or upon the Property unless the same shall be contained in conduits or cables constructed, placed and maintained underground or concealed in, under or on buildings or other approved improvements; provided electrical transformers may be permitted if properly screened and approved by the ARB. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone service poles incident to the construction of approved improvements. The foregoing shall not apply to "transmission lines" now or hereafter existing on the Property. As used herein, the term "service line" shall include lines, wires, or other devices for the communication or transmission of electric current or power on any site or part thereof, including without limitation telephone and television signals. As used herein, the term "transmission line" shall include such master lines, wires, etc. as transmit the current or power to the Lots or parts thereof, and from which the "service lines" run.

8.24 (Reserved)

8.25 (Reserved)

8.26 Play Equipment, Strollers, Swing Sets. Toys, strollers, bicycles, tricycles, skateboards must not be left unattended on streets and sidewalks. The erection of permanent exercise equipment and swing sets on the exterior of the property requires pre-approval of the ARB. Basketball hoops located on the property are allowed, provided they do not obstruct pedestrian or vehicular traffic and do not present a safety issue near sidewalks.

8.27 Trees. Trees measuring six inches (6") or more in diameter at three feet (3') or more above ground level shall not be cut or removed from the Property without the prior written consent of the ARB unless the trees are located within six feet (6') of the Residence or its proposed location as approved by the ARB. In addition, trees and other foliage located on the easements between the sidewalk and street in front of a Lot are the responsibility of that Owner and shall be maintained in such a manner as to permit vehicles and pedestrian traffic to pass beneath the branches and foliage safely and without damage or injury. See also Lake Mary city ordinance 157.14 on tree removal permit requirements.

8.28 Sidewalks. There shall be constructed upon each Lot in accordance with the applicable regulations of the governmental agency or agencies with jurisdiction, at the expense of the Owner thereof, a sidewalk in front of the Lot, and on the side if the Lot is a corner Lot, on or before the earlier of completion of construction or occupancy of the Residence.

8.29 Garages. Each single family Residence shall include a garage (minimum size twenty-two feet (22') by twenty-four feet (24')).

8.30 Fences. No fences of any kind shall be erected, except on those Lots that are on the outside

perimeter of Timacuan, with prior approval of the ARB. Perimeter fencing shall be dark metal, not chain link, six (6) feet high and maintained by the Lot owner.

**8.31 Leasing of Residences.** No Residence may be leased or rented for a term shorter than one (1) year. No such Residence may be subject to more than one (1) lease in any twelve (12) month period unless approved by the Association, regardless of the lease term. This provision shall not apply to short-term leaseback arrangements accompanying the sale of the property. All leases of Residences shall be in writing, and all leases must obtain the prior written approval of the Board of Directors.

In addition to the foregoing, all leases of Residences shall be subject to the following provisions:

- (A) All persons 18 years or older, residing in the Residence, must be on the lease;
- (B) Residences may be leased in their entirety only. No portion of or individual room of a Residence may be leased;
- (C) Residences shall be leased exclusively for residential purposes;
- (D) No Time Shares are permitted;
- (E) The Association will review all leases in the order that they are received. The Board of Directors shall have the power to adopt and amend Rules and Regulations governing the details and methodology of this review process, as the same may be deemed necessary from time to time;
- (F) The Association need not approve any lease until such time as all unpaid Assessments, judgments, fines, court costs and attorney's fees (if any) incurred by the Association, and all other monies due and owing the Association for the Lot or by the Owner of the Lot, have been paid, including but not limited to the application fee as provided in paragraph H(1)(b) below and the deposit as provided in paragraph M below;
- (G) All leases must provide, and if they do not, shall be deemed to provide the following:
  - (1) The lessee(s) agrees to abide by all of the provisions of the Governing Documents, and a violation of the Governing Documents is a material breach of the lease and the Association may pursue a claim for damages, termination, eviction and injunctive relief;
  - (2) The lessee(s) and the Owner agree that the Association may proceed directly against such lessee(s) for injunctive relief, termination, eviction and/or damages all at the Owner's and/or lessee's expense;
  - (3) Each Owner covenants to enforce the terms of the lease and the terms of the Governing Documents with respect to the use and occupancy by the lessee(s) of the Residence;
  - (4) Should the Association seek to enforce the provisions of the lease and/or the Governing Documents, through injunctive relief, a claim for damages, eviction or termination, then the Association shall be entitled to recover its reasonable attorneys' fees and costs incurred in such enforcement, whether a law suit or administrative proceedings be filed or not (including without limitation, attorneys' fees and costs upon appeal, and in bankruptcy). If such attorneys' fees and costs are not immediately paid by the lessee(s), the Owner of the Residence shall pay them and such attorneys' fees and costs shall bear interest at the highest rate permitted by law. The obligation of the lessee(s) and Owner to pay or reimburse

