

This instrument prepared by:  
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POPE MAZZARA & MENENDEZ, PLLC  
Post Office Box 60022  
Fort Myers, Florida 33906

## CERTIFICATE OF AMENDMENT

Declaration of Covenants, Conditions and Restrictions  
for Cedar Creek  
and

By-Laws of Cedar Creek Property Owners Association, Inc.

\_\_\_\_\_Space above line for recording\_\_\_\_\_

**THE UNDERSIGNED**, being the President and Secretary of **CEDAR CREEK PROPERTY OWNERS ASSOCIATION, INC.**, a Florida corporation not-for-profit (“Association”), hereby certify that the amendments set forth below were approved by the Association’s members, as evidenced by a written statement or ballot manifesting the intention that such amendments be adopted. The amendments were approved and adopted by the votes indicated for the purpose of amending the Declaration of Covenants, Conditions, and Restrictions for Cedar Creek (“Declaration”) and the By-Laws of Cedar Creek Property Owners Association, Inc. (“Bylaws”). The Declaration was recorded in Official Records Book 2445, Pages 564 *et cet.* of the Public Records of Lee County, Florida, and the Bylaws were recorded in Official Records Book 3724, Pages 1986 *et cet.* of the Public Records of Lee County, Florida. The following amendments were approved at a duly called meeting of the Association’s members by the affirmative vote of at least sixty percent (60%) of all votes entitled to be cast for such amendment.

**PURSUANT TO SECTION 712.05(2)(B)**, Florida Statutes (2024), this Certificate of Amendment shall be indexed under the legal name of the Association, and this Certificate of Amendment serves to preserve the following covenants and restrictions, all recorded in the from being extinguished by Florida’s Marketable Record Title Act:

Declaration of Covenants, Conditions and Restrictions for Cedar Creek, recorded on November 19, 1993, in Official Records Book 2445, Page 564, in the Public Records of Lee County, Florida.

First Amendment to Declaration of Covenants, Conditions and Restrictions for Cedar Creek, recorded on August 25, 1994, in Official Records Book 2530, Page 1451, in the Public Records of Lee County, Florida.

Second Amendment to Declaration of Covenants, Conditions and Restrictions for Cedar Creek, recorded on March 15, 1996, in Official Records Book 2686, Page 695, in the Public Records of Lee County, Florida.

Joinder of Cedar Creek Property Owners Association, Inc., recorded on March 15, 1996, in Official Records Book 2686, Page 701, in the Public Records of Lee County, Florida.

Second [sic] Amendment to Declaration of Covenants, Conditions and Restrictions for Cedar Creek, recorded on July 24, 1996, in Official Records Book 2729, Page 103, in the Public Records of Lee County, Florida.

[Corrective] Third Amendment to Declaration of Covenants, Conditions and Restrictions for Cedar Creek, recorded on September 12, 1996, in Official Records Book 2743, Page 3439, in the Public Records of Lee County, Florida.

Fourth Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on December 5, 1997, in Official Records Book 2895, Page 4187, in the Public Records of Lee County, Florida.

Fifth Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on February 19, 1998, in Official Records Book 2922, 1298, in the Public Records of Lee County, Florida.

Sixth Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on June 24, 1998, in Official Records Book 2976, Page 1649, in the Official Records of Lee County, Florida.

[Corrective] Fourth Amendment to Declaration of Protective [sic] Covenants [sic] and Restrictions for Cedar Creek, recorded on July 29, 1998, in Official Records

Book 2992, Page 1380, in the Public Records of Lee County, Florida.

Seventh Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on November 4, 1998, in Official Records Book 3032, Page 4062, in the Official Records of Lee County, Florida.

[Sic] Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on March 20, 2000, in Official Records Book 3232, Page 1174, in the Official Records of Lee County, Florida.

Ninth Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on December 12, 2001, in Official Records Book 3538, Page 1492 in the Official Records of Lee County, Florida.

Assignment of Declarant's Rights and Responsibilities, recorded on December 12, 2001, in Official Records Book 3538, Page 1495 in the Official Records of Lee County, Florida.

Assignment of Declarant's Rights and Responsibilities, recorded on December 26, 2001, in Official Records Book 3547, Page 1299 in the Official Records of Lee County, Florida.

Certificate of Recordation Articles of Incorporation and By-Laws of Cedar Creek Property Owners Association, Inc., recorded on September 10, 2002, in Official Records Book 3724, Page 1974, in the Public Records of Lee County, Florida.

Tenth Amendment to Declaration of Protective Covenants and Restrictions for Cedar Creek, recorded on December 23, 2003, in Official Records Book 4156, Page 565, in the Official Records of Lee County, Florida.

First Amendment to By-Laws of Cedar Creek Property Owners' Association, Inc., recorded on December 23, 2003, in Official Records Book 4156, Page 570, in the Official Records of Lee County, Florida.

Certificate of Amendment, recorded on May 21, 2007, as Instrument Number 2007000163801, in the Official Records of Lee County, Florida.

**NOW THEREFORE, IT IS**


**RESOLVED**, that the Declaration of Covenants, Conditions and Restrictions for Cedar Creek and the By-Laws of Cedar Creek Property Owners Association, Inc. be, and hereby are, amended, and the amendments are adopted in the form attached hereto as Exhibit "1" and made a part hereof; and

**FURTHER RESOLVED**, that the above-referenced covenants and restrictions are hereby preserved and protected from extinguishment under the Marketable Record Title Act, Chapter 712, Florida Statutes; and

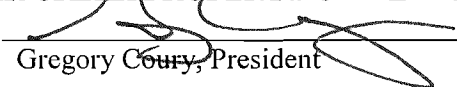
**FURTHER RESOLVED**, that the Association's officers are hereby instructed and authorized to cause the aforementioned amendments to be filed of public record, together with this Certificate of Amendment.

Dated this 2<sup>nd</sup> day of May, 2025.


**WITNESS 1**

Sign:   
Print: Dean F. Cronister  
Address: 25670 Springtide Ct.  
Benita Springs, FL 34135

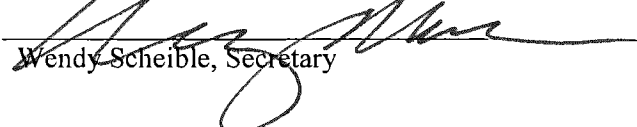
**CEDAR CREEK PROPERTY OWNERS ASSOCIATION, INC.**

By:   
Gregory Coury, President

**WITNESS 2**

Sign:   
Print: Gretchen Krizan  
Address: 5252 Summerlin Way # 104  
FT Myers FL 33907

**ATTEST:**

Sign:   
Wendy Scheible, Secretary

STATE OF Florida  
COUNTY OF Lee

THE FOREGOING INSTRUMENT was acknowledged before me, by means of  physical presence or  online notarization, this 2nd day of May, 2025, by Gregory Coury, as President of CEDAR CREEK PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, on behalf of the corporation, who (check one):  is personally known to me OR  produced FLDL as identification.

(Notary Seal/Stamp)

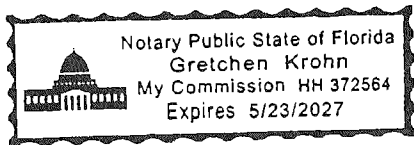


Notary Public  
Sign: [Signature]  
Print: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF Florida  
COUNTY OF Lee

THE FOREGOING INSTRUMENT was acknowledged before me, by means of  physical presence or  online notarization, this 2nd day of May, 2025, by Wendy Scheible, as Secretary of CEDAR CREEK PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, on behalf of the corporation, who (check one):  is personally known to me OR  produced FLDL as identification.

(Notary Seal/Stamp)



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

Exhibit "1" to CERTIFICATE OF AMENDMENT

This Instrument prepared by:  
Alexander J. Menendez, Esq.  
POPE MAZZARA & MENENDEZ, PLLC  
5252 Summerlin Commons Way, STE 104  
Fort Myers, Florida 33907

*Substantial rewording. See governing documents for current text.*

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CEDAR CREEK**

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**ARTICLE I. STATEMENT OF PURPOSE.** Cedar Creek Property Owners Association, Inc. (hereinafter referred to as the “Association”), as a representative of its Members, pursuant to the amendment provisions contained in the Association’s governing documents, after proper notice and discussion, and after recommendation and approval, files this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Cedar Creek (hereinafter the “Declaration”) to preserve, protect, and enhance the values of the property and the amenities of Cedar Creek (hereinafter referred to as the “Community”) and to promote the general health, safety, and welfare of the Association’s Members and the residents, guests, and invitees of the Community.

**1.1 Scope.** The Association is a Florida not-for-profit corporation responsible for the operation of the Community. The Community is a planned residential community located in Lee County, Florida, within the Spring Creek Development of Regional Impact. The Community includes the real property that is described in Exhibit "A" to this Declaration (hereinafter the “Lands”), which includes, without limitation, two hundred seventy-three (273) platted, residential Lots; single-family residential homes; and common areas. Outside of the Community are certain water management facilities that provide drainage for all of the Spring Creek DRI property. These areas outside of the Community and the Lands shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration and any cross-access easements (as described in the Original Declaration), which shall run with the land and be binding on all parties having any right, title or interest in the affected parcels or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**1.2 Water Management.** The Association owns, controls, and has responsibilities for the maintenance of certain water management facilities that provide drainage for all of the Spring Creek DRI property, including residential and commercial property. There may be Limited Members whose property is subject to this Declaration solely for the purpose of enabling the Association to levy Water Management Assessments against such Limited Members and the property for water management and allowing such Limited Members’ property to utilize the water management facilities that are owned or controlled by the Association. Articles IV, V, and VI of this Declaration more fully describe the rights and obligations of Limited Members.

**1.3 Original Developer and Declarant Rights.** The original developer of the Community, Bonita Bay Limited Partnership, a Florida limited partnership (hereinafter the “Developer”), submitted the Lands to the Declaration of Covenants, Conditions and Restrictions for Cedar Creek (hereinafter the “Original Declaration”), which was recorded in Official Records Book 2445, Pages 564 *et seq.* of the Public Records of Lee County, Florida. By an Assignment of Declarant’s Rights and Responsibilities, which was recorded in Official Records Book 3538, Pages 1495 *et seq.* of the Public Records of Lee County, Florida, Developer assigned certain of its rights as Declarant under the Original Declaration to Resource Conservation Systems, LLC, a Florida limited liability company. By a separate Assignment of Declarant’s Rights and Responsibilities, which was recorded in Official Records Book 3547, Pages 1299 *et seq.* of the Public Records Lee County, Florida, Developer assigned any of its remaining rights as Declarant under the Original Declaration to the Association.

**1.4 Classes of Membership.** There were originally three (3) classes of membership in the Association: Regular Members, Limited Members, and Declarant Members. The Declarant

Membership expired when the Developer and anyone holding rights as a Declarant under the Original Declaration ceased to own any land in Spring Creek for development or for sale in the ordinary course of business. The Limited Members, if any, are the owners of properties outside of the boundaries of Cedar Creek that are subjected to this Declaration for the purposes described in Section 1.2 above.

**1.5 Preservation of Covenants from MRTA.** The Association preserved and protected the Community covenants and restriction from extinguishment by the operation of Florida's Marketable Record Title Act by a notice of preservation, which was recorded as Instrument Number 2023000235862 of the Public Records of Lee County, Florida.

**1.6 Anti-Kaufman Disclaimer.** The Original Declaration was recorded on November 19, 1993, prior to the effective date of Chapter 720, Florida Statutes. Pursuant to Section 720.302(2), Florida Statutes (2024), the Florida Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and the members thereof before the effective date of the Act, and that Sections 720.301 through 720.407 are not intended to impair such contract rights. Accordingly, unless expressly incorporated, the provisions of the Act are not automatically adopted and are not included herein. To the greatest extent, no contract right may be impaired by bill of attainder, *ex post facto* law, or other law or legislative, judicial, or executive action.

**ARTICLE II. DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, unless the context clearly requires another meaning. The use of the singular number shall include the plural, and the plural the singular. The use of any gender shall include all genders.

**2.1 Act.** "Act" means Chapter 720, Florida Statutes, as it now exists or as it may be amended from time to time including the definitions therein contained.

**2.2 Architectural Review Committee.** "Architectural Review Committee" or "ARC" means the Architectural Review Committee as established and empowered in Article XI of this Declaration.

**2.3 Architectural Guidelines and Review Procedures.** The "Architectural Guidelines and Review Procedures" are the standards and specifications that are promulgated by the Board relative to the external appearance of Lots and Living Units, including, without limitation, the location, size, type or appearance, and include, but are not limited to, any regulations promulgated by the Board as to approved paint colors. The Architectural Guidelines and Review Procedures are part of the Rules and may be adopted and amended without being recorded. All parties are advised to obtain and reference the latest copy of the Rules from the Association.

**2.4 Articles.** "Articles" means the current and preexisting Articles of Incorporation of Cedar Creek Property Owners Association, Inc., a true and correct copy of which is attached hereto as Exhibit "B", as amended from time to time.

**2.5 Assessment.** "Assessment" means the assessments for which all or some Lot or Living Unit Owners are obligated to the Association and includes Regular Assessments, Special

Assessments, Water Management Assessments, Charges, and Capital Contributions as defined herein.

**2.6 Association.** “Association” means CEDAR CREEK PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation not-for-profit, which has its principal place of business in Lee County, Florida and its successors and assigns.

**2.7 Association Property.** “Association Property” means all property, real, personal, or otherwise, that is owned by, leased by, or dedicated by a recorded plat to the Association for the use and benefit of its Members, and may include some or all of the Common Areas.

**2.8 Board.** “Board” means the Board of Directors of CEDAR CREEK PROPERTY OWNERS ASSOCIATION, INC.

**2.9 Bylaws.** “Bylaws” means the Amended and Restated By-Laws of the Association that are attached hereto as Exhibit “C”, as they may be amended from time to time.

**2.10 Charge.** “Charge” means any legal or equitable indebtedness of an Owner to the Association, or other sums owed to or due to the Association from an Owner, or any cost or expense incurred by the Association on behalf of or because of an Owner, other than Assessments for Common Expenses. Charges may arise by oral or written contract, by law or in equity, or may be created by these Governing Documents. The Association is entitled to collect Charges using the same legal means and remedies as the Association pursues the collection of Assessments, including, but not limited to, pursuing money judgments, pursuing liens, and foreclosure of said liens as well as suspension of use rights and Voting Interest.

**2.11 Common Area.** “Common Area” means any and all real property and any improvements thereon that are owned or leased by the Association or dedicated for use or maintenance by the Association or its Members, including, without limitation, and regardless of whether title has been conveyed to the Association, real property the use of which is dedicated to the Association or its Members by a recorded plat and real property committed by a declaration of covenants to be leased or conveyed to the Association.

**2.12 Common Expenses.** “Common Expenses” means the expenses for which all Owners are liable to the Association, as described in this Declaration, and includes, but is not limited to, all expenses incurred by the Association in administering, operating, reconstructing, maintaining, repairing and replacing all portions of any Common Areas and Association Property, including any and all improvements thereon, as well as all personal property for which the Association has such obligation, as set forth in this Declaration. Further, the Common Expenses include, without limitation, the cost of communication services as defined in Florida Statute Section 202.11, information services, and/or Internet services that are obtained pursuant to a bulk or non-bulk contract between the Association and a service provider(s) and the costs of administration and management of the Association and expenses properly and reasonably incurred by the Association in performing and carrying out its duties and obligations as specified in the Governing Documents, by the Act or other applicable law, or as determined proper by the Board.

**2.13 Community.** “Community” means Cedar Creek, which consists of the Lands and includes, without limitation, all single-family residential homes, Association Property, and Common Areas that are committed to and subject to this Declaration and all real property, including any undeveloped phases.

**2.14 Conservation Areas.** “Conservation Areas” means any and all of the wetland reserves, preserve and wetland preserve areas, conservation areas, conservation easements, mitigation areas, and open space or upland buffers that are described in or shown on the Plats.

**2.15 Declarant.** “Declarant” means, collectively, the Developer; the Association; and Resource Conservation Systems, LLC, a Florida limited liability company, as their interests existed, exist now, or have been assigned. The Developer was the Declarant of the Original Declaration, and the Developer subsequently assigned their rights as Declarant.

**2.16 Declaration.** “Declaration” means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Cedar Creek.

**2.17 Developer.** “Developer” means Bonita Bay Limited Partnership, a Florida limited partnership.

**2.18 DRI Development Order.** “DRI Development Order” means the Spring Creek Development of Regional Impact Development Order issued by the Board of County Commissioners of Lee County, dated April 29, 1977, as subsequently amended, provided no amendment substantially alters the use of the Lands.

**2.19 Family.** “Family” shall refer to any one of the following: (i) one (1) natural person, their spouse, if any, and their custodial children, if any; or (ii) not more than two (2) natural persons not meeting the requirement of (i) above, but who customarily and continuously reside together as a single housekeeping unit, and the custodial children and/or the parents of said parties, if any. The reference to “natural” herein is intended to distinguish between an individual and a corporation or other artificial entity.

