

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**VEROLAGO**

The purpose of this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Verolago is to continue the purposes of the Declaration of Covenants, Conditions and Restrictions for Verolago, recorded in Official Records Book 1961, Page 2165, et. seq., and amended at Official Records Book 2103, Page 2408, et. seq., Official Records Book 2622, Page 1485, et. seq., Official Records Book 2829, Page 1374, et. seq., and Official Records Book 3159, Page 596, et. seq., Indian River County Public Records. All provisions of this Amended and Restated Declaration of Covenants, Conditions and Restrictions and all exhibits hereto shall be construed to be covenants running with the land.

**Article I Creation of the Community**

1.1 Purpose and Intent.

The real property described in **Exhibit "A"** has been established as a general plan of development for VeroLago, a planned community (the "**Community**"). This Declaration, together with the other Governing Documents described in Section 1.3, provides for the overall development, administration, maintenance, and preservation of VeroLago, and provides a flexible and reasonable procedure for its future expansion. An integral part of the development plan is the creation of VeroLago Homeowners Association, Inc. (the "**Association**") to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents.

This document does not and is not intended to create a condominium under Florida law.

1.2 Binding Effect.

This Declaration governs the property described in **Exhibit "A."** This Declaration shall run with the title to such property and shall bind everyone having any right, title, or interest in any portion of such property, their heirs, successors, successors-in-title, and assigns. The Association, any Owner (as defined in Article

II), and their respective legal representatives, heirs, successors, and assigns, may enforce this Declaration. Each Owner shall automatically be a Member (as defined in Article II) of the Association.

This Declaration is intended to have perpetual duration, but shall be effective for a minimum of 30 years from the date it is recorded, subject to the right of the Members to amend it as provided herein. After the initial 30-year period, it shall automatically be extended for successive 10-year periods in perpetuity unless, within the 12-month period preceding any extension, an instrument signed by the then Owners of at least 67% of the Lots (as defined in Article II) agreeing to terminate this Declaration is recorded. If any provision of this Declaration would be invalid under the Florida Uniform Statutory Rule Against Perpetuities, that provision shall expire 90 years after this Declaration is recorded. This section does not authorize termination of any easement created in this Declaration without the consent of the holder of such easement.

### 1.3 Governing Documents.

The following chart identifies the documents which govern the Community (as they may be amended from time to time, the “**Governing Documents**” and describes, in part, the purpose of each. Every Owner and occupant of a Lot (as defined in Article II), and their respective guests, tenants, visitors and invitees, shall comply with the Governing Documents.

<b>Declaration (Recorded)</b>	<b>creates obligations which are binding upon the Association and all present and future owners and occupants of, and others with any interest in, property in the Community</b>
<b>Articles of Incorporation (filed with the Secretary Of State; Attached As Exhibit “B”)</b>	<b>establish the Association as a not-for-profit-corporation under Florida law</b>
<b>By-Laws (attached as Exhibit “C”)</b>	<b>govern the Association’s internal affairs, such as voting rights, elections,</b>
<b>Architectural Guidelines</b>	<b>establish architectural standards and guidelines for improvements and modifications to Lots, including</b>

**structures, landscaping, and other items on Lots**

**Board Resolutions and Rules**

**establish rules, policies, and procedures - for internal governance and Association activities; regulate operation and use of Common Area and Lots**

If there are conflicts between Florida law, the Declaration, the Articles, and the By-Laws, Florida law, the Declaration, the Articles, and the By-Laws (in that order) shall prevail. If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

**Article II Concepts and Definitions**

**2.1 Defined Terms.**

The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

**"Architectural Guidelines":** The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended from time to time.

**"Architectural Review Committee or "ARC":** The committee established to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV.

**"Articles":** The Articles of Incorporation of VeroLago Homeowners Association Inc., filed with the Secretary of State for the State of Florida, as they may be amended and/or amended and restated from time to time. A copy of the Articles is attached to this Declaration as **Exhibit "B"** and its terms are incorporated herein by reference.

**"Association":** VeroLago Homeowners Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

**"Benefited Assessment":** Assessments charged against a particular Lot or Lots for Association expenses as described in Section 8.4.

“Board of Directors”: or “Board”: The body responsible for the general governance and administration of the Association, selected as provided in the By-Laws.

“By-Laws”: The By-Laws of VeroLago Homeowners Association, Inc., as they may be amended and/or amended and restated from time to time. A copy of the initial By-Laws is attached to this Declaration as **Exhibit “C”** and its terms are incorporated herein by reference.

“Common Area”: All real and personal property, including easements, which the Association owns, holds, leases, or otherwise has a right to possess or use for the common use and enjoyment of the Owners. Common Area includes the Surface Water and Storm Water Management System and the Limited Common Area, as defined below.

“Common Expenses”: The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board finds necessary or appropriate.

“Common Maintenance Areas”: The Common Area, together with any other area for which the Association has or assumes maintenance or other responsibilities.

“Community” or “VeroLago”: The real property described in **Exhibit “A”**.

“Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing from time to time throughout the Community, or the minimum standards established pursuant to the Architectural Guidelines, use restrictions and Board resolutions, whichever is the highest standard.

“County”: Indian River County.

“District” or “SJRWMD”: St. Johns River Water Management District.

“Governmental Authority”: any federal, state, county, municipal or other governmental or quasi-governmental department, entity, authority, agency or instrumentality having or asserting jurisdiction over the Community or a portion thereof.

“Legal Costs”: The costs which a Person entitle to reimbursement for “Legal Costs” under any provision of the Governing Documents incurs in pursuing legal action (regardless of whether suit is filed or whether arbitration or court action is taken) to enforce the Governing Documents, including, but not limited to,

reasonable attorneys' and paralegals' fees, expert witness fees, and court costs at all tribunal levels.

"Lakes" or "Lake Parcels": Those portions of the Property designated on the Plat as lakes or stormwater management, and shall always be kept and maintained as lakes for water retention, drainage, irrigation, littorall planting and water management purposes in compliance with all applicable governmental, SJRWMD and other water management district requirements.

"Lake Lot": A lot within VeroLago abutting one of the Lakes.

"Lot": A portion of the Community, whether improved or unimproved, which may be independently owned and conveyed, and which is improved, or intended to be improved, with a single family residential dwelling. The term shall refer to the land, if any, which is part of the Lot as well as any improvements on the Lot. The boundaries of each Lot shall be shown on a Plat.

A parcel of land shall be deemed to be a single Lot until such time as a Plat subdivides all or a portion of the parcel. Thereafter the subdivided portion shall contain the number of Lots shown on the Plat. Any portion not subdivided shall continue to be a single Lot.

Any Owner owning two adjoining Lots may, with the prior written approval of the Association, combine such Lots into a single building site for the purpose of constructing one dwelling and such other improvements as are approved hereunder; however, each of the Lots so combined shall continue to be treated as a separate Lot for purposes of voting and assessment, unless the Plat creating such Lots is revised and recorded, with the prior consent of the Association, to combine them into a single Lot. The Association, as applicable, may grant or withhold its approval to any such combination or plat revision at its sole discretion.

"Member": A Person subject to membership in the Association, as described in Section 6.2.

"Mortgage": a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot and held by an institutional lender. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage. The term "Institutional Lender" shall include any bank, savings bank, mortgage company, life insurance company, federal or state savings and loan association, a credit union, real estate or realty investment trust, any agency of the Federal government, the Federal Investment Mortgage Association, the Federal Home Loan Mortgage Corporation, or similar governmental or quasi-governmental agencies.

"Owner": The record title holder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation (e.g., a Mortgagee). If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Permit": Permit No. 4- 061-93075-2 issued by the District, a copy of which is attached as **Exhibit "D"** hereto.

"Person": An individual, a corporation, a partnership, a trustee, or any other legal entity.

"Plat": Any recorded plat for all or any portion of the Community. As to a particular portion of the Community, the applicable Plat shall be deemed to be the Plat (and/or Plat amendment, revision or similar instrument, as applicable) to which such portion of the community is subject or which otherwise affects such portion of the Community at the time this applicable determination is to be made.

"Regular Assessment": Annual assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1(a).

"Special Assessment": Assessments levied against Lots in accordance with Section 8.3 to cover unbudgeted expenses or expenses in excess of those budgeted.

"Surface Water and Storm Water Management System": A drainage system consisting of swales, inlets, culverts, retention ponds, detention ponds, lakes, outfalls, storm drains and other similar and/or related improvements, and all connecting pipes and easements, 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 quantity and quality of discharges from the system, as permitted pursuant to the Permit issued by the District. The Surface Water and Storm Water Management System facilities include, but are not limited to: all inlets, ditches, swales, culverts, water control structures, retention and detention ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas, to the extent that any such facilities, areas, or conditions apply to the Community.

"Wetland": Any area within the Community identified or designated as habitat for wetland species of plants and/or animals by the District, or by the County, or by the United States Army Corps of Engineers, or by any other agency of the State of Florida or the United States government, whether or not such area is included within the Surface Water and Storm Water Management System, or is an isolated area that is not connected to the Surface Water and Storm Water Management System.

### **Article III Occupancy of Lots**

#### **3.1 General.**

(a) Residential and Related Uses. Lots shall be used primarily for residential and related purposes (including, without limitation, use as a home office). No business shall be conducted in, on, or from any Lot, except that an occupant using the dwelling on a Lot primarily for residential purposes may also conduct business activities on such Lot ancillary to their primary residential use, if the business activity, as determined in the Board's discretion:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning and other legal requirements and other requirements of this Declaration;

(iii) does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees; and

(iv) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the use and enjoyment of other Lots by the Owner thereof or the security or safety of others within the Community.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (A) such activity is engaged in full or part time; (B) such activity is intended to or does generate a profit; or (C) a license is required.

Leasing of a single Lot by the Owner thereof for residential occupancy shall not be considered a "**business**" within the meaning of this subsection.

(b) Leasing. For purposes of this Declaration, "**leasing**" is the regular, exclusive occupancy of a dwelling by any Person other than the Owner, for which the Owner receives any consideration or benefit, including, without limitation, a fee, service, or gratuity. The improvements on the Lot may be leased only in its entirety (e.g., separate rooms within the same dwelling may not be separately leased); provided, a detached "in-law suite" or "guest house" the construction of which was approved pursuant to Article IV may be independently leased.

**All leases shall be in writing and shall have a term of at least six months, except with the Board's prior written consent. No Owner may rent all or a portion of a Lot more than twice in any 12-month period, even if a tenant defaults on a lease or abandons the Lot before expiration of the lease term.**

All leases shall include an acknowledgment by the tenant that the tenant and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents and that the tenant has received a copy of the Governing Documents. The Owner shall be responsible for providing a copy of the Governing Documents to the tenant prior to execution of the lease and shall monitor enforcement and compliance with the Governing Documents by the tenant.

**Each lease shall set forth the name, address, and telephone number of the Lot's Owner and of the tenant; the date the tenant's occupancy commences and ends; a description of each motor vehicle owned or operated by the tenant or members of the tenant's household; and a description of all pets to be kept at the Lot.**

If an Owner elects to permit a tenant to sublease during the term of the lease, such sublease shall be subject to the limitations and requirements established in this Declaration to the same extent and effect as the original lease.

Within 10 days of a lease being signed for a Lot, the Owner shall notify the Board or the Association's managing agent of the lease and provide a copy of such lease and such additional information the Board and/or the Association's Managing Agent may reasonably require. An Owner proposing to lease a Lot may obscure the rental and deposit amounts in the copy of the proposed lease submitted to the Board so long as the lease contains the information listed above. In addition to this subsection (b), the Board may, from time to time, adopt reasonable rules regulating leasing and subleasing.



No Owner may assign or otherwise transfer the Owner's obligations under this Declaration to any tenant. The Association shall have the right to enforce the covenants, conditions, and restrictions set forth in this Declaration against the Owner, the tenant, or any member of the tenant's household, individually or collectively. The Association shall not be bound by any provision in the lease or other agreement between Owner and his or her tenant, including, without limitation, those requiring prior notice or imposing other conditions on the rights of the Association.

The Association shall be deemed a third party beneficiary of all leases of Lots, and shall have the right, but not the obligation, to enforce the terms and conditions of such leases against the tenant or the Owner. Notwithstanding the foregoing, the Association's failure to object to any term or condition of a lease or occupancy arrangement shall not be deemed to be consent or approval of any term or condition of the lease, nor shall the Association have any obligation whatsoever for the performance of any obligation of Owner or tenant contained in the lease or otherwise.

Notwithstanding any condition of any lease to the contrary, each Owner, by acceptance of the deed to a Lot, hereby covenants and agrees with the Association and all other Owners of Lots in the Community, that the Owner shall be responsible for any violation of the Governing Documents resulting from the acts or omissions of his or her tenant, other occupants of the leased Lot, and their respective guests to the same extent that Owner would be liable for such violation if it had resulted from the acts or omissions of the Owner or a member of the Owner's household or guests. The Owner's obligations hereunder shall be deemed a guaranty of performance by his or her tenant, and the Association shall have the right to take any action or seek any remedy for the tenant's failure or refusal to comply with the Governing Documents directly from or against the Owner without first taking such action or obtaining such remedy from or against the tenant.

(c) Occupants Bound. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents and shall be responsible for all violations of the Governing Documents and any damage they cause to the Common Maintenance Areas, notwithstanding the fact that such Persons also are personally responsible for complying and may be sanctioned for any violation.

(d) Lodging; Timeshares. No Lot may be used as a rooming house, hostel, or hotel. AirBNB, vacation rentals by Owner or other home swapping arrangements

are prohibited. Timesharing or other arrangements involving more than four ownership interests in a Lot (including, without limitation, ownership by more than four Persons as joint tenants or tenants-in-common) or assigning separate use periods of less than 180 consecutive days' duration, are prohibited. Notwithstanding the foregoing, more than four persons may own a Lot as joint tenants or tenants-in-common, if all such persons are related by blood, marriage or adoption.

(e) Parking of commercial vehicles or equipment, mobile homes, campers and similar recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages, except temporarily during loading and unloading is prohibited; however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. For purposes of this provision, "commercial vehicles" shall be defined as any vehicle with commercial writing on their exteriors or vehicles primarily used, designed, or registered for a commercial purpose, and vehicles with advertising signage attached or displayed on such vehicle's exterior, but shall not include passenger cars with identifying decals or painted lettering not exceeding a total area of one square foot in size or official vehicles owned by governmental or quasi-governmental bodies including, without limitation, police and sheriff insignias.

(f) Raising, breeding, or keeping animals, livestock, or poultry of any kind is prohibited, except that a reasonable number of dogs (except that no Pit bulls are allowed), cats, or other household pets of the nature commonly sold in pet stores located within regional malls in urban areas may be permitted in a Lot (not to exceed a total of three (3) such pets); however, those pets which roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Lots shall be removed upon request of the Board. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling and the person walking the dog shall clean up after it. Pets shall be registered, licensed, and inoculated as required by law.

(g) Any activity which emits foul or obnoxious odors outside the Lot or creates an unreasonable level of noise or other conditions which tend, in the Board's judgment, to unreasonably disturb the peace or threaten the safety of the occupants of other Lots (this paragraph shall not preclude normal and customary use of power tools, lawn mowers, and other yard maintenance equipment during reasonable hours) is prohibited.

(h) Any activity which violates local, state, or federal laws or regulations is prohibited; however, the Board shall have no obligation to take enforcement action in the event of a violation.

(i) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy or noisy condition to exist outside of enclosed structures on the Lot is prohibited.

(j) Any noxious or offensive activity which in the determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots is prohibited.

(k) Outside burning of trash, leaves, debris, or other materials is prohibited.

(l) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be an unreasonable source of annoyance, as the Board may determine, to occupants of other Lots is prohibited, except alarm devices used exclusively for security purposes.

(m) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community is prohibited, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff.

(n) Accumulation of rubbish, trash, or garbage is prohibited except between regular garbage pick ups, and then only in approved containers. Garbage containers must be stored in the garage and may only be placed curbside for collection after 6:00 p.m. the day before collection and must be brought in by 10:00 p.m. on the day of collection.

(o) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains is prohibited, except that the Association shall have such right; however, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owners consent.

(p) Discharge of firearms is prohibited. No Association director, officer, employee or managing agent shall have any duty to become physically involved to stop such discharge.

(q) On-site storage of gasoline, propane, heating, or other fuels is prohibited, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and for the operation of lawn mowers, gas grills, pool, spa and hot tub heaters, and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV; and

(r) Any yard sale, garage sale, moving sale, rummage sale, or similar activity is prohibited, except on such dates as the Board may designate for such activities to be conducted on a community-wide basis.

(s) Capturing, trapping, or killing of wildlife within the Community (other than by or on behalf of the Association, or by a representative or designee of a Governmental Authority is prohibited except in circumstances posing an imminent threat to the safety of persons in the Community.

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Community (except as may be approved pursuant to Article IV), or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution are prohibited.

(u) Conversion of any garage to finished space for use as an apartment or other integral part of the living area on any Lot is prohibited.

(v) Swimming, boating, fishing, use of personal flotation devices, fishing or other active use of ponds, streams, or other bodies of water within the Community except that the Association shall be permitted to draw water from ponds, streams, and other bodies of water within the Community for purposes of irrigation and such other purposes as the Association deems desirable. 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 other bodies of water within or adjacent to the Community.

(w) Entry onto any Lot for maintenance or other easement to access any lake, pond, preserve, wetland or similar area within the Community is prohibited, except that the Owner and occupants of a Lot abutting any such area may access such area at points along the common boundary between such Owners Lot and such area (but shall not enter onto other Lots or portions of any maintenance or other easement abutting any other Lot) and the authorized agents, employees, contractors, and designees of the Association may enter upon any Lot or

maintenance or other easement for the purpose of gaining access to any such area; and

(x) Any construction, erection, placement, or modification of any structure or thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved is prohibited, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, all signs, fences, basketball hoops, swing sets and similar sports and play equipment; children's play houses; clothes hanging devices; garbage cans; woodpiles; swimming pools, spas, and hot tubs; air conditioners; tanks; solar energy devices; docks, piers and similar structures; and landscaping, hedges, walls, mailboxes, dog runs, animal pens, or fences of any kind; satellite dishes and antennas, except that:

(i) an antenna

(A) designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(B) designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(C) designed to receive television broadcast signals;

("Permitted Antenna") shall be permitted in rear yards of Lots or, if necessary to receive an acceptable quality signal, in side yards or front yards, in that order of preference.

The Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Community, should any master system or systems be utilized by the Association and require such exterior apparatus; and

(ii) a reasonable number of holiday and religious lights and decorations may be displayed on a Lot for up to 30 days prior to a publicly observed holiday or religious observance and up to 30 days thereafter without prior approval, subject to the right of the Association to require removal of any such decorations which it deems to (A) be excessive in number, size, or brightness, relative to other Lots in the area; (B) draw excessive attention or traffic; (C) unreasonably interfere with the use and enjoyment of neighboring properties; or (D) cause a dangerous

condition to exist. The Association shall have the right, upon 30 days prior written notice, to enter upon any Lot and summarily remove exterior lights or decorations displayed in violation of this provision. The Association, and the individuals removing the lights and decorations, shall not be liable to the Owner for trespass, conversion, or damages of any kind except intentional misdeeds and gross negligence; and

(iii) flags and free standing flag poles may be installed in accordance with Florida Statute 720.304(2)(2018) as amended from time to time.

(y) any activity which generates a level of noise audible to occupants of other Lots while inside their dwellings (including, without limitation, lawn maintenance, recreational activities, games, parties, music, and other activities conducted outdoors or on porches or decks) between the hours of 11:00 p.m. and 8:00 a.m. are prohibited, except that during the construction of dwellings on the Lots, builders may commence construction activities within the Community at 7:00 a.m.; and

(z) door-to-door solicitation within the Community is prohibited.