the Association such attorneys' fees and costs will, if not immediately paid, give rise to a cause of action against the lessee(s) and/or Owner pursuant to this Declaration, and shall be levied as a special Assessment against the Owner and his/her Lot; and

- (5) There shall be no subleasing or assignment of leases without the prior written approval of the Association.
- (H) The approval of the Association shall be obtained as follows:
  - (1) Not later than twenty-one (21) days before the first day of occupancy under a lease, an Owner who wishes to lease his/her Residence shall deliver to the Board of Directors of the Association the following:
    - (a) Written notice of the Owner's intention to lease the Residence, which notice shall include the following:
      - (i) name, address and social security number of the proposed lessee(s);
      - (ii) two (2) proofs of the lessee's identity, one of which must be a photo identification (driver's license, passport, etc.);
      - (iii) information regarding the proposed lessee(s)' vehicles, including but not limited to, the make, model and length of the vehicles;
      - (iv) a correct, complete and executed copy of the proposed lease, which lease must provide it is subject to the approval of the Association; and
      - (v) a written authorization signed by the lessee(s) permitting the Association to inquire into the credit and criminal history of the lessee(s).
    - (b) A check payable to the Association in the amount of ONE HUNDRED AND NO/100 DOLLARS (\$100.00) per applicant, other than husband/wife or parent/dependent child, or such greater amounts as may be authorized by the Florida law, from time to time, to defray the cost of processing the notice; and
    - (c) The deposit as required in paragraph (M) below.
  - (2) The Association may require such other and further information as it deems reasonably necessary, and may adopt and require the use of approved forms for this purpose.
  - (3) The Association must, within fifteen (15) days after its receipt of all the information required above, either approve or disapprove the proposed lease. In exercising its power of disapproval, the Association must act in a manner that is neither arbitrary nor unlawfully discriminatory and withhold approval only for a reason or reasons rationally related to the protection, preservation, and proper operation of the Association.
  - (4) Except as provided in paragraph (I) below, if the Association fails or refuses within the allotted time to either deliver or mail a written notice to the Owner of its

approval or disapproval, then the lease shall be deemed approved.