**2.20 Fractional Ownership.** “Fractional Ownership” means any arrangement (whether written or verbal) whereby multiple individuals, artificial entities, or other combinations acquire title to a Lot (or any other possessory or use right in a Living Unit) with the intention of allocating use rights among legal or beneficial owners, whether pursuant to verbal or written agreements, regarding the sharing of use and possession rights for a Lot, such as timesharing or interval ownership.

**2.21 Governing Documents.** “Governing Documents” means this Declaration, the Articles, the Bylaws, and the Rules (which include the Architectural Guidelines and Review Procedures), all as may be amended from time to time.

**2.22 Guest.** “Guest” means any person who is not an Owner, a Resident, or a Tenant; and is either (i) physically present in the Community on a temporary basis at the expressed or implied invitation of an Owner, Tenant, Resident or other Guest; or (ii) is acting as the agent of, or at the direction of, an Owner, Tenant, Resident, or other Guest in Community or Association

affairs. The term “Guest” shall include, without limitation, all invitees and licensees, whether or not they are acting as anyone’s agent or employee.

**2.23 Improvement.** “Improvement” means and refers to all of the following, which are visible from any vantage point outside of a Living Unit: (i) landscaping and any vegetation on a parcel; (ii) structures of any kind and any improvements to a structure, including, without limitation, anything affixed to the land or to a structure that is of a nature that it would remain permanently affixed; (iii) fixtures and equipment, including, without limitation anything built on, added to, or constructed upon a parcel, whether or not permanently affixed to the land, such as spas and basketball hoops; and (iv) earthworks and grading. Improvements include, without limitation, all Living Units, and any building, fences, hedges, and walls of any kind.

**2.24 Lands.** “Lands” means the land described in Exhibit "A" to this Declaration, attached hereto.

**2.25 Lease.** “Lease” shall mean the grant of a right to use or to reside in or upon any portion of a Lot or Living Unit for any form of consideration, and includes, without limitation, landlord-tenant relationships, transient occupancies, vacation rentals, licenses for consideration, and licenses coupled with an interest and other irrevocable licenses.

**2.26 Limited Members.** “Limited Members” means every person or an entity who is qualified for Limited Membership pursuant to Section 4.2 of this Declaration. The meaning of the term Limited Member shall remain the same as it was defined in the Original Declaration, and the Limited Members do not include the Regular Members.

**2.27 Living Unit.** “Living Unit” means a residential dwelling in the Community that is located on one or more Lots and is intended as an abode for a single family.

**2.28 Lot.** “Lot” means any platted parcel of land located within the Lands that contains or is intended to contain all or a portion of a Living Unit. Unless the context clearly requires a different interpretation, the term “Lot” shall be interpreted as if it were followed by the words “and the Living Unit constructed thereon.”

**2.29 Member.** “Member” means an Owner. The Original Declaration referred to Members as the “Regular Members.”

**2.30 Membership.** “Membership” means the Association’s Members and Limited Members.

**2.31 Occupant/Occupy.** “Occupant” or to “Occupy” when used in connection with a Lot or Living Unit means a natural person who is physically present at a Lot or in a Living Unit on two (2) or more consecutive days, including staying overnight for at least one (1) night.

**2.32 Owner.** “Owner” means the record owner of legal title to a Lot. An Owner shall neither mean nor refer to a holder of a mortgage or security deed, its successors or assigns, unless

and until such holder has acquired title pursuant to foreclosure proceedings or by deed in lieu of foreclosure; nor shall the term “Owner” mean or refer to any Tenant of an Owner.

**2.33 Plats.** “Plats” means, collectively, the plats of CEDAR CREEK PHASE I, a subdivision, recorded in Plat Book 54, Pages 5 *et seq.*, CEDAR CREEK PHASE II-A, a subdivision, recorded in Plat Book 55, Pages 51 *et seq.*, CEDAR CREEK PHASE II-B, recorded in Plat Book 58, Pages 50 *et seq.*, CEDAR CREEK PHASE III-A, recorded in Plat Book 59, Pages 75 *et seq.*, CEDAR CREEK PHASE III-B, recorded in Plat Book 61, Pages 54 *et seq.*, and CEDAR CREEK PHASE III-D, recorded in Plat Book 62, Pages 38 *et seq.*, all in the Public Records of Lee County, Florida.

**2.34 Plot.** “Plot” was defined in the Original Declaration, as amended, and it means a discreet lot or building parcel reflected on a recorded plat of lands forming a part of the property that is subject to this Declaration. The term “Plot” shall include all Lots but it shall not include any land that is Common Area.

**2.35 Rental Agreement.** “Rental Agreement” means any agreement to Lease any portion of a Lot or Living Unit, whether in writing or entirely verbal.

**2.36 Resident.** “Resident” means the individual or individuals who are Occupying a Living Unit as their home and not as a Guest. Residents may include, without limitation, Tenants and an Owner’s or Tenant’s co-habitants in residence.

**2.37 Rules.** “Rules” means the Association’s Rules and Regulations, which are administrative regulations governing the use and operation of the Lots, Common Areas, and Association Property and the operation and administration of the Association, as adopted, and amended from time to time by resolution of the Board. The Rules may be adopted and amended without being recorded, and all parties are advised to obtain and reference the latest copy of the Rules from the Association.

**2.38 SWMS.** “SWMS” means that storm and surface water management system that is designed and constructed or implemented to control water discharges that are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quality and quantity of discharges from the system, and includes, without limitation, all swales, ditches, berms, canals, lakes, preserves, retention ponds, inlets, culverts, weirs, bleeders, catch basins, baffle boxes, grates, manhole covers, and any pipes and outfall structures servicing any of the above in accordance with all applicable environmental resource permits as modified from time to time.

**2.39 Tenant.** “Tenant” means any person who is neither an Owner nor a Guest and who has the right to use or to reside upon or within a Lot or Living Unit pursuant to a Lease, regardless of whether there is a written Rental Agreement.

**2.40 Voting Interest.** “Voting Interest” means the vote assigned to each Owner of a Lot to be cast in all matters for which the Members are entitled to vote. Each Lot is assigned one (1) vote. There are two hundred seventy-three (273) Lots. Therefore, there are two hundred seventy-

three (273) Member Voting Interests. For any matter upon which a Limited Member can vote, there shall be additional Voting Interests for the Limited Members, which are calculated as provided in Section 4.4 herein.

**ARTICLE III. THE PROPERTY.** The real property which is subject to this Declaration is described in Exhibit "A" attached hereto and made a part hereof. The Association, as the assignee of Developer's Declarant rights, and upon the approval of two-thirds of the Member Voting Interests, may bring within the plan and operation of this Declaration all or any part of the property within Spring Creek. However, property within Spring Creek that is outside of Cedar Creek may only be subjected to this Declaration for the purposes described in Section 1.2 of this Declaration. Any additions under this Article shall be made by the recording of a supplemental declaration with respect to the additional property, which shall extend the operation and affect of the Declaration to such additional property. Any such supplemental declaration must be executed by an officer of the Association, as an assignee of Declarant rights, and must include the joinder of the owner of the property to be added. Any supplemental declaration may contain such additions to and/or modifications of the covenants contained in this Declaration as may be determined by the Association as an assignee of Declarant rights, provided that such additions and/or modifications are not substantially inconsistent with this Declaration. The Association, as an assignee of Declarant rights, by a vote of the Board, may add additional Common Areas.

**ARTICLE IV. MEMBERSHIP IN ASSOCIATION.** The Association has two (2) classes of members, which shall be the Members and the Limited Members.

**4.1 Regular Members.** The "Regular Members" referred to in the Original Declaration are the "Members" who are the Owners of Lots. The term Owner shall neither mean nor refer to a holder of a mortgage or security deed, its successors or assigns, unless and until such holder has acquired title pursuant to foreclosure proceedings or by deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any Tenant of an Owner. Rights as a Member, and being a Member of the Association, are appurtenant to, and may not be separated from, ownership of a Lot or other parcel subject to this Declaration.

**4.2 Limited Members.** The Limited Members shall be all owners of property outside of the boundaries of Cedar Creek which is subjected to this Declaration for the purposes described in Section 1.2 of this Declaration.

**4.3 Suspension of Voting Rights.** In accordance with Florida Statute Section 720.305, the Association may suspend the Voting Interest(s) of any Member or Limited Member who becomes more than ninety (90) days delinquent in the payment of any monetary obligation to the Association.

**4.4 Voting Rights.** Each Lot has only one (1) indivisible Voting Interest on all matters for which the Members are entitled to vote, which Voting Interest may only be exercised by the Owner of the Lot as further provided in the Bylaws. The Limited Members are only entitled to vote on matters coming before the Association that are directly related to the SWMS. Any dispute as to which matters directly relate to the SWMS shall be resolved by the Board. For any matter upon which both the Members and the Limited Members can vote, there shall be additional Voting Interests for the Limited Members, which are calculated as follows. Owners of commercial

property shall be entitled to a number of votes equal to .55 times each 1,000 square feet (or fraction thereof) of gross leasable area assigned to such property. The Association, as the successor to Declarant, shall assign the square footage of gross leasable area which may be constructed on a Commercial Plot prior to the sale of such Plot to a third party. Owners of Residential Property, which owners are not Members, shall be entitled to a number of votes equal to the number of Dwelling Units that may be constructed on such property, which number shall be assigned or determined in accordance with Section 4.04.A of the Original Declaration, which is incorporated herein by reference.

## **ARTICLE V. COMMON PROPERTY**

**5.1 Members' Rights and Easements.** Every Owner shall have a right and a nonexclusive easement of enjoyment in and to the Common Areas and the Association Property, including ingress and egress over the Community roads as shown and dedicated on the Plats, all of which shall be appurtenant to, and shall pass with title to, each Owner's Lot subject to the following:

**5.1.1** The right of the Board to set an annual budget and the right of the Association to charge Assessments and fees for the upkeep, maintenance, repair, and replacement of the Common Areas; the Association Property; and any shrubs, trees, ground cover, plant life, and any other organic material whether or not the above-mentioned items extend over, under, or across the boundaries separating Lots from the Common Areas.

**5.1.2** The rights of the Association to suspend voting rights of an Owner and to suspend the rights of an Owner or their tenant, guest, or invitee to use Common Areas and Association Property, all in accordance with Florida Statute Section 720.305.

**5.1.3** The right of the Association, through its Board, to adopt, amend, and enforce the Rules, including, without limitation, the right to levy and impose fines for violations of the Rules as further provided in the Governing Documents.

**5.1.4** The provisions of the Articles, Bylaws, and Rules.

**5.1.5** The right of the Association to regulate parking and traffic on the streets within the Community, including, without limitation, the use of access gates, traffic calming devices, signs, and traffic control devices and closing or restricting access for maintenance and special occasions.

**5.1.6** The right of the Association, by and through its Board, to take such steps as are reasonably necessary to protect the Common Areas and Association Property.

**5.1.7** The right of the Association, by and through its Board, to grant easements over, across and through the Common Areas.

**5.1.8** The right of the Association, by and through its Board, to open the Common Areas for temporary use by non-Owners.

**5.1.9** Without limiting the authority of any party with remaining Declarant rights, the right of the Association to dedicate or transfer or grant an easement or property right, other than to mortgage or convey title, to all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless approved by the Board at a duly called Board meeting.

**5.1.10** The right of the Association to mortgage or convey title to the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such mortgage or conveyance shall be effective unless such mortgage or transfer is approved by the affirmative vote or written consent, or any combination thereof, of Owners holding not less than two-thirds (2/3rds) of the entire Voting Interest. If any Owner's ingress or egress to his Living Unit is through the Common Area, any conveyance or mortgage of such section of the Common Area is subject to that Owner's easement.

**5.1.11** In the case of Common Areas consisting of the SWMS, the rights of Limited Members to the extent necessary to provide water management for such Limited Members' property, as provided in the Original Declaration.

**5.1.12** Limited Members shall have an easement for use of the SWMS and the Conservation Areas within Cedar Creek only to the extent necessary to develop property within Spring Creek owned by such Limited Members in accordance with the DRI Development Order, this Declaration, and the plans approved by the Association as an assignee of Declarant rights, and as may be required by appropriate governmental authorities pursuant to water management permits applicable to Spring Creek.

**5.1.13** Limited Members shall have an easement for the use of only those streets and utility easements within Cedar Creek as designated, reserved, granted, dedicated, assigned, or deeded to such Limited Members on a recorded plat, easement, or other such document designating, reserving, granting, dedicating, assigning, or deeding such easement to Limited Members. However, the access to the Lots and the recreational amenities within Cedar Creek shall be limited to the Owners and Residents and their Guests.

**5.2 Delegation of Rights.** Notwithstanding any provision to the contrary in an Owner's Rental Agreement that is signed after this amended and restated Declaration is recorded, when a Lot is Leased, the Tenant shall have all of the Lot Owner's use rights in and to the Common Areas and Association Property, and the Owner shall have no such rights with respect to the Lot except as a Guest.

**5.3 Delegation of Use.** Any Owner may delegate, in accordance with the Governing Documents, his right or enjoyment to the Common Areas to members of his family, his Tenants or contract purchasers who reside in his Living Unit. An Owner or Tenant may delegate their privilege to use the Common Areas to a Guest, provided the Owner or Tenant accompanies their Guest while the Guest is using the Common Areas. Owners shall be responsible for the actions occurring in the Community and the damages incurred to the Association by any person to whom

the Owner has delegated their right to use the Common Areas. Owners may not delegate their obligations to pay Assessments.

**5.4 Maintenance and Alteration.** The Association is responsible for the maintenance, repair, replacement, insurance, protection and control of all Association Property and the Common Areas in accordance with the applicable laws, and shall keep the same in a good, safe, clean, attractive and sanitary condition, and in good working order at all times. There shall be no alterations of or additions to the Common Areas or Association Property costing more than ten percent (10%) of the Association's annual budget, including reserves, in the aggregate during any Association fiscal year unless first approved by two-thirds (2/3rds) of those Members voting, in person or by proxy, at a duly called meeting of the Members. Notwithstanding the foregoing, regardless of cost, no approval of the Members is required for any work, alteration, or addition that is reasonably necessary to meet the Association's obligations under this Section or that is required by law or by any governmental entity.

**5.5 Partition, Subdivision, and Encumbrance.** Except as provided above, the Common Areas shall not be partitioned, subdivided, alienated, transferred, or hypothecated without first obtaining the approval of not less than two-thirds (2/3rds) of the entire Voting Interest. The foregoing shall not be construed to limit the authority of the Association through its Board to grant such easements over, across and through the Common Areas, as may be necessary for the effective and efficient operation of the facilities or for the general benefit of the Members. Nothing herein shall be construed to prohibit judicial partition of any Lot. However, the ownership of a Lot and the ownership of a Living Unit situated on the Lot may not be separated or separately conveyed, nor may any person who does not own record legal title to at least one Lot or other parcel in the Community hold membership in the Association, with the sole exception of Limited Members.

**ARTICLE VI. BUDGETS, ASSESSMENTS, AND LIENS.** The Association shall make, levy, and collect Assessments against Lots as provided below and in the Association's other Governing Documents.

**6.1 Creation of Lien and Personal Obligation for Assessments.** Subject to the provisions of this Declaration, each Owner of a Lot, by acceptance of title to the Lot, whether or not it shall be so expressed in any deed, is deemed to covenant and agree to pay to the Association Regular Assessments, Special Assessments, Charges, and Capital Contributions. In addition, the Limited Members, by acceptance of title to their Plot, whether or not it shall be so expressed in any deed, is deemed to covenant and agree to pay to the Association Water Management Assessments. Such Assessments shall be established and collected as provided herein and in the Bylaws. All such Assessments, together with interest thereon, late fees, and costs and expenses of collection thereof, including, without limitation, attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Plot against which the Assessment is made. Each Assessment levied upon a Plot shall constitute a personal obligation of that parcel's owner and, except as otherwise provided herein, a joint and several obligation of the owner's successors and assigns. The Common Areas and all Institutional Property (as defined in Section 2.17 of the Original Declaration, which is incorporated herein by reference) shall be exempt from all Assessments levied herein, except that Institutional Property shall be subject to Charges. The Assessments are defined, calculated, and levied as follows:

**6.1.1 Regular Assessments** shall mean all Assessments adopted by the Board through the Association's annual budget to pay for the Common Expenses. Regular Assessments shall be allocated and paid by the Owners, with each Owner paying a 1/273<sup>rd</sup> share for each Lot owned.

**6.1.2 Special Assessments** shall mean Assessments levied by the Board against the Lot Owners for Common Expenses that are not funded by the Regular Assessments or other sources of revenue. Special Assessments shall be allocated and paid by the Owners, with each Owner paying a 1/273<sup>rd</sup> share for each Lot owned. The Board has the power and the authority to levy Special Assessments as the Board determines necessary in the Board's sole discretion.