(aa) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community are prohibited.

(bb) Structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated or otherwise fallen into disrepair are prohibited.

(cc) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Community, except that the Association shall have the right to draw water from such sources are prohibited.

(dd) Permanent or temporary hurricane shutters are permitted but cannot be installed or closed more than five (5) days before a hurricane warning is issued for Indian River County. The permanent or temporary hurricane shutters must be removed or opened within five (5) days after hurricane warnings are lifted for the County or three (3) days after the power has been restored, whichever is later.

(ee) The Association's actions with respect to use restrictions and rules must comply with the following:

(i) Displays. Owners' rights to display religious and holiday signs, symbols, and decorations, signs indicating that the Lot is receiving security services, and signs required to comply with or obtain the benefit of applicable laws (e.g. beware of bad dog signs) on their Lots of the kinds normally displayed in residential neighborhoods with homes of comparable type, quality, and price range to those in the Community shall not be further abridged, except that the Association may adopt time, place, size, number, and manner restrictions with respect to such displays.

(ii) Signs. To the extent that signs are permitted under Article IV, the Association shall not regulate the content of political signs; however, it may regulate the time, place, size, number, and manner of posting such signs (including design criteria).

(iii) Activities Within Dwellings. The Association shall not interfere with activities carried on within a dwelling, except that it may prohibit activities not normally associated with residential property, and it may restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, that create undesirable odors noticeable to persons outside the dwelling, that are an unreasonable source of annoyance, or that violates a provision of the Governing Documents.

### 3.2 Owners' Acknowledgment and Notice to Purchasers.

**Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot is limited and affected by the terms of the Governing Documents, including use restrictions and Board rules, which may change from time to time.**

3.3 Rules and Regulations. The Board of Directors may make and enforce reasonable rules and regulations governing the use of the Lots and the Common Areas which rules and regulations shall be consistent with the rights and duties established by this Declaration.

## **Article IV Architecture and Landscaping**

4.1 General. No structure or thing shall be placed, erected, or installed upon any Lot, and no improvements of any kind or other work (including, without limitation, staking, clearing, excavation, grading and other site work, exterior alterations or additions, or planting or removal of landscaping) shall take place within the Community, except in compliance with this Article and the Architectural Guidelines.

Any Owner may remodel, paint, or redecorate the interior of any structure on his or her Lot without approval hereunder. However, modifications to the interior of screened porches, patios, and any other portions of a Lot or structure visible from outside a structure are subject to approval under this Article.

Owners shall be responsible for obtaining all permits and approvals from the County and other governmental agencies.

#### 4.2 Architectural Review.

(a) Architectural Review Committee. The ARC shall consist of at least three, but not more than five, persons. Members of the ARC must be Members of the Association. The ARC members shall serve and may be removed and replaced at the Board's discretion.

(b) Fees; Assistance. The Board may establish and charge reasonable fees for review of applications and may require that such fees be paid in advance. Such fees may include, without limitation, the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals.

#### 4.3 Guidelines and Procedures.

(a) Architectural Guidelines. The Board may adopt, amend and rescind Architectural Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions that may vary according to location within the Community or product type. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the ARC. The Architectural Guidelines are not the exclusive basis for the ARC's decisions, and compliance with the Architectural Guidelines does not guarantee an application's approval.

Amendments to the Architectural Guidelines shall be prospective only. They shall not require modifications to or removal of structures, improvements, and other things previously approved once the approved construction or modification has begun. However, any new work or improvements must comply with the Architectural Guidelines as amended.

(b) Procedures. Unless the Architectural Guidelines provide otherwise, no construction activities or other activities described in Section 4.1 may begin until a request is submitted to and approved in writing by the ARC. The request must be in writing and be accompanied by plans and specifications and other information the ARC and/or the Architectural Guidelines require. Plans and specifications shall



show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction or other activity as the ARC deems relevant.

In reviewing each submission, the ARC may consider any factors it deems relevant, including, without limitation, harmony of the proposed design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The ARC shall have the discretion to make determinations on matters of aesthetic judgment.

The ARC shall make a determination on each application within 45 days after receipt of a completed application and all other information the ARC requires. The ARC may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until 45 days after the final, required submission stage. The ARC may (i) approve the application, with or without conditions; (ii) approve a portion of the application, with or without conditions, and disapprove other portions; or (iii) disapprove the application. The ARC shall notify the applicant in writing of a final determination on any application. In the case of disapproval, the ARC may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

After the initial 45-day period has elapsed, if the Owner has not received notice of the ARC's determination, the Owner may make a second written request for approval of the plans previously submitted which shall be marked "**Second Request**". If the ARC fails to respond within seven business days from receipt of the Second Request, approval shall be deemed given. However, no approval (or improvement governed by such approval), whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines or other Governing Documents unless a written variance has been granted pursuant to Section 4.5.

Notwithstanding anything to the contrary in this Declaration or the By-Laws, Owners shall send any such "**Second Request**" via the U. S. Postal Service, certified mail, return receipt requested, or by commercial overnight carrier that obtains a signed receipt upon delivery. A Second Request shall be deemed made, and the 7 business day time period shall commence running, on the date of the ARC's actual receipt of the Second Request, as evidenced by its signature on the return receipt provided by the U. S. Postal Service or in the records of the overnight carrier, as applicable.

As part of any approval, the ARC may require that construction, landscaping and other approved activities in accordance with approved plans commence and be completed within a specified time period. If such actions do not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities within the scope of this Article. Once commenced, such activities must be diligently pursued to completion. All elements of the approved activities and/or plans shall be completed within one year of commencement unless a shorter or longer period is otherwise specified in the notice of approval or the Architectural Guidelines, or unless the ARC, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action by the Association.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless written approval to modify any application has been obtained.

The ARC, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

#### 4.4 No Waiver of Future Approvals.

Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be feasible to identify objectionable features until work is completed, at which time, it may or may not be unreasonable to require that such objectionable features be changed. However, the ARC may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the ARC's right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### 4.5 Variances.

The ARC may authorize variances from compliance with the Architectural Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require or permit. No variance shall (a) be effective unless in writing; (b) be contrary to this

Declaration; or (c) prevent the ARC from denying a variance in other circumstances. A variance requires the Board's written consent.

#### 4.6 Release of Liability.

This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Community. Review and approval of any application pursuant to this Article may be based on purely aesthetic considerations. The ARC is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every dwelling is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

Each Owner releases from liability the Association, its officers, the Board, the ARC, the Association's managing agent, any committee, or any member of any of the foregoing for the approval of, disapproval of, or failure to approve or disapprove any plans; soil conditions, drainage, or other general site work related to approved work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any owner or their contractor or their subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or activities on or modifications to any Lot. In all such matters or claims related therefrom, the Association shall defend, indemnify and hold harmless the Board, the ARC, the members of each, and the Association officers as provided in the Articles.

#### 4.7 Enforcement.

Any construction, alteration, improvement, or other work done in violation of this Article or the Architectural Guidelines is subject to enforcement action pursuant to Section 7.4. Any act of any contractor, subcontractor; agent, employee, or invitee of an Owner shall be deemed to be an act done by or on behalf of such Owner.

#### 4.8 Right of Appeal.

In the event plans or specifications submitted to the ARC in accordance with adopted guidelines and procedures are disapproved, the party seeking approval may appeal the decision of the ARC in writing to the Board. The written appeal must be received by the Board not more than thirty (30) days from the date of the ARC's

written disapproval of the plans or specifications. The Board may reverse or modify the decision of the ARC by agreement of a majority of the Board members present at a Board meeting at which a quorum has been obtained. If the Board fails to rule on an appeal within forty-five (45) days of receipt of same, the appeal shall be deemed granted and the plans or specifications shall be deemed approved.

## **Article V Maintenance and Repair**

### **5.1 Maintenance of Lots.**

(a) Each Owner must maintain his or her Lot, including, without limitation, all structures, landscaping, and other improvements comprising the Lot, in a manner consistent with the Governing Documents, the Community-Wide Standard, and any other applicable covenants, except to the extent that such maintenance responsibility is assigned to or assumed by the Association pursuant to this Declaration.

(b) The Association shall be responsible for:

(i) maintenance (including, mowing, fertilizing, watering, pruning, and replacing, mulching in areas determined by the Board and controlling disease and insects), of all lawns and landscaping installed on the Lot as part of the initial construction on the Lots, specifically excluding landscaping located within any enclosed courtyard, patio, fenced or other area not readily accessible from outside the dwelling;

(ii) operation, maintenance, repair and replacement of any irrigation equipment (including, without limitation, any sprinklers, pumps, wells, water lines and time clocks, wherever located) serving the Lots, except that the Association shall have no responsibility for any sprinklers or other irrigation equipment installed by the Owner or occupant of any Lot; and

(iii) maintenance, repair and replacements of sidewalks adjacent to the street.

All other portions of the Lots (and the improvements located thereon) shall be the responsibility of the respective Owners, including, without limitation, maintenance, repair, and replacement, as necessary, of all pipes, lines, wires, conduits, or other apparatus which serve only the Lot, whether located within or outside the Lot's boundaries (including all utility lines and associated pipes facilities serving only the Lot).

(c) Except to the extent that such responsibility is assigned to or assumed by the Association pursuant to this Declaration, each Owner shall be responsible for the maintenance, operation, and repair of drainage swale(s), drainage lines, and other equipment on his or her Lot constructed for the purpose of managing and containing the flow of surface water. Maintenance, operation, and repair shall mean and include, without limitation, the exercise of practices, such as mowing and erosion repair, which allow the drainage swales, drainage lines, and other equipment to provide drainage, water storage, conveyance, or other storm water management capabilities as permitted by the District. Filling, excavation, construction of fences, or otherwise obstructing the surface water flow in or into the drainage swales, drainage lines, and other equipment is prohibited. No alteration of a drainage swale, drainage lines, and other equipment shall be authorized and any damage to any drainage swale, drainage lines, and other equipment, whether caused by natural or human-induced phenomena, shall be repaired and the drainage swale, drainage lines and other equipment returned to its former condition as soon as possible by the Owner(s) of the Lot upon which the drainage swale, drainage lines, and other equipment is located.

(d) Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement. The maintenance, repair, replacement, and other obligations of the Association and Owner specified in this Declaration shall be performed as and when the Board determines it necessary to maintain the property to a level consistent with the Community-Wide Standard.

## 5.2 Insurance on Lots; Casualty Losses.

Each Owner shall maintain property insurance providing fire and extended coverage at full replacement cost, less a reasonable deductible, on all insurable improvements located on such Owner's Lot. In addition, every Owner shall be obligated to obtain and maintain at all times insurance covering consequential damages to any other Lot or the Common Area due to occurrences originating within the Owner's Lot caused by the negligence of the Owner, the failure of the Owner to maintain the Lot, and any other casualty within the Lot which causes damage to the Lots or the Common Area.

Each Owner shall provide a certificate evidencing such insurance to the Association within 10 days of any written request from the Board of Directors. In addition, if the Board so requests, each Owner shall file with the Association a copy

of the individual policy or policies covering his or her Lot. Each Owner shall promptly notify the Board in writing in the event such policy on his or her Lot is canceled.

In the event of a casualty loss, the Association shall be entitled to file a claim against such insurance for the cost of any repair or reconstruction to the Lot and improvements thereon which is the Association's responsibility, and the Owner shall pay the amount of any deductible and shall be responsible for any deficiency in the insurance proceeds. The Association shall be entitled to adjust with the insurance provider the amount of any proceeds payable to the Association and the Owner thereunder, based upon the amount necessary to enable the Owner and the Association each to repair and replace those portions of the Lot and improvements thereon which are their respective responsibilities.

If the Owner is required to obtain insurance hereunder and such insurance is insufficient, the Association shall be relieved of any obligation to maintain, repair, and replace damaged or destroyed portions of the Owner's Lot, to the extent of such insufficiency. Alternatively, the Association may perform required repairs, whether the responsibility of the Association or the Owner, and assess all costs to the Owner and the Owner's Lot as a Benefited Assessment pursuant to Section 8.4.

In the event of damage to or destruction of a structure on a Lot, the Owner shall promptly repair or reconstruct the structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article IV.

## **Article VI The Association and its Members**

### **6.1 Function of Association.**

The Association is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas. The Association also has primary responsibility for administering and enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Florida law. The Board shall be responsible for management of the Association and may contract with a property manager for such purposes. The Board is appointed or elected as provided in the By-Laws. Membership in the Association is appurtenant to and may not be severed from the Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in this Declaration, the Articles of Incorporation, or By-Laws of the Association, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot.

## 6.2 Membership.

The Association shall have one class of membership.

There shall be only one membership per Lot. If a Lot is owned by more than one Person, each co-Owner shares the privileges of the membership, subject to reasonable Board regulation and the voting restrictions described in Section 6.3(a) and in the By-Laws. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner that is not an individual (e.g., a corporation) may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

## 6.3 Voting.

(a) Members have one equal vote for each Lot they own, except that there is only one vote per Lot.

In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

## **Article VII Association Powers and Responsibilities**

### 7.1 Control of Common Areas.

(a) The Association may acquire, hold, mortgage or otherwise encumber, lease (as landlord or tenant), operate, and dispose of tangible and intangible personal property and real property. The Association may enter into leases, licenses, or operating agreements, for payment or no payment, as the Board deems appropriate, permitting use of portions of the Common Area by others.

(b) The Association is responsible for management, operation, and control of the Common Area, subject to any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may, from time to time, adopt such reasonable rules regulating use of the

Common Area as it deems appropriate. The Association may enter into a property management agreement with any Person.

7.2 Maintenance of Common Maintenance Areas.

The Association shall maintain the Common Maintenance Areas in accordance with the Community-Wide Standard. The Common Maintenance Areas shall include, but are not limited to (a) the Common Area, including landscaping, signage, perimeter walls, fencing, structures, and other improvements located on the Common Area, as well as any private streets and entry gates serving the Community; (b) landscaping within public rights-of-way within or abutting the Community, or wetlands if not the obligation of owners; (c) such portions of Lots as are specifically identified as the Association's responsibility under Section 5.1; (d) such portions of any property as may be dictated by, this Declaration, any Plat, or any contract, covenant, or agreement for maintenance entered into by, or for the benefit of, the Association; and (e) all ponds, streams, ditches, culverts, and/or wetlands located within the Community which serve as part of the Surface Water and Storm Water Management System, other than those portions located on a Lot and to be maintained by the Owner of such Lot in accordance with Section 5.1 including, without limitation, associated improvements and equipment, any other wetland (whether located in Common Area or a Lot), but not including any such areas, improvements, or equipment maintained by the County, a community development district, or any other governmental or quasi-governmental body.

The Association shall maintain the littoral shelf, if any, of all culverts, ditches, or waterways serving as part of the Surface Water and Storm Water Management system, which maintenance may include, without limitation, appropriate landscaping and plantings.

The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and the owner of such other property consents. The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been grossly negligent in performing its maintenance responsibilities.



The Association shall maintain the facilities and equipment within the Common Maintenance Areas in continuous operation, except for any periods necessary, as the Board may determine in its discretion.

Unless otherwise provided in this Declaration, the costs associated with maintenance, repair, and replacement of the Common Maintenance Areas shall be a Common Expense.

### 7.3 Insurance - Common Areas.

The Association shall keep all improvements, facilities, and fixtures located within the Common Areas insured against loss or damage by fire or other casualty for the full insurable replacement value thereof (with reasonable deductibles and normal exclusions for land, foundations, excavation costs and similar matters) and may obtain insurance against such other hazards and casualties as the Association may deem desirable.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect any or all of the following types of insurance, as deemed necessary or advisable in the Board's business judgment and as may be reasonably available: (i) blanket property insurance covering all insurable improvements within the Common Areas; (ii) commercial general liability insurance on the Common Maintenance Areas insuring against liability for bodily injury, death, and property damage arising from the activities of the Association or with regards to Common Maintenance Areas, including, without limitation, if obtainable, a cross liability endorsement insuring each Member against liability to each other Member and the Association and vice versa; (iii) directors and officers liability coverage; (iv) commercial crime insurance, including fidelity insurance, covering all Persons responsible for handling Association funds in an amount at least equal to the amount of funds in the custody or control of that Person at any given time; (v) to the extent any insurable improvements to Common Maintenance Areas are within an "A" flood zone, flood insurance in an amount equal to the lesser of 100% of the replacement costs of all insurable improvements (if any) within the Common Maintenance Areas or the maximum amount of coverage available under the National Flood Insurance Program; and (vi) such additional insurance as the Board, in its business judgment, determines advisable. Premiums for Common Maintenance Area insurance shall be a Common Expense.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

To the extent obtainable at reasonable rates, the insurance policy(ies) maintained by the Association may contain provisions, or be accompanied by endorsements, for agreed amount and inflation guard, demolition costs, contingent liability from operation of building laws and increased costs of construction. All insurance policies shall contain standard mortgagee clauses, if applicable.

The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Benefited Assessment.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property for which the Association maintains insurance coverage, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(d) Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board, the Members, and the directors, trustees, officers, shareholders, attorneys, agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Damaged improvements on the Common Area shall be repaired or reconstructed unless Members representing at least 67% of the total votes in the Association decide, within 90 days after the loss, not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 90-day period, then the period may be extended until 90 days after such funds or information are available. No Mortgagees shall have the

right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall deposit any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, in a capital improvements account for the benefit of the Members. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

#### 7.4 Enforcement.

(a) The Association, acting through the Board, may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

(i) imposing monetary fines, up to the maximum, if any, permitted by applicable laws, which may accrue from the date of notice and which shall constitute a lien upon the violator's Lot (in the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board); and

(ii) suspending the vote attributable to the violating Owner's Lot if permitted and then in accordance with applicable law; and

(iii) suspending the violator's and any guest or invitee of the violator's right to use any recreational facilities within the Common Maintenance Area; and

(iv) suspending any services which the Association provides to an Owner or the Owner's Lot if the Owner is delinquent in paying any assessment or other charge owed to the Association for longer than 30 days; and

(v) without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and/or the Architectural Guidelines from continuing or performing any further activities in the Community; and

(vi) levying Benefited Assessments pursuant to Section 8.4 to cover costs which the Association incurs to bring a Lot into compliance with the Governing Documents, including Legal Costs, or costs incurred as a consequence of the conduct of an Owner or occupant of a Lot, their guests or invitees.

(b) In addition, but without limitation of the Association's other rights and remedies, the Association, acting through the Board or its designee, may take the following action to enforce the Governing Documents without, to the extent permitted by applicable law.

(i) requiring an Owner, at their expense, to perform maintenance on such Owner's Lot, to complete any construction or modification approved pursuant to Article IV, or to remove any structure, item or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition; or

(ii) entering the property pursuant to the easement granted in Section 9.5 and exercising self-help to remove or cure a violating condition, or to complete any construction or modification approved pursuant to Article IV which was begun and not completed within the required time period, upon failure of an Owner to take action as required pursuant to subsection above within 10 days after the Board's mailing of written notice to do so, and any such entry shall not be deemed a trespass; or

(iii) exercising self-help in any situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/or

(iv) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

(c) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents whether brought by the Association, or Owner, the prevailing party shall be entitled to recover all Legal Costs incurred in any such action.

(d) The Association's decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any further action; or

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, considering, among other things, hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under the same or other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

(e) The Association, by contract or other agreement, may enforce applicable governmental regulations and permit a Governmental Authority to enforce ordinances, rules, statutes, or laws within the Community for the benefit of the Association and its Members.

(f) The District and the Association shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration that relate to the maintenance, operation, and repair of the Surface Water or Storm Water Management System.

(g) Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted as provided in the Governing Documents by the Association, its successors or assigns, or any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant, condition or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter. Further, the Association shall have the right of self-help to cure any violations that remain uncured after any required notice is given.