- (5) If the Association disapproves the lease and notifies the Owner in writing, within the allotted time, the lease shall not be made.
- (I) In no event shall a lease be deemed approved: if paragraph (F) is applicable;
- (J) Any lease that is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association. Further, no approved lease shall be automatically renewed or extended beyond its initial leasing term without the prior written approval of the Association. Any Owner desiring to renew or extend an approved lease beyond its initial leasing term must submit a request for renewal or extension to the Board of Directors at least forty-five (45) days prior to the expiration of the approved lease;
- (K) If the lease is made without the approval of the Association or if the lessee or Owner violates any provisions of the Governing Documents, then the Association shall have the right to cancel and terminate the lease, and the Association may pursue a claim for damages, eviction, and/or injunctive relief against the Owner and/or lessee. Should the Association decide to pursue eviction of the lessee, the Association shall be regarded as the Owner's agent, fully authorized to take such steps as may be necessary to effect the cancellation and termination of such lease. However, the Owner is responsible and liable for all violations and losses caused by such lessee, notwithstanding the fact that such lessees are also fully liable for violations of the Governing Documents. Further, the Association shall be entitled to recover its reasonable attorneys' fees and costs incurred in such enforcement, from the Owner and/or lessee, whether a lawsuit or administrative proceeding be filed or not (including without limitation, attorneys' fees and costs upon appeal, and in bankruptcy);
- (L) Subject to the right of the Board of Directors to adopt and amend Rules and Regulations governing same, a lessee of a Residence shall have all of the use rights to the Common Area otherwise readily available for use generally by Owners, and the Owner of the leased Residence shall not have such rights, except as a guest. This shall not, however, interfere with access rights of an Owner as landlord pursuant to applicable law; and
- (M) The Association may, in its sole discretion, require the lessee(s) to place a security deposit, in an amount to be determined by the Board of Directors from time to time, but not to exceed the equivalent of one (1) month's rent, into an escrow account maintained by the Association. The security deposit shall protect against damages to the Common Area. When payment for repair to the Common Area is deducted from this deposit, an Owner has thirty (30) days to replenish the account to the original amount required, and failure to do so shall be a violation of this Declaration. Payment of interest, claims against the deposit, refunds and disputes under this paragraph shall be handled in the same fashion as provided in part II of Chapter 83 Florida Statutes, as amended from time to time. The Association makes no representations or warranties regarding the financial feasibility of renting Residences or the income to be derived there from. Any Owner who desires or intends to rent a Residence must independently determine and assume responsibility for the feasibility of renting and should consult his or her own advisor with respect to the tax consequences and economic advantage of ownership. Each Owner acknowledges that, in regard to the use of a Residence for rental income purposes, neither the Association nor any of its agents, officers or directors, have made any representations about such use, the tax consequences or economic advantages thereof, and such Owner releases the Association and its agents, officers and directors from any claims arising out of such use.

**8.32 Sight Distance at Intersections.** All Lots at street intersection shall be so landscaped as to permit safe site across the street corners. No fence, walls, hedge, shrub, or other planting will be placed or permitted to remain at the corner of a Lot where such would create a traffic or sight problem. Further, vehicles or other objects shall not be placed or parked, at the corner of a Lot, where such would create a



traffic or sight problem.

**8.33 Occupants Bound.** All provisions of the Governing Documents that govern the conduct of Owners and that provide for sanctions against Owners shall also apply to all occupants, guests, and invitees of any Residence. Every Owner shall cause all occupants of the Owner's Residence to comply with the Governing Documents and shall be responsible for all violations and losses to the Property caused by those occupants, notwithstanding the fact that those occupants of a Residence are fully liable and may be sanctioned for any violation of the Governing Documents.

**8.34 Seasonal Decorations and Lighting.** Except for seasonal decorative lights, which may be displayed between November 15 and January 15 only, all exterior lights must be approved by the ARB.

**8.35 Artificial Vegetation, Exterior Sculpture, and Similar Items.** No artificial vegetation shall be permitted on the exterior of any portion of the Property. Exterior sculpture, foundations, flags, except those types of flags set forth in Section 8.17 above, plaques, and similar items must be approved by the ARB.

**8.36 Energy Conservation Equipment.** Solar energy collector panels and attendant hardware or other energy conservation equipment may be constructed or installed on any Residence, provided it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARB. All such energy conservation equipment must conform to the roof line, cannot exceed the pitch of the roof, and cannot extend beyond the roof line. In addition, no elevated structures of any kind shall be permitted on the roof.

**8.37 Preserves, Lakes and Water Bodies.** All preserves within the Property shall be left in their natural state and no alterations thereof or construction thereon shall be permitted. All lakes, ponds, and streams within the Property, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitations, swimming, boating, fishing, playing, or use of personal flotation devices, shall be permitted. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Property. No docks of any kind shall be permitted on the Property. Notwithstanding the foregoing, companies or personnel hired by the Association to maintain the water bodies and fountains shall be permitted to use the water bodies for such limited purposes.

#### **8.38 Business Use.**

##### **8.38.1 Home Businesses.**

No trade or business may be conducted in or from any Residence, except that an owner or occupant residing in a Residence may conduct business activities within the Residence so long as:

- a. The existence or operation of the business activity is not apparent or detectable by sight, sound, signage, or smell from outside the Residence;
- b. The business activity conforms to all zoning requirements for the Property;
- c. The business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property;
- d. The business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety or threaten the security of the other residents of the Property, as determined in the sole discretion of the Board;
- e. The business complies with all requirements of city codes and ordinances.