**6.1.3 Water Management Assessment.** Each Plot shall be assigned an assessment index. The assessment index shall be equal to the total number of Voting Interests assigned to such Plot in accordance with Section 4.4 of this Declaration. Each Member and Limited Member shall be obligated to pay a portion of the Water Management Budget (the "**Water Management Assessment**"), which portion shall be no greater than a fraction, the numerator of which is that member's Plot's assessment index and the denominator of which is the total of assessment indices for all Plots. Additionally, the Members shall be obligated to pay a portion of the Regular Budget, which portion shall be no greater than a fraction, the numerator of which is that Member's Plot's assessment index and the denominator of which is the total of assessment indices for all Members' Plots. Limited Members shall not be obligated to pay any portion of the Regular Budget except a portion of the water management subcategory (if there is no separate Water Management Budget) in accordance with this Section. In no event may the assessment index assigned to any Plot be less than the number of Voting Interests that may be exercised (notwithstanding the limited voting rights of Limited Members) by the owners of such Plot. Regular Assessments and Charges may be collected at such intervals as may be determined by the Board, subject to any prescribed membership approval. Resale Reserve Assessments shall be levied in a uniform amount as to each Plot but may be changed from time to time by the Board. Charges need not be uniform in amount nor levied in a proportion to the assessment index due to their nature, but they shall be handled and processed in a uniform and nondiscriminatory manner with respect to any Plots similarly situated. The Board shall establish and assess the Regular and Water Management Budgets based upon the total number of assessments indices assigned to property subject to assessment for each budget at the time such budgets are established.

**6.1.4 Charges** shall mean any legal or equitable indebtedness or monetary obligation of an Owner or Limited Member to the Association other than Regular Assessments, Special Assessments, Water Management Assessments, and Capital Contributions, and shall include, without limitation, sums owed to or due to the Association from an Owner or Limited Member or any cost or expense incurred by the Association on behalf of or because of an Owner or Limited Member which the Owner or Limited Member is obligated to pay to the Association. Said obligations may arise by oral or written contract, by law or in equity, or may be created by these Governing Documents. Charges shall be collected in the same manner as any other Assessment and shall be secured by a continuing lien enforceable in the same manner as Regular and Special Assessments. Charges are not allocated equally to all Owners or Limited Members.

**6.1.5 Capital Contributions.** Capital Contributions shall be owed in addition to Regular Assessments, Special Assessments, Water Management Assessments, and Charges, upon the transfer of title to any Plot. Such Assessment shall be paid to the Association by the transferee of the Plot and shall be paid upon the closing or other settlement of the transfer or conveyance of the Plot. The funds raised through Capital Contributions can only be used for improving the Common Area and never for general maintenance of the Common Area. Notwithstanding the above, Capital Contributions shall not be levied in the following instances:

- (1) Conveyance of a Plot by an owner to a trust, partnership, corporation, or other entity so long as such entity is and remains wholly-owned by the owner or by such owner and the owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Plot was exempted from payment of the Capital Contribution (formerly Resale Capital Assessment) pursuant to this subsection or the Original Declaration, then this subsection shall not apply and the transferee of the Plot shall be subject to payment of the Capital Contribution.
- (2) Conveyance of a Plot by an owner or such owner's estate to the owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Plot was exempted from payment of the Capital Contribution (formerly Resale Capital Assessment) pursuant to this subsection or the Original Declaration, this subsection shall not apply and the transferee of the Plot shall be subject to payment of the Capital Contribution.
- (3) Conveyance of an undivided interest in a Plot by the owner thereof to any then existing co-owner(s) of such Plot.

**6.2 Budget.** The Board shall prepare and adopt an estimated annual budget or budgets, a Regular Budget and a Water Management Budget (or incorporate water management as subcategory of the Regular Budget) as required by the Bylaws, which shall reflect the estimated Common Expenses for the next succeeding year and the costs of operating the SWMS. The Board shall establish and assess the annual budget(s) based upon the total number of assessments indices assigned to property subject to assessment for each budget at the time such budget or budgets are established. Adjustments may be made by the Board in the budgets and in the Assessments from time to time to allow for any changes for Common Expenses and other expenses.

**6.3 Member Created Statutory Reserves.** The Association may create "statutory" reserve accounts in accordance with Section 720.303(6)(d) of the Florida Statutes (2024) upon the affirmative approval of a majority of the entire Member Voting Interest. By adopting this Declaration, the Members are deemed to have provided for the following reserve accounts: Building Exteriors, Privacy Wall/Fences, Roofs, Pavers, Roads and Sidewalks, Pool Equipment, Pool/Spa Resurfacing, Tennis/Bocce Courts, Amenity Structures, Security and Gates, Signs/Mailbox/Lights, Building Interior, Irrigation, Lake Restoration, and Flood Management System. In accordance with the Act, these statutory reserve funds and any interest accruing thereon shall remain in the reserve account or accounts and shall be used only for authorized reserve

expenditures unless their use for other purposes is approved in advance by a majority vote of the Member Voting Interest at a meeting at which a quorum is present.

**6.4 Voluntary Reserves.** The Board may establish voluntary reserve accounts funded from Regular Assessments in reasonable amounts and in categories as are determined by the Board, in the Board's sole discretion, for deferred maintenance and repair, including, without limitation, maintenance of all Common Areas, emergency repairs as a result of casualty loss, recurring periodic maintenance, or the initial cost of any new service to be performed by the Association. These voluntary reserve accounts may be used by the Board on a temporary basis for cash flow management of the Association, even though expended on items other than those for which the reserve account was established. The amount borrowed from a voluntary reserve account shall be repaid from revenues subsequently received, it being the intent that the Board may borrow from a voluntary reserve account without diminishing the obligation to levy and collect Assessments that will, upon collection, permit the restoration of the voluntary reserve account.

**6.5 Time of Payment.** Regular Assessments and Water Management Assessments shall be payable by Owners to the Association as set forth in the Bylaws and as determined by the Board.

**6.6 Liens.** Assessments along with interest thereon at the highest rate allowed by law and all costs and expenses of collection (including but not limited to late fees), including reasonable attorneys' fees and costs incurred in attempting to collect said Assessments before suit or after the filing of suit, at the trial level, appellate level or otherwise, are hereby declared to be a continuing lien upon the Plot against which such Assessments are made. Each Assessment together with interest thereon at the highest rate allowed by law, late fees, and costs and expenses of collection thereof, including attorneys' fees, shall be the personal obligation of the person, persons or entity owning the Plot assessed and shall be the joint and several liability of all future owners of the Plot. Except as otherwise provided below, any person or entity which acquires title to a Plot, including a purchaser at a judicial sale, shall be jointly and severally liable with their predecessor in title for all unpaid Assessments against the predecessor for his share of the Assessments, including interest, late fees, attorneys' fees and all other costs and expenses of collection incurred by the Association up to the time of the transfer, without prejudice to any right the transferee may have to recover from the transferor the amounts paid by the transferee. The lien shall set forth the Assessments due to the Association as of the date the lien is signed and shall be acknowledged by an officer or agent of the Association. The lien shall secure additional Assessments that become due, as well as interest, late fees, attorneys' fees and all other costs and expenses of collection that are due and become due after recordation of the lien. Upon recordation in the Public Records of Lee County, Florida, the lien shall relate back to the date of recording of the Original Declaration, except as to first mortgages of record. As to first mortgages of record, the Association's lien is only effective from and after recording of a claim of lien against the Plot. Upon full payment of all sums secured by the lien and costs and fees accrued, the party making payment shall be entitled to a recordable satisfaction of lien. If any first Mortgagee obtains title to a Plot as a result of a foreclosure of a first mortgage or a deed is given in lieu of foreclosure of a first mortgage of record, such acquirer of title shall be liable for the share of Assessments pertaining to such Plot or chargeable to the former Owner, and which became due prior to the acquisition of title as a result of the foreclosure or deed in lieu of foreclosure of said first mortgage of record as provided in Section 720.3085 of the Act. Any unpaid share of Common Expenses for which such acquirer is

exempt from liability becomes a Common Expense collectible from all Owners (and/or Limited Members, as applicable), including the acquirer and his successors and assigns. No owner or acquirer of title to a Plot by foreclosure (or by a deed in lieu of foreclosure) may during his period of ownership, whether or not the Plot is occupied, be excused from the payment of any Assessments coming due during the period of such ownership.

**6.7 Payment & Remedies for Delinquency.** The owners of a Plot at the time an Assessment is made by the Association against the Plot shall pay to the Association the amount assessed against each Plot together with interest thereon at the maximum rate from time to time allowable by law, late fees at the greater of twenty-five U.S. Dollars (\$25) or five percent (5%) of the amount of each installment that is paid past the due date, costs of collection and attorneys' fees incident to collection from the date due and payable until paid in full, and the costs incurred by the Association in collecting the same, if any. In addition, the Association, through its Board, shall have additional, non-exclusive remedies, including, but not limited to the following, the exercise of which shall not be deemed a waiver of any other remedy or an election of remedies.

**6.7.1** Acceleration of the entire amount of any Assessment for the remainder of the Association's fiscal year, notwithstanding any provisions for the payment thereof in installments.

**6.7.2** To advance on behalf of said owner funds to accomplish the needs of the Association. The amount or amounts of money so advanced, including attorneys' fees and expenses which might have been reasonably incurred because of or in connection with such advance, including costs and expenses of the Association if it must borrow to pay expenses because of said owner, together with interest at the highest rate allowable by law, may thereupon be collected or enforced by the Association and such advance or loan by the Association shall not waive the default.

**6.7.3** To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the Association in a like manner as the foreclosure of a mortgage on real property or as otherwise provided by law.

**6.7.4** To file an action at law to collect said Assessments, plus late fees, interest at the highest rate allowable by law plus all expenses and costs of collection, without waiving any lien rights and/or rights of foreclosure by the Association.

**6.7.5** To suspend Common Area use rights, voting rights and the right to serve on the Board as provided by law.

**6.7.6** Without order of the Court, direct rental income, by written notice to the tenant(s) of a Lot with copy to the Lot's delinquent owner, to be paid to the Association until all outstanding Assessments, interest, late fees, costs, collection expenses, attorneys' fees and receivers' fees, if applicable, are satisfied. As an alternative, the Association may apply to a Court of competent jurisdiction, either in connection with a foreclosure suit, a personal suit, or otherwise, to have rental proceeds paid on account of a Plot in default paid directly to the Association, the Court registry, or a receiver, as the Court may direct. The Association may choose any of these

courses of action as the Board deems appropriate without same constituting a waiver or election of remedies.

**6.8 Application of Payments.** Payments received after the due date established by the Board shall be applied first to interest, late fees, costs and attorneys' fees and then to the principal owed regardless of any restrictive endorsement included with the payment.

**6.9 No Waiver for Non-Use.** No one may waive or otherwise escape liability for payment of Assessments, interest, late fees or costs by reason of the failure to improve their Plot or the non-use or abandonment of their Plot or of the Common Areas.

**6.10 Certificate of Unpaid Assessments or Charges.** Any owner of a Plot has the right to require from the Association a certificate showing the amount of unpaid Assessments against them with respect to their Plot. The Association, its agents, and counsel shall be entitled to charge a fee for preparing such information, in amounts established by the Board, or in a management agreement between the Association and an association management firm, or based on reasonable and customary fees charged by legal counsel.

**ARTICLE VII. THE ASSOCIATION'S PURPOSES AND POWERS.** The primary purposes of the Association are to hold title to, operate, maintain, repair and replace the Common Areas of the Community and Association Property; to enforce restrictive covenants applicable to the Community; to provide architectural and aesthetic control; and to take such other action as the Association is authorized or required to take with regard to the Community pursuant to the Governing Documents. The Association shall operate, insure, maintain, and repair all property and related improvements designated by the Association as Common Areas, regardless of whether legal right to that property has been formally conveyed to the Association.

**7.1 Management of the Common Areas and Association Property.** In addition to all powers and authority created by the Articles, the Association's authority to manage the Common Areas and the Association Property shall include:

**7.1.1** The right to establish Rules governing the use of the Lots, the Common Areas, and Association Property.

**7.1.2** To the greatest extent, the right to charge reasonable fees or Assessments for the use of the Common Areas and Association Property.

**7.1.3** In accordance with Florida Statute Section 720.305, the right to suspend a Member's rights to vote and to use Association Property and Common Areas for any period during which any Assessments against the Member's Lot or any obligation of the Member to the Association remains unpaid, and for a reasonable period during or after any infraction of the Association's Governing Documents.

**7.1.4** Without limiting the authority of any assignee of remaining Declarant rights, the right to dedicate or transfer all or any part of the Association Property and Common Areas to any governmental agency, public authority, or utility.

**7.1.5** The right to borrow money for the purposes of acquiring, maintaining, repairing, replacing, and altering Association Property, Common Areas, or property that is to be publicly dedicated but required to be upgraded or maintained by any local, state or federal government agency, and in aid thereof to mortgage the same, provided any of the above is first approved by at least two-thirds (2/3rds) of the Voting Interest that is actually present, in person or by proxy, and voting at a duly noticed meeting of the Association's Members.

**7.1.6** The right to take such steps as are reasonably necessary to protect the Common Areas against foreclosure.

**7.1.7** Subject to the limitations described herein, the right to grant easements to all or any part of the Common Areas to any person or legal entity.

**7.1.8** The right and obligation to establish a budget for its fiscal operations and to establish the Assessments needed for such fiscal year.

**7.1.9** The right to enforce the provisions of the Governing Documents.

**7.1.10** The authority to enter into agreements with Lee County, Florida or other governmental authorities, or another association, whereby the Association takes on the obligation to maintain property that is not Common Area or Association Property or whereby a third party takes on the Association's obligations to maintain the Common Areas and Association Property, and so as to authorize the imposition and expenditure of Assessments to fund such obligations.

## **7.2 Water Management and Conservation Areas.**

**7.2.1 SWMS.** The Association is responsible for the operation, maintenance and management of the SWMS, in accordance with the provisions of the DRI Development Order, as such DRI Development Order may be now or hereafter amended, and any applicable permits from the Florida Department of Environmental Protection, U.S. Army Corps of Engineers, and the South Florida Water Management District. Any land used for surface water or storm water management or designated as preserve areas shall be placed under the control of the Association, either by direct conveyance of such land as Common Area, or the granting of an easement or license over such land to the Association.

**7.2.2 Conservation Areas.** The Association is responsible for the maintenance and preservation of any lands within the Lands that are dedicated as Conservation Easements, and any other lands within the Lands for which specific maintenance requirements have been imposed, in accordance with the provisions of the DRI Development Order as such DRI Development Order may now or hereafter be amended, and any applicable permits from the Florida Department of Environmental Protection, U.S. Army Corps of Engineers, and the South Florida Water Management District.

**7.2.3 Rules on SWMS and Conservation Areas.** The Association, through its Board, may adopt Rules governing the maintenance, conservation, and preservation of the use of lands designated for water management and Conservation Areas; provided, however, that said

Rules shall not contravene the provisions of the ordinances, resolutions and permits referenced in Sections 7.2.1 and 7.2.2 above.

**7.2.4 No Alterations or Encroachments.** No structure of any kind shall be constructed or erected, nor shall anyone in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of a water management, lake or preserve area reserved for, or intended by Declarant, or any assignee of remaining Declarant rights, to be reserved for, drainage ways, sluiceways or for the accumulation of runoff waters, as reflected in any plat or instrument of record, without the specific written permission of the Association.

**7.2.5 Ingress and Egress.** The right of ingress and egress, and easements therefore, are reserved over the water management, lake, and preserve areas in favor of the Declarant (and assignees of remaining Declarant rights), the Association, and any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress. No one may prevent ingress and egress by Declarant, the Association, or any appropriate governmental or quasigovernmental agency to such water management, lake, and preserve areas for maintenance or landscape purposes.

**7.2.6 No Filling.** No Plot shall be increased in size by filling in any water management, lake or preserve area on which it abuts, nor shall anyone fill, dike, rip-rap, block, divert, or change the established water management, lake, and preserve areas that have been or may be placed under Association control by conveyance, dedication, easement or license without the prior written consent of the Association.

**7.2.7 Funding Association's Duties.** The Association shall have the power and obligation to levy and enforce sufficient assessments, pursuant to Article VI of this Declaration, to comply with this Section.

**7.2.8 Perpetual Maintenance.** In the event the Association is dissolved, the Association shall (and the Articles of Dissolution shall so state) convey or dedicate its interest in the SWMS and Conservation Areas and assign its responsibilities under this Section 7.2 (and all subsections) to a non-profit entity authorized to perform the obligations of the Association under this Section 7.2 (and all subsections).

**7.3 Costs.** All costs associated with operating and maintaining the Common Area and Association Property shall be the obligation of the Association, except as responsibility for maintenance is otherwise set forth herein.