#### 7.5 Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly or by reasonable implication from the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all of the Association's rights and powers may be exercised by the Board without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Maintenance Areas, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members. In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws.

#### 7.6 Provision of Services to Lots.

The Association may provide, or provide for, services and facilities for all or any of the Members and their Lots, and may enter into contracts or agreements with other entities to provide such services and facilities. The Board may charge use or service fees for any such services and facilities, or may include the costs in the Association's budget as a Common Expense and assess it as part of the Regular Assessment, if provided to, or determined by the Board to be a benefit to, all Lots. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, telephone, internet access, security monitoring, caretaker, transportation, fire protection, utilities, trash collection and recycling, and other services and facilities.

Nothing in this Section shall be construed as a representation by the Association as to what, if any, services or facilities shall be provided. In addition, subject to the contract terms, the Board may modify or cancel existing contracts for services in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services or facilities provided to Owners or Lots as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services or facilities.

#### 7.7 Relationship with Governmental and Tax-Exempt Organizations.

The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, state or local governments, public or private utility providers, and non-profit, tax-exempt organizations for the benefit of the Community, the Association, and the Members. The Association may contribute money, real property (including, without limitation, Common Area), personal property, or services to any such entity. Any such contribution may be a Common Expense and included as a line item in the Association's annual budget.

For the purposes of this Section, a **"tax-exempt organization"** shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("**Code**"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

#### 7.8 Responsibilities Under Governmental Permits.

The Association has been assigned and accepted the obligations and/or responsibilities under governmental permits and approvals with respect to the Community, including, without limitation, its continuing obligations with respect to the Surface Water and Storm Water Management System under the Permit and the IRCWMD, IRFWCD Permit, attached hereto as Exhibit "F". The Association shall comply in all respects with the terms of, and shall not undertake any activity inconsistent with, such permits and approvals.

#### 7.9 Waterways; Water Level and Use.

With respect to any waterways now existing or which may hereafter be contained within or adjoining the Community, only the Association shall have the right to pump or otherwise remove any water from such waterways for the purposes of irrigation or other use or to place any matter or object in such waterways. No docks, moorings, pilings, boat shelters, or other structure shall be erected on or over the waterways, except as may be erected or approved in writing by the District if applicable, the Association or the ARC. No boats or other water vehicle or craft shall be permitted on such waterways. No wading, swimming or fishing shall be permitted in such waterways. Subject to the provisions of this Declaration, and applicable law, the Association shall have the right and, to the extent required by the terms of this Section, any applicable governmental permit or ordinance as permitted by law, the obligation, to control the growth and eradication of plants, fowl, reptiles, animals, fish, and fungi in or on such waterways. Any boat ramp/lake access easements dedicated on the Plat or otherwise are for the purpose of accessing the

Lakes to perform lake maintenance and to perform storm water management and drainage facilities maintenance.

WATER LEVELS IN THE WATERWAYS MAY RISE AND FALL SIGNIFICANTLY DUE TO AMONG OTHER THINGS, FLUCTUATIONS IN GROUND WATER ELEVATIONS WITHIN THE SURROUNDING AREAS. ACCORDINGLY, THE ASSOCIATION AND THE SJRWMD HAVE NO CONTROL OVER SUCH WATER LEVELS AND/OR GROUND WATER ELEVATIONS. EACH OWNER, BY ACCEPTANCE OF TITLE TO A LOT, HEREBY RELEASES THE ASSOCIATION AND THE SJRWMD FROM AND AGAINST ANY AND ALL LOSSES, CLAIMS, DEMANDS, LIABILITIES, DAMAGES, COSTS AND EXPENSES OF WHATEVER NATURE OR KIND (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND COURTS COSTS AT TRIAL AND ALL APPELLATE LEVELS), RELATED TO, ARISING OUT OF AND/OR RESULTING FROM WATER LEVELS IN THE LAKES.

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

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO A LOT, ACKNOWLEDGES THAT THE WATERWAYS ARE DEEP AND DANGEROUS. NEITHER THE ASSOCIATION, THE SJRWMD, NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN ANY WATERWAY WITHIN VEROLAGO, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY. ALL PERSONS USING SAME DO SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF VEROLAGO SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH



BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITATE OR ENTER INTO WATER BODIES WITHIN OR NEARBY VEROLAGO AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

No planting, fencing or other improvements or additions within any Drainage Easement or Drainage and Maintenance Easement as shown on the Plat ("Lake Maintenance Easement") is permitted, except that planting shall be permitted in any portion of a Lake Maintenance Easement which is also the subject of a Landscape Easement or a Landscape and Drainage Easement. No installation of sand or other materials intended to simulate a beach shall be permitted along the Lake banks or within the Lake Maintenance Easement or rear yards of Lake Lots. Swimming in the Lakes is prohibited, and the operation of motorized and non-motorized watercraft in the Lakes is prohibited. In addition to the use of any Lake Maintenance Easement by any Owner, as described above, the Lake Maintenance Easements are for the use of the Association, SJRWMD and any other governmental agency for access to the Lakes for maintenance of the Lakes and any littoral plantings and other proper purposes. No removal or damage to littoral or wetland plantings, if any, is permitted. No Lake Lot shall be increased in size by filling in the adjacent Lake, if any, which it abuts.

An imaginary line will be extended from the side property lines at the back of each Lake Lot down to the water's edge. The area encompassed between the rear property line and the water's edge between these imaginary lines shall be defined as the "Lake Bank Zone" as to each Lake Lot.

All Lake Lot Owners are prohibited from disturbing or removing any vegetation within the Lake Bank Zone to the lake deep cut line without the prior written approval of the SJRWMD. A copy of any such approval shall be provided to the Association.

All Lake Lot Owners are prohibited from disturbing or removing the "cluster" landscaping located in the rear of the Lots near the Lake Bank Zones and the street trees without the prior approval of the Association.

#### 7.10 Surface Water and Storm Water Management System.

(a) Maintenance and Operation. The Association shall be responsible for the maintenance, operation, repair, and replacement of the Surface Water and

Storm Water Management System. Maintenance of the Surface Water and Storm Water Management System(s) shall mean the exercise or practices which allow the systems to provide drainage, water storage, conveyance, or other surface water or storm water management capabilities as permitted by the SJRWMD. Any repair or reconstruction of the Surface Water and Storm Water Management System shall be as permitted or, if modified, as approved by the SJRWMD. Notwithstanding anything contained herein to the contrary, the Association shall maintain embankments so that grass, planting, or other lateral support shall prevent erosion of the embankment. The height, grade, and contour of such embankments shall not be changed without the prior written consent of the Architectural Review Committee.

(b) Access and Inspection. The Association, specifically agrees to allow authorized SJRWMD personnel, upon presentation of credentials or other documents as may be required by law, access to the premises, at reasonable times, where the permitted activity is located or conducted; for the purposes of inspection and testing to determine compliance with this permit and SJRWMD regulations, such as:

(i) Having access to and copying any records that must be kept under the conditions of the permit;

(ii) Inspecting the facility, equipment, practices, or operations regulated or required under the permit;

(iii) Sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with the permit or SJRWMD rules; and

(iv) Gathering of data and information.

Reasonable time may depend on the nature of the concern being investigated.

(c) Littoral Areas. Establishment and survival of littoral areas provided for storm water quality treatment in wet detention systems shall be assured by proper and continuing maintenance procedures designed to promote viable wetlands plant growth of natural diversity and character. Following as-built approval, perpetual maintenance shall be provided for the permitted system.

(d) Reports. The Association shall submit inspection reports in the form required by SJRWMD, as required by the Permit.

(e) Shared Facilities. The Surface Water and Storm Water Management System will be connected into and provide stormwater storage for additional phases of the Community as contemplated by the Permit and approved by the SJRWMD. The Surface Water and Storm Water Management System will also be providing stormwater storage for 58th Avenue lying North of the North Relief Canal and South of 57th Street in accordance with Section 5 of the Developer's Agreement between Newport North Holdings, LLC, and the County dated June 8, 2004, a copy of which is attached hereto as Exhibit "G". The SJRWMD reserves the right to permit drainage of other lands through the Surface Water and Storm Water Management System as may be determined to be appropriate by the SJRWMD. Subject to obtaining SJRWMD approval of same, the Association reserves the right to grant such drainage and/or use such easements and rights as the Board may deem necessary or appropriate for accomplishing the drainage needs of the Community and/or lands owned by others provided that such easements, rights or agreements shall not unreasonably interfere with the use of the system by the Owners or unreasonably increase the cost of maintenance of the system by the Association. The Association may require the owners of property outside of VeroLago which are granted the right to use the Surface Water and Stormwater Management System pursuant to the foregoing to pay to or reimburse the Association for any increased costs and expense associated with modifying, operating or maintaining the system for such joint use.

## **Article VIII Association Finances**

### **8.1 Budgeting and Allocating Common Expenses.**

(a) Calculation of Regular Assessments. Before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses which it expects to incur for the coming year, including any contributions to be made to reserves pursuant to Section 8.2 for periodic major maintenance, repair and replacement of items that the Association maintains as a Common Expense. The budget shall include, as a separate line item in the operating expense portion of the budget, the estimated cost of routine maintenance of the Surface Water and Storm Water Management System and, as a separate line item in the reserve portion of the budget, a contribution to a reserve fund for periodic major maintenance, repair and replacements to the Common Maintenance Areas as provided in Section 8.2, including, without limitation, contributions to reserves for the private roads and Surface Water and Storm Water Management System. The budget shall separately reflect the anticipated sources and estimated amounts of funds to cover the Common Expenses, including any surplus or deficit to be applied from prior years,

assessment income, any fees charged for use of recreational amenities, and any other non-assessment income.

The Association is authorized to levy Regular Assessments to fund the Common Expenses against all Lots in the proportions described in Section 8.5. In determining the Regular Assessment rate, the Board may consider any assessment income expected to be generated from any property anticipated to become subject to assessment during the fiscal year.

The Board shall send a summary of the proposed budget and notice of the Regular Assessment to be levied pursuant to such budget to each Owner at least 30 days prior to the effective date of the budget.

If the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year.

#### 8.2 Budgeting for Reserves.

The Board shall prepare and periodically review reserve budgets for the Common Maintenance Area which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of capital items under each budget. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1(a), a capital contribution to fund reserves in accordance with Florida Statute 720.303(6)(2018) as amended from time to time.

Reserve funds shall be held in a separate account or accounts from the operating and other funds of the Association.

The reserve funds held may be expended only for major maintenance, repair, or replacement of those assets covered by the reserve budget pursuant to which they were collected.

#### 8.3 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment shall be levied against the entire membership, if such Special Assessment is for Common Expenses. Except as

otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of a majority of the Board. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

#### 8.4 Benefited Assessments.

The Association may levy Benefited Assessments against one or more particular Lots as follows:

(a) to cover the costs, including, without limitation, overhead and administrative costs, of providing services to a Lot upon request of the Owner pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 7.6 or Section 8.9). Benefited Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing a Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests, including, without limitation, Legal Costs, subject to the limitations of Section 7.4, as applicable.

#### 8.5 Assessment Rate; Time of Payment.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and may impose special requirements for Owners who have failed to pay, on a timely basis, two or more payments, in any 12 month period, of any nature, due under the Governing Documents. If the Board so elects, assessments may be paid in quarterly or monthly installments. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require that the outstanding balance on all assessments be paid in full immediately.

#### 8.6 Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Lot, covenants and agrees to pay all assessments levied in accordance with the Governing Documents for each Lot owned. All assessments, together with interest (computed from the assessment's

due date at a rate of 18% per annum or the maximum rate permitted by law, whichever is greater), late charges as determined by Board resolution, and Legal Costs, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Regular Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempted from liability for assessments by non-use of Common Maintenance Area, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Following a written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

#### 8.7 Lien for Assessments.

The Association may record a lien against any Lot to secure payment of assessments that remain unpaid for a period of 30 days or longer after becoming due. For purposes of this Section, assessments shall include interest, late charges (subject to Florida law), and Legal Costs. Such lien shall be superior to all other liens, except (a) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value, and (b) other liens or encumbrances which by law would be superior. The Association's lien may be enforced by suit, judgment, and/or judicial or nonjudicial foreclosure, unless prohibited by applicable law.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure by the first Mortgagee (or pursuant to a deed in lieu of foreclosure to a first mortgage) extinguishes the lien relating to any amounts due prior to the Mortgagee's foreclosure or the deed in lieu of foreclosure. The purchaser of such foreclosed Lot shall only be liable for assessments on such Lot due prior to the foreclosure sale as provided by Florida Statute 720.3085(2018) as amended from time to time. Any unpaid assessments shall be a Common Expense collectible from Owners of all Lots subject to assessment under Section 8.5, including, without limitation, such purchaser, its successors and assigns.

Notwithstanding the above, while the Association owns a Lot: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

#### 8.8 Exempt Property.

The following property shall be exempt from payment of Regular Assessments and Special Assessments:

- (a) All Common Area and other portions of the Community which are not Lots; and
- (b) Any property dedicated to and accepted by any governmental authority or public utility.

#### 8.9 Use and Consumption Fees.

The Board may charge use and consumption fees to any Person using Association services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners). Any such fees charged to Owners shall be considered a Benefited Assessment against the Lots of such Owners under Section 8.4(a).

## Article IX Easements

### 9.1 Easements in Common Area.

Subject to the provisions below, every Owner shall have a right to use an easement of enjoyment in and to the Common Area together with an easement of access to and from the Common Area which shall be appurtenant to and shall pass with the title to the Lot or Unit owned by such Owner. These easement rights are subject to:

- (a) the Governing Documents and any other applicable covenants;
- (b) any restrictions or limitations contained in any deed conveying the property to the Association;
- (c) the Board's right to:
  - (i) adopt rules regulating Common Area use, including, without limitation, rules limiting the number of guests who may use the Common Area, and charge use fees for such use;
  - (ii) suspend the right of an Owner and its guests and invitees to use any Common Area amenity (A) for any period during which any assessment or other charge against the Owners Lot remains delinquent in excess of ninety (90) days, and (B) for a period not to exceed 30 days for a single violation, or for a longer period in the case of any continuing violation, of the Governing Documents;
  - (iii) dedicate or transfer all or any part of the Common Area, subject to any approval requirements set forth in this Declaration;
  - (iv) rent any portion of the Common Area on an exclusive or non-exclusive short-term basis to any Person;
  - (v) permit use by the general public, which use may, but need not, be subject to admission charges, membership fees, or other user fees established in the Board's discretion (except to the extent inconsistent with any easement agreement relating thereto); and
  - (vi) mortgage, pledge, or hypothecate any or all of the Common Area as security for money borrowed or debts incurred.

Any Owner may extend his or her right to use the Common Area to the members of his or her family, tenants, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Lot in accordance



with this Declaration shall be deemed to have assigned all such rights to the tenants of such Lot for the lease term and shall not have any right to utilize the Common Area during such term, except as necessary to access the Lot.

Each Owner has a perpetual, non-exclusive ingress and egress easement to their Lot over the Common Area roadways.

## 9.2 Easements of Encroachment.

Easements of encroachment, and for maintenance and use of any permitted encroachment are granted between each Lot and any adjacent Common Area and between adjacent Lots. Such easement shall permit encroachment only by a structure, improvement or fixture which has been constructed or approved in accordance with Article IV of this Declaration and which is constructed on another's property without the actual intention of encroaching on such property. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

## 9.3 Easements for Utilities. Etc.

(a) Installation and Maintenance. The Association is granted perpetual, non-exclusive easements throughout the Community (but not through a structure) to: (i) install utilities and infrastructure to serve the Community, including, without limitation, water, sewer, telephone, electric, gas, irrigation, cable and other systems for sending and receiving data and/or other electronic signals, drainage structures, facilities and systems, and security and similar systems and other Community Systems and Services; (ii) install walkways, pathways and trails, curb cuts, driveways and paved areas, street lights, and signage on property which the Association owns or within public rights-of-way or easements reserved for such purpose (or for the installation of landscaping or utilities) on a Plat; (iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; (iv) access and read utility meters; and (v) for any other purpose in the Association's sole discretion. The right, license, or easement granted to a utility supplier shall include the non-exclusive right to ingress and egress over any streets for access and maintenance of its equipment and facilities. The Association reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Interference. All work associated with the exercise of the easements described in subsections (a) of this Section shall be performed in such a manner as

to minimize, to the extent reasonably practical, interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably practicable, to the condition existing prior to the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

#### 9.4 Easements for Maintenance, Emergency and Enforcement.

The Association is granted easements over the Community as necessary for the Association to fulfill its maintenance responsibilities under this Declaration. The Association shall also have an easement and the right, but not obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such easement and right may be exercised by the Association through its officers, directors, committee members, employees, contractors, or agents in their capacities as such and by all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

The Association is granted, subject to any required notice, an easement and right to enter a Lot to abate a Governing Document violation and/or to remove any structure, thing, or condition that violates the Governing Documents. Any costs incurred, including Legal Costs, shall be assessed against the Lot Owner as a Benefited Assessment.

#### 9.5 Easements for Maintenance of Bodies of Water and Flooding.

The Association, the District, and their successors, assigns, and designees, are granted the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Common Maintenance Areas and the Community to (a) install, operate, maintain, repair, and replace pumps and other equipment to supply irrigation water to the Common Maintenance Areas; (b) construct, maintain, repair, and replace structures and equipment used for retaining, detaining, and otherwise controlling water; and (c) maintain such areas in a manner consistent with the Community-Wide Standard and applicable legal requirements. The Association, the District, and their successors, assigns, and designees shall have an access easement over and across any portion of the Community which

abuts or contains bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

The Association, and their successors, assigns and designees shall have, a perpetual, nonexclusive right and easement of access and encroachment over the Common Maintenance Area and Lots (but not inside a dwelling or other structure) adjacent to or within 50 feet of bodies of water and wetlands within the Community, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Common Maintenance Areas; and (c) maintain and landscape the slopes and banks pertaining to such areas. Anyone exercising these easements shall use reasonable care in, and repair any damage resulting from, their intentional exercise of the easements. Nothing herein shall be construed to make any Person liable for damage resulting from flooding due to natural occurrences or for other occurrences not reasonably foreseeable or under the control of such Person.

#### 9.6 Easements for Cross-Drainage.

All portions of the Community shall be burdened with easements for drainage of stormwater runoff from other portions of the Community; however, no Person shall alter the drainage on any Lot to increase materially the drainage of stormwater onto adjacent portions of the Community without the consent of the Owner(s) of the affected property, the Board and the District, if applicable.

#### 9.7 Rights to Stormwater Runoff, Effluent and Water Reclamation.

All rights to ground water, surface water, stormwater runoff, and effluent located or produced within the Community are reserved for the Association, and each Owner agrees, by acceptance of a deed to a Lot, that the Association shall retain all such rights. Such rights shall include, without limitation, the reservation of an easement over the Community for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent.

#### 9.8 Easement for Maintenance of Surface Water and Storm Water Management System.

The Association shall have a perpetual, non-exclusive easement over all portions of the Surface Water and Storm Water Management System for access to operate, maintain, repair, or replace the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of or adjacent to the Surface Water and Storm Water Management System, at a

reasonable time and in a reasonable manner, to operate, maintain, repair, or replace the system as the County or any governmental agency or quasi-governmental body requires or permits. Additionally, the Association shall have a perpetual, non-exclusive easement for drainage over the entire Surface Water and Storm Water Management System, and the owner of the pumps, pipes, and other apparatus comprising the system shall have an easement of access and maintenance as necessary for the operation, maintenance, repair, and replacement of such equipment. No Person shall alter the drainage flow of or over the Surface Water and Storm Water Management System, including, without limitation, buffer areas or swales, without the Association's prior written approval.