The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meaning, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of

consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore. Notwithstanding the above, the leasing of a Residence shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Association with respect to its development and sale of the Property or its use of any Residences which it owns within the Property nor to the property designated by the Association on any plat as its sales office/model center location. As to this latter area, the Association or any purchase of such property shall have the right, subject to applicable governmental ordinances, to utilize same for office/professional business uses.

#### **8.38.2 Garage Sales.**

No garage sales shall be permitted without the prior written approval of the ARB (Architectural Review Board). To ensure the safety and well-being of residents and guests and reduce non-resident traffic through the community, the Association shall sponsor two (2) community-wide garage sales each year, one in the spring and one in the fall. Garage sales at other times are prohibited, except for ARB-approved moving and estate sales. Residents holding garage sales must also comply with all city ordinances and permit requirements, (city ordinance 113.02) which permit no more than two sales per year per city resident and subject violators to a fine of up to \$500 (city ordinance 10.99) Homeowners and other residents holding garage sales without ARB approval are in any case subject to a one-time fine of \$100, levied upon verification that the sale is unauthorized. See covenant Article 8.14 for restrictions regarding signage for approved sales.

**8.39 Storm Precautions.** No hurricane or storm shutters shall be permanently installed on any structure on a Lot unless first approved by the ARB. Hurricane or storm shutters may be installed temporarily, and other storm precautions may be taken to protect structures on a Lot, while the threat of a hurricane or similar storm is imminent; provided, all such shutters and other exterior alterations or additions made as a storm precaution shall be promptly removed once the storm or imminent threat of the storm has passed.

**8.40 Additional Rules and Regulations.** In addition to the foregoing, the Board of Directors shall have the right, power and authority to promulgate and impose Rules and Regulations governing and/or restricting the use of the Properties and Lots, including without limitation Rules and Regulations relating to the placement or installation of any type of improvement on any Lot, and to thereafter change, modify, alter, amend, rescind and augment any of the same; provided, however, that no Rules and Regulations so promulgated shall be in conflict with the provisions of this Declaration. Any Rules and Regulations so promulgated by the Board of Directors shall be applicable to and binding upon all the Properties and the Owners thereof and their successors and assigns, as well as all guests and invitees of and all parties claiming by, through or under the Owners.

## **ARTICLE IX PARTY WALLS**

**9.1 General Rules of Law to Apply.** To the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply to each Party Wall which is built as part of the original construction and any replacement of improvements on the Property.

In the event that any portion of any structure, as originally constructed, including any Party Wall, shall protrude over an adjoining Common Area or Lot, such structure, Party Wall shall not be deemed to be an encroachment upon the adjoining lands, and the affected Owner shall neither maintain any action for the removal of the Party Wall or projection, nor for damages. In the event there is a protrusion, it shall be deemed that the affected Owner has granted a perpetual non exclusive easement to the adjoining Owner for continuing maintenance and use of the projection or Party Wall. The foregoing shall also apply to any replacements of any structures or Party Walls if they are constructed in conformity with the original structure or Party Wall.

**9.2 Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a Party Wall

shall be shared equally by the Owners who make use of the Party Wall in proportion to such use.

9.3 Destruction by Fire or Other Casualty. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has used the Party Wall must restore it, and if other Owners thereafter make use of the Party Wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

9.4 Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act or omission causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

9.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

9.6 Arbitration. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator and, if there is an even number of arbitrators, such arbitrators shall choose one (1) additional arbitrator and the decision shall be by a majority of all the arbitrators. The decision of the arbitrators shall not, however, be binding and conclusive upon the parties and any party to the dispute shall thereafter have the right to institute any action or proceeding at law or equity.

## **ARTICLE X - ENFORCEMENT**

10.1 Compliance by Owners. Every Owner shall comply with the terms, provisions, restrictions and covenants set forth in this Declaration, the Articles of Incorporation, the Bylaws of the Association, all as amended from time to time, and any and all Rules and Regulations which from time to time may be adopted by the Board of Directors or the ARB.