**7.4 Rules and Regulations.** The Association, by its Board, shall have the right to promulgate and impose reasonable Rules and thereafter modify, alter, amend, rescind, and augment any of the same with respect to the use and operation of the Lots, Common Areas, and Association Property and the operation and administration of the Association. The Rules so promulgated shall in all respects be consistent with the use covenants set forth in this Declaration. Further, the Rules shall not be arbitrary or capricious.

**7.5 Manager.** The Association may contract, employ, and pay for the services of an

entity or person to assist in managing its affairs and carrying out its responsibilities, and may employ other personnel as the Board may determine to be necessary or desirable.

**7.6 Personal Property.** The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

**7.7 Express and Implied Powers.** The Association may exercise any rights, powers or privilege given to it expressly by the Governing Documents or by the law in effect at the time that this Declaration is recorded, and every other right, power or privilege that is reasonably inferable therefrom.

**7.8 Acts of the Association.** Unless the approval or affirmative vote of the Members is specifically made necessary by some provision of applicable law or the Governing Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board, without a vote of the Members. The officers and directors of the Association have a fiduciary relationship to the Members. A Member does not have the authority to act for the Association by reason of being a Member.

**7.9 Articles of Incorporation.** A true and correct copy of the Articles of Incorporation of the Association are attached as Exhibit "B."

**7.10 Bylaws.** The Bylaws, as amended and restated, of the Association are attached as Exhibit "C."

**7.11 Official Records.** The official records of the Association shall be maintained within the State of Florida and as required by Florida Statute Section 720.303 and must be open to inspection and available for photocopying by Members and their authorized agents at reasonable times and places.

**7.12 Services.** The Association may, if the Board decides to do so, perform or provide any of the following, additional services:

**7.12.1** The Association may, to the extent permitted by all applicable governmental authorities and land owners, maintain properties including, but not limited to, publicly dedicated rights-of-way, that are located within a reasonable proximity to the Lands to the extent that their deterioration or appearance would adversely affect the quality or appearance of the Lands. The Association may adopt and may amend and/or supplement standards of maintenance and operation applicable to the Lands which is the maintenance responsibility of another entity or person to assure that such maintenance responsibilities are carried forth in a manner so as to maintain the beauty and aesthetic quality of the Community.

**7.12.2** Provide maintenance of any real property upon which the Association has accepted, in an amendment hereto or in another writing, an easement for said maintenance.

**7.12.3** Take any and all actions the Board deems necessary to enforce all covenants, conditions and restrictions affecting any part of the Lands and to be entitled to be

reimbursed by the Owner for the expense or any cost associated with such services.

**7.12.4** Conduct the business of the Association, including, but not limited to, the hiring of professionals to provide services such as legal, accounting, financial and communication services and inform Members of activities, meetings and other important events as the Board deems necessary or appropriate.

**7.12.5** Purchase insurance coverage for and in favor of the Association including but not limited to: general liability and hazard insurance covering improvements and activities on the Common Areas and the Association Property, directors and officers insurance, and any fidelity bond.

**7.12.6** Publish and provide notice of and enforce, as the Association deems necessary, the Rules.

**7.12.7** Provide and maintain traffic calming devices or install lighting for roads, sidewalks, and bike paths, if any.

**7.12.8** Construct, repair and maintain Improvements in the Community as further specified herein.

**7.12.9** Enter into a bulk or non-bulk contract for the provision of communications services as defined in Florida Statute Section 202.11, information services, and/or Internet services, which shall be deemed an operating expense of the Association.

**7.12.10** Provide, to the extent deemed necessary by the Board, any and all services, and do any and all things which are incidental to or in furtherance of things listed above, or to carry out the Association mandate to keep and maintain the Common Area, Association Property, and the Lots in a proper and aesthetically pleasing condition and to provide the Owners with services, amenities, controls, and enforcements which will enhance the quality of life or benefit the property values in the Community.

## **ARTICLE VIII. PROPERTY MAINTENANCE.**

**8.1 Association's Duties to Maintain, Repair, and Replace Common Areas and Association Property.** The Association shall maintain, repair, and replace, as necessary, the following, notwithstanding ownership: (i) any Association Property; (ii) the Community's entry walls, signs, and lighting; (iii) the landscaping and the irrigation system located at the entrances to the Community and in any Common Area Tracts located within the Community; and (iv) the common roadway in the Community, with the exception of any roadway that is dedicated to the public, such as Tract "O" of the Plat of Cedar Creek Phase I, a Subdivision (Elementary Way). Only the Association's agents and employees may access or control the irrigation systems for Common Areas and Association Property, and an Owner shall be responsible, as a Charge, for the cost of repairing any damage caused to this irrigation system by the Owner or any party for whom the Owner is responsible. The Association's duties to maintain, repair, and replace may include landscaping, walls, fences, signs, electrical and utility installations, and other

improvements that are located within the Common Areas for aesthetic purposes. Nothing contained herein prohibits the Board from determining to maintain any landscaping within or adjacent to any public or private street or right-of-way contiguous to the Community, to the extent said street or right-of-way is not maintained by any other party to an acceptable level, as determined by the Board. The Association's cost of performing its maintenance, repair, and replacement duties is a Common Expense unless otherwise expressly provided in this Declaration. If, however, the Association is required to maintain, repair, or replace anything due to the intentional or negligent act or omission of an Owner, the Owner's Guest, or any Resident of the Owner's Living Unit, then the Association's cost shall become a Charge against the Owner that is collected to reimburse the Association. The Association is responsible for the maintenance of fences constructed at the rear of Lots 1 through 14, Block A and Lots 8 through 9, Block G, of the plat of Cedar Creek Phase I. The Association has an access easement over and across these Lots to enable the Association to perform its responsibilities hereunder. Such access easement shall not be used by the Association in a manner that interferes with the use of such Lots by the owners thereof for residential purposes.

## **8.2 Owner's Duties to Maintain, Repair, and Replace Lots and Living Units.**

Except as otherwise provided herein to the contrary, all portions of a Lot and its Living Unit (if any), and all fixtures, equipment, appliances, and other improvements comprising any part thereof or exclusively serving the same, including, but not limited to, screens and screen enclosures; screen doors; windows and doors; window caulking; window sills and sliding door tracks; driveways; exterior steps and walkways; garage doors and openers; roofs; soffits; gutters; attic and garage vents; landscaped areas; exterior painting; porches and walkways; exterior doors; light fixtures; pool decks; pools, spas, and pool equipment; fences and walls; all mechanical and electrical systems; and heating, ventilating, and air conditioning systems and components; shall be regularly and continuously maintained in good condition and in a well-kept appearance, kept in good repair, and, when necessary, replaced by and at the expense of the respective Lot's Owner. All retaining walls and engineered terrace wall bulkheads, if any, are part of the Lots for which they are constructed. These retaining walls and engineered terrace wall bulkheads are not part of the Common Areas. An Owner shall repair and maintain any retaining wall and any engineered terrace wall bulkheads constructed on their Lot. If it becomes necessary for a portion of a retaining wall or an engineered terrace wall bulkhead to be situated partially on an adjacent Lot, then the Owner of the Lot benefitted by the structure shall have an easement over the adjacent Lot for purposes of maintenance and the Owner shall remain responsible for the maintenance and repair of the entire structure. All maintenance, repairs, or replacements for which Owners are responsible and obligated to perform, which, if not performed or omitted would affect other Living Units or the appearance of the Owner's Living Unit, shall be performed promptly as the need arises. The minimum standard for the Owner's performance of exterior maintenance is consistency with the general appearance of the Home as initially constructed and subsequently improved, considering normal weathering and fading of exterior finishes, but not to the point of unsightliness. In addition, without limiting the foregoing, Owners are subject to the following restrictions and requirements:

**8.2.1 Lawns, Landscaping, & Irrigation Systems.** Except for designated Conservation Areas and portions of the SWMS (including littoral zones), buffer zones (intended to separate Lots or buildable portions thereof from Conservation Areas), open space or other similar areas, all areas not covered by structures, walkways or paved parking facilities shall be

maintained by their Owners in an aesthetically pleasing manner as lawn or landscaped areas to the pavement edge of any abutting streets, sidewalks, or littoral zones and shall be irrigated with underground sprinkler systems that have rain sensor switches. Stone, gravel, or paving may not be used as a substitute for grass in a lawn. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot. No high weeds, underbrush, high grass or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse or waste shall be allowed to be placed or suffered to remain upon any Lot. Owners shall irrigate, mow, trim, and regularly care for all landscaping and yard areas. Owners shall promptly remove and replace any dead or diseased sod, shrubs, flowers, or other plants on their Lots, and Owners shall promptly prune and remove excessive weeds, underbrush, and unsightly growth from their Lots. All lawns and landscaping shall be completed at the time of completion of any new structure as evidenced by the issuance of a certificate of occupancy by the appropriate governmental agency, and shall thereafter be kept in good condition by the Owner. Owners shall regularly cut and mulch the planting beds and other landscaping areas of their Lots. Wherever a Lot's landscaping extends naturally beyond the boundary of the Lot, such as where a driveway or other improvement extends into a road right-of-way shown on the Plats, the Lot's Owner shall be responsible for maintaining the landscaping that encroaches beyond the Lot's boundary as if the landscaping were an extension of the Lot. The Association shall maintain, repair and replace any sprinkler heads situated on an Owner's Lot, unless damage is by the Owner's misuse or intentional act, and each Lot Owner shall be solely responsible for the maintenance, repair and replacement of all other components of the irrigation system and all other irrigation equipment including all lines, timers, valves, risers, and switches located on or servicing their Lot. An Owner shall maintain, repair, and replace, in good and serviceable condition, all components of the irrigation systems that the Owner is responsible for maintaining. If a Lot Owner does not regularly service their Lot's irrigation and if dirt is found in the valves of the Lot's irrigation control box, then the Association may perform such repair and replacement as necessary and such Owner is responsible for all costs so incurred as a Charge to the Owner.

**8.2.2 Driveways, Parking Areas, and Walkways.** Owners shall maintain driveways, parking areas, and walkways in a clean condition that is free from oil, rust or other unsightly stains; pollen; vegetation, including, without limitation, weeds (dead or alive); accumulated dirt or mud; mold and mildew; and excessive cracking, potholes, or missing pavers. Owners shall regularly sweep, clean, and power wash these areas of their Lots, and Owners shall regularly repair any cracks and damaged portions of these areas.

**8.2.3 Pools and Spas.** Owners must regularly clean and service their pools, spas, and accompanying equipment. Pool and spa water shall not become stagnant, discolored from algae or other biological growth, or a habitation for mosquitos. No pools may be left empty, except temporarily while undergoing maintenance, repair, or construction and only with sufficient signage and barriers to prevent an unreasonable risk of harm. Pool and spa maintenance equipment stored or used on a Lot must be stored in such manner as not to be visible from any road easement or common roadway of the Community. These items must be stored behind a visual barrier of an aesthetically pleasing appearance, which must be approved by the ARC.

**8.2.4 Drainage Easements.** Those drainage easements that lie between the Lots, as depicted on the Plats, shall be maintained by the Owners of the Lots that abut the drainage easements. These Owners shall keep these drainage easements free from weeds, debris, and any

obstructions that could impede or alter the flow of water through such drainage easement areas.

**8.2.5 Association Access to Property.** The Association and its agents may enter upon a Lot at reasonable times to maintain the Association's Common Area and easements, to remove refuse, and to provide exterior corrective maintenance as further permitted in this Article VIII. The Association shall have the right to use the Lot Owner's water, from an outside spigot, in reasonable amounts, without compensation to the Owner, if used for maintenance of the Owner's property, the Common Area, or the Association's easement immediately contiguous to such Owner's property. This subsection does not allow the Association to enter into any structure located on an Owner's property, unless such entry is absolutely necessary to perform corrective maintenance pursuant to this Article VIII. In any instance where entry into a building is necessary, the Association shall make a good faith attempt to notify the Owner or the Residents of the Lot of the need for said entry and to arrange a mutually convenient time for said entry.

**8.2.6 Mailboxes.** All mailboxes located upon the Lots, or in Common Areas near the Lots, shall be maintained, repaired, and replaced by the Owner of the Lot who is utilizing, or whose property has use of, the mailbox, at the sole cost and expense of the Lot's Owner. Owners shall be responsible, as a Charge, for any cost incurred by the Association to repair or replace a mailbox due to damage caused by the Owner or the Resident or Guest of the Owner's Lot. No mailbox may be altered or replaced without authorization from the ARC, as further provided in Article XI of this Declaration, and any replacement must be consistent with the design and color of the mailboxes found throughout the Community and any Architectural Guidelines and Review Procedures.

**8.3 Enforcement upon Non-Compliance.** If an Owner fails to uphold their duties to maintain, repair, and replace their Lot or Living Unit, then, upon ten (10) days' written notice by the Association, except in an emergency, the Association may, but shall not be obligated to, enter upon the Lot or Living Unit and perform all necessary work, the cost of which shall then be assessed to the Owner as a Charge. For purposes of this Section only, an emergency means circumstances in which there will be imminent harm to persons or property if prompt action is not taken. In an emergency, the Association is not required to provide written notice before entering upon a Lot or Living Unit to perform necessary work at the Owner's expense as a Charge. Notwithstanding, nothing herein obligates the Association to exercise its rights under this Section. No exercise of this remedy or any other remedy provided in the Governing Documents or under the Act shall be deemed an election of remedies, and all available remedies shall be deemed to be cumulative and not exclusive.

**ARTICLE IX. RESTRICTIONS.** The Community is subject to the following covenants, restrictions, reservations and conditions which shall be binding upon each Owner and Lot and upon their respective heirs, personal representatives, successors and assigns, as well as any Residents, Tenants, or Guests who enter the Community. These restrictions shall only apply to the Lots and shall not affect the property of any Limited Member.

**9.1 Use and Condition.** No portion of the Community shall be used for any immoral, improper or unlawful purpose. Further, no use or behavior shall be allowed that will: (i) create a public or private nuisance; (ii) unreasonably interfere with the quiet possession or enjoyment of any Owner, Resident, or Guest of the Community; (iii) be a source of annoyance to any Owner,

Resident, or Guest of the Community; (iv) increase insurance rates; (v) negatively affect the value of the Lots; or (vi) present an unreasonable risk to the health, safety, or welfare of others. In the event that there is a dispute regarding whether a specific activity or behavior qualifies as a nuisance or any one of the prohibited uses above, the Board reserves the right to make the final determination in its sole and absolute discretion. All of the Association's agents and employees are at the direction of the Association's Board, and no one may attempt to direct, oversee, manage, chastise, or admonish any of the Association's agents or employees without the Board's prior, written consent. Without the Board's prior, written consent, it is a violation of this Section for any Owner, Tenant, Resident, or Guest to interfere with the work undertaken by the Association's agents or employees. Further, it is a violation of this Section for anyone to harass, such as through an unreasonable number of emails, phone calls, or letters; demean; berate; make unreasonable demands of; or use profane language in any communication toward any of the Association's employees or agents. Any Owner, Tenant, Resident, or Guest who interferes with any of the Association's agents or employees, causing said agent or employee to terminate their employment or their engagement with the Association, shall be liable to the Association for the Association's added cost to hire a replacement employee or other agent, and this cost shall become a Charge against the Owner at fault or deemed to be responsible for the actions of the party at fault. All property in the Community shall be kept in a neat and orderly manner. All parcels in the Community shall be used in accordance with all federal, state, and local laws and ordinances. No unsightly growth shall be permitted to grow or remain upon any Lot or Common Area and no refuse pile or other unsightly object shall be allowed to be placed or to remain anywhere. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles, or any items which may unreasonably interfere with television or radio reception of any Owner may be located, used, or placed on any Lot or exposed to the view of other Owners without the prior written approval of the Board, which approval may be conditioned or denied by the Board for any reason or for no reason in the Board's sole discretion. All loose items of personal property, such as tools, toys, furniture (excluding patio furniture), appliances, and household items must be kept indoors or in the rear yard of a Lot screened from view and not fronting any street. A Lot's exterior equipment, such as pool heaters, pool pumps, pool circulators, air condenser units, generators, water softener systems, and reverse osmosis systems shall be maintained, repaired, and occasionally replaced by the Lot's Owner to prevent excess or unreasonable noise. Quiet hours, when all noise and sound should be kept to a minimum, are between the hours of 10:00 p.m. ET and 7:00 a.m. ET.