#### 9.9 Sign Easement.

The Association is reserved an easement (herein referred to as the "**Entry, Sign and Landscape Easement**") over, upon, and across all areas, if any, designated as "**Landscape Tract**", "**Signage Tract**" "**Landscape Area**", "**Entryway Feature Easement Area or Tract**" or "**Open Space**" or identified by similar designation, on any Plat, for erection, installation, operation, maintenance, repair, and replacement of Community signs, walls, monuments, fencing, decorative improvements, entry features, together with landscaping, lighting, utility, and irrigation facilities. No Owner shall obstruct access to the Entry, Sign and Landscape Easement, or install or remove any plant or other improvement or installation placed in the Entry, Sign and Landscape Easement by the beneficiaries thereof, or obstruct the view of the Entry, Sign and Landscape Easement from the adjacent street right-of-way. All signs, walls, monuments, entry features, landscaping, utility, irrigation and other permanent improvements installed in the Entry, Sign and Landscape Easement are part of the Common Area of the Association and the Association shall maintain such Entry, Sign and Landscape Easement and the improvements therein as part of the Common Area.

#### 9.10 Easement for Irrigation Equipment.

If there is a master irrigation system for the Community, the Association shall have a perpetual, non-exclusive easement over, under and through all exterior portions of each Lot, except any area upon which buildings have been erected in accordance with Article IV, for the purpose of installing, maintaining, repairing, replacing and operating all irrigation equipment, systems and lines serving all or any portion of the Lots and/or Common Area. The foregoing easement shall not impose any obligation on the Association to install any such improvements.

#### 9.11 Private Roadways.

(a) The private roadways, if any, within the Community ("**Roadways**"), as depicted on any Plat, shall be owned by the Association as part of the Common Area and shall not be dedicated to the County or to public use by recordation of such Plat. Use of such Roadways shall be subject to and in accordance with any rights and easements shown on the Plats and such reasonable Use Restrictions and Rules as the Association may adopt from time to time consistent with this Declaration, the Plat, and any law, ordinance, or regulation governing the Community.

A perpetual, nonexclusive easement for access, ingress, and egress over the Roadways is granted for Owners, law enforcement, firefighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to the Community provided that such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities.

The existence of this easement shall not preclude the Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Community, provided that the Association at all times maintains systems and/or procedures to permit the uncontested entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

#### 9.12 Easement to Public Right-of-Way.

Notwithstanding anything to the contrary set forth in this Declaration, to the extent necessary, each Owner shall have a nonexclusive easement for vehicular and pedestrian access to and from his Unit over the Private Streets to a public right-of-way. The easement herein granted shall be subject to the reasonable regulation of traffic by the Association, including but not limited to: speed limits; one-way streets; stop signs; yield signs; and other common traffic control signs and devices. The Association shall not have the right to restrict access to the Private Streets to Owners, resident members of the Owner's household, invited guests, commercial delivery services, government officials, including but not limited to, postal, police, fire and safety officials, vendors, contractors and tradesmen engaged by an Owner. The Association shall have the right, but not the obligation, to require nonresidents requesting entry to the Private Streets to stop at the entry gate and provide evidence of authorization from an Owner. The right of the Owner to use the Private Streets for

access to the Owner's Unit may not be suspended or withheld for any reason, including nonpayment of assessments or failure to obey traffic regulations, however, the Association shall have the right to exercise all other remedies available at law or in equity to recover from any such Owner all unpaid assessments, and to enforce all traffic regulations, and, in the event the Association incurs any expense in so doing, in addition to any other relief obtained by the Association, either voluntarily, by agreement, through arbitration or court action, the Owner shall reimburse the Association for all its costs and expenses, including, but not limited to, all reasonable attorney's fees, expert witness fees, investigation costs and other expenses incurred by the Association at the pre-trial, trial or appellate levels.

## **Article X Conservation Easements, Natural Conditions and Preserves**

### 10.1 Conservation Easements.

(a) Establishment of Conservation Easements. The provisions of Section 704.06, Florida Statutes establish the right of the District and/or the County (the "Easement Grantee") to accept easements for the preservation of the natural habitat (such easements shall be referred to herein as the "Conservation Easements"). The Plat of VeroLago identifies and dedicates certain Conservation Easements to the County, the District and the Association. The Association is reserved the right to grant such additional easements over and upon portions of the Common Area or Lots unto the Easement Grantee pursuant to the provisions of Section 704.06, Florida Statutes. Any Conservation Easements so granted shall be subject to the requirements of Section 704.06, Florida Statutes, and the following provisions. For the purposes of this Declaration, any portion of the Common Area encumbered by a Conservation Easement shall be referred to as the **"Conservation Easement Property"**.

(b) Purpose. The purpose of a Conservation Easement is to assure that the Conservation Easement Property will be retained forever in its existing natural condition and to prevent any use of the Conservation Easement Property that will impair or interfere with the environmental value of the Conservation Easement Property.

(c) Prohibited Acts and Uses. Any activity on or use of the Conservation Easement Property inconsistent with the purpose of a Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

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

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

(iii) removing, mowing, trimming or destroying trees, shrubs, or other vegetation;

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

(v) using the surface area of the Conservation Easement Property, except for purposes that permit the land or water area to remain predominantly in its natural condition;

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

(vii) acting upon or using the Conservation Easement Property in a manner detrimental to such retention of land or water areas;

(viii) acting upon or using the Conservation Easement Property in a manner detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance;

(ix) constructing or installing utilities on, below, or above the ground without appropriate local, state, and federal permits or other authorization; and

(x) applying of herbicides, pesticides, or fertilizers.

(d) Reserved Rights. The owner of record title to the Conservation Easement Property reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Conservation Easement Property, including, without limitation, the right to engage in or permit or invite others to engage in all uses of the Conservation Easement Property that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Easement.

(e) Rights of Easement Grantee. To accomplish the purposes stated herein, the owner of record title to the Conservation Easement Property shall, grant the following rights to the Easement Grantee:

(i) to enter upon and inspect the Conservation Easement Property in a reasonable manner and at reasonable times to determine if the Association and the Owners are complying with the covenants and prohibitions contained in the Conservation Easement; and

(ii) to proceed at law or in equity to enforce the provisions of the Conservation Easement and the covenants set forth therein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Conservation Easement Property that may be damaged by any activity inconsistent with the Conservation Easement.

(f) Easement Grantee's Discretion. The Easement Grantee may enforce the terms of the Conservation Easement at its discretion, but if the Association or any Owner, breaches any term of the Conservation Easement and the Easement Grantee does not exercise its rights under the Conservation Easement, the Easement Grantee's forbearance shall not be construed to be a waiver by the Easement Grantee of such term, or of any subsequent breach of the same, or any other term of the Conservation Easement, or of any of the Easement Grantee's rights under the Conservation Easement. No delay or omission by the Easement Grantee in the exercise of any right or remedy upon any breach by the Association or any Owner shall impair such right or remedy or be construed as a waiver. The Easement Grantee shall not be obligated to any person or entity, to enforce the provisions of the Conservation Easement.

(g) Easement Grantee's Liability. The owner of the fee interest in the Conservation Easement Property shall retain all liability for any injury or damage to the person or property of third parties that may occur on, the Conservation Easement Property. Neither any Owner, nor any person or entity claiming by or through any Owner, shall hold the Easement Grantee liable for any damage or injury to person or personal property that may occur on the Conservation Easement Property.

(h) Acts Beyond Association's Control. Nothing contained in the Conservation Easement shall be construed to entitle the Easement Grantee to bring any action against the Association for any injury to or change in the Conservation Easement Property resulting from natural causes beyond the Association's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by the Association under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Easement Property or to persons resulting from such causes.



(i) Recordation. Any Conservation Easement shall be recorded in a timely fashion and the Owners of any Lots encumbered by the Conservation Easement shall rerecord it by separate instrument at any time the Easement Grantee may require to preserve its rights. The Owners of any Lots encumbered by the Conservation Easement shall pay all recording costs and taxes necessary to record the Conservation Easement.

(j) Successors. The covenants, terms, conditions, and restrictions of the Conservation Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Conservation Easement Property.

(k) Restrictive Covenants Affecting Conservation Easements. No Owner or other person shall cut, remove, destroy, or otherwise disturb any plant, shrub, tree, or other vegetation within any Conservation Easement Property, nor shall any person, including, but not limited to any Owner, and the Association, deposit dirt, fill, grass clippings, trash, rubbish, tree trimmings, building materials or other waste within such easements without the prior written consent (as evidenced by any required permit or other official certification) of the Association, the County, and the District.

## 10.2 Natural Conditions.

(a) The Community may contain a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes and other reptiles, alligators, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Lot, and every Person entering the Community (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within or through the Community; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Community. The Association, nor the members, officers, directors, attorneys, agents, or employees of the Association, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Community, nor shall they have any liability for any injury resulting from the presence, movement, or propagation of any plant or wildlife within or through the Community.

(b) The natural areas described in subsection (a) above may also contain creeks, ponds, or intermittent pools of water, muddy areas, and underbrush, among

other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Lot shall enter upon, or permit their guests or any other person acting on their behalf to enter upon, or disturb such areas in any way without the Association's prior written approval.

### 10.3 Preserves.

As may be depicted on any Plat, certain tracts may be identified as "**Preserve**" or "**Private Preserve**". Unless otherwise approved in writing by the District, the County and any other governmental authorities having jurisdiction, the Preserve areas shall be maintained in their natural state in perpetuity. No Owner, member of an Owner's household, or any other Person acting, or purporting to act, on behalf of any Owner, or for whom any Owner shall be responsible pursuant to this Declaration, shall disturb the natural environment of the Preserve areas in any way without first obtaining the written consent of the Board properly approved by the adoption of a resolution describing in detail the exact activities to be conducted within the Preserve areas, the times and dates when such activities are authorized to occur, and the identities of the Persons who are authorized to so act, together with the written consent of any governmental authority having jurisdiction over the proposed activity.

This restrictive covenant is intended in the broadest sense, and includes, but is not limited to, trimming, cutting, or mowing grass, shrubs, trees or other plants; placing grass clippings, landscape debris, household trash or other materials; storing materials, equipment, vehicles, boats, motor homes, trailers, or other items; erecting children's playhouses, tree houses, swings, or other permanent or temporary improvements; planting trees, shrubs, grass, or ground cover; releasing birds, snakes, reptiles, insects, or other animals; grading or excavating; cultivating or gardening; or dumping dirt, sand, rocks, gravel, or other inorganic or organic material on any part of a Preserve area. No hunting or animal trapping, carrying or discharging of firearms, overnight camping or campfires, operation of motorcycles or so-called "**all-terrain vehicles**", "**dirt bikes**", or other motorized vehicles, implements, equipment, or conveyances are permitted within the Preserve areas at any time.

Any Owner who violates the foregoing restrictive covenants shall be responsible for the cost of restoring the affected Preserve area to the satisfaction of the Association and any governmental authority having jurisdiction thereof, and the Association shall have the right to prohibit the offending party from further use or enjoyment of the Preserve areas after prior notice and hearing before the Board.

BECAUSE THE PRESERVE AREAS, IF ANY, ARE TO BE RETAINED IN THEIR NATURAL STATE, SUCH AREAS SHOULD BE CONSIDERED HAZARDOUS FOR RECREATIONAL ACTIVITIES.

THE ASSOCIATION HAS NO OBLIGATION TO PROVIDE SECURITY OR SUPERVISION FOR ANY PERSON USING A PRESERVE AREA, AND ALL PERSONS USING A PRESERVE AREA DO SO AT THEIR OWN RISK.

INSECTS, SNAKES, AND ANIMALS THAT MAY BE DANGEROUS TO HUMANS MAY INHABIT THE PRESERVE AREAS.

OWNERS SHOULD NOT ALLOW CHILDREN OR PETS TO ENTER THE PRESERVE AREA WITHOUT ADULT SUPERVISION.

THE ASSOCIATION SHALL NOT HAVE ANY LIABILITY WHATSOEVER FOR ANY CONDITION OF A PRESERVE AREA OR ANY INJURY OR DEATH OCCURRING THEREON.

THE ASSOCIATION SHALL HAVE THE RIGHT TO IMPOSE ADDITIONAL RULES AND REGULATIONS GOVERNING THE USE OF THE PRESERVE AREAS.

IF THE PRESERVE AREAS, OR THE TREES OR VEGETATION THEREON, ARE DAMAGED OR DESTROYED BY FIRE, WINDSTORM, FLOOD, DISEASE, OR OTHER NATURAL OR MANMADE EVENT, THE ASSOCIATION SHALL NOT HAVE ANY OBLIGATION TO REPAIR OR RESTORE THE DAMAGE OR DESTRUCTION, OR TO REMOVE ANY DEAD OR DAMAGED TREES OR OTHER VEGETATION.

#### **Article XI Mortgagee Provisions**

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Lots. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

##### **11.1 Notices of Action.**

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its

Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any Association insurance policy;

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders; or

(e) If the U.S. Department of Housing and Urban Development is insuring or the U.S. Department of Veterans Affairs is guaranteeing the Mortgage on any Lot, material amendment to the Governing Documents or extraordinary action of the Association, as defined under VA Pamphlet 26-7, as it may be amended or superseded.

Otherwise, no consent from Eligible Holders shall be necessary to enable the Association to accomplish any of its operational duties and responsibilities or to exercise any of its rights.

#### 11.2 Special FHLMC Provision.

To the extent required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or Members representing at least 67% of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Lot (any decision or

action in accordance with the provisions of this Declaration shall not be subject to this provision);

(c) By act or omission, change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Lots and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

### 11.3 Other Provisions for First Lien Holders.

To the extent not inconsistent with Florida law and in addition to the provisions in this Declaration:

(a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Lots to which more than 50% of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Lots to which more than 50% of the votes of Lots subject to Mortgages held by such Eligible Holders are allocated.

#### 11.4 Amendments to Documents for Article XVI Mortgage Provisions.

The following provisions do not apply to amendments to the Governing Documents or termination of the Association, if the same result is solely on account of destruction, damage, or condemnation pursuant to Section 11.3 (a), otherwise:

(a) The consent of at least 67% of the votes and the approval of the Eligible Holders of first Mortgages on Lots to which at least 67% of the votes of Lots subject to a Mortgage appertain, shall be required to terminate the Association.

(b) If and to the extent FHA, HUD or VA is insuring or guaranteeing any Mortgage on any Lot, the consent of at least 67% of the shall be required to amend any material provisions of the Declaration, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Maintenance Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Maintenance Area;
- (vi) responsibility for maintenance and repair of the Community;
- (vii) expansion or contraction of Community or the addition, annexation, or withdrawal of property to or from the jurisdiction of the Association;
- (viii) boundaries of a Lot;
- (ix) leasing of Lots;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Lot;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Lots.

11.5 Construction of Article XI.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-Laws, or Florida law for any of the acts set out in this Article.

11.6 No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

11.7 Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering the Owners Lot.

11.8 Failure of Mortgagee to Respond.

Any Mortgagee (and for purposes of this paragraph "Mortgagee" shall include FHA, VA, HUD, FNMA, FHLMC, or other similar governmental or quasi-governmental agency) who receives a written request from the Board to respond to or consent to any action, shall be conclusively deemed to have irrevocably approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified mail, return receipt requested; or overnight delivery by a nationally recognized courier that provides tracking and receipt services; or personal delivery.

11.9 Approval of the SJRWMD. Any proposed amendment to this Declaration which may affect the Surface Water and Storm Water Management System or the facilities and/or rights of the SJRWMD shall be submitted to the SJRWMD for a determination of whether the proposed amendment necessitates the modification of the surface water management permit for the Property. Any proposed amendment which may affect the drainage system or rights of the SJRWMD provided in this Declaration shall not be recorded in the public records of the County without the prior written approval of the SJRWMD, as the case may be, which approval shall be evidenced by a document recorded in the public records of the County.

## Article XII Disclosures and Waivers

### 12.1 No Liability For Third Party Acts.

Owners and occupants of Lots, and their respective guests and invitees, are responsible for their own personal safety and for their property in the Community. The Association may, but is not obligated to, maintain or support certain activities within the Community which are intended to promote or enhance safety or security within the Community. However, the Association shall not in any way be considered insurer or guarantor of safety or security within the Community, nor shall it be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including, without limitation, fire protection, burglar alarm, or other security monitoring systems, (or if there is any gate or other mechanism or system for limiting access to the Community), cannot be compromised or circumvented, nor that any such systems or measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants and invitees of its Lot that the Association, the Board and its committees are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

The Association shall not have any obligation to staff the gatehouse or gate.

### 12.2 View Impairment.

The Association does not guarantee or represent that any view over and across the Lots or any open space or any other portion of the Community within the Community will be preserved without impairment. The Association shall not be obligated to relocate, prune, or thin trees or other landscaping. The Association (with respect to the Common Area) shall have the right to relocate, prune, thin, or add trees and other landscaping from time to time subject to applicable law. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

### 12.3 Notices and Disclaimers as to Community Systems and Services.

In recognition of the fact that interruptions in cable television and other Community Systems and Services will occur from time to time, the Association shall



not in any manner be liable for, and no Community System and Service user shall be entitled to refund, rebate, discount, or offset in applicable fees, for any interruption in Community Systems and Services, regardless of whether or not such interruption is caused by reasons within the service provider's control. The Association shall be entitled to retain any rebate, discount, or other compensation received from the provider of any Community Systems and Services in connection with the installation or operation of such system.

#### 12.4 Water Management.

Each Owner acknowledges and agrees that some or all of the water features, if any, or wetlands in or adjacent to the Community are designed as water management areas and are not designed solely as aesthetic features. Due to fluctuations in water elevations within the immediate area, water levels will rise and fall. Each Owner further acknowledges and agrees that the Association and the District do not have, or are not obligated to exert, control over such elevations. Therefore, each Owner agrees to, and does by purchase of a Lot, release and discharge the Association and the District from and against any and all losses, claims, demands, damages, and expenses of whatever nature or kind, including, without limitation, Legal Costs, related to or arising out of any claim relating to such fluctuations in water elevations. Owners shall not alter, modify, expand, or fill any water features or wetlands located within or in the vicinity of the Community without the prior written approval of the Association and any local, state, or federal regulatory or permitting authorities as may have relevant jurisdiction over such matters.

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

EACH OWNER, BY THE ACCEPTANCE OF TITLE TO A LOT, ACKNOWLEDGES THAT THE WATERWAYS ARE DEEP AND DANGEROUS. NEITHER THE ASSOCIATION, THE DISTRICT NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER

QUALITY OR WATER LEVEL OF/IN ANY WATERWAY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED FOR WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY OR DEATH OCCURRING IN, OR OTHERWISE RELATED TO, ANY WATER BODY, ALL PERSONS USING SAME DOING SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF THE COMMUNITY SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITATE OR ENTER INTO WATER BODIES WITHIN OR NEARBY THE COMMUNITY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

#### **Article XIII Changes in Ownership of Lots**

Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least 14 days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Notwithstanding the transfer of title, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Lot Owner, including, without limitations, assessment obligations, until the date upon which the Board receives such notice, after which the original Owner shall be released from the obligation to pay assessments levied after the date such notice is received.

#### **Article XIV Changes in Common Area**

##### **14.1 Condemnation.**

Whenever any part of the Common Area is taken or conveyed under threat of condemnation by any authority having the power of eminent domain, the Board shall determine, in the exercise of its business judgment, whether each Owner is entitled to notice. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless, within 60 days after such taking, Members entitled to cast at least 67% of the total votes shall otherwise agree. Any such construction shall be in accordance with plans the Board approves. The provisions of Section 7.3 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any Common Area improvements, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

#### 14.2 Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

#### 14.3 Transfer or Dedication of Common Area.

The Association may convey, dedicate, or otherwise transfer portions of the Common Area to the County or to any other local, state, or federal governmental or quasi-governmental entity, with the consent of at least 67% of the Owners.