10.2 Enforcement. The Association, the Board of Directors, the ARB, each Owner, or any other party as provided in this Declaration shall have the right to enforce the Governing Documents. Enforcement of the Governing Documents may be accomplished by any proceeding at law or in equity, including without limitation, an action for damages and injunctive relief. The Association shall have the right, as set forth elsewhere in this Declaration, to suspend the voting rights and use of the Common Area of any defaulting Owner as provided for in this Declaration. Failure to enforce any covenant, restriction or provision hereof shall not be deemed a waiver to do so thereafter. The defaulting and/or offending Owner shall be responsible for all costs incurred in enforcement of the Governing Documents, including but not limited to, attorney, paralegal and legal assistant fees, costs and expenses, related fees, costs and expense, court costs and witness and expert fees and costs, whether suit be brought or not, and whether in settlement, in any declaratory action, at trial or on appeal.

10.3 Fines. In addition to all other remedies, in the sole discretion of the Board of Directors, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, lessees, or employees to comply with any term, provision, covenant, restriction, rule or regulation contained in this Declaration or promulgated pursuant to this Declaration, provided the following procedures are adhered to:

10.3.1 Notice. The Association shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of the next meeting of the Association's Covenants Enforcement Committee, which date and time shall not be earlier than fourteen (14) days after the notice is given, at which time the Owner shall have the option to present reasons why a penalty or penalties should not be imposed.

10.3.2 Hearing. On the meeting date, the noncompliance shall be presented to the Covenants Committee who shall hear reasons why penalties should not be imposed. The Covenants Committee shall consist of three (3) members appointed by the Board of Directors who are not officers, directors, or employees of the

Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee, who shall hear reasons why penalties should not be imposed. If the Covenants Committee, by majority vote, does not approve a proposed fine, it may not be imposed. A written decision of the Covenants Committee shall be provided to the Owner no later than ten (10) days after the hearing. In the case of an ongoing offense under a single notice, a fine levied by the Covenants Committee shall be retroactive to the first date of the violation and shall continue until the violation is corrected, subject to the limitations set forth in Section 10.3.3.

**10.3.3 Penalties.** The Board of Directors may impose fines against the Lot or Lots owned by the Owner not to exceed ONE HUNDRED AND NO/100 DOLLARS (\$100.00) per violation, and the fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing. There shall be no limit as to the aggregate amount of fines that may be levied pursuant to this Section. Any fines imposed, if not paid, shall become a lien against the Owner's property if permitted by Section 720.305(2), Florida Statutes, as amended from time to time.

**10.3.4 Payment of Penalties.** Fines shall be paid no later than thirty (30) days after the written decision of the Covenants Committee in accordance with the procedures set forth above in the Subsection titled "Hearing." Any fines not paid within the thirty (30) day period shall thereafter accrue interest at the highest rate allowed by law until paid.

**10.3.5 Collection of Fines.** If permitted by Chapter 720, Florida Statutes, as amended from time to time, fines shall be treated as an Assessment otherwise due to the Association, and as such will be lien against the Owner's Lot.

**10.3.6 Rules and Regulations.** The Board shall have the right to promulgate rules and regulations regarding the procedures for fining.

**10.3.7 Allocation.** All monies received from fines shall be allocated as directed by the Board of Directors.

**10.3.8 Nonexclusive Remedy.** These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from the Owner.

**10.4 Severability.** The invalidation of any provision or provisions of the covenants and restrictions set forth herein by judgment or court order shall not affect or modify any of the other provisions of said covenants and restrictions which shall remain in full force and effect.

## **ARTICLE XI - GENERAL PROVISIONS**

**11.1 Municipal Service Taxing Units.** Upon acceptance of any deed or other instrument conveying title to any Lot, each Owner thereof acknowledges that each Lot is or may be located in one or more municipal service taxing units (each is an "MSTU") for the purpose of providing street lighting or any other purposes for which an MSTU may be established under Florida law. Each Owner agrees to be subject to and bound by the MSTUs and to pay all fees, charges, surcharges, levies and Assessments, in whatsoever nature or form, relating to those districts and/or to the Owner's Lot. Further, each Owner agrees that it shall cooperate fully with the Association in connection with any efforts of the Association to include the Property in any MSTUs, and to execute any documents or instruments which may be required to do so.