**9.2 Residential Use.** The Lots may only be used for residential purposes and as a home for a single Family. No more than two (2) persons per bedroom, plus two (2) may Occupy a Living Unit at any one time, and, in no event may more than six (6) individuals occupy a Living Unit that is being Leased. No industrial or other non-residential use is permitted. No trade, business, profession or other commercial activities may be conducted on any Lot or within any Living Unit, which would indicate in the sole discretion of the Board, that the Living Unit or Lot was being used for a business, profession, trade, or other commercial use, nor may the name of the Community or the address of any Lot or Living Unit be publicly advertised as the location of any business. Notwithstanding, the address of a Living Unit may be registered with applicable governmental agencies as the principal office or mailing address of any business. The use of a Living Unit as a public lodging establishment shall be deemed a business or commercial use. This

Section shall not be construed to prohibit any Owner or Resident from maintaining a personal or professional library; from keeping his personal, business, or professional records in his Living Unit; or from handling his personal, business or professional telephone calls or written correspondence in and from his Living Unit; provided that any such use does not involve customers or clients coming into the Community; the posting of any signage in the Community; or the storage of any equipment, products or materials in the Community. Such uses are expressly declared customarily incident to residential use. This Section is, however, intended to prohibit commercial or business activity by an Owner or Resident that would unreasonably disrupt the residential ambiance of the Community or make it obvious that a business is being conducted, such as by regular or frequent traffic in and out of the Community by persons making deliveries or pick-ups, by employees or other business associates, or by customers or clients.

**9.3 Waterbodies.** No boats, kayaks, canoes, or watercraft of any type may be used on any water body which is part of the Common Areas, except those used by the Association or contractor for maintenance or other lawful purposes. No solid or liquid waste, litter, or other materials may be discharged or thrown into any waterbody or on the banks thereof. No landscaping (other than that initially installed or approved by the ARC) or improvements (regardless of whether or not permanently attached to the land or to other improvements) may be placed within any Conservation Area or any lake, maintenance, access, or similar easements around waterbodies.

**9.4 Animal Restrictions.** Violation of any of the following conditions or any supplemental Rules shall be grounds for the removal of the animal at issue:

**9.4.1 Type, Number, & No Commercial Purpose.** Residents may keep and harbor only commonly accepted household animals in reasonable numbers; provided, however, that if the number of animals kept in a Living Unit at any time is deemed by Lee County Domestic Animal Services or applicable local ordinance as unreasonable or excessive, the same shall be automatically deemed unreasonable hereunder. Residents are prohibited from keeping or bringing any other pets and any commercial animals into the Community, including, without limitation, livestock, poultry, horses, and pigs. No animals may be bred or raised in the Community for any commercial purpose. Further, the handler of any pet shall indemnify, defend, and hold the Association harmless against any loss or liability of any kind or character whatsoever arising from or growing out of bringing the pet into the Community. An Owner or Tenant shall maintain liability insurance covering damage caused by any pets that the Owner or the Residents of the Owner's Lot keep or bring into the Community or invite into the Community.

**9.4.2 Breed and Temperament Restrictions.** Wolf-hybrids are prohibited as pets. The following breeds/hybrids of cat are prohibited as they are generally considered to be dangerous or aggressive: F1-F3 Savannahs, F1-F3 Bengals, and/or any other exotic-mixed cat within the F1 and F3 generations or any hybrid of the foregoing. As of the recording date of this Amended and Restated Declaration, all such pets that presently reside in the Community on a permanent basis may remain, unless removed for another reason, but may not be replaced. Notwithstanding the foregoing, in no event may a "dangerous animal," as defined by Section 4-19 of the Code of Ordinances of Lee County, Florida (published 2023) remain in the Community.

**9.4.3 Handler.** The term “**Handler**” shall mean the individual or individuals who own any animal or who are caring for any animal that is residing in the Community or temporarily visiting the Community.

**9.4.4 Animal Handling.** All animals must be on a leash or in a carrier at all times while present in an unconfined space outdoors. No animals may be tied-up or left unattended outside of a Living Unit or on a patio or balcony, and no animal may be kept tied outside of a Living Unit. Handlers must be physically capable of restraining their animals at all times. If a Handler is incapable of restraining their animal such that the animal is allowed to lunge or come into unwanted contact with others (including other animals), then the Handler must remove the animal from the Community. Animals may not come into unwanted physical contact with others (including other animals).

**9.4.5 Waste Collection.** Handlers must promptly pick up all solid waste that is left by their animals anywhere outside of the Handler’s Lot. Handlers are not permitted to bring any animal into the Community or keep any animal that regularly exhibits aggressive behaviors and tendencies, including, without limitation, growling, snarling, hissing, showing teeth, scratching, or biting, and Handlers may be required by the Association to remove these animals from the Community after a written warning.

**9.4.6 Nuisance.** Animals may not become an unreasonable source of noise or annoyance, including, but not limited to, uncontrolled barking, growling, grunting, or howling. If reasonable noise complaints are made in regard to a Handler’s animal, then the Handler may be asked to consult with a veterinarian on the use of a bark collar or other similar device to prevent excessive or loud noise. If these measures are insufficient to stop the noise, then the Handler must remove the animal from the Community.

**9.4.7 Vaccination and Licensing.** Handlers must keep their animals up to date with their rabies vaccination in accordance with local ordinances, and proof of updated vaccination record must be provided to the Association upon reasonable request. In addition, Handlers must maintain a pet license for their animals with Lee County, as required by Section 4-39 of the Lee County Code of Ordinances. Any violation of the provisions of this Section is deemed to be an unreasonable annoyance or nuisance to the Residents.

**9.5 Optional Services.** The Association has the right, but not the obligation, to offer optional services to the Owners, such as landscape maintenance, exterior painting, security, and pest control. The expense of providing these optional services shall be collected as a Charge against the Owners receiving the optional services.

**9.6 Reconstruction or Remodeling of Existing Living Units, Commencement and Completion.** In the case of any reconstruction or major remodeling or additions to existing Living units, once the construction of any building or other improvement is commenced, substantial work toward the completion of the construction will be pursued diligently and the buildings and other improvements completed within a reasonable period of time after commencement. If, for any reason, there is no substantial progress made toward the completion of a building or other improvement commenced on a Lot for a period of ninety (90) days, then after the Association provides the Lot’s Owner with written notice, the Association may enter upon

the premises and take such action as the Association may deem appropriate to correct the undesirable appearance of the partially completed buildings and improvements, including completion thereof, at the cost and expense of the Owner of the Lot, which shall be assessed as a Charge. Any member of the ARC or its agents shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purposes of ascertaining whether or not these restrictive covenants have been or are being satisfied. Such persons shall not be deemed guilty of trespass by reason of such entry.

## **9.7 Garbage and Yard Waste.**

**9.7.1 Storage and Disposal of Garbage.** In order to preserve the beauty of the Community, all garbage, trash, horticultural waste, detritus, debris of any kind, refuse, rubbish, recyclables, or personal property to be disposed of (collectively, “**Garbage**”) must only be kept within the Community in rubbish/recycle bins, in closed plastic or recyclable paper bags, or neatly tied piles of horticultural waste, with the exception of furniture, appliances, and other bulk items that may be temporarily kept with rubbish bins for a scheduled garbage collection. As an example, without benchmark or limitation, horticultural waste cannot be disposed of in back yards, in Conservation Areas, or in drainage areas, but must be disposed of in bins or must be tied neatly for collection. Any landscaper who is observed dumping horticultural waste anywhere in the Community may be prohibited, upon a vote of the Board, from further work in the Community. Owners are responsible for storing and disposing of their Garbage.

**9.7.2 Garbage Containers.** All Garbage, rubbish/recycle bins, other trash containers, trash bags, oil tanks, and the like must be: (i) hidden or not visible from the vantage of anyone standing on a street in the Community or standing on another Lot until less than twenty-four (24) hours to a scheduled garbage collection and then returned to screening no later than twenty-four (24) hours after pickup; (ii) kept in a safe and clean condition without noxious or offensive odors emanating; (iii) sealed in such a way as to prevent the attraction of vermin and insects; and (iv) when set near the street for collection, placed in such a way so as not to block the flow of water through gutters and into drains. Owners shall place garbage/recycle cans and bags at the ends of their driveways next to the street the afternoon or evening before collection, and all garbage cans and any remaining garbage bags must be removed and screened from view by the end of the following day. If debris are not collected as scheduled, then they must be removed from the curb and returned to screening.

**9.7.3 After Storm.** In the event of a severe storm, such as a hurricane, which generates large amounts of garbage and debris, during the immediate aftermath of the storm, all such garbage and debris generated by the storm may be stored as neatly as practicable next to the driveway or on a Lot’s front lawn until pickup.

**9.7.4 Dumpster.** Dumpsters may be placed on Lots temporarily for construction projects and for other projects that are anticipated to involve the production of a large amount of Garbage, and no dumpster may be placed on a Lot without the Board’s prior written consent which shall not be withheld or delayed unreasonably.

**9.8 Vehicle Storage and Parking.** Any vehicle that is parked or stored in violation of this Section or any Rules adopted by the Board in furtherance of this Section, is subject to being towed away at expense of the vehicle's owner without further warning.

**9.8.1 Definitions.** The following definitions shall apply to this Section 9.8:

**9.8.1.1 "Bus"** means all vehicles of any kind whatsoever, including vans, manufactured, designed, marketed or used as a bus, for transport of nine (9) or more passengers, or the carriage of goods, but does not include Class B RVs and similar vehicles, such as Sprinter vans with fewer than nine (9) seats.

**9.8.1.2 "Commercial Vehicle"** means any vehicle that shows or tends to show any commercial or charitable institution (e.g. church or school) markings, signs, or displays; that contains mounted tool racks, toolboxes, ladders, or equipment racks; that has an altered bed; or that has any other indications visible on the exterior that the vehicle is used for a purpose other than personal passenger travel and hauling equipment or materials within an enclosed cab or trunk. Any vehicle that contains exterior graphics or markings (painted, magnetic or wrapped in vinyl) bearing signage, business logos, telephone numbers, advertising and/or internet/website addresses shall be deemed a Commercial Vehicle. Further, vehicles that are not primarily designed for family transportation, including, but not limited to, limousines and hearses shall also be considered Commercial Vehicles, regardless of actual use. The term "Commercial Vehicle" shall exclude any Government Vehicles.

**9.8.1.3 "Governmental Vehicles"** means all vehicles of any kind whatsoever which contain markings or apparatus indicating that the vehicle is used in the performance of governmental services or functions, and not primarily as a passenger automobile. By way of example, but not limitation, fire trucks, ambulances and City or Lee County staff vehicles are included within the description of Governmental Vehicles.

**9.8.1.4 "Inoperable Vehicles"** means any vehicle that is not capable of normal and safe highway travel in its present condition. Any vehicle that is required to be registered but does not display a current automobile license tag shall also be deemed an Inoperable Vehicle.

**9.8.1.5 "Recreational Vehicles"** means a large class of vehicles that are not primarily passenger vehicles for commuting, including the following: (i) all vehicles or conveyances that are primarily designed or marketed for recreational or non-highway use and include, without limitation, off-road vehicles, four-wheelers, dune buggies, dirt bikes, mini-bikes, and swamp buggies; (ii) all vehicles, attachments, vehicle toppers, trailers or other enclosures or devices of any kind whatsoever that are manufactured, designed, marketed or used for the purpose of camping, recreation, or temporary housing of people or their personal property, whether or not self-propelled or constructed on a motor vehicle chassis; (iii) any structure or device of any kind whatsoever that is not self-propelled but which is transportable as a whole or in sections and is manufactured, designed, marketed or used as a permanent or temporary dwelling; (iv) any vehicles that are self-propelled, built on a motor vehicle chassis, and are primarily manufactured, designed, marketed, or used to provide temporary living quarters for camping, recreational or travel use, including, without limitation, all vehicles that contain showers, restrooms facilities, or cooking

facilities; (v) electric bikes, electric scooters, toy electric vehicles, and other, similar vehicles; and (vi) golf carts and low speed vehicles.

**9.8.2 Parking and Storage of Vehicles.** Vehicles shall not be permitted to be parked or stored at any time within the Community except in garages, driveways, and temporarily on streets as provided further below. Except as otherwise provided below, all Buses, Commercial Vehicles, Inoperable Vehicles, Recreational Vehicles, boats, and trailers of any kind must be parked or stored in a garage with the door closed, except temporarily, not to exceed three (3) hours, for loading and unloading. This provision shall not apply to the temporary (less than 12 hours) parking of any of these vehicles by Guests, vendors, and service providers who are present in the Community to visit a Resident or to furnish goods and services to the Community and its Owners and Residents or to Class B RVs and similar vehicles, such as Sprinter vans. However, in no event may any Recreational Vehicle or other vehicle be used as a habitation or a dwelling while present in the Community. No trash, debris, or other garbage may be kept in the beds of passenger pick-up trucks. No vehicle maintenance or repairs may be performed, including changing of oil or engine fluids unless performed inside the enclosed garage. The Board may relax or suspend the applicability or enforcement of these provisions in emergency conditions, such as in the aftermath of a hurricane. Notwithstanding the foregoing, the Owner or Residents of a Lot that abuts the Spring Creek may moor a boat at a dock constructed adjacent to such Lot, provided that all applicable governmental permits for such dock were obtained. Garage doors shall remain closed at all times except when garage is being used for ingress and egress.

**9.8.3 On-Street Parking.** On-street parking is prohibited between the hours of midnight and 6:00 a.m., ET, every morning. On-street parking is available at all other times to facilitate Guest parking. In all events, any vehicle parked on a Community street must be parked parallel and against the street curb and in the same direction as traffic (on the right-hand shoulder), and no vehicle may block or obstruct any driveway. The Board may relax or suspend the applicability or enforcement of these provisions in emergency conditions, such as in the aftermath of a hurricane.

**9.8.4 Speed Limit, Revving, & Operation.** A speed limit of twenty-five (25) miles per hour applies throughout the Community's common roadway. Engine revving and the operation of a vehicle without a stock muffler, manifold pipe, and tail piping in the Community are prohibited. No vehicles may be driven or operated except on driveways and the Community's common roadway. All motorized vehicles, except for golf carts, that have one-half (1/2) horsepower or more, including, without limitation, motorcycles, all-terrain vehicles, motor scooters, and mopeds must be registered and must have a current registration tag to be operated on any street within the Community. Golf carts and low speed vehicles are allowed to be used on the Community's roads. Based upon the safety requirements and restrictions found in Section 316.212 of the Florida Statutes (2024), a golf cart can only be operated on the Community's common roadway by a person who is under eighteen (18) years of age with a valid learner's driver license or a valid driver license or anyone who is at least eighteen (18) years of age. All golf carts operating on the Community's common roadway must be equipped with headlights (if operated between sunset and sunrise).

**9.8.5 Moving Trailers, Vans, PODs, & Home Renovation Storage Containers.** Moving trailers and vans, including placement and storage of PODs and similar

containers, and dumpsters and other home renovation storage containers may only be parked or stored on an Owner's driveway on a temporary basis with the Board's prior written approval which shall not be withheld unreasonably. When a Resident requests to keep one of these vehicles or containers, the Resident must provide the Board with a reasonable estimate of the length of time that the vehicles or container is needed by the Resident. If the Board approves of the placement of such a vehicle or container, then the Board shall specify the duration of time permitted, and the Board may grant extensions as necessary and reasonable. If an extension is not granted, then the vehicle or container must be removed by the Resident before the end of the approved duration.

**9.9 Mining and Drilling.** There shall be no mining, quarrying, or drilling for minerals, oil, gas, or otherwise undertaken within any portion of the Community. Excepted from the foregoing shall be activities of Association and its agents in keeping with the Association's Governing Documents.

**9.10 Subdivision and Regulation of Lands.** No Lot or Living Unit may be divided or subdivided. Subject to the other terms hereof, no Owner may initiate, undertake or attempt to inaugurate or implement any variation from, modification to, or amendment of the Community's general scheme of development or any other governmental plans, land development regulation, development orders, or development permits applicable to the Community, or to any Lot, Living Unit, or other parcel in the Community, without the prior written approval of the Board, which approval may be conditioned or denied by the Board for any reason or for no reason in the Board's sole discretion. Nothing herein is intended to prohibit judicial partition of a Lot or Living Unit.

**9.11 Drones.** Drones are not permitted for personal or recreational use anywhere in the Community. Drones may be used by vendors and service providers for the provision of goods and services in the Community and by the Association in the exercise of its obligations. No drone may be used or operated with the intention or purpose of pestering anyone nor may drone use interfere with a Resident's reasonable expectation of privacy.

**9.12 Restriction on Right to Withdrawal of Water.** The withdrawal or any use of the water from any lake, pond, retention facility or drainage ditch forming a part of the SWMS is prohibited without the prior, written approval of the Board or any Declarant with the right to authorize this water use. The right to use this water, if granted, shall only be for irrigation. Any Board approval may be given unconditionally or conditioned upon terms and limitations as the Board determines to be appropriate, in its sole discretion, including but not necessarily limited to, the imposition of a Charge for the use of the water. Any approval once given may be revoked or suspended by the Board if it, in its sole discretion, determines that the right has been abused or that circumstances have changed so that it is in the best interest of the Association that authorization be withdrawn. Likewise, the Board may impose additional conditions or alter those already imposed. Nothing contained herein imposes any obligation upon the Board to permit the withdrawal and use of water by any person and the Board may be arbitrary in reaching any determination hereunder; provided, however, those in substantially similar situations shall be treated in a uniform, fair and reasonable manner. If, however, the Board determines there are a limited number of Owners who may withdraw water from any given source, then the Board may limit the number who may so withdraw and use the water, and the Board may establish priorities as the Board determines to be appropriate. If use of this water is prohibited by applicable governmental permit, then no authorization will be granted to use this water.