### **Article XV Amendment of Declaration**

#### 15.1 By the Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least a majority of the Association's total votes. The approval requirements set forth in Article XI also shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

15.2 Approval by the District.

Any amendment to the Declaration that alters any provision relating to the Surface Water and Storm Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Areas, or amendment to this Section 16.2, must have the prior approval of the District.

15.3 Validity and Effective Date.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that the Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment, if required by applicable laws, permits and/or approvals.

Any amendment shall become effective upon the earliest of (a) actual notice; (b) recording; or (c) later effective date specified in the amendment. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

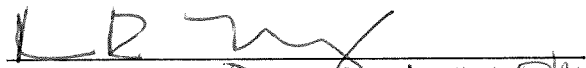
This Amended and Restated Declaration of Covenants, Conditions and Restrictions for VeroLago has been approved by written consent of a majority of the votes of the Association, which vote was sufficient for approval.


The undersigned, VeroLago Homeowners Association, Inc., hereby consents to the terms and conditions contained in the foregoing Amended and Restated Declaration and hereby assumes the duties and obligations imposed upon the undersigned thereunder.

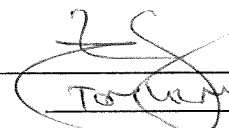
**IN WITNESS WHEREOF**, the undersigned has caused these presents to be signed in its name by its President, its Secretary and its corporate seal affixed this day of September 25, 2019.

**WITNESSES AS TO PRESIDENT:**

**VEROLAGO HOMEOWNERS  
ASSOCIATION, INC.**

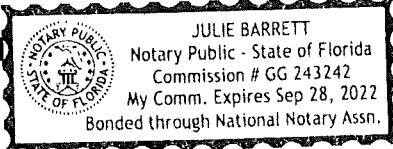
  
Printed Name: David Murphy

  
Printed Name: Megan Murphy

By:   
Tom Murphy, President

STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me on September 28  
2019, by Tom Gjer, as President of VeroLago Homeowners  
Association, Inc. [ ] who is personally known to me, or [ ] who has produced  
identification [Type of Identification: \_\_\_\_\_].

Notarial Seal 

Julie Barrett  
Notary Public

WITNESSES AS TO SECRETARY:

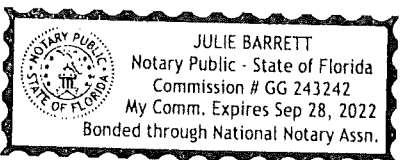
VEROLAGO HOMEOWNERS  
ASSOCIATION, INC.  
By: Philip J Orth II  
Philip J Orth II Secretary

LR [Signature]  
Printed Name: Doris Leupold  
Megan Murphy  
Printed Name: megan murphy



STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me on September 25  
2019, by Philip J Orth II, as Secretary of VeroLago Homeowners  
Association, Inc. [ ] who is personally known to me, or [ ] who has produced  
identification [Type of Identification: \_\_\_\_\_].

Notarial Seal 

Julie Barrett  
Notary Public

**EXHIBIT "A"**

**Land Initially Submitted**

ALL THOSE TRACTS OR PARCELS OF LAND shown on that certain plat of VEROLAGO PHASE 1, recorded in Plat Book 20, Pages 16 through 22, that certain plat of VEROLAGO PHASE 2, recorded in Plat Book 20, Pages 23 through 29, that certain plat of VEROLAGO PHASE 3, recorded in Plat Book 20, Pages 30 through 37, that certain plat of VEROLAGO PHASE 4, recorded in Plat Book 20, Pages 38 through 43 and that certain plat of VEROLAGO PHASE 5, recorded in Plat Book 20, Pages 44 through 49, all in the Public Records of Indian River County, Florida, as such property may be replatted from time to time or as such plats may be revised or amended (together the "Plat").

EXHIBIT "B"

SECOND AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
VEROLAGO HOMEOWNERS ASSOCIATION, INC.

The purpose of this Second Amended and Restated Articles of Incorporation is to continue the purposes of the Articles of Incorporation as originally filed with the Department of State on June 29, 2005, amended and restated on July 27, 2005 and amended on December 26, 2018.

Article 1. Name. The name of the corporation is VeroLago Homeowners Association, Inc. For convenience, the corporation shall be referred to in this instrument as the "Association."

Article 2. Address. The address of the initial principal office of the Association and the mailing address of the Association shall be as determined by the Board of Directors from time to time.

Article 3. Definitions. All capitalized terms used in these Articles of Incorporation which are not defined herein shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for VeroLago, recorded in the Public Records of Indian River County, Florida, as such Declaration may be amended and/or amended and restated from time to time (the "Declaration").

Article 4. Purposes. The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its members. By way of explanation and not of limitation, the purposes for which the Association is organized are:

(a) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as set forth in the Governing Documents and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the owners of real property subject to the Declaration (such real property is referred to in these Articles as the "Community"); and

(c) to operate, maintain, and manage the Surface Water and Storm Water Management System in a manner consistent with the requirements of St. Johns River Water Management District (the "District") Permit No. 4-061-93075-2 and

applicable District rules; to assist in the enforcement of the Declaration's provisions relating to the Surface Water and Storm Water Management System; and to levy and collect adequate assessments against Owners for the cost of maintenance and operation of the Surface Water and Storm Water Management System.

Article 5. Powers. In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or By-Laws of the Association, shall, if exercised at all, be exercised by the Board of Directors:

(a) all of the powers conferred upon not-for-profit corporations by common law and Florida Statutes in effect from time to time; and

(b) all of the powers necessary or desirable to perform the obligations and to exercise the rights and powers set out in these Articles, the By-Laws, and the Declaration, including, without limitation, the following:

(i) to fix, levy, collect, and enforce payment of all charges or assessments authorized by the Declaration by any lawful means; to pay all expenses in connection therewith and all administrative and other expenses incident to the conduct of the business of the Association including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(ii) to manage, control, operate, alter, maintain, repair, improve, and replace the common areas and facilities, and any property acquired by the Association, or any property owned by another for which the Association, by rule, regulation, declaration, or agreement, has a right or duty to provide such services;

(iii) to make rules and regulations and to enforce covenants, conditions, or restrictions affecting any property within the Community to the extent the Association may be authorized to do so under the Declaration or By-Laws;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property within the Community subject to the Declaration;

(v) to buy, or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, own, hold, use, operate, and otherwise deal in and with, real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(vi) To borrow money for any purpose subject to such limitations as may be contained in the Declaration and/or By-Laws;



(vii) to enter into, make, perform, and enforce agreements of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other corporation, or other entity or agency, public or private;

(viii) to adopt, alter, and amend or repeal the By-Laws as may be necessary or desirable for the proper management of the affairs of the Association; however, such By-Laws may not be inconsistent with or contrary to any provisions of the Declaration; and

(ix) to provide any and all supplemental municipal services to the Community as may be necessary or desirable.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 5 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 5.

Article 6. Members. The Association shall be a membership corporation without certificates or shares of stock. The Owner of each Lot shall be a member of the Association and shall be entitled to vote as provided in the Declaration and the By-Laws. Membership in the Association is appurtenant to, and may not be severed from the Unit or Lot. The rights and obligations of a Member may not be assigned or delegated except as provided in the Declaration, these Articles of Incorporation, or the By-Laws of the Association, and shall automatically pass to the successor-in-interest of any Owner upon conveyance of such Owner's interest in the Lot or Unit.

Change of an Owner's membership in the Association shall be established by recording in the Public Records of the County, a deed or other instrument establishing record title to a Lot. Upon such recordation, the Owner designated by such instrument shall become a member of the Association and the membership of the prior Owner shall terminate.

Article 7. The Association shall exist in perpetuity.

Article 8. Board of Directors. The Association's business and affairs shall be conducted, managed, and controlled by a Board of Directors ("Board"). The Board may delegate its operating authority to such companies, individuals, or committees as it, in its discretion, may determine.

The Board shall consist of five members, as provided in the By-Laws. The method of election and removal of directors, filling of vacancies, and the term of office of directors shall be as set forth in the By-Laws.

Article 9. By-Laws. The By-Laws may be altered, amended, rescinded or repealed in the manner provided in the By- Laws.

Article 10. Liability of Directors. To the fullest extent that Chapter 617 and Chapter 720 Florida Statutes, or other applicable law, exists on the date hereof or as they may hereafter be amended, permits the limitation or elimination of the liability of directors or officers, no director or officer of the Association shall be personally liable to the Association or its members for monetary damages for breach of duty of care or other duty as a director or officer. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director or officer of the Association for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal.

Article 11. Indemnification.

(a) Indemnity. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a director, employee, officer, or agent of the Association. Such indemnification shall include indemnification against expenses (including, without limitation, reasonable attorneys' fees and appellate attorneys' fees), judgments, fines and amount paid in settlement actually and reasonably incurred by the indemnified person in connection with such action, suit, or proceeding, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceedings, such person had no reasonable cause to believe his or her conduct was unlawful. Notwithstanding the foregoing, no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for gross negligence or misfeasance or malfeasance in the performance of his or her duty to the Association, unless, and then only to the extent that, the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability, in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses as such court shall deem proper. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Association, and with a respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. Notwithstanding the foregoing, the Association need not indemnify the managing agent of the Community unless such indemnification is required to do so by the agreement between the Association and such managing agent, approved by the Board or required by law.

(b) Approval. Any indemnification under paragraph (a) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification is proper under the circumstances because the person requesting indemnification has met the applicable standard of conduct set forth in paragraph (a) above. Such determination shall be made (i) by majority vote of the members of the Board who were not parties to such action, suit, or proceeding, if sufficient to constitute a quorum, or (ii) if a quorum of the Board is not obtainable, or, even if obtainable, if a quorum of disinterested directors so directs, in a written opinion rendered by independent legal counsel engaged by the Association, or (iii) by a majority vote of the Members.

(c) Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding as authorized by the Board in any specific case upon receipt of a written agreement by or on behalf of the affected director, officer, employee, or agent to repay such amount if it is ultimately determined that he or she is not entitled to be indemnified by the Association as authorized in this Article.

(d) Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled by law, under the By-laws, or pursuant to any agreement, vote of Members, or otherwise, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs and personal representatives of such person.

(e) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the Association, including, without limitation, as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

## Article 12. Interested Directors

(a) No contract or transaction between the Association and one or more of its directors or officers, or between the Association and any other corporation, partnership, or Association, or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be invalid, void, or voidable solely for such reason, or solely because the director or officer is present at or participates in the meeting of the Board at which such contract or transaction was authorized, or solely because his, her, or their votes

are counted for such purpose. No director or officer of the Association shall incur liability by reason of the fact that he or she is or may be interested in any such contract or transaction.

(b) Interested directors may be counted in determining the presence of a quorum at a meeting of the Board at which a contract or transaction with interested director is to be considered.

(c) Contracts or transactions with interested directors must be approved in accordance with Florida Statute 617.0832(2018) as amended from time to time.

Article 13. Amendments. Amendments to these Articles may be adopted upon a resolution of the Board and the affirmative vote or written consent of Members representing at least a majority of the votes in the Association. No amendment may be in conflict with the Declaration.

Article 14. Dissolution. The Association may be dissolved only upon (a) a resolution duly adopted by the Board, and (b) the affirmative vote of members who are Owners of not less than 67% of the Lots. Upon dissolution of the Association, any remaining real property of the Association shall be dedicated to an appropriate public agency or conveyed to a non-profit organization to be used for purposes similar to those for which this Association was created. In the event that acceptance of such dedication is refused, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

In the event of the Association's termination, dissolution, or final liquidation, the responsibility for the operation and maintenance of the Surface Water and Storm Water Management System must be transferred to and accepted by an entity which complies with Section 40C-42.027, F.A.C. and is approved by the District prior to such termination, dissolution, or liquidation.

Article 15. Registered Agent and Office. The registered office of the Association and the registered agent at such address shall be as determined by the Board of Directors from time to time.

These Second Amended and Restated Articles of Incorporation for VeroLago Homeowners Association, Inc. were approved by the Board of Directors and by a majority of the Membership by written consent, which vote was sufficient for approval.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed in its name, by its President and Secretary, and its corporate seal affixed on this 25 day of September, 2019.

WITNESSES AS TO PRESIDENT:

VEROLAGO HOMEOWNERS ASSOCIATION, INC.

[Signature]  
Printed Name: Dana Murphy  
[Signature]  
Printed Name: Megan Murphy

By: [Signature], President

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

The foregoing instrument was acknowledged before me on September 25 2019, by Tom Ulmer, as President of VeroLago Homeowners Association, Inc.  who is personally known to me, or  who has produced identification [Type of Identification: \_\_\_\_\_].

[Signature]  
Notary Public

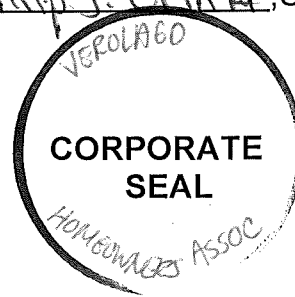
Notarial Seal

WITNESSES AS TO SECRETARY:

VEROLAGO HOMEOWNERS ASSOCIATION, INC.

[Signature]  
Printed Name: Dana Murphy  
[Signature]  
Printed Name: Megan Murphy

By: [Signature], Secretary  
Philip J. Orth III

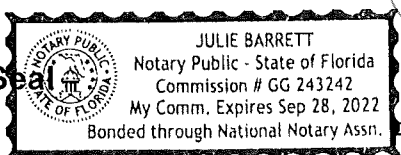


STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me on September 25 2019, by Philip J. Orth III, as Secretary of VeroLago Homeowners Association, Inc.  who is personally known to me, or  who has produced identification [Type of Identification: \_\_\_\_\_].

[Signature]  
Notary Public

Notarial Seal



## EXHIBIT "C"

### AMENDED AND RESTATED BY-LAWS OF VEROLAGO HOMEOWNERS ASSOCIATION, INC.

The purpose of these Amended and Restated Bylaws is to continue the purpose of the original Bylaws recorded in the Indian River County public records at Official Records Book 1961, Page 2258, et. seq., and amended at Official Records Book 2622, Page 1485, et. seq., Official Records Book 3143, Page 1727, et. seq., and Official Records Book 3159, Page 600 et. seq.

#### ARTICLE I NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1. Name. The name of the corporation is VeroLago Homeowners Association, Inc. (the "Association").

1.2. Principal Office. The Association's principal office shall be located in the State of Florida. The Association may have other offices, either within or outside Florida, as the Board of Directors determines or as the Association's affairs require.

1.3. Definitions. The words used in these By-Laws shall have their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for VeroLago, as it may be amended ("Declaration"), unless the context indicates otherwise. The interpretation of certain references, as set forth in Section 2.2 of the Declaration, shall also apply to the words used in these By-Laws.

#### ARTICLE II MEMBERSHIP, MEMBERSHIP MEETINGS, QUORUM, VOTING, PROXIES

2.1. Membership. The Association shall have one class of membership, as more fully set forth in the Declaration. Provisions of the Declaration pertaining to membership are incorporated by this reference.

2.2. Change of Membership. Change of membership in the Association shall be established by recording a deed or other instrument conveying record fee title to any Lot. The grantee named in such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior

Owner shall terminate. The new Owner shall not be entitled to voting privileges until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Association's powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot acquired.

2.3. Place of Meetings. The Association shall hold meetings at its principal office or at such other place as the Board may designate.

2.4. Annual Meetings. The Board shall set the date and time of regular annual meetings to occur during the first quarter of each calendar year.

2.5. Special Meetings. The President may call a special meeting of the Association. It also shall be the President's duty to call a special meeting if so directed by Board resolution or upon petition of Members representing at least 30% of the total votes in the Association, or such lower percentage as may be required by law.

If the President does not call a special meeting pursuant to Section 2.5 within 30 days after the date such written petition is delivered to the Association's Secretary, any Member signing the petition may set the time and place of the special meeting and give the Association notice pursuant to Section 2.6.

2.6. Notice of Annual and Special Membership Meetings. The Association's Secretary shall cause written notice stating the place, day, and hour of any Association meeting to be mailed, delivered or electronically transmitted to the Members. Notice shall be given at least 14 but not more than 60 days before the date of the meeting, by or at the direction of the President, the Secretary, or the officers calling the meeting.

In case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No other business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the Member at his or her address as it appears on the Association's records, with postage prepaid. If sent by facsimile, electronic mail, or such other electronic communication device, notice shall be deemed delivered when transmitted to the Member at his or her address or number as it appears on the Association's records. Failure to receive actual notice of an Association meeting shall not affect the validity of any action taken at such meeting.

2.7. Waiver of Notice. Waiver of notice of an Association meeting shall be

the equivalent of proper notice. Any Member may waive, in writing, notice of any Association meeting, either before or after such meeting. A Member's attendance at a meeting shall be deemed a waiver by such Member of notice of the meeting unless the Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at the meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.8. Adjournment of Annual and Special Membership Meetings. If the Association cannot hold a meeting because a quorum is not present, a majority of the Members who are present may adjourn the meeting to a time at least 5 but not more than 30 days from the date called for the original meeting. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Association shall give the Members notice of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

2.9. Voting. Members shall have such voting rights as are set forth in the Declaration, which provisions are incorporated herein by this reference.

2.10. Proxies. On any matter as to which a Member is entitled personally to cast the vote for his or her Lot, such vote may be cast in person or by proxy, subject to Florida law.

Every proxy shall be in writing specifying the Lot(s) for which it is given, signed by the Member or his or her duly authorized attorney-in-fact, dated, and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Lot(s) for which it was given, (b) the Secretary's receipt of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is an individual given to the person presiding over a meeting of the Association, or (c) 90 days from the meeting date for which the proxy was originally given, unless the proxy specifies a shorter period.

2.11. Majority. As used in these By-Laws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than



50% of the total eligible number.

2.12. Quorum. Except as these By-Laws or the Declaration or Articles otherwise provide, Members or their proxies entitled to cast 25% of the total votes in the Association shall constitute a quorum at all Association meetings. If no quorum is present at such a meeting, the meeting may be adjourned and reconvened on a later date. At such reconvened meeting, Members or their proxies entitled to cast 15% of the total votes in the Association shall constitute a quorum.

2.13. Conduct of Meetings. The President shall preside over all Association meetings, at which he or she is present, and the Secretary shall keep (or cause to be kept) the minutes of the meetings and record in a minute book, or retain electronically, all resolutions adopted and all other transactions occurring at such meetings. Owners may tape record or videotape Association meetings subject to such reasonable rules as the Board may impose.

2.14. Action Without a Meeting. Without holding a meeting pursuant to Sections 2.4 or 2.5, Members may take any action that Florida law requires or permits the Members to take at a meeting (subject to any limitations in the Governing Documents), if approved by Members representing at least the minimum number of votes in the Association necessary to authorize such action at a meeting, if all Members entitled to vote were present and voted. Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by Members holding the requisite votes. The Association need not give prior notice before soliciting such consent; however, the Association must send written consent forms to all Members for action authorized pursuant to this section to be valid. Members shall sign, date, and deliver such consents to the Association within 60 days after the Association's receipt of the earliest dated consent. The Association's Secretary shall file (or cause to be filed) such consents with the Association's minutes and the consents shall have the same force and effect as a vote of the Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give (or cause to be given) written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

2.15. Order of Business. The order of business at all annual meetings of the Members shall be as follows: (a) roll call to determine whether a quorum is represented; (b) proof of notice of the meeting or waiver of notice; (c) reading of minutes of the preceding annual meeting; (d) reports of officers; (e) reports of committees; (f) election of inspector(s) of election if an election is to be held; (g) election of Directors if applicable; (h) unfinished business; and (i) new business.

## ARTICLE III BOARD OF DIRECTORS: SELECTION, MEETINGS, POWERS

### A. Composition and Selection.

3.1. Governing Body Composition. The Board of Directors shall govern the Association's affairs. Each director shall have one vote. Directors must be Members. A director must be at least 18 years old.