**11.2 Insurance and Fidelity Bonds.** The Association shall obtain and maintain in effect casualty and liability insurance and fidelity bond coverage in form and amount substantially similar to that specified in the Federal National Mortgage Association Lending Guide, Chapter Three, Part 5, Insurance Requirements, as the requirements shall be amended from time to time, or similar insurance and fidelity bond coverage as may be deemed advisable by the Board of Directors.

11.3 Duration. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, the ARB, the Owners, and any other Person given the right of enforcement in this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time the covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of seventy-five percent (75%) of all the Lots subject hereto has been recorded, agreeing to revoke the covenants and restrictions. Provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of the revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

11.4 Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the Person who appears as a Member or Owner on the records of the Association at the time of the mailing.

11.5 Severability. Invalidity of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

11.6 Amendments. Except as otherwise provided in this Declaration, the Declaration may be amended upon the approval of at least a majority of the Members present, in person or by proxy, at a duly called meeting at which a quorum is attained and shall be evidenced by the recordation of an amendatory instrument executed by the president of the Association.

11.7 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of Seminole County, Florida.

11.8 Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association, and the Articles shall take precedence over the Bylaws.

11.9 Standards for Consent, Approval, Completion, Other Action and Interpretation. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Association or the ARB, unless otherwise provided in this Declaration, the consent, approval or action may be withheld in the sole and absolute discretion of the party requested to give the consent or approval or take the action and all matters required to be completed or substantially completed by the Association shall be deemed completed or substantially completed when so determined, in the discretion of the Association, as appropriate.

11.10 Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold the easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for the intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of the easement and the Owners hereby designate the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on behalf of the Owners as may hereafter be required or deemed necessary for the purpose of later creating the easement as it was intended to have been created in this Declaration. Formal language of grant or reservation with respect to the easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of the provisions.

11.11 Covenants Running With the Land. ANYTHING TO THE CONTRARY IN THIS DECLARATION NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF SECTION TITLED "DURATION" OF THIS ARTICLE, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES,

SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS AND RESTRICTIONS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTIES. WITHOUT LIMITING THE GENERALITY OF THE SECTION TITLED "AMENDMENTS" OF THIS ARTICLE, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION FROM RUNNING WITH THE LAND AS STATED BEFORE, THE PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF THE PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS AND RESTRICTIONS TO SO RUN WITH THE LAND; BUT IF THE PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, THE PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS STATED BEFORE) BE ACHIEVED.

11.12 Dissolution of Association. In the event of a permanent dissolution of the Association, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created, or the assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes. That successor nonprofit organization or governmental entity shall pursuant to this Declaration provide for the continued maintenance and upkeep of the Common Area, the Surface Water or Stormwater Management System and other property as may be contemplated in this Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Second Amended and Restated Timacuan Master Declaration of Conditions, Covenants, and Restrictions to be executed in its name.

Signed and delivered  
in the presence of:

Anita Roberts  
Signature of Witness  
Anita Roberts  
Print Name

James F. Carles Jr.  
Signature of Witness  
James F. Carles Jr.  
Print Name

Anita Roberts  
Signature of Witness  
Anita Roberts  
Print Name

M. Dougherty  
Signature of Witness  
M. Dougherty  
Print Name

TIMACUAN COMMUNITY SERVICES  
CONDOMINIUM ASSOCIATION, INC.

By: M. Dougherty  
Print Name: MICHAEL DOUGHERTY  
President  
Address: 374 CHIMWOOD CIRCLE  
LAKE MARY, FL 32746

Eileen Forlano  
Attest:  
Print Name: EILEEN FORLANO  
Secretary  
Address: 716 POWDERHORN CIRCLE  
LAKE MARY, FL 32746

STATE OF FLORIDA  
COUNTY OF Seminole

The foregoing instrument was acknowledged before me this 23 day of July, 2012, by Mike Dougherty, as President, and Eileen Forlano, as Secretary, of TIMACUAN COMMUNITY SERVICES ASSOCIATION, INC., a Florida corporation not-for-profit, on behalf of the Association. They (☒) are personally known to me or ( ) have produced \_\_\_\_\_ as identification.