**9.13 Water Supply; Wells.** This provision is carried over from Section 9.30 of the Original Declaration as amended. Each Living Unit shall be equipped with dual water lines, one of which shall be designed to utilize non-potable water. All underground irrigation systems must be connected to the non-potable water line and all outside spigots must be connected to the potable water line. Each owner shall be required to connect the water lines of their Plot to the lines of the utility provider(s) providing service to Cedar Creek. The utility provider providing such non-potable water service to the property in Cedar Creek is Resource Conservation Systems, LLC, its successors or assigns.

**9.14 Surface and Storm Water Management & Conservation Areas.** No grass clippings, plant trimmings or other landscape or other debris may be deposited in a swale, ditch, lake, pond, or any other drainage, detention or retention facility within the Community, whether or not part of the SWMS. Any Owner, or person for whom the Owner is responsible, who causes or permits alteration of the contours of land or drainage or otherwise interferes with the SWMS is liable to the Association for any damage caused thereto or to other parts of the Community as a Charge against the Owner. No toys of any kind are permitted on any of the Land's lakes, ponds, swales, drainage ways, or wet retention ponds or other areas intended for the accumulation or movement of surface or storm waters. No one may unreasonably deny or prevent access to the Association or to any appropriate governmental agency to any portion of the SWMS and accompanying areas for maintenance, repair, or landscaping purposes. Nonexclusive easements therefor are hereby specifically reserved and created. There shall be no filling of any lake, pond, canal, or other water retention or drainage area which it abuts. No person shall fill, dike, rip-rap, block, divert, or change the established water retention and drainage areas that are part of the SWMS without the prior written consent of the ARC, the Board, and the South Florida Water Management District. No boating, swimming, or wading in such areas is permitted, except for the Community's boating canals. The Association may enter any portion of the Community and make whatever alterations, improvements or repairs are deemed necessary to maintain and repair the SWMS. The cost shall be a Common Expense of the Association. **HOWEVER, THERE SHALL BE NO ALTERATION OF THE CONSERVATION AREAS, NOR SHALL ANY PERSON ENGAGE IN ANY ACTIVITY IN A CONSERVATION AREA THAT IS PROHIBITED BY ANY PERMIT, BY ANY CONSERVATION OR PRESERVE EASEMENT, OR BY THE PLATS, INCLUDING, WITHOUT LIMITATION, CONSTRUCTION OR THE PLACING OF ANY STRUCTURE OR IMPROVEMENT IN A CONSERVATION AREA; PLACEMENT OR DUMPING OF SOIL, LAND CLEARING DEBRIS, OR OTHER SUBSTANCES, SUCH AS TRASH; REMOVAL OR DESTRUCTION OF ANY NATIVE VEGETATION; EXCAVATION, DREDGING, OR REMOVAL OF SOIL MATERIAL; DIKING OR DAMMING; THE USE OF HEAVY EQUIPMENT OR MACHINERY; AND ANY OTHER ACTIVITIES THAT ARE DETRIMENTAL TO DRAINAGE, FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.** Nothing in this Section shall be construed to allow any person to construct any new water management facility or to alter the SWMS or the Conservation Areas in any way without abiding by all requirements of this Declaration and without obtaining the necessary permits from all governmental agencies having jurisdiction, including, without limitation, the South Florida Water Management District.

## ARTICLE X. INSURANCE.

**10.1 Insurance.** The Association is not obligated to provide insurance with respect to any Plot or to provide any insurance with respect to liability, theft, damage, or any other casualty loss for any private property of any owner of a Plot, or their Resident, Tenant, or Guest. The Association shall obtain and continue in effect, as a Common Expense, the following types of insurance, in addition to such other policies on such terms as the Board determines are appropriate or desirable:

**10.1.1 Liability Insurance.** The Association shall maintain a comprehensive policy of public liability insurance covering the Common Area with limits to be approved by the Board, covering claims for personal injury and property damage. Such policy will include a “severability of interest” endorsement or provision or the equivalent, which shall preclude the insurer from denying the claim of an owner of a Plot because of negligent acts or omissions of the Association or of other owners of Plots.

**10.1.2 Property Insurance.** The Association shall maintain insurance on the Common Areas of such types, in such amounts, and with such companies as the Board deems appropriate.

**10.1.3 Bond.** The Association shall cause all persons with access to Association funds to be insured or bonded with adequate fidelity insurance or bonds.

**10.1.4 D&O Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee or agent of the Association, or a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the duty to indemnify him against such liability.

**10.2 Association Casualty Repairs and Replacement.** In the event of any insurable loss that causes the partial or total destruction of a Common Area improvement, the Association shall undertake to restore and repair the same to its former condition as promptly as practical. The proceeds of any insurance maintained for repairs or replacement shall be used for such purpose, subject to the prior rights of any mortgagee whose interest may be protected by said policy. In the event that the proceeds of insurance are not sufficient to repair, replace, or restore such damaged improvements on the Common Area, then the Board may initiate a Special Assessment to fund the balance. In addition, any reserves for the replacement or the deferred maintenance of the damaged improvement may be used to fund the balance. In the event that the proceeds of insurance recovered for the damage exceed the cost of repair, replacement, or restoration of such damaged improvements on the Common Area, then the Association shall retain the balance as common surplus, no different than operating funds.

**10.3 Owner Casualty Repairs and Replacements.** Owners are responsible for maintaining adequate property insurance on their Living Unit and other structures contained within their Lots, and all other insurable improvements. If any Living Unit or other improvements located

on any Lot is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, regardless of whether the Owner of the Lot or Living Unit has a policy of property insurance, the Owner shall cause repair or replacement to be commenced within twelve (12) months after the date such damage or destruction occurred and complete the repair or replacement within twenty-four (24) months after the date such damage or destruction occurred. Alternatively, if a Living Unit is substantially damaged or nearly destroyed, the Owner of the Living Unit may demolish the structure and restore the Lot to a level grass field within twelve (12) months of the date the damage or destruction occurred. All such repairs or replacements must be approved in writing by the ARC. Unless changes are approved by the ARC, the Owner must restore the damaged property to substantially the same configuration as existed before the casualty, and structurally and architecturally compatible with any adjoining improvements; or else Owner must promptly cause all debris, damaged improvements, and other unsightly materials to be removed from the site. If any Owner fails to comply with this Section within the time periods provided, then the Association shall be deemed to have been granted the right, but not the obligation, by the Owner as his or its attorney-in-fact, to either commence and complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements; or to remove the damaged improvements completely. If the Association exercises the rights afforded to it by this Section, then the Owner shall be deemed to have assigned to the Association any right he or it may have to insurance proceeds that may be available because of the damage or destruction, and any Association expense not covered by insurance shall be assessed against Owner as a Charge. With prior and reasonable notice to the Owner of the Lot for the purpose of performing the duties authorized by this Section, the Association, through its duly authorized agents and employees, shall have the right to enter upon any Lot at reasonable hours and perform such duties.

## **ARTICLE XI. ARCHITECTURAL AND AESTHETIC CONTROL.**

**11.1 Purpose and Selection of the Architectural Review Committee (“ARC”).** The ARC shall be composed of at least three (3) natural persons who must be Members of the Association. The members of the ARC shall be appointed by the Board and shall serve until they resign or they are removed by the Board. The members of the ARC serve at the pleasure of the Board, and members of the ARC may be removed from the ARC at any time by the Board. If approved by the Board, any member of the ARC may be compensated for their services and reimbursed for their expenses related to their services to the Association. The purpose of the ARC is to assist the Board and assure that the installation, construction, alteration, or location of any Improvements on Lots and Common Areas by parties other than the Association, are (i) in conformity and harmony with this Declaration, the Rules, and the Architectural Guidelines and Review Procedures, and (ii) is in harmony with surrounding topography and surrounding Improvements.

**11.2 ARC Approval Required.** No Improvement on a Lot or Living Unit may be constructed, reconstructed, relocated, placed, excavated, or in any way added to or altered without the prior, written approval of the ARC. The ARC serves to review applications, and the ARC has the final decision-making authority with respect to the approval or disapproval of an Owner’s application. Before the ARC may consider a proposed alteration or addition, the Owner of the subject Lot must submit detailed plans and specifications (including, without limitation, color and materials) for the project and for any proposed alteration of, or addition to, an Improvement on the

Owner's Lot or Living Unit to the ARC using any forms for this purpose that have been promulgated by the Board or by the ARC. Any alteration or addition that is approved by the ARC must be completed, if at all, by the Owner of the subject Lot in all respects with the plans and specifications that were approved by the ARC. ARC approval is required for maintenance, repair, and replacement, only to the extent needed to confirm that the materials and any paint that is used is of like kind and color to what is existing prior to the work. Without limiting the foregoing, any alteration of the color or of the materials of the exterior of a structure shall require the approval of the ARC. The Board may, for purposes of expediency and preserving resources, specify certain projects, such as minor alterations and additions, do not require ARC approval or will only undergo summary evaluation before final approval.

**11.3 Remedies for Violations.** If any construction, reconstruction, relocation, or other alteration or addition to any Improvement is commenced without obtaining the ARC's prior, written approval, then, in addition to all other remedies available, the Association shall have the following additional, non-exclusive remedies, the exercise of which shall not be deemed a waiver of any other remedy or an election of remedies:

**11.3.1** If a contractor or other service provider commenced work with knowledge that the ARC had not yet granted its final approval, then the contractor or service provider may be prohibited by the Association from performing any further work or service in the Community.

**11.3.2** The Association may require that all offending Improvements be returned to the condition that existed prior to the violation, including, without limitation, the destruction, removal, or replacement of any structure.

**11.3.3** The Association may require that all offending Improvements be altered to a condition that complies with this Declaration and the Architectural Guidelines and Review Procedures.

**11.3.4** Forfeiture of any deposit placed with the Association in connection with the work.

**11.4 Operations of the ARC.** Except as otherwise provided herein, the act of a majority of the members of the ARC shall constitute the act of the ARC. The procedures for ARC voting are further provided in the Bylaws.

**11.5 Architectural Guidelines and Review Procedures.** The Board may from time to time adopt, promulgate, amend and revoke the Architectural Guidelines and Review Procedures for the purposes of (i) governing the form and content of plans and specifications to be submitted to the ARC and any deposits or fees that are required for submissions; (ii) governing the procedure for such submission of plans and specifications, including, without limitation, requiring the submission of samples of an Owner's proposed building materials and colors; (iii) establishing guidelines with respect to the approval and disapproval of design features; architectural styles; exterior colors and materials; details of construction, location and size of Improvements; landscaping to accompany the construction or alteration of any Improvement; preservation of trees and other natural resources; setbacks; and the design, location and uses of driveways, fences and

walls; and (iv) establishing guidelines governing the location, parking and storage of property during construction.

**11.6 Approval of Plans and Specifications; Variances.** Approval of plans and specifications for improvements or features on any Lot shall not be deemed a waiver of the ARC's right, in its discretion, to disapprove similar plans and specifications or features (or elements included therein) if subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Improvement on a particular Lot, however, shall be effective as to that Improvement on that Lot and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. The ARC may authorize variances from compliance with the Architectural Guidelines and Review Procedures when circumstances such as topography, natural obstruction, hardship, aesthetics or environmental considerations require. No variance shall be effective unless in writing. No variance shall be deemed to be a waiver by the ARC of the right to refuse to grant a variance in any circumstance, including, but not limited to, the right to refuse a request for a variance as to a similar proposal or plan for which a variance was previously granted.

**11.7 Disapproval of Plans and Specifications.** The ARC shall have the right to disapprove any plans and specifications submitted to the ARC because of any of the following: (i) failure to include information in such plans and specifications as may have been reasonably requested; (ii) failure of such plans or specifications to comply with this Declaration or the Architectural Guidelines and Review Procedures; or (iii) the judgment of the ARC that the proposed installation, construction or alteration of an Improvement is not in harmony with the Architectural Guidelines and Review Procedures, is incompatible with surrounding topography or surrounding Improvements, the character of the exterior materials, the planned quality of the exterior workmanship, and any other material and relevant factors, all as provided in Section 9.03 of the Original Declaration, all such rights being reserved by the Association as the assignee of the Declarant. If any plans and specifications for the alteration of, or the addition to, a Lot are rejected by the ARC, then the Association shall provide written notice to the Owner of the Lot stating with specificity the provision of the Architectural Guidelines and Review Procedures, the Rule, or the covenant upon which the plans and specifications were denied and the specific aspect or part of the proposed Improvement that does not conform to the applicable Architectural Guidelines and Review Procedures or other Governing Document.

**11.8 Deadline to Act.** The ARC shall take action on any plans and specifications that are submitted in accordance with all procedures specified in the Governing Documents within forty-five (45) days after receipt thereof, including, without limitation, approval, denial, or a request for additional information. Failure by the ARC to take action within forty-five (45) days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications, unless the proposed plans and specifications directly conflict with the provisions of this Declaration or the Architectural Guidelines and Review Procedures.

**11.9 Inspection Rights.** Employees or agents of the Association, the Association's directors and officers, and members of the ARC may, after reasonable notice, at any reasonable time, enter upon a Lot for the purpose of ascertaining whether the installation, construction, existence, alteration, location or maintenance of any Improvement on the Lot is in compliance with

the provisions of the Governing Documents and the plans and specifications that were approved by the ARC, and such entry shall not constitute a trespass or a wrongful act.

**11.10 Disclaimer as to ARC Approval.** Approval of plans and specifications by the ARC shall not be construed as a determination of the quality, function or workmanship of the project or the work, nor does ARC approval certify that any Improvement or work will comply with applicable building codes. Neither the Association and its agents, officers, and directors, nor the ARC and its members and agents (the “**Indemnified Parties**”) shall be liable for mistakes in judgment, negligence, or nonfeasance in connection with the approval or disapproval of any plans or specifications; every person who submits plans or specifications and every Owner, by acceptance of a deed to a Lot, shall be deemed to have released all claims, demands and causes of action against the Indemnified Parties arising out of or in connection with any judgment, negligence, or nonfeasance by the Indemnified Parties.

**11.11 Fees & Deposits.** The Association may impose and collect a reasonable and appropriate fee to cover the cost of making and distributing copies of the Architectural Guidelines and Review Procedures and the costs of review of plans and of inspections performed. For any project that will involve substantial construction, such as new home construction or a home remodel, the ARC may require the payment of a reasonable deposit in an amount determined by the ARC to be sufficient to protect the Association and its interests, including, without limitation, any anticipated damage to Community roadways. Any such deposit shall be applied and any unused portion returned to the payor upon the ARC’s determination that the project work has been completed.

**11.12 Outdoor Equipment.** All garbage and trash containers, oil tanks, bottles, gas tanks, swimming pool equipment, and sprinkler pumps, and other such outdoor equipment must be placed underground, walled-in or placed in sight-screened or fenced-in areas so as not to be readily visible from any adjacent streets or properties, or adequate landscaping must be installed around these facilities and maintained by the Owners.

**11.13 Air Conditioner Units and Reflective Materials.** All air conditioning and heating units must be shielded and hidden so as not to be readily visible from any adjacent streets or properties. No air conditioning units may be mounted through windows of Living Units or any other structure. A mini-split unit may be installed through the side of an exterior wall, provided the condenser is shielded and hidden so as not to be readily visible from any adjacent streets or properties. No Living Unit may have any aluminum foil placed in any window or glass door or any reflective substance or other materials (except standard window treatments) placed on any glass, except as may be approved for energy conservation purposes in accordance with the Architectural Guidelines and Review Procedures.

**11.14 Renewable Resource Devices.** Nothing in this Declaration prohibits the installation of energy devices based on renewable resources (e.g., solar collector panels); provided, however, that they shall be installed only in accordance with reasonable standards and requirements that are adopted by the Board from time to time to reasonably regulate these devices.

**11.15 Signs, Flags, and Religious Objects.** An Owner or Resident may display, within

ten feet (10') of the entrance of their Living Unit, no more than one (1) professionally made security services sign of a reasonable size not to exceed one and a half feet (1.5') in width or one and a half feet (1.5') in height. An Owner may display up to one (1) reasonably sized, professionally made "For Sale" sign and up to one (1) reasonably sized, professionally made "open house sign." The Board shall determine the dimensions and style of acceptable "For Sale" and "open house" signs, and, in the absence of any Board determination, neither sign may exceed twenty-four inches (24") in height and thirty-six inches (36") in width. Otherwise, no signs, banners, or advertisements of any kind shall be displayed or placed on any Lot that is visible from the vantage of any street or Lot in the Community. Only the Association may install signage or flags on Common Areas. A flagpole, for display of an approved flag only, may be constructed only after written approval from the ARC. An approved flagpole shall only be used to display an approved flag and may not be used to mount an antenna or any other object. In accordance with the Act, Residents may only display one (1) portable, removable, United States flag or official flag of the State of Florida in a respectful manner, and one (1) portable, removable official flag, in a respectful manner, not larger than four and one half (4 ½) feet by six (6) feet, which represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard, or a POW-MIA flag. Otherwise, the display of any flag on a Lot is prohibited. Owners may, without the approval of the Board or submission to the ARC, attach on the mantel or frame of the door of a Living Unit a religious object not to exceed three inches (3") wide, six inches (6") tall, and one and a half inches (1.5") deep.