3.2. Number of Directors. The Board shall consist of five (5) Members.

### 3.3. Nomination and Election Procedures

(a) At least sixty (60) days prior to the date of the annual meeting, the Association shall send to all members a notice of the date of election and a request that all members desiring to be candidates for the Board of Directors submit their name in writing along with a one (1) page summary of the candidate's qualifications.

(b) All members desiring to be candidates must submit their name and one-page summary of qualifications at least forty (40) days prior to the annual meeting, which must be delivered or mailed so as to be received at the Association office by the forty (40) day deadline. Applications received after the deadline shall not be considered.

(c) The election shall be by written ballot. Along with the notice of the annual meeting as required under Section 2.6, each Member shall be sent the summaries of qualifications of all the candidates, a written ballot and envelopes for returning the ballot. The ballot may be cast in person at the annual meeting or may be mailed or delivered to the Association office as provided in Section (d) below but shall be received prior to the start of the annual meeting in order to be counted in the election.

(d) The ballot must be placed in an inner envelope with no identifying markings and mailed or delivered to the Association in an outer envelope bearing identifying information reflecting the name of the Member, the Lot for which the vote is being cast, and the signature of the Lot owner casting that ballot. If the eligibility of the Member to vote is confirmed and no other ballot has been submitted for that Lot, the inner envelope shall be removed from the outer envelope bearing the identification information, placed with the ballots which were personally cast, and opened when the ballots are counted. If more than one ballot is submitted for a Lot, the ballots for that lot or parcel shall be disqualified. Any vote by ballot received after the closing of the balloting may not be considered.

(e) There will be no nominations from the floor.

(f) In the event that the number of candidates equals the number of vacancies, or is less than the number of vacancies to be filled, no balloting will be necessary.

(g) A Member may cast the vote(s) assigned to the Lot(s) which he or she owns for each position to be filled at an election. Cumulative voting is not allowed; only one (1) vote per candidate may be cast by a Member. That number of candidates equal to the number of positions to be filled who receive the greatest number of votes shall be elected.

3.4. Election and Term of Office. Election of directors shall take place at the Association's annual meeting.

The Board of Directors shall serve for staggered two (2) year terms.

Notwithstanding the stated length of any term, directors shall hold office until their respective successors have been elected.

3.5. Removal of Directors and Vacancies. Any Director may be removed, with or without cause, by the vote of Members holding a majority of the votes of the Association in accordance with Florida Statute 720.303(10)(2018) as amended from time to time.

Any Director who is more than 90 days delinquent in the payment of any assessment or other charge due the Association shall be deemed to have abandoned the seat on the Board and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy for the remainder of the term.

B. Meetings.

3.6. Organizational Meetings. Each Board shall hold its first meeting promptly after the annual membership meeting, at such time and place as the Board shall fix.

3.7. Regular Meetings. The Board may hold regular meetings at such time and place as the Board shall determine, but the Board shall hold at least one such meeting

3.8. Special Meetings. The Board shall hold special meetings when called

by written notice signed by the President, Vice President, or any two directors.

3.9. Notice: Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall give notice to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone (either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director); or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting, except in the event of an emergency. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Notices of all Board meetings shall be posted and noticed to Members as provided by Florida Statute 720.303(2)(c)(2018) as amended from time to time.

(c) Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment.

3.10. Telephonic Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a Board or committee meeting by means of telephone or other electronic means, through which all persons participating in the meeting can hear each other at the same time. Participation in this manner shall constitute presence at the meeting for all purposes.

3.11. Quorum of Board. At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless these By-Laws or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue, notwithstanding the withdrawal of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.12. Conduct of Meetings. The President shall preside over all Board meetings at which he or she is present, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.13. Open Meetings; Executive Session. Subject to the provisions of Section 3.14, all Board meetings shall be open to all Members. Owners may tape record or video tape Board meetings subject to reasonable rules the Board imposes.

Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss with the Association's attorney matters relating to pending or threatened litigation which are protected by the attorney-client privileges, or to discuss among the Board any other matter of a sensitive nature, if Florida law permits. In such cases, no tape recording or videotaping will be permitted.

3.14. Action Without a Formal Meeting. Any action to be taken or which may be taken at a Board meeting may be taken without a meeting if all directors sign a consent in writing, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.15. Powers. The Board shall have all of the powers and duties necessary for administering the Association's affairs and for performing all of the Association's responsibilities and exercising all of the Association's rights as set forth in the Governing Documents, and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those which the Governing Documents or Florida law require to be done and exercised exclusively by the membership generally.

3.16. Duties. The Board's duties shall include, without limitation:

(a) those obligations set forth in the Declaration and elsewhere in these By-Laws;

(b) depositing all funds received on the Association's behalf in a bank depository which it shall approve, and using such funds to operate the Association; however, any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks so long as such depositories are guaranteed by the FDIC, NCUSIF or other Federal agency;

(c) submitting for bid any planned Association expenditure (whether for capital items, services, maintenance, or otherwise) anticipated to exceed ten percent (10%) of the total annual budget of the Association including reserves in any fiscal year; however, the Board is not obligated to contract with or otherwise retain the services of the lowest bidder nor is it obligated to submit for bid the renewal of existing contracts;

(d) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association if, in the exercise of its business judgment, it deems it prudent to do so;

(e) keeping books with detailed accounts of the Association's receipts and expenditures; and

(f) maintaining, and retaining for the time periods required, the **"official records"** of the Association, as provided in Florida Statute 720.303(4)(2018) as amended from time to time.

3.17. Compensation. The Association shall not compensate a director for acting as such. The Association may reimburse any director for expenses incurred on the Association's behalf if approved by a majority of the other directors. In addition, nothing herein shall prohibit the Association from compensating a director for services or supplies he or she furnishes to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association. The foregoing also applies to any entity with which a director is affiliated.

3.18. Management. The Board may employ a professional managing agent or agents, at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize and are otherwise within the scope of the Board's authority. The Board may delegate such powers as are necessary to perform the manager's duties, but shall not delegate policy-making authority or the obligation to adopt a budget.

Any management contract may, among other things, authorize the managing agent to act as the Association's agent with respect to the expenditure of Association funds within the scope of the approved Association budget; however, the managing agent shall not be permitted to spend money in excess of the budget or reallocate greater than 10% of any budget line item without the Board's prior approval.

3.19. Accounts and Reports. The following management standards of performance shall be followed unless the Board specifically determines otherwise:

(a) The Board shall prepare financial reports for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on a cash or accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period;  
and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(b) An annual financial report shall be prepared in accordance with Florida Statute 720.303(7)(2018) as amended from time to time.

The Association shall provide each Owner a copy of the annual financial report or notice that a copy is available upon request at no charge as provided by Florida Statute 720.303(7)(2018) as amended from time to time.

3.20. Right To Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations.

3.21. Enforcement. As provided by Florida Statute 720.305(2018) as amended from time to time, the Association may impose sanctions for any violation of the Governing Documents.

Additionally, subject to any limitations set forth in the Declaration, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, towing vehicles that violate parking rules) or, by suit at law or in equity to enjoin any violation to recover monetary damages or both. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs,

including reasonable Legal Costs actually incurred.

3.22. Board Standards. In performing their duties, directors and officers shall act as fiduciaries and are entitled to insulation from liability as provided for directors of corporations by Florida law and as otherwise provided by the Governing Documents.

A director or officer acting in accordance with the business judgment rule shall not be personally liable to the Association or its Members for errors in judgment made in the director's or officer's capacity as such. Unless the Governing Documents require that specific action be taken, the failure to take such specific action shall not, without further showing that the Board acted in violation of the business judgment rule, be deemed a violation of a Board duty. A director or officer shall be considered to be acting in accordance with the business judgment rule so long as the director or officer:

(a) acts within the expressed or implied scope of the Governing Documents and his or her actions are not beyond the scope of authority granted by the Governing Documents;

(b) affirmatively undertakes to make decisions which are necessary for the Association's continued and successful operation and, when decisions are made, they are made on an informed basis;

(c) acts on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other), and avoids participation in such decisions and actions; and

(d) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

Board determinations of the meaning, scope, and application of Governing Document provisions shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair, nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

3.23. Conflicts of Interest; Code of Ethics. Unless otherwise approved by a majority of the other directors, no Director may transact business with the Association or the Association contractor during his or her term as director. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the directors relative to his or her performance as a director. The Board may void any contract which creates a prohibited conflict of interest.



## ARTICLE IV OFFICERS

4.1. Officers. The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The officers must be Board members. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect the Association's officers at the first Board meeting following each Association annual meeting. Officers shall serve until their successors are elected.

4.3. Removal and Vacancies. Any officer may be removed by a vote of at least a majority of the directors. The Board shall appoint a replacement to fill any vacancy in any office for the unexpired portion of the term.

4.4. Powers and Duties. The Association's officers each shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall supervise the preparation of the Association's budget, but may delegate all or part of the preparation and notification duties to a finance committee, managing agent, or both. The Secretary shall prepare or supervise the preparation of meeting minutes as required by Florida law.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other Association instruments shall be executed by an officer, unless the Board provides otherwise, or by such other person or persons as the Board may designate by resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.17.

4.8. President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board of Directors at which he or she is present. He or she shall have all of the general powers and duties which are usually vested in the office of the President of a corporation. The President shall, subject to the control of the Board of Directors, have general supervision, direction, and control of the business of the Association.

The President shall be an ex officio member of all standing committees, and shall have such other powers and duties as may be prescribed by the Board of Directors or these By-Laws.

4.9. Vice President. The Vice President shall take the place of the President and perform his or her duties whenever the President is absent, disabled, or refuses or is unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be conferred upon him or her by the Board of Directors or these By Laws.

4.10. Secretary. The Secretary shall keep (or cause to be kept) the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association at the Association's principal office or at such other places as the Board of Directors may order. The Secretary shall keep (or cause to be kept) the seal of the Association in safe custody and shall have charge of such books and papers as the Board of Directors may direct. The Secretary shall, in general, perform the entire duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notice of meetings of the Members of the Association and of the Board of Directors required by these By-Laws or by law to be given. The Secretary shall maintain (or cause to be maintained) a book of record Owners; listing the names and addresses of the Owners furnished by the Association, and such books shall be changed only at such time as satisfactory evidence of a change in ownership of a Lot is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board of Directors or these By-Laws. The Secretary may delegate all or a part of such duties to the managing agent.

4.11. Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping, or causing to be kept, full and accurate accounts, tax records, and business transactions of the Association, including accounts of all assets, liabilities, receipts, and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors, in accordance with the Declaration and these By-Laws, shall render to the President and Directors, upon request, an account of all of his or her transactions as Treasurer and of the financial conditions of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws. The Treasurer may delegate a part of such duties to the managing agent.

## ARTICLE V COMMITTEES

5.1. General. The Board may create such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Committee Members must be Members of the Association and serve at the pleasure of the Board of Directors.

Committees shall exercise only such authority as granted by Board resolution, provided the Board may elect not to follow a committee's advice on any matter. Committees may not act without specific Board authority and may not bind the Association contractually or financially.

5.2. Fine Appeal Committee. The Board shall appoint a Fine Appeal Committee consisting of five (5) persons to serve as a hearing tribunal pursuant to Florida Statute 720.305(2018) as amended from time to time. The Fine Appeal Committee shall be comprised of Members of the Association who are not directors, officers, or employees of the Association or the spouse, parent, child, brother, or sister of a director, officer, or employee.

5.3. Other Committees. In addition to the above, the Board may create additional committees, as it deems necessary and useful.

## ARTICLE VI MISCELLANEOUS

6.1. Fiscal Year. The Association's fiscal year shall be the calendar year unless otherwise established by Board resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (the then current edition) shall govern the conduct of Association proceedings when not in conflict with Florida law or the Governing Documents.

6.3. Conflicts. Conflicts between or among the Governing Documents and Florida law governing documents shall be resolved as directed in the Declaration.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at reasonable times and for a purpose reasonably related to his or her interest in a Lot: the Governing Documents, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the Association's office

or at such other place within the Community as the Board shall designate.

(b) Rules for Inspection. The Board may establish reasonable rules with respect to: (i) notice to be given to the custodian of the records; (ii) hours and days of the week when such an inspection may be made; (iii) payment of the cost of reproducing documents requested; and (iv) such other matters as the Board deems appropriate. Records shall be made available within 10 business days of the receipt of a written request by an Owner or his or her authorized agent.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties the Association owns or controls. The director's right of inspection includes the right to make a copy of relevant documents at the Association's expense. The Board shall provide for such inspection to take place at the Association's office, the managing agent's office, or at such other place within the Community as the Board shall designate.

#### 6.5. Notices.

(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Declaration or these By-Laws or by law, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, by telephone facsimile, or electronic mail with written confirmation of transmission.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Member, at the address, telephone facsimile number, or e-mail address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member;

(ii) if to the Association, the Board, or a committee of either, at the address, telephone facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the Members pursuant to this Section; or

(c) Effective Date. Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; however, if such delivery is refused or if the intended recipient has contracted with the private carrier to leave any deliveries without obtaining a signature evidencing receipt, the notice shall be deemed duly given and effective if the attempt to deliver was timely made;

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

#### 6.6. Amendment.

(a) By the Membership. These By-Laws may be amended only by the affirmative vote or written consent of Members representing at least a majority of the total votes in the Association. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(b) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall conclusively be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

**WE HEREBY CERTIFY** that the foregoing Amended and Restated By-laws of Verolago Homeowners Association, Inc. were duly adopted by written consent of at least a majority of the Members of the Association, which vote was sufficient for approval.

**IN WITNESS WHEREOF**, the undersigned has caused these presents to be signed in its name by its President, its Secretary and its corporate seal affixed this day of \_\_\_\_\_, 2019.

WITNESSES AS TO PRESIDENT:

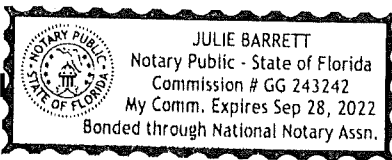
VEROLAGO HOMEOWNERS ASSOCIATION, INC.

LR [Signature]  
Printed Name: Dana Murphy  
Megan Murphy  
Printed Name: Megan Murphy

By: [Signature]  
Tom Ulmer, President

STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me on September 25 2019, by Tom Ulmer, as President of VeroLago Homeowners Association, Inc. [] who is personally known to me, or [] who has produced identification [Type of Identification: \_\_\_\_\_].



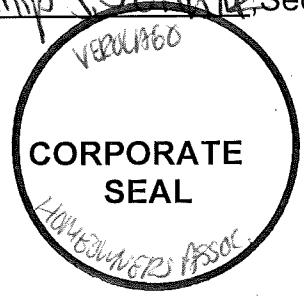
[Signature]  
Notary Public

WITNESSES AS TO SECRETARY:

VEROLAGO HOMEOWNERS ASSOCIATION, INC.

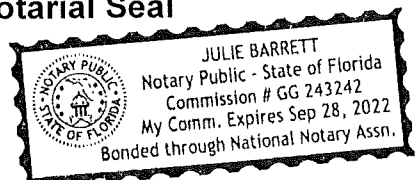
LR [Signature]  
Printed Name: Dana Murphy  
Megan Murphy  
Printed Name: Megan Murphy

By: [Signature]  
Philip J. Orth III, Secretary



STATE OF FLORIDA  
COUNTY OF Indian River

The foregoing instrument was acknowledged before me on September 25 2019, by Philip J. Orth III, as Secretary of VeroLago Homeowners Association, Inc. [] who is personally known to me, or [] who has produced identification [Type of Identification: \_\_\_\_\_].



[Signature]  
Notary Public

EXHIBIT ' 0'

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
STANDARD GENERAL PERMIT NO. 4-061-93075-2

(Attached)

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**  
Post Office Box 1429  
Palatka, Florida 32178-1429

**PERMIT NO.:** 4-061-93075-2

**ORIGINAL PERMIT ISSUED:** July 13, 2004  
**TRANSFER PERMIT ISSUED:** February 17, 2005

**PROJECT NAME:** North Lakes Residential Subdivision, Phases 1-11

**A PERMIT AUTHORIZING:**

Construction of a surface water management system for a 180-acre, 525-lot, single-family residential subdivision to be known as North Lakes Residential Subdivision, Phases 1-11 and a portion of 58<sup>th</sup> Avenue.

**LOCATION:**

Sections: 15 & 16                      Township: 32 South                      Range: 39 East  
Indian River County

**ISSUED TO:**

CL North Lakes, LLC  
c/o Centex Homes  
8198 Jog Road  
Boynton Beach, FL 33437

Permittee agrees to hold and save the St. Johns River Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to permittee any property rights nor any rights or privileges other than those specified therein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes:

**PERMIT IS CONDITIONED UPON:**

See conditions on attached "Exhibit A", dated July 13, 2004

**AUTHORIZED BY:** St. Johns River Water Management District

Department of Water Resources

Governing Board

By: Jeffrey C. Eledge  
Jeffrey C. Eledge  
(Director)

By: Kirby B. Green III  
Kirby B. Green III  
(Assistant Secretary)



40C-1.612 TRANSFER OF OWNERSHIP OF PERMIT

- (1) Transfer of Permitted Facility. Within (30) days of any sale, conveyance, or other transfer of a facility, system, or well permitted by the District, the existing permittee must notify the District, in writing, of such transfer, giving the name and address of the transferee and providing a copy of the instrument effectuating the transfer.
- (2) Transfer of Interest in Real Property. Within 30 days of any transfer of ownership or control of the real property at which any permitted facility, system, consumptive use, or activity is located the permittee must notify the District, in writing, of the transfer, giving the name and address of the new owner or person in control and providing a copy of the instrument effectuating the transfer.
- (3) Transfer of Permit. To transfer a permit, the permittee must provide the information required in subsections (1) and (2), together with a written statement from the proposed transferee that it will be bound by all terms and conditions of the permit. Additionally, where applicable, the transferee must demonstrate that it is capable of constructing, operating and maintaining the permitted facility, system, consumptive use, well or activity. Once the required information has been provided, the District may transfer the permit to the transferee.

**"EXHIBIT A"**  
**CONDITIONS FOR ISSUANCE OF PERMIT NUMBER 4-061-93075-2**  
**CL NORTH LAKES, LLC**  
**ORIGINAL PERMIT DATED JULY 13, 2004**  
**TRANSFER PERMIT DATED FEBRUARY 17, 2005**

1. All activities shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.
4. Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
5. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
6. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a Construction Commencement Notice Form No. 40C-4.900(3) indicating the actual start date and the expected completion date.
7. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an Annual Status Report Form No. 40C-4.900(4). These forms shall be submitted during June of each year.
8. For those systems which will be operated or maintained by an entity which will require an easement or deed restriction in order to provide that entity with the authority necessary to operate or maintain the system, such easement or deed restriction, together with any other final operation or maintenance documents as are required by subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, must be submitted to the District for approval. Documents meeting the requirements set forth in these subsections of the Applicant's Handbook will be approved. Deed restrictions, easements and other operation and maintenance documents which require recordation

either with the Secretary of State or the Clerk of the Circuit Court must be so recorded prior to lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems which are proposed to be maintained by county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local governmental entity. Failure to submit the appropriate final documents referenced in this paragraph will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

9. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by the portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to local government or other responsible entity.
10. Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing As Built Certification Form 40C-1.181(13) or 40C-1.181(14) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed form shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-built drawings:
  1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;
  2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;
  3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine state-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;
  4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;
  5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;
  6. Existing water elevation(s) and the date determined; and Elevation and location of benchmark(s) for the survey.

11. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of general condition 9 above, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District in accordance with subsections 7.1.1 through 7.1.4 of the Applicant's Handbook: Management and Storage of Surface Waters, accepts responsibility for operation and maintenance of the system. The permit may not be transferred to such an approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible approved operation and maintenance entity, if different from the permittee. Until the permit is transferred pursuant to section 7.1 of the Applicant's Handbook: Management and Storage of Surface Waters, the permittee shall be liable for compliance with the terms of the permit.
12. Should any other regulatory agency require changes to the permitted system, the permittee shall provide written notification to the District of the changes prior implementation so that a determination can be made whether a permit modification is required.
13. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and chapter 40C-4 or chapter 40C-40, F.A.C.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of section 40C-1.612, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the District.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.
20. This permit for construction will expire five years from the date of issuance.
21. At a minimum, all retention and detention storage areas must be excavated to rough grade prior to building construction or placement of impervious surface within the area to be served by those facilities. To prevent reduction in storage volume and percolation rates, all accumulated sediment must be removed from the storage area prior to final grading and

stabilization.

22. All wetland areas or water bodies that are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring or excess turbidity, and dewatering.
23. Prior to construction, the permittee must clearly designate the limits of construction on-site. The permittee must advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
24. The proposed surface water management system must be constructed and operated in accordance with the plans and supporting information received by the District on May 13, 2004.

EXHIBIT

"E"

DEVELOPER'S AGREEMENT WITH  
INDIAN RIVER COUNTY DATED JUNE 8, 2004

(Attached)

This document prepared by and return to:  
Indian River County  
Public Works Department  
1840 25<sup>th</sup> Street  
Vero Beach, Florida 32960

BDB/bm

- Bridge  
- 58<sup>th</sup> AVE RIW  
-

**DEVELOPER'S AGREEMENT BETWEEN  
INDIAN RIVER COUNTY, FLORIDA  
AND  
NEWPORT NORTH HOLDINGS, LLC  
FOR NORTH LAKES SUBDIVISION  
SITE ACCESS AND STORMWATER  
MANAGEMENT IMPROVEMENTS**

THIS AGREEMENT, entered this 8<sup>th</sup> day June, 2004, by and between Indian River County, FLORIDA a political subdivision of the State of Florida, 1840 25<sup>th</sup> Street, Vero Beach, Florida, 32960 hereafter called County and Newport North Holdings, LLC, a foreign limited liability company, 1601 Dove Street, Suite 293, Newport Beach, CA 92660, Attn: Mark J. Kerslake, hereafter referred to as the Developer.

WITNESSETH

WHEREAS, the Developer proposes to develop a residential community to be known as North Lakes Subdivision on a 181 acre parcel of land along 58<sup>th</sup> Avenue, (Indian River County Project Number 96070055)(the "Project") which is legally described on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the County and Developer share mutual goals and can assist each other with respect to right-of-way acquisition, roadway improvements, site access, and drainage improvements for 58<sup>th</sup> Avenue; and

WHEREAS, the County anticipates that 53<sup>rd</sup> Street will be constructed to connect US 1 with 58<sup>th</sup> Avenue at a location proximate to the North Relief Canal; and

WHEREAS, the Indian River County Planning and Zoning Commission gave their approval to the preliminary plat of 525 units known as North Lakes Subdivision on April 22, 2004; and

WHEREAS, the Developer and County wish to provide for an alternative access across a new, two-lane public bridge with sidewalk over the North Relief Canal (the "Bridge") in the event that 53rd Street is constructed; and

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and premises hereinafter, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Developer agree as follows:

1. Recitals: The foregoing recitals are hereby incorporated as if fully restated herein.
2. Site Access: Developer shall provide access to the Project, as follows:

This document prepared by and return to:  
Indian River County  
Public Works Department  
1840 25<sup>th</sup> Street  
Vero Beach, Florida 32960

\_\_\_\_\_ BDB/bm

A. The north entrance will be on 57<sup>th</sup> Street approximately 230 feet east of 58<sup>th</sup> Avenue. The Developer shall construct a two-lane road for a distance of approximately 230 feet from 58<sup>th</sup> Avenue to the entrance of the Project, as shown on the preliminary plat dated 4/22/04 and Exhibit "B" attached hereto. The Developer will also plan, design and construct a southbound left turn lane and a northbound right turn lane on 58th Avenue at the intersection of 57th Street. All road construction shall be in compliance with Florida Department of Transportation standards, and to the satisfaction of County. County finds that Developer shall not be required to pay or contribute to the acquisition or construction of 57<sup>th</sup> Street except for the 230 foot extension described above.

B. The southern entrance shall be located 3,582 feet east of the 58th Avenue centerline as shown on Exhibit "C" attached. The parties agree that Developer's share of the cost of design and construction of the bridge and roadway is \$445,400.00 (the "Contribution Amount") representing \$868 per lot in the proposed Project. Developer shall pay the sum of \$445,400.00 to County as follows: at the time developer (or its assign or agent) applies for a building permit for a lot in the Project, Developer shall pay County the sum of \$868.00 until the obligation of \$445,400.00 to County is satisfied. Developer's failure to pay the \$868.00 upon application for a building permit shall be adequate grounds for County to deny issuance of the building permit.

C. The Bridge shall be designed and constructed by the County in conjunction with the construction of 53<sup>rd</sup> Street and shall be compatible with the Project's Southern Entrance. The Contribution Amount paid by Developer (together with interest earned thereon) shall be deposited into an escrow account to be withdrawn by County for use in accordance with this agreement as follows:

(1) for payment of the design of the Bridge at the time the design contract is let or due to be paid;

(2) for the construction of the Bridge as construction occurs and payments become due, provided, however, no construction disbursements shall be made until construction of 53<sup>rd</sup> Street between the south entrance and 58<sup>th</sup> Avenue commences; or

(3) If both the Bridge and the 53<sup>rd</sup> Street link between US 1 and 58th Avenue are not placed into service by February 15, 2014, then the County may withdraw the sum of \$103,510.00 for the improvement of other transportation infrastructure within

{M20752622}2



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 Indian River County  
 Public Works Department  
 1840 25<sup>th</sup> Street  
 Vero Beach, Florida 32960

the County, at the County's discretion. The balance of the all-remaining funds, if any, shall to be refunded to Newport North Holdings, LLC upon their written request.

D. The Developer's obligation with respect to the Contribution Amount, the Bridge, and access to the Project, shall be deemed satisfied so long as Developer is in compliance with this Agreement. The Developer shall have no further obligation with respect to the Bridge, the Contribution Amount, or access to this Project, whether the Contribution Amount is used to construct the Bridge or refunded. Developer must comply with all other elements of the approved plat and laws and regulations, not inconsistent with this Agreement.

3. **Kings Highway Right-Of-Way Acquisition:** Developer grants County the option to purchase property along the Project's frontage on 58th Avenue at a price of \$18,000.00 per acre in an amount sufficient to meet the County's ultimate Comprehensive Plan Thoroughfare Plan Right-of-Way requirements of 130 feet. Any property purchased by the County shall be used as right-of-way for future expansion of 58th Avenue. The option to purchase this property shall expire on January 1, 2005.

4. **Emergency Access Accepted:** County and Developer agree that development of this Project will include an emergency access off of 58<sup>th</sup> Avenue, to be located near the southern corner of the site as shown on the preliminary plat dated 4/22/04 and Exhibit "D". County finds that this emergency access together with the 57<sup>th</sup> Street access is sufficient to allow the Project to proceed to full use and occupancy. In the event the Bridge is constructed, and the segment of 53<sup>rd</sup> Street between the Southern Entrance and 58<sup>th</sup> Avenue is in service, the emergency access may be abandoned or it may become a pedestrian access only.

5. **Stormwater Management:** The Developer agrees to incorporate sufficient capacity in its Project to provide stormwater storage for the impervious area of 58th Avenue, being 70 feet wide, lying north of the North Relief Canal and south of 57th Street. The capacity shall be such to accommodate the drainage from 58th Avenue when it is widened to four lanes. The Developer shall have no responsibility to design, install, or pay any costs toward any drainage improvements required to direct the drainage from the above described section of 58<sup>th</sup> Avenue into the stormwater management system provided by the Developer in the Project, except for the following construction: a drainage structure (inlet or manhole) for future connection by County, located south of 57<sup>th</sup> Street and east of 58<sup>th</sup> Avenue and the required drainage pipe to a lake located on the northwest corner of the Project site.

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Public Works Department  
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Vero Beach, Florida 32960

\_\_\_\_\_BDB/bm

**Miscellaneous:**

- A. In the event of any litigation arising out of this Agreement, the prevailing party shall recover attorneys' fees and costs from the non-prevailing party.
- B. No amendment, modification, change, or alteration of this Agreement shall be valid or binding unless accomplished in writing and executed by all of the parties hereto.
- C. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, and assigns. Notwithstanding the foregoing, the right of Newport North Holdings, LLC to a refund of the Contribution Amount pursuant to the conditions stated in Paragraph 2.C. shall remain with Newport North Holdings, LLC.
- D. This Agreement contains the entire agreement and understanding between the parties. No representation, statement, recital, undertaking, or promise not specifically set forth herein shall be binding on any party hereto. This Agreement shall not be effective unless signed by Developer and County.
- E. The obligations of the Developer to this Agreement are expressly conditioned upon the Developer's decision, at Developer's sole discretion, to proceed with the Project.
- F. No certificate of completion or occupancy shall be withheld or delayed by the County for the Project (or any portion thereof), nor shall the County delay or withhold the full use and occupancy of the Project or any required permit(s) or final plat(s), due to the Bridge or 53<sup>rd</sup> Street itself not being completed.
- G. Except for the aforementioned 230' extension of 57<sup>th</sup> Street, 58<sup>th</sup> Avenue turn lanes, and the Contribution Amount, the County shall not require Developer to construct, contribute to or share in the costs of any off-site improvements other than the payment of applicable impact fees.
- H. This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Florida. Venue hereunder shall lie in Indian River County, Florida.
- I. This Agreement shall be deemed prepared jointly by each of the parties hereto and shall be construed on parity as between the parties. There shall be no canon of construction for or against any party by reason of the physical preparation of this Agreement.

(M20752622)4

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Public Works Department  
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J. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural; and the masculine, feminine, and neuter genders shall each include the others.

K. County and Developer shall grant such further assurances and provide such additional documents as may be reasonably required by one another from time to time, and cooperate fully with one another in order to carry out the terms and conditions hereof and comply with the express intention of this Agreement.

L. Failure to insist upon strict compliance with any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

M. All words, terms, and conditions contained herein are to be read in concert, each with the other, and a provision contained under one paragraph may be considered to be equally applicable under another in the interpretation of this Agreement.

N. The words herein and hereof and words of similar import, without reference to any particular section or subdivision of this Agreement, refer to this Agreement as a whole rather than to any particular section or subdivision hereof.

O. In the event any term, condition, or clause of this Agreement is declared to be illegal or unenforceable by a court of competent jurisdiction, such declaration of illegality or unenforceability shall not affect or alter the legality or enforceability of any remaining term, condition, or clause hereof, provided of the parties, as set forth in this Agreement.

P. **Insurance And Indemnification:** During Developer's performance of any construction in County right-of-way covered by this Agreement, Developer shall provide the County with evidence that Developer or the Developer's Contractor has obtained and maintains the insurance listed below.

1. Developer or Developer's Contractor shall procure and maintain for the duration of all construction contracts, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Developer, his agents, representatives, employees or sub-contractors.

2. Minimum Scope of Insurance

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Public Works Department  
1840 25<sup>th</sup> Street  
Vero Beach, Florida 32960

BDB/bm

(a) Worker's Compensation as required by the State of Florida. Employers Liability of \$100,000 each accident, \$500,000 disease policy limit, and \$100,000 disease each employee.

(b) General Liability \$1,000,000 combined single limit per accident for bodily injury and property damage. County shall be an additional insured. Auto Liability \$1,000,000 combined single limit per accident for bodily injury and property damage for owned and non-owned vehicles. County shall be an additional insured.

(c) Professional Liability Insurance providing coverage for intentional, reckless or negligent acts, errors, or omissions committed or alleged to have been committed by Developer's Engineer with a limit of \$500,000 per claim/annual aggregate.

There shall be no more than \$5,000 deductible per claim amount unless approved by the County Risk Manager. Any deductibles or self-insured retentions greater than \$5,000 must be approved by the Risk Manager for Indian River County with the ultimate responsibility for same going to the Developer.

3. Developer's insurance coverage shall be primary.

4. All above insurance policies shall be placed with insurers with a Best's rating of no less than AV. The insurer chosen shall also be licensed to do business in Florida.

5. The insurance policies procured shall be per occurrence policies or as generally available on the open insurance market.

6. The insurance carriers shall supply certificates of insurance evidencing such coverage to the Indian River County Risk Management Department prior to the commencement of any work in a County right-of-way.

7. The insurance companies selected shall send written verification to the Indian River County Risk Management Department that they will provide 30 days written notice to the Indian River County Department of Risk Management of its intent to cancel or terminate said policies of insurance.

8. A written safety inspection plan must be submitted to the Indian River County Risk Management Department for approval prior to the commencement of any work in a County right-of-way.

9. Developer shall include in all sub-contracts for sub-contractors the above insurance requirement or show them as insured under its policies or shall furnish separate certificates and endorsements for each sub-contractor. All coverages for sub-contractors shall be subject to all of the requirements stated herein.

10. Up to \$1 million, Developer hereby agrees to indemnify Indian River County and Representatives thereof from all claims arising solely from intentional, reckless or negligent acts, errors or omissions of the Developer or Developers' Representatives in the performance of Services under this agreement and for which Developer is legally liable.

{M2075262}6

This document prepared by and return to:  
Indian River County  
Public Works Department  
1840 25<sup>th</sup> Street  
Vero Beach, Florida 32960

BDB/bi

IN WITNESS WHEREOF the County and Developer has caused these presents to be executed in their names, the day and year first above written.

NEWPORT NORTH HOLDINGS, LLC  
By: NN Management, LLC, Manager

BY: [Signature]  
Its Per. Sec.

BOARD OF COUNTY COMMISSIONERS  
INDIAN RIVER COUNTY, FLORIDA

BY: [Signature]  
Caroline D. Ginn, Chairman

BCC Approved: June 8 2004

WITNESS: [Signature]

By [Signature]  
Joseph A. Baird, County Administrator

WITNESS: [Signature]  
(Corporate seal is acceptable in place of witnesses)

Attest: [Signature]  
S.C.

[Signature]  
for William G. Collins, II, County Attorney  
(Approved as to Form and Legal Sufficiency)

[Signature] Jeffrey K. Barton  
Clerk of Court

# Exhibit A

## PARCEL A:

The North One-half of the South one-half, lying North of the North Relief Canal, in Section 16, Township 32 South, Range 39 East, Indian River County, Florida; LESS and EXCEPT the North 30 feet for Canal right-of-way and the West 25 feet therefrom for Road right-of-way.

AND

All that part of the Northwest one-quarter of the Southwest one-quarter, lying North of the North Relief Canal, in Section 15, Township 32 South, Range 39 East, Indian River County, Florida; LESS and EXCEPT the North 30 feet therefrom for Canal right-of-way.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Commencing at the West one-quarter corner of Section 16, Township 32 South, Range 39 East, run N 89° 59' 52" E along the East-West quarter section line, also being the North line of the the North one-half of the South one-half of said Section 16, a distance of 25 feet, thence run S 00° 05' 24" E a distance of 30 feet to the intersection of the South right-of-way line of Indian River Farms Drainage District (also known as Indian River Farms Water Control District) Sub-Lateral G-1 Canal and the East right-of-way line of Kings Highway (State Road 505A)(County Road 613), as per Indian River Farms Company Subdivision, Plat Book 2, Page 25, recorded in the Public Records of St. Lucie County, Florida, and POINT OF BEGINNING.

From said POINT OF BEGINNING, run N 89° 59' 52" E along said South right-of-way line of Sub-Lateral G-1 Canal, a distance of 5365.86 feet to the East line of said Section 16; from said East line continue N 89° 59' 52" E along said South right-of-way line of Sub-Lateral G-1 Canal a distance of 1319.75 feet to the East line of the Northwest one-quarter of the the Southwest one-quarter of Section 15, Township 32 South, Range 39 East; thence run S 02° 04' 02" W along said East line a distance of 1275.20 feet to the North right-of-way line of Indian River Farms Water Control District North Relief Canal 250 foot right-of-way; thence run N 85° 35' 52" W along said North right-of-way line a distance of 1282.27 feet to the aforementioned East line of Section 16, thence run N 89° 58' 26" W along the aforementioned North right-of-way line of the North Relief Canal, a distance of 5359.28 feet to the aforementioned East right-of-way line of Kings Highway (State Road 505A)(County Road 613); thence run N 00° 05' 24" W along said East right-of-way line a distance of 1173.23 feet to the POINT OF BEGINNING.

## PARCEL B:

That part of the SW 1/4 of the SW 1/4, lying North of the North Relief Canal, in Section 15, Township 32 South, Range 39 East, Indian River County, Florida.

## PARCEL C:

That part of the NW 1/4 of the SW 1/4 in Section 15, Township 32 South, Range 39 East, Indian River County, Florida, lying South of the North line of the North Relief Canal.

**DESIGN PARAMETERS:**

VEHICULAR GATE OPERATORS AND SHALL BE SET BACK A MIN. ON THE FACE OF CURB. CURB SHALL BE TYPE 'D' (6" CURB) AND CURBING SHALL BE TYPE 'F' GUTTER (6" HIGH CURB) AND AREA SHALL BE 20' WIDE (SECTION ON PLAN) SIGNAL SWITCH / BOX (KNOX) LOCATED AT THE GATED ENTRANCE TO PREVENT BACKUP. GATE SHALL BE 35 FT. MIN.