(NOTARY SEAL)



**ANITA ROBERTS**  
MY COMMISSION # EE 007311  
EXPIRES: August 5, 2014  
Bonded Thru Budget Notary Services

*Anita Roberts*

NOTARY PUBLIC - STATE OF FLORIDA

Print Name: *Anita Roberts*

Commission No.: *EE 007311*

Commission Expires: *Aug 5, 2014*

Tma001 amn1 Final clean version recorded

**EXHIBIT "A"**

**Legal Descriptions of the Property, except the Multi-Family Parcel**

**IF AN OWNER OF ANY PORTION OF THE FOLLOWING DESCRIBED PROPERTY WHICH WAS NOT ANNEXED INTO THE ASSOCIATION DESIRES TO CHALLENGE THE APPLICABILITY OF THE DECLARATION TO SUCH PROEPRTY, THEN SUCH OWNERS SHOULD CONTACT THE ASSOCIATION. TO THE EXTENT SUCH PROPERTY IS DETERMINED NOT TO BE LEGALLY BOUND BY THIS DECLARATION, THEN SUCH PROPERTY SHALL BE DEEMED EXEMPT FROM THIS DECLARATION.**

All of the following described real property is hereby made subject to this Declaration:

All of the real property located in Timacuan Phase 1, according to the Plat thereof as recorded in Plat Book 36, Pages 66 to 69;

AND

All of the real property located in Timacuan Unit 11, according to the Plat thereof as recorded in Plat Book 52, Pages 60 and 61 (more commonly known as Fairway Hills 3);

AND

All of the real property located in Timacuan Unit 12, according to the Plat thereof as recorded in Plat Book 52, Pages 62 to 64 (more commonly known as Summerlin);

AND

All of the real property located in Timacuan Unit 15, according to the Plat thereof as recorded in Plat Book 39, Pages 68 and 69 (more commonly known as Lake Dawson Estates);

AND

All of the real property located in Timacuan Unit 16, Phase 1, according to the Plat thereof as recorded in Plat Book 44, Pages 46 to 51 (more commonly known as Fairway Hills 1);

AND

All of the real property located in Timacuan Unit 16, Phase 1 Replat, according to the Plat thereof as recorded in Plat Book 48, Pages 12 to 16 (more commonly known as Fairway Hills Replat);

AND

All of the real property located in Timacuan Unit 16, Phase 2, according to the Plat thereof as recorded in Plat Book 51, Pages 66 to 68 (more commonly known as Fairway Hills 2);

AND

All of the real property located in Timacuan Unit 17, according to the Plat thereof as recorded in Plat Book 41, Pages 89 and 90 (more commonly known as Hunter's Ridge);

AND

All of the real property located in Timacuan Unit 6, according to the Plat thereof as recorded in Plat Book 37, Pages 63 to 65 (more commonly known as Eagle Run);



AND

All of the real property located in Timacuan Unit 6A, according to the Plat thereof as recorded in Plat Book 43, Page 42;

AND

All of the real property located in Timacuan Unit 8, according to the Plat thereof as recorded in Plat Book 43, Page 80 (more commonly known as Clubhouse Cove);

AND

All of the real property located in Timacuan Unit 9, according to the Plat thereof as recorded in Plat Book 41, Pages 7 to 8 (more commonly known as Signature Cove);

AND

All of the real property located in Stratton Hill, according to the Plat thereof as recorded in Plat Book 38, Pages 90 to 92.

## **EXHIBIT "B"**

### **Legal Description of the Multi-Family Parcel**

#### **TIMACUAN Parcel "A"**

Tract "A", "TIMACUAN PHASE 1", according to the plat thereof, as recorded in Plat Book 36, Pages 66-69, Public Records of Seminole County, Florida and a portion of Section 5, Township 20 South, Range 30 East, Seminole County, Florida, being more particularly described as follows:

BEGIN at the northwest corner of said Tract "A"; thence run N 89°24'19" E, along the north line of said Tract "A", a distance of 1130.06 feet to a point on the east line of the west 1848.00 feet of said Section 5; thence run N 00°08'44" W, along said east line, a distance of 542.97 feet to a point on the southerly right-of-way line of Paola Road (County Road 46-A) per Official Records Book 1217, Page 422, Public Records of Seminole County, Florida; thence run N 72°16'53" E, along said southerly right-of-way line, a distance of 453.86 feet; thence run S 00°24'50" E, parallel with the east line of said Section 5, a distance of 1270.17 feet to a point on the north line of "TIMACUAN UNIT 17", according to the plat thereof, as recorded in Plat Book 41, Pages 89 and 90, Public Records of Seminole County, Florida; thence run N 56°22'18" W, along said north line, a distance of 725.84 feet to the northwest corner of said "TIMACUAN UNIT 17", and a point on the easterly line of said Tract "A", "TIMACUAN PHASE 1"; thence run S 41°16'54" W, along said easterly line, a distance of 605.24 feet to a point on a non-tangent curve, concave southerly, having a radius of 801.88 feet and a central angle of 24°31'35", said point being on the northerly right-of-way line of Timacuan Boulevard as shown on the plat of said "TIMACUAN PHASE 1"; thence along said northerly right-of-way line the following two (2) courses and distances; thence on a chord bearing of S 86°22'03" W, run 343.26 feet along the arc of said curve to the point of tangency thereof; thence run S 74°06'16" W, a distance of 56.67 feet to the southwest corner of said Tract "A", "TIMACUAN PHASE 1"; thence the following two (2) courses and distances along the west boundary of said Tract "A"; thence run N 34°06'20" W, a distance of 298.81 feet; thence run N 00°36'20" W, a distance of 419.87 feet to the POINT OF BEGINNING.

#### **TIMACUAN Parcel "B"**

A portion of Section 5, Township 20 South, Range 30 East, Seminole County, Florida, being more particularly described as follows:

BEGIN at the northeast corner of Lot 3, "SECURITY PARK", according to the plat thereof, as recorded in Plat Book 43, Pages 76 and 77, Public Records of Seminole County, Florida; thence run S 89°18'35" W, along the north line of said Lot 3, "SECURITY PARK", a distance of 297.95 feet; thence run N 00°11'13" W, a distance of 790.20 feet to a point on a non-tangent curve, concave southwesterly, having a radius of 721.88 feet and a central angle of 52°25'44", said point being a point on the southerly right-of-way line Timacuan Boulevard as shown on the plat of "TIMACUAN PHASE 1", according to the plat thereof, as recorded in Plat Book 36, Pages 66-69, Public Records of Seminole County, Florida; thence along said southerly right-of-way line the following course and distance; thence on a chord bearing of S 75°06'36" E, run 660.56 feet along the arc of said curve to a point; thence run S 48°22'23" W, a distance of 183.27 feet; thence run S 19°38'43" W, a distance of 531.94 feet to the POINT OF BEGINNING.

Together with all right, title and interest of the Insured in and to that certain Agreement for Underground Utility Lines Easement (Drainage Area "A" Connection), filed July 18, 1994, in Official Records Book 2799, Page 739, Public Records of Seminole County, Florida, over the following described property located in Section 5, Township 20 S, Range 30 East:

Commence at the most Northerly corner of STRATTON HILL according to the plat thereof, as recorded in Plat Book 38, Pages 90 through 92 of the Public Records of Seminole County, Florida; thence run along

the Westerly line of said STRATTON HILL, the following courses: thence run South 35°29'23" West, 213.63 feet; thence run South 01°08'02" East, 295.00 feet to the Northwest corner of Tract "A" of said STRATTON HILL and the Point of Beginning; thence continue South 01°08'02" East, 45.05 feet; thence run South 01°45'58" West, 68.87 feet; thence, departing said Westerly line of STRATTON HILL, run North 60°47'34" West, 463.90 feet to a point lying on the East line of SECURITY PARK, according to the plat thereof, as recorded in Plat Book 43, Pages 76 and 77 of the aforesaid public records; thence run North 00°11'13" West, along said East line of SECURITY PARK, 15.69 feet to the Northeast corner of said SECURITY PARK; thence run North 19°39'14" East, 87.54 feet; thence run South 60°47'34" East, 431.64 feet to the Point of Beginning.