**11.16 Walls, Fences, Hedges, and Shutters.** Except for walls and fences constructed by a Declarant to buffer Plots from adjoining properties or for decorative purposes, no wall or fence may be constructed at the front, side or rear of any Plot, except however, decorative walls and fences that are an integral element of the design of the main structure may be constructed if approved by the ARC. Small sections of fencing may be used to screen equipment, such as pool pumps and condenser units, on the side of a Living Unit. No wall, fence, hedge, or other divider shall be constructed or maintained at a height of more than eight feet (8') above the ground level of any adjoining Lot or Common Area. Shutters may only be installed and deployed in accordance with the Association's Hurricane Protection Specifications, which may be adopted and amended from time to time by the Board as part of the Rules.

**11.17 Lighting.** All exterior lighting of a Plot shall be accomplished in accordance with a lighting plan that is approved in writing by the Declarant or, if to be modified or installed new, by the ARC.

**11.18 Playground Equipment, Toys, & Clotheslines.** Playground equipment and other lawn equipment, including, but not limited to, swings, merry-go-rounds, play pens, sandboxes and toys may only be located in the rear yard of a Lot and not fronting any street. Clotheslines must be situated in an area which is otherwise shielded from view by others, and they must be removed when not in use and may not be left up overnight in any event. Toys may not be stored or left overnight in view by others. Portable basketball hoops are permitted mid-driveway away from the street.

**11.19 Swimming Pools and Spas.** All swimming pools, spas, Jacuzzis and the like must be installed in-ground.

**11.20 Temporary Structures; Gas Tanks; Other Outdoor Equipment.** Except as may be approved by the ARC in its sole and absolute discretion for projects involving new construction, reconstruction, or large-scale renovation of a Living Unit, no structure of a temporary character, manufactured housing, or mobile home is permitted in the Community at any time. No auxiliary building or the like, or swimming pool that is detached from the Living Unit shall be permitted on any Lot, except with the prior written approval of the ARC. Gas tanks, containers, or cylinders for barbeque grills or automatic generators are permitted. Automatic generators and their accessory propane tanks, containers, or cylinders must be approved in advance by the Board before construction or installation. Any outdoor equipment, such as pool equipment and water softening devices, must be reasonably screened from the view from the street either by lattice or landscaping that is approved by the ARC.

**11.21 Lakefront Property.** No dock, wharf or other structure of any kind may be erected, placed, altered or maintained on the shores of any Common Area water body.

**11.22 Trees.** The ARC may require, as a condition of approval for development of a Lot, the removal of certain trees which are not protected by County Ordinance. The planting of melaleuca, Brazilian pepper, Australian pine, Japanese climbing fern, cattails, primrose willow, grape vine, and mangrove trees is absolutely forbidden within the Community. The ARC may add to this list of prohibited vegetation at its discretion as part of the Architectural Guidelines and Review Procedures. With the exception of invasive species, no trees may be removed from any Lot without obtaining the prior written consent of the ARC. As used herein, the term "tree" shall mean and be defined as any tree having a caliper of one inch (1") or greater in diameter as measured six (6) feet above ground level.

**11.23 Artificial Vegetation.** No artificial trees, shrubs, grass or other vegetation may be placed or maintained on any Lot.

**11.24 Colors.** As provided in the Original Declaration, no exterior colors on any structure are permitted that, in the sole judgment of the ARC, would be inharmonious or incongruous with the rest of the Community. Any future exterior color changes desired by an Owner must be first approved in writing by the ARC, acting on behalf of the Association as an assignee of remaining Declarant rights.

**11.25 Minimum Setbacks.** No Living Unit, building, or accessory structure shall be erected within the setback lines as established by the RPD zoning plan for Cedar Creek, except that the setbacks along Cedar Creek Drive shall be a minimum of twenty-five (25) feet.

**11.26 Minimum Square Footage and Height.** All Living Units shall contain at least one thousand three hundred (1,300) square feet of floor area. Floor area means the total enclosed indoor area within the horizontal dimensions of each level of a dwelling, measured from the exterior faces of the exterior walls, and excluding attics, garages, terraces, decks, and porches. No Living Unit or structure shall exceed height limitations imposed by Lee County, but in no event in excess of two (2) stories in height.

**11.27 Prohibited Structures.** No prefabricated or modular type homes shall be

constructed or placed upon any Lot. No shack, tent, garage, or other outbuilding may be used as a permanent or temporary residence on any Lot. Sheds of any kind are not permitted.

**11.28 Antennae and Satellite Dishes.** Outside antennas, antenna poles, antenna masts, satellite television reception devices larger than forty inches (40") in diameter, electronic devices, antenna towers, citizen band (CB), or amateur band (ham) antennas shall not be permitted except as approved in writing by the ARC. Satellite television reception devices no larger than forty inches (40") in diameter are permitted without ARC approval if the devices are affixed to the rear portion of a Living Unit facing away from a Community street. Owners shall use their best efforts to locate any satellite television reception devices for a Living Unit or other structure so they are not visible from any street fronting the Living Unit or structure. No antenna shall extend more than twelve feet (12') above a Living Unit or other structure on a Lot.

**11.29 Conservation Areas and SWMS.** No structure of any kind (including docks) may be constructed or erected in any Conservation Areas nor in any other location that interferes with any applicable lake maintenance, buffer, or drainage easements. In no event shall there be any change, alteration, impediment, revision or otherwise that interferes with the flow or volume of water in any portion of the SWMS including, but not limited to, lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters. Likewise, filling or grading on a Lot that will adversely affect the drainage pattern is prohibited.

**11.30 Roofs.** Roofs shall have a minimum of five (5) in twelve (12) slope, except that roofs covering rear lanais. Roofs shall be constructed of flat or barrel concrete tiles, clay tiles, or metal shingles or tiles. The only permitted metal roof tiles and shingles are steel, titanium, and galvalume. Standing seam and 5v crimp metal roofs are prohibited.

**11.31 Exterior Materials.** The exterior materials of a Living Unit and of any accessory structure may not be composed of vinyl, and metal siding is prohibited.

**11.32 Driveways and Parking Areas.** Driveways and parking areas must be constructed with concrete or brick pavers. Asphalt, gravel, dirt, and shell driveways are not permitted.

**11.33 Screen Enclosures.** Only pool, front door, and entranceway screen enclosures shall be allowed.

**11.34 Garages.** Each Living Unit shall have an enclosed garage for at least two automobiles. The garage doors shall have automatic openers.

**11.35 Underground Utilities.** All electric, telephone, gas, and other utility lines provided to any portion of a Lot, including to Living Units, must be by means of underground transmission lines, cables, and pipes. No overhead transmission lines or cables will be permitted within the Community without advance approval of the Association, except that transformers, junction boxes, and other similar equipment may be situated above ground if screened from view.

**11.36 Sight Distance at Intersections.** No fence, wall, hedge or shrub planting which obscures or obstructs sight lines at elevations between two (2') and six (6') feet above the roadway

may be placed, maintained or permitted on any corner in the Community within the triangular area formed by street property lines and an imaginary line connecting them at points twenty-five feet (25') from the intersection of the street Lot lines. No trees will be placed, maintained or permitted within this area unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

**ARTICLE XII. SALES AND TRANSFERS OF OWNERSHIP.** In order to maintain a community of congenial residents who are financially responsible, and thus protect the Community's property values, the transfer of ownership of Lots by any Owner shall be subject to the following provisions:

**12.1 Primary Occupant.** "Primary Occupant" means a sole, natural person who has been designated by the Owner(s) of a Lot under the circumstances described herein to be treated as the sole Owner of the Lot. The use of a Lot by other persons shall be as if the Primary Occupant was the only actual Owner. Any changes in the Primary Occupant shall be treated as a transfer of ownership by sale or gift subject to the provisions of the Governing Documents. There shall be no more than one (1) change in Primary Occupant during any calendar year. The Primary Occupant shall be the person who is entitled to vote on behalf of the Lot, and to exercise rights as a Member of the Association.

**12.2 Forms of Ownership.** A Lot may be owned as follows:

**12.2.1 Single Owner.** A Lot may be owned by one (1) natural person who has qualified and been approved as elsewhere provided herein.

**12.2.2 Co-ownership.** A Lot may be owned by multiple individuals or entities. If the co-owners are other than spouses, then the Board shall condition its approval upon the designation of one (1) approved natural person as the Primary Occupant. No time share estates may be created. Fractional Ownership is prohibited.

**12.2.3 Ownership by Corporations, Partnerships, Limited Liability Companies, Trusts, or Other Artificial Entities.** A Lot may be owned in trust, or by a corporation, partnership, limited liability company, or other entity that is not a natural person, if approved in the manner provided elsewhere herein. The intent of this provision is to allow flexibility in estate, financial, or tax planning, and not to create circumstances in which the Lot may be used as a short-term or transient accommodation for several entities, individuals or families as a timeshare; Fractional Ownership; or other use to provide accommodations for employees, customers, or anyone on behalf of a religious or charitable organization. The approval of any trustee or entity as an Owner shall be conditioned upon designation of the Owner(s) as a Primary Occupant.

**12.2.4 Life Estate.** A Lot may be subject to a life estate, either by operation of law or by a voluntary conveyance approved as provided below. In that event, the life tenant shall be the only Member from such Lot, and occupancy of the Lot shall be as if the life tenant were the Primary Occupant. Upon termination of the life estate, the holders of the remainder interest shall have no occupancy right unless separately approved by the Association, which shall be treated as a change in ownership. The life tenant shall be liable for all Assessments against the Lot. Any vote,

consent, or approval required by the governing documents or law may be given by the life tenant alone, and the vote, consent or approval of the holders of the remainder interest shall not be required. If there is more than one life tenant, they shall be treated as co-owners for purposes of determining voting and occupancy rights.

### **12.3 Transfers Subject to Approval.**

**12.3.1** No Owner may dispose of a Lot or any interest in same by sale or other title transfer, including, without limitation, a gift, an agreement for deed, an installment sales contract, a lease-option, or other similar transactions without the prior approval of the Board and a "Consent to Transfer" form signed by the president of the Association or the vice president acting in the president's stead.

**12.3.2 Conveyance by Law & All Other Transfers.** If any person shall acquire his title by law, including, without limitation, upon the order of a court of competent jurisdiction, by devise, or by inheritance, or if an Owner shall acquire title by any manner not expressly considered in this Section (which is not sooner deemed void), then the Owner's continuance of Lot ownership requires approval by the Board and a "Consent to Transfer" form that is signed by the president of the Association or the vice president acting in the president's stead. Notwithstanding the foregoing, a mortgagee who acquires title through a mortgage foreclosure shall not require the Board's approval, but any transferee of a first mortgagee must be approved by the Board the same as any other transferee.

**12.4 Approval by Association.** The approval of the Board that is required for the transfer or continuation of ownership of a Lot shall be obtained in the following manner:

#### **12.4.1 Notice to Board.**

**(1) Upon Sale or Transfer.** An Owner intending to make a bona fide sale or other title transfer of his Lot or any interest in it, including gifts, transfers to artificial entities, and the grant of partial estates, shall give to the Board notice of such intention, together with an application completed by the prospective Owner or continuing Owner and their Residents that includes the names and addresses of the intended Owner and Residents, an executed copy of the purchase contract and its exhibits, and all other documentation evidencing the transfer and such other information concerning the intended grantee and the transaction as the Board may reasonably require, at least fourteen (14) days prior to the intended transfer of title. The application for transfer must be completed by the prospective Owner or continuing Owner and their Residents and include, without limitation, a criminal background investigation on all proposed Owners and Residents over the age of 18 years. The Board's approval of an application for transfer is required before ownership of a Lot can be transferred. The Board may promulgate forms for this application.

**(2) Other Owners.** An Owner who has obtained his title upon the order of a court of competent jurisdiction, by devise, or by inheritance or by any manner not expressly considered in this Section (which is not sooner deemed void), within fourteen (14) days after the date that title was acquired, shall give to the Board notice that the Owner has acquired title together with such information concerning the Owner as the Board may reasonably require, including,

without limitation, a criminal background investigation on all proposed Residents over the age of 18 years and a certified copy of the instrument evidencing the Owner's title.

**(3) Failure to Give Notice.** If the above required notice to the Board is not provided timely, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Lot, the Board at its election and without notice may disapprove the transaction or continued ownership.

**12.4.2 Approval & Disapproval by Board.** Approval and disapproval of title transfers or the continuation of ownership shall be made by the Board, if it is determined that the Owner or the potential Owner does not facially qualify for membership in the Association, or if the proposed ownership will result in a violation of the governing documents. If the Board disapproves of a transfer of title or a continued ownership for Good Cause, then the Association shall have no duty to purchase the Lot or furnish an alternate purchaser, and the transaction shall not be made, or if made, shall be rescinded in the manner determined by the Board. Only the following may be deemed to constitute **"Good Cause"** for disapproval on the grounds that the proposed Owner does not facially qualify for membership in the Association or that the proposed transaction will result in a violation of the governing documents:

**(1)** The application for approval on its face, or subsequent investigation thereof, indicates that the person seeking approval or any proposed Resident intends to conduct themselves in a manner that is inconsistent with the Governing Documents;

**(2)** The person seeking approval or any proposed Resident has been convicted of or has pled guilty or no contest to: (i) a felony involving violence to persons, theft, arson or destruction of property within the past twenty (20) years; (ii) a felony demonstrating dishonesty or moral turpitude within the past ten (10) years; (iii) a felony involving illegal drugs within the past seven (7) years; (iv) any other felony in the past five (5) years; or (v) a felony involving sexual battery, sexual abuse, or lewd and lascivious behavior regardless of when that conviction occurred.

**(3)** The person seeking approval or any proposed Resident has been labeled a sexual offender or a sexual predator by any governmental or quasi-governmental agency regardless of when that conviction occurred or when that label occurred;

**(4)** The person seeking approval or any proposed Resident is currently on probation or community control;

**(5)** The person seeking approval or any proposed Resident has a history of disruptive behavior or disregard for the rights and property of others as evidenced by his conduct in other social organizations or associations, or by his conduct in the Community, including, without limitation, failing to follow all procedures for the application and approval of Tenants, Residents, or Guests;

**(6)** The person seeking approval or any proposed Resident failed to provide the information, fees, or appearance required to process the application in a timely manner;

(7) All Assessments against the Owner's Lot have not been paid in full.

**12.4.3 Unauthorized Transfers.** Any transfer or continuation of ownership that is not authorized pursuant to the terms of this Declaration shall be voidable by the Board unless subsequently approved by the Board.

**12.4.4 Transfer Fee.** The Association may charge a transfer fee for the review of any application to transfer or continue ownership. The transfer fee may not exceed the maximum permitted by law per transaction. The transfer fee shall be set by the Board and may be changed at any time by a vote of the Board from time to time. In the absence of any Board designation, the transfer fee shall be \$250 per each proposed Owner and Resident over the age of 18, except that spouses shall count as one (1) applicant for purposes of the transfer fee. The Association may assign any right to collect a transfer fee to the Association's agent so that the agent may collect the transfer fee and process applications.

**12.5 Estoppel Fee.** In accordance with the Act, the Association or its authorized agent may also charge a reasonable fee for the preparation of an estoppel certificate. The fee for the preparation of such certificate shall be established by a written resolution of the Board or provided for in a management, bookkeeping, or maintenance contract.

**ARTICLE XIII. LEASING.** As provided in the Original Declaration, Leasing is a privilege. The privilege may be revoked by the Board if it is abused by an Owner or if an Owner fails or refuses to follow the procedures for Leasing. In order to maintain a community of congenial residents who are also financially responsible, and thus protect the Community's property values, all Leases shall be subject to the following provisions:

**13.1 General Lease Restrictions.** All Rental Agreements must be in writing, and the Board may promulgate a form Rental Agreement that must be used for any Lease. All Rental Agreements shall include a provision, or shall be deemed to include a provision, requiring that the Tenants and all Residents under the Rental Agreement have read and agreed to be bound by the Governing Documents. Only entire Lots, including all Improvements thereon, may be Leased; no individual rooms or accessory structures may be Leased. The minimum term for all Rental Agreements is thirty (30) days, and no Lot may be Leased more than four (4) times in any twelve (12) month period. No transient Tenants may be accommodated. Listing a Lot or Living Unit as being available for transient-based use by others, including, without limitation, on an internet based room or house sharing service such as VRBO, Airbnb, or AirDNA shall be proof that the Owner is not in compliance with this restriction and seeks to violate same. Subleasing and assignments of Rental Agreements are both prohibited. All Leases are subject to the Board's prior, written approval. Any new Rental Agreement and any renewal or extension of the term of a Rental Agreement shall be treated as a new Lease and shall be subject to the Board's prior, written approval. Only approved Tenants and their Residents are permitted Residents during the term of a Rental Agreement and anyone else shall be treated as a Guest during the term of the Rental Agreement. When a Living Unit is Leased, the maximum occupancy shall be no more than the lesser of two (2) persons per bedroom, plus two (2) or six (6) individuals total.