CONST. R1-1  
30" STOP SIGN  
STREET SIGNS,  
24" WHT STOP BAR

**DRIVEWAY  
NORTH  
ACCESS**

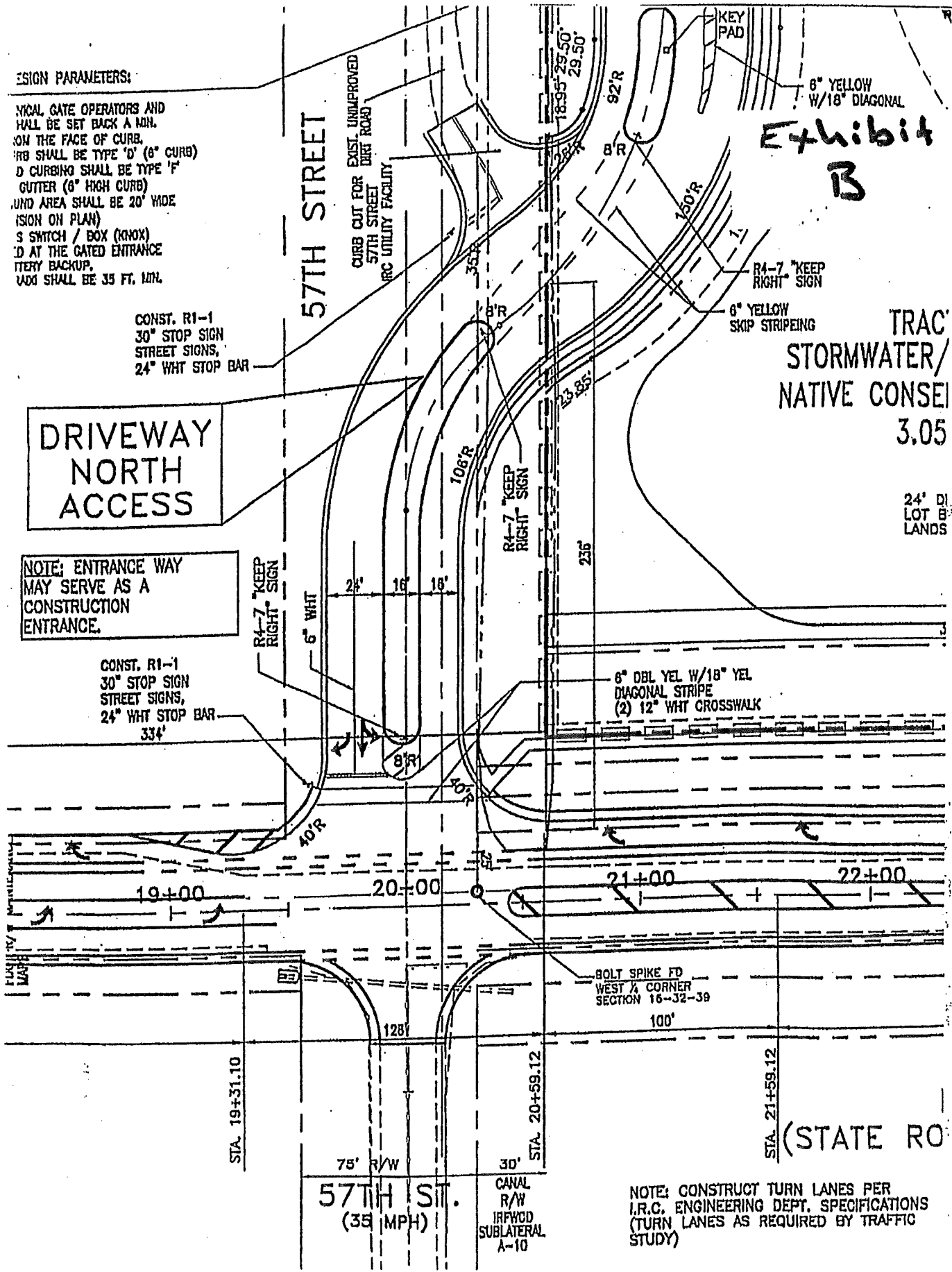
**NOTE: ENTRANCE WAY  
MAY SERVE AS A  
CONSTRUCTION  
ENTRANCE.**

CONST. R1-1  
30" STOP SIGN  
STREET SIGNS,  
24" WHT STOP BAR  
334'

**Exhibit  
B**

**TRAC  
STORMWATER/  
NATIVE CONSERVATION  
3.05**

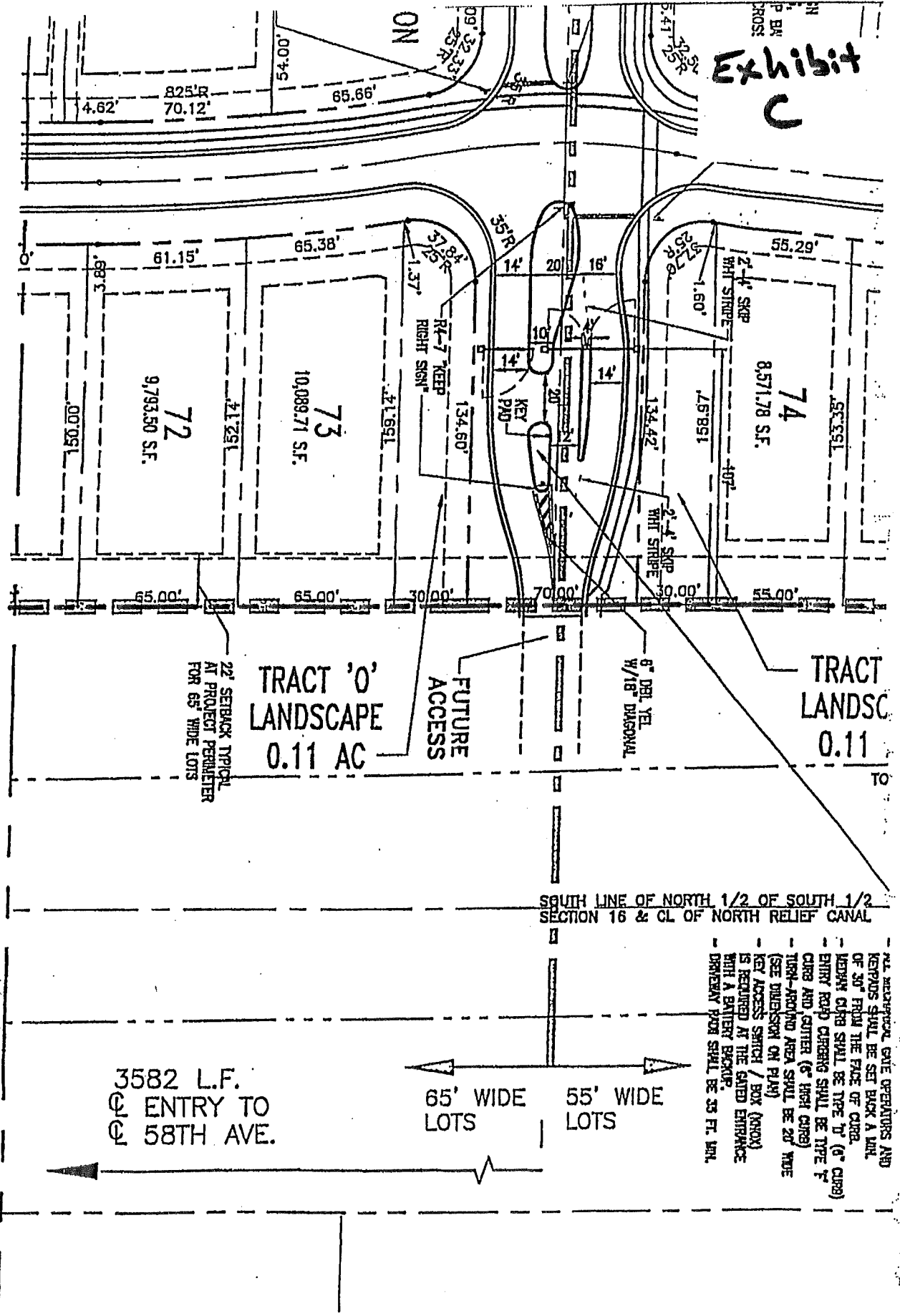
24' DI  
LOT B  
LANDS



**NOTE: CONSTRUCT TURN LANES PER I.R.C. ENGINEERING DEPT. SPECIFICATIONS (TURN LANES AS REQUIRED BY TRAFFIC STUDY)**

(STATE RO

**Exhibit C**



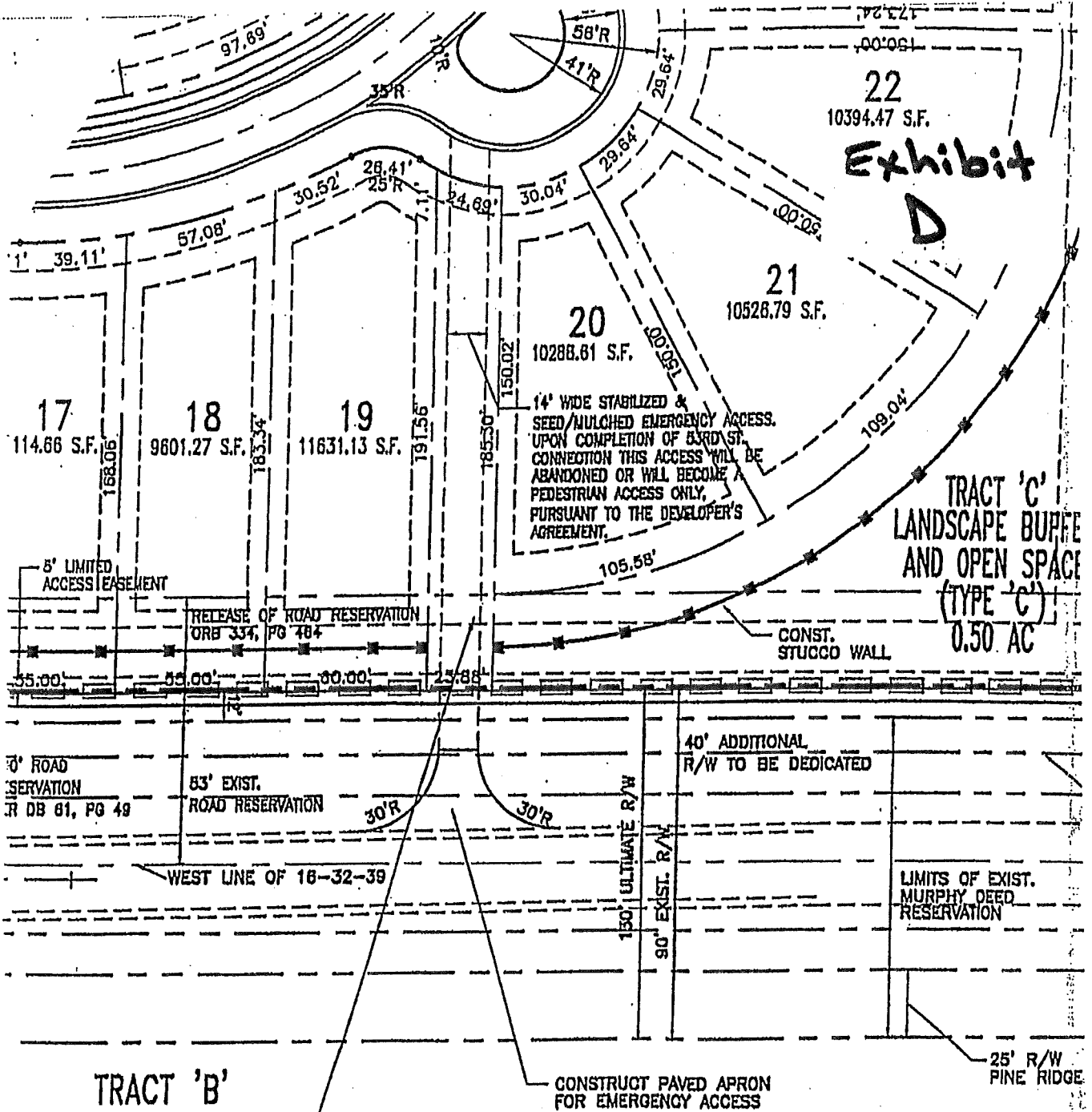
SOUTH LINE OF NORTH 1/2 OF SOUTH 1/2 SECTION 16 & CL OF NORTH RELIEF CANAL

3582 L.F.  
 @ ENTRY TO  
 @ 58TH AVE.

65' WIDE LOTS | 55' WIDE LOTS

ALL MECHANICAL GATE OPERATORS AND KEYPADS SHALL BE SET BACK A MIN. OF 30' FROM THE FACE OF CURB. LEGGNY CURB SHALL BE TYPE 'D' (6" CURB) ENTRY ROAD CURBING SHALL BE TYPE 'F' CURB AND GUTTER (6" HIGH CURB) TURN-AROUND AREA SHALL BE 20' WIDE (SEE DIMENSION ON PLAN) KEY ACCESS SWITCH / BOX (MBOX) IS REQUIRED AT THE GATED ENTRANCE WITH A BATTERY BACKUP. DRIVEWAY POOR SHALL BE 33 FT. WRL.





**Exhibit D**

**TRACT 'C'  
LANDSCAPE BUFFER  
AND OPEN SPACE  
(TYPE 'C')  
0.50 AC**

**TRACT 'B'  
EMERGENCY ACCESS  
0.10 AC**

NOTE: ENTRANCE WAY  
MAY SERVE AS A  
CONSTRUCTION  
ENTRANCE.

Exhibit

"F"

See attached Indian River Farms Water Control District Permit.

INDIAN RIVER FARMS WATER CONTROL DISTRICT

7305 4th Street
Vero Beach, Florida 32968
(772) 562-2141

APPLICATION FOR CONNECTION TO OR USE OF DISTRICT FACILITIES

Date: 5.22.06

No. 06-59

A. Applicant Information:

Name: C.L. North Lakes, LLC
Address: 8198 LOG ROAD, Suite 200
BOYNTON BEACH, FLA. 33437
(561) 5316-1000 - FAX

Authorized Agent and Title: Joseph Schulke, P.E.
Telephone Number: 772-770-9102

B. Proposed Connection or Use: (check appropriate box or boxes) NON-REFUNDABLE

- Culvert connection to District canal for irrigation or drainage \$100.00
Pump connection to District canal for irrigation or drainage \$300.00
Culvert and/or control structure in District canal for crossing and/or water storage \$200.00
Other (specify) \$100.00

C. Location: Tract, Section 15 & 16, Township 32, Range 39, Canal No. North Relief
Other appropriate description:
Property I.D. Parcel No.: 32.39.15.00000.5000.00003.0 / 32.39.16.00000.5000.00001.0
Attach drawing to show details (include acreage to be served).

D. Details of proposed Construction: (Give diameter and length of culvert; diameter and rated capacity of pump; height and width of riser or other details on water control structure.)
110' 18" OAP, 6" K & M Riser Slide Pump, 1089 G.P.M.
See attached drawings & letter explanation. (previous SUBMITTALS)
Reference to permit NO: 04-64

E. Special Conditions: (for District use only)
SEE ATTACHED LIST OF SPECIAL CONDITIONS.

F. Estimated Date of Construction Commencement: MAY 2006
Estimated Date of Construction Completion: DECEMBER 2006

G. As the Applicant for permit, I do understand and agree that:
1. The use of, or construction within, the right-of-way of the Indian River Farms Water Control District will be in accordance with the details of the approved sketch and/or permit conditions shown hereon, supporting this application; and if any changes are required, same will be cleared with the District.

(Continued on Reverse hereof)

Signed: [Signature] Date 5.22.06
Applicant

(For District Use Only)
Application approved by: [Signature]
for the Indian River Farms Water Control District

Application approved by: [Signature]
for Carter Associates, Inc., Engineer for District

Date of approval: 6-15-06
Expiration Date of this approved application: 1-15-07

PERMISSION, WHEN GRANTED, WILL BE SUBJECT TO THE STANDARD PROVISOS. SET FORTH ON THE REVERSE HEREOF.

## G. (continued)

2. I accept full responsibility for any erosion to or shoaling in the District's canal or levee due to my work and I shall remove or repair same promptly and at no expense to the District; and I will prevent the discharge of any hyacinths or aquatic growth into the District's canal through my connection.
3. I will neither plant trees or shrubs or erect any structure that will prohibit or limit the existing access of District equipment or vehicles without securing proper authorization thereof.
4. It is further understood and agreed that any other requirements of the District are binding upon me, the application, and I do hereby indicate acceptance of this notice thereof.
5. It is further understood and agreed that the lands to be benefited by this request are, or may be, subject to flooding during periods of high water due to heavy rains or other acts of God, and that the permit will be accepted subject to this possibility which is recognized not to be within the control of the District.

## STANDARD PROVISOS

1. Permittee assumes full responsibility for any construction, operation or maintenance of District property or right-of-way subject to this Permit and shall save and hold harmless District from any expense, loss, damage or claim in regard thereto, and the District assumes and shall have no liability in connection therewith.
2. This Permit may not be assigned or subletted to a third party and any transfer of Permittee's property abutting District's property or right-of-way shall ipsofacto and without move, cancel, nullify and revoke this Permit.
3. This Permit is subject always to the paramount right of the District to keep and maintain its drainage district functions and operations, and is subject to revocation and cancellation upon thirty days' notice from District to Permittee.
4. In no event shall the District be liable for any damages done or caused by the District to the Public, to Permittee or any other person using the right-of-way or property subject to this Permit, and Permittee shall save the District, its officers, agents, supervisors and employees harmless from any costs, charge or expense of claim or demand of any person against the District arising from or pertaining to any use made of the property or right-of-way subject to this permit. Permittee shall, at any time upon request of District, provide to District evidence, satisfactory to District, of liability insurance coverage, in amounts and with companies as may be required by District, protecting the interests of District and naming District as an additional insured.
5. The District may, on thirty days' written notice to Permittee, require removal and/or alteration of any installation or construction on District right-of-way.
6. Any construction on District right-of-way or property and clean up shall be completed promptly by Permittee and in a workmanlike manner with minimum disturbance to existing berm, channel slopes and grade with proper restoration and planting of any disturbed areas to prevent erosion within ten days after completion of construction or installation.
7. Permittee shall advise District's office prior to commencement and upon completion of all construction. (562-2141)
8. Permittee shall not discharge any pollutants, contaminants or deleterious materials into water or structures owned or maintained by, or subject to the jurisdiction of District, nor permit anything to obstruct the flow of water, and shall save and hold District harmless from any expense, loss or damage to District or others by any such discharge or obstruction, remedying or removing the same immediately upon request of District.
9. Permittee, as a condition to the continuance of this Permit, shall reimburse District immediately upon demand, for any testing or other costs or expenses to District associated with or arising from Permittee's use of District facilities.
10. Applicant is cautioned that electrical, water and sewer, or other installations or utilities may be located within the construction area, and applicant shall use diligent efforts to first detect and locate all such installations and shall coordinate construction with all other lawful users of said right-of-way. Applicant shall be liable for all damages proximately resulting from its interference with or interruption of services provided by other lawful right-of-way users.
11. This permit shall be considered to be a license only, for the limited purpose of installation, placement and maintenance of the improvements specified on the face hereof, and does not convey any other right, title or interest of the District in the subject right-of-way property.
12. An as-built/location certification of all culvert/structure installations within the District's canals/right-of-way shall be performed by a Florida Registered Professional Surveyor and Mapper on form provided by the District, and submitted to the District within thirty (30) days following completion of installation. If as-built certification is not received within thirty days of installation, the District will either have certification completed at owner/applicants expense or order removal of the installation.

**SPECIAL CONDITIONS FOR PERMIT NO. 06-59**  
**FOR**  
**CL NORTH LAKES, LLC/VERO LAGO P.O.A.**  
**PROPOSED INSTALLATION OF 689 G.P.M. SUPPLEMENTAL IRRIGATION**  
**PUMP CONNECTION TO THE NORTH RELIEF CANAL IN**  
**SOUTHWEST CORNER OF NORTHWEST ¼ OF SOUTHWEST ¼**  
**OF SECTION OF 16-32-39**

- 1) This permit issued based on installation and operation of proposed 5 H.P. K&M riser slide pump (rated capacity of 689 G.P.M.). Use of any other pump installation will require re-submittal of permit application and/or modification of this permit.
- 2) Pump installation (i.e. pump station, control panel, wet well, etc.) shall be located outside the right-of-way of North Relief Canal, and connected to the canal by 18" diameter C.A.P. across canal berm.
- 3) The existing pump intake connection to prior pump station, previously approved to former owners of subject property, shall be removed from canal right-of-way.
- 4) Any disturbance of canal bank and/or berm, within the right-of-way of the North Relief Canal, during installation of pump station, shall be properly back-filled, graded, compacted and stabilized to prevent erosion and sloughing of canal bank, or over bank discharge of storm water run-off into canal.
- 5) Supplemental water withdrawal from the canal system will be limited to permitted rates only when the water stage in the North Relief Canal is above elevation 15.5 (1929-N.G.V.D.) during the period from December 1<sup>st</sup> through June 15<sup>th</sup>. Withdrawal during other months will be allowed at permitted rates, subject to water availability.
- 6) Permittee is required to furnish District with the phone number and e-mail address of person or persons responsible for operation of the pump station. Operators of pump station will be notified, by the District, to cease pumping operations when stage in canals drop below the permitted cut-off elevation, and further notified when pump operations may resume subject to water availability. Failure to comply with operation/notifications will result in cancellation of this permit and removal of subject pump station at Permittee's expense.
- 7) The issuance of this permit is granted with the understanding that District retains the right of access to the pump station for periodic inspections to ascertain compliance of the permit conditions.

- 8) This permit is granted subject to the issuance and conditions of a St. Johns River Water Management District Consumptive Use Permit. A copy of said permit, and modifications or renewals thereof, shall be forwarded to the Indian River Farms Water Control District.
- 9) Permittee shall modify the Declaration of Covenants and Restrictions (or other appropriate recorded documents) of the Vero Lago Subdivision – Property Owners Association to include the Notice of Issuance of this permit and particularly emphasizing the standard provisos and special conditions of the subject permit.