**13.2 Board Right of Approval.** The approval of the Board that is required for Leasing

shall be obtained in the following manner:

**13.2.1 Notice to Board.** An Owner intending to Lease their Lot shall provide the Board notice of such intention, together with an application completed by the prospective Tenant and the Tenant's Residents that includes the names and addresses of the intended Tenant and Residents, an executed copy of the applicable rental agreement and its exhibits, and all other documentation evidencing the lease and such other information concerning the intended lease as the Board may reasonably require, at least fourteen (14) days prior to the intended start of the Lease. The application must be completed by the prospective Tenant and their Residents and include, without limitation, a criminal background investigation on all proposed Tenants and Residents over the age of 18 years. The Board's approval of an application is required before a Lease can commence. The Board may promulgate forms for this application.

**13.2.2 Failure to Give Notice.** If the above required notice to the Board is not provided timely, then at any time after receiving knowledge of the unapproved Lease or proposed Lease, the Board at its election and without notice may disapprove the Lease or proposed Lease.

**13.2.3 Approval & Disapproval by Board.** If the Board disapproves of a Lease for Good Cause, then the Association shall have no duty to find a replacement Tenant or a replacement Lease, and the proposed Lease shall not be made, or if made, shall be rescinded in the manner determined by the Board. Only the reasons listed in Section 12.4.2 above shall constitute "Good Cause" for disapproval of a Lease.

**13.2.4 Unauthorized Lease.** Any Lease that is not authorized pursuant to the terms of this Declaration shall be voidable by the Board unless subsequently approved by the Board.

**13.2.5 Transfer Fee.** The Association may charge a transfer fee for the review of any application to Lease. The transfer fee may not exceed the maximum permitted by law per transaction. The transfer fee shall be set by the Board and may be changed at any time by a vote of the Board from time to time. In the absence of any Board designation, the transfer fee shall be \$250 per each proposed Tenant and Resident over the age of 18, except that spouses shall count as one (1) applicant for purposes of the transfer fee. The Association may assign any right to collect a transfer fee to the Association's agent so that the agent may collect the transfer fee and process applications.

**13.3 Security Deposit.** The Board shall have the authority, as a condition of granting approval to a new Rental Agreement or to a renewal or an extension of a Rental Agreement, to require that a prospective Tenant or Owner place a security deposit in an amount not to exceed the equivalent of one month's rent into an escrow account that is maintained by the Association to protect against damage to the Common Areas and Association Property and any Charges that arise as a result of the actions or omissions of the Tenant, the Tenant's Residents, or either of their Guests. Payment of interest, claims against the deposit, refunds, and disputes under this Section shall be handled in the same fashion as provided for in Part II of Chapter 83 of the Florida Statutes (2024) and Section 720.303(8)(d) of the Florida Statutes (2024), as amended from time to time.

**13.4 Tenant Conduct; Remedies.** If a Tenant or a Tenant's Resident or any of their Guests fails to abide by the Governing Documents, then the Owner of the Lot being Leased shall be jointly and severally liable and responsible for the violation with the Tenant and the party that violates the Governing Documents. Owners shall bring the conduct of their Tenants (and that of any Residents or Guests) into compliance with the Governing Documents by whatever action is necessary, including, without limitation the institution of eviction proceedings without notice to cure, where legally permissible. If an Owner fails to do so, then the Association shall have the authority to act as agent of the Owner to undertake whatever action is necessary to abate the noncompliance with the Governing Documents (or the noncompliance of other Residents or Guests), including, without limitation, the right to institute an action for eviction of the Tenant in the name of the Association in its own right or as agent of the Owner. The Association shall have the right to recover any costs or fees, including attorneys' fees, incurred in connection with such actions, from the Owner as a Charge.

**ARTICLE XIV. RESIDENTS AND GUESTS.** The intention of this Declaration is to create an exhaustive list of categories of persons who have rights to own, Occupy, use, or access any portion of the Community, and these persons, aside from community associations and government or quasi-government agencies, include, as defined herein, Owners, Tenants, Residents, and Guests. Any Lots may only be Occupied as a home by approved Residents. A Guest is not a Resident who lives in the Community, and the term Guest is defined broadly to include social visitors to the Community as well as other invitees who may be present to provide services or materials within the Community. The intention of this Article XIV and its subsections is to permit Guest visitation and even overnight stays by Guests while still requiring that anyone who wishes to reside in the Community as a Resident be approved in advance by the Board as provided in this Declaration.

**14.1 Residents & Approval of Residents.** All Residents must be approved in advance by the Board before Occupying a Lot as a Resident. An Occupant will be deemed to be Residents of a Lot unless or until the Occupant can demonstrate otherwise. Residents may be approved along with a proposed or continuing Owner at the time when title to a Lot is transferred. Residents may also be approved in conjunction with the Board's approval of a rental agreement. After an Owner's or Tenant's application for transfer or lease has been approved, any new or additional Resident that was not disclosed in the application must be approved by the Board before they can Occupy the Owner's or Tenant's Lot. An Owner or Tenant intending to add a Resident shall give to the Board notice of such intention, together with an application completed by the prospective Resident if under the age of 18 years that includes the names and addresses of the intended Resident and such other documentation and information as the Board may reasonably require, at least fourteen (14) days prior to the Resident's Occupancy. The application for residence must be completed by the prospective Residents over the age of 18 years and must include, without limitation, a criminal background investigation. The Board's approval of an application for residence is required before an otherwise unapproved Resident can begin Occupying a Lot. The Board may promulgate forms for this application. In the case of a Lot that is not under Lease, the Board may disapprove only based upon the Good Cause reasons specified in Section 12.4.2 above or if the intended Occupancy will violate any provision of this Declaration, such as the residential, single Family, or density restrictions. In the case of a Lot that is presently under Lease, the Board may disapprove of a proposed Resident for any reason, or no reason, in the Board's sole and absolute discretion. If the above required notice to the Board is not provided timely, then at any time after receiving knowledge of the unapproved Lease or proposed Lease, the Board at its election and without notice

may demand the applicable Owner immediately remove the Resident from the Community.

**14.2 Guest Visitation.** All Guests must abide by the Governing Documents, and the Board may adopt Rules that restrict or prohibit visitation by certain Guests, such as registered sex offenders or sexual predators and anyone who has been convicted of a felony involving violence, theft, or narcotics. Non-overnight Guests need not be approved by the Board in advance. Overnight Guest visitation of a Lot is only permitted on a limited basis. There is no requirement for the registration or the approval of overnight Guests. However, these Guest stays are limited to no more than twice in a calendar year, for stays of no longer than fourteen (14) days each. If any Guest overstays, then they shall be deemed a Resident and they must be approved by the Board in accordance with this Declaration.

## **ARTICLE XV. COVENANT AND RULE ENFORCEMENT: DISPUTE RESOLUTION.**

**15.1 Owner and Member Compliance.** The provisions of the Governing Documents shall apply to all Owners, Tenants, Residents, and Guests. Failure of an Owner to notify any person of the existence or provisions of any Governing Document shall not in any way act to limit or divest the Association of the power to enforce the Governing Documents. Each Owner shall be responsible for any and all violations of the Governing Documents by anyone who enters the Community at the express or implied invitation of the Owner, including, without limitation, the Owner's Tenants, any Residents of the Owner's Lot, and the Guest of the Owner or anyone Occupying the Owner's Lot.

**15.2 Actions and Attorney's Fees.** Damages alone shall not be conclusively deemed adequate relief for any breach or violation of the Governing Documents. Any person or entity entitled to enforce any provision thereof shall be entitled to seek relief by way of injunction, as well as any other available relief either at law or in equity, which may include damages. In addition to, and without limitation to any rights provided by the Act, the prevailing party in any lawsuit, arbitration, or other legal action or proceedings to enforce any provision of the Governing Documents, including, without limitation, an action to enjoin a violation or breach of any provision of the Governing Documents or to recover damages on account any breach of the Act or of the Governing Documents, shall be entitled to collect their reasonable attorney's fees, court costs, and expenses from the non-prevailing party, including, without limitation, all such fees, costs, and expenses incident to pre-trial, trial, appellate, bankruptcy, post-judgment, and alternative dispute resolution proceedings, whether incurred in that lawsuit, arbitration or other legal action or proceeding and in addition to any other relief to which such prevailing party is entitled. Attorney's fees shall include, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs, and all other charges billed by an attorney to the prevailing party in connection to the prevailing party's lawsuit, arbitration, or other legal action or proceeding.

**15.3 Fines.** In accordance with the Act, the Association may levy reasonable fines against Owners, Tenants, Residents, and Guests for each violation of the Governing Documents. Each such fine may not exceed \$100 per violation. Fines may be levied on the basis of each day of a continuing violation, in an amount up to \$100 per day capped at \$5,000 in the aggregate for a specific, continuing violation. Duly levied fines shall be a Charge against the applicable Lot in which the Owner, Tenant, Resident, or Guest in violation was residing or was invited to visit or service. The Association may suspend, for a reasonable period of time, the right of an Owner or

any Tenant, Resident, or Guest to use Common Areas and an Owner's Voting Interest in accordance with the Act.

## **ARTICLE XVI. DURATION OF COVENANTS; AMENDMENT; TERMINATION.**

**16.1 Duration of Covenants.** These restrictions shall run with and bind all of the Lands and inure to the benefit of the Association, any owner of a Plot, and any party with an assignment of remaining Declarant rights as provided above, for a term of thirty (30) years from the date that this Declaration is recorded. These restrictions shall automatically be extended for successive periods of five (5) years unless terminated upon approval of seventy-five percent (75%) of all votes entitled to be cast for such termination. Such approval may be evidenced by an instrument signed by the holders of the required Voting Interest. No such termination shall impair the rights of any owner of a Plot to the use and benefit of any easements granted to such owners herein. All Members and all Limited Members which have votes allocated to them shall be entitled to vote on termination unless their voting privileges have been suspended or revoked as otherwise provided herein.

**16.2 Amendments.** Except as elsewhere provided herein, this Declaration may be amended in the following manner:

**16.2.1 Proposal.** Amendments of this Declaration may be proposed at any time by the Board or by written petition of the Members that is signed by at least fifty percent (50%) of the Member Voting Interests that includes the text of the proposed amendment in form and substance required by the Act and not in violation of the Act or the Governing Documents. Any amendments so proposed must be submitted to a vote of the Owners not later than the next annual meeting.

**16.2.2 Vote Required.** Except as otherwise provided by law, or by specific provision of the Governing Documents, this Declaration may be subsequently amended at any time if a duly proposed amendment is approved by at least two-thirds (2/3rds) of the Voting Interest that is actually present, in person or by proxy, and voting at a duly noticed meeting of the Association's Members, provided a quorum is attained to conduct business and provided that the text of each proposed amendment has been provided to the Members with notice of the meeting of the Members. However, no amendment shall be effective to change the share of liability for Assessments or ownership of the common surplus of the Association or the voting rights appurtenant to any Lot, unless all Owners and all record owners of liens on Lots join in the execution of the amendment.

**16.2.3 Special Approval.** In addition, regardless of any other provision in this Declaration, no amendment of the Governing Documents by any person, and no termination or amendment of this Declaration, can be effective to change the Association's responsibilities, if any, for the SWMS, unless the amendment has been consented to, in writing, by the South Florida Water Management District. Any proposed amendment which would affect the SWMS must be submitted to the South Florida Water Management District for a determination of whether the amendment necessitates a modification of the surface water management permit. If the SWMS is administered by the Association, then any such amendment shall likewise require the consent of the Association's Voting Interest as provided above. In addition, no amendment to this Declaration

shall be effective that impairs or prejudices the rights or priorities of any party with remaining Declarant rights without specific written approval of such party. Further, no amendment that affects the prohibition against wells and the rights to supply non-potable water pursuant to Section 9.30 of the Original Declaration, as amended, must be approved by Resource Conservation Systems, LLC or its successor and a true copy of any such amendment must be sent to Resource Conservation Systems, LLC or its successor by certified mail within five (5) days of its adoption.

**16.2.4 Scrivener's Errors.** Amendments for correction of scrivener's errors or other non-material changes may be made by the Board alone without the need or consent of the Membership.

**16.2.5 Certificate; Recording.** A copy of each amendment shall be attached to a certificate that certifies that the amendment was duly adopted as an amendment to this Declaration, which certificate shall identify the Book and Page or Instrument Number of the Public Records of Lee County where this Declaration is recorded, and shall be executed by the president or vice president of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of Lee County, Florida. Within thirty (30) days after recording an amendment to the Declaration, the Association shall provide copies of the amendment to the Members or notice that it may be sent to any Member who requests same.

## **ARTICLE XVII. GENERAL PROVISIONS.**

**17.1 Merger or Consolidation of Association.** Upon a merger or consolidation of the Association with another corporation as provided by law, the Association's rights, obligations, and property may, by operation of law, be transferred to another surviving or consolidated association, or, alternatively, may remain the rights, obligations, and property of the Association as the surviving corporation. The surviving or consolidated corporation may administer this Declaration within the existing property together with the covenants and restrictions established upon any other property as one common scheme.

**17.2 Dissolution.** If the Association is dissolved other than by a merger or consolidation as provided for above, each Lot, Living Unit, and other parcel in the Community shall continue to be subject to the Assessments, and each Owner shall continue to be personally obligated to the successor or assigns of the Association (as the case may be) for such Assessments to the extent that such Assessments are required to enable such successors or assigns acquiring any real property previously owned by the Association to properly maintain, operate, and preserve the same.

**17.3 Waiver.** Any waiver by any person of any provisions of this Declaration or breach thereof, must be in writing to be effective, and shall not operate or be construed as a waiver of any other provision or subsequent breach. Further, no failure or delay by the Association in exercising any right, power or privilege in respect of the Governing Documents shall not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege shall not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.

**17.4 Remedies.** No exercise of any remedy available to the Association through the

Governing Documents or through the Act shall be deemed an election of remedies, and all such remedies available to the Association shall be deemed to be cumulative and not exclusive.

**17.5 Severability.** If any portion of this Declaration or any of the other Governing Documents is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, then such portion shall be deemed a separate, distinct and independent provision and its invalidity shall not affect the validity of the remaining portions.

**17.6 Headings, Captions, & Gender.** The captions and headings used throughout the Governing Documents are strictly for the convenience of the reader and shall not be used or referenced to interpret any provisions of this Declaration. The use of the singular number shall include the plural, and the plural the singular. The use of any gender shall include all genders.

**17.7 Notices.** Any notice required to be sent to any Owner under this Declaration or the Bylaws shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. If the Owner has consented to receive notice by email, then email transmittal shall be sufficient notice. The Owner bears the responsibility for notifying the Association of any change of address. Any notice required to be sent to the Association under this Declaration or the Bylaws shall be in writing and shall be delivered or mailed to the Association at its principal place of business as shown by the records of the Secretary of State of the State of Florida, or at any other location that is designated by the Association from time to time.

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

**17.9 Conflicts.** In the event that any inconsistencies exist among the provisions herein and the other Governing Documents or in the event of a conflict in the interpretation of the Governing Documents any such inconsistency or conflict shall be resolved in favor of the higher priority Governing Document. The Governing Documents are ranked from highest priority to lowest priority as follows: Declaration (highest), Articles, Bylaws, Rules, and Architectural Guidelines and Review Procedures (lowest).

**17.10 Governing Law.** Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by the Governing Documents, as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Florida, and venue shall lie in the state civil courts in and for Lee County, Florida.

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**EXHIBIT "A" TO  
AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CEDAR CREEK**

**LANDS**

CEDAR CREEK PHASE I, a subdivision, recorded in Plat Book 54, Pages 5 *et seq.*, in the Public Records of Lee County, Florida, together with

CEDAR CREEK PHASE II-A, a subdivision, recorded in Plat Book 55, Pages 51 *et seq.*, in the Public Records of Lee County, Florida, together with

CEDAR CREEK PHASE II-B, recorded in Plat Book 58, Pages 50 *et seq.*, in the Public Records of Lee County, Florida, together with

CEDAR CREEK PHASE III-A, recorded in Plat Book 59, Pages 75 *et seq.*, in the Public Records of Lee County, Florida, together with

CEDAR CREEK PHASE III-B, recorded in Plat Book 61, Pages 54 *et seq.*, in the Public Records of Lee County, Florida, together with

CEDAR CREEK PHASE III-D, recorded in Plat Book 62, Pages 38 *et seq.*, in the Public Records of Lee County, Florida.