

This Instrument prepared by:
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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
OSPREY COVE**

THIS DECLARATION is made this 30th day of December, 2005, by U.S. Home Corporation, a Delaware corporation authorized to do business in the State of Florida, hereinafter called the "Declarant," for himself and his successors, grantees, and assigns.

PREMISES:

81 **WHEREAS**, Declarant owns certain real property located in Lee County, Florida, and intends to create thereon a residential planned development of multi-family condominium structures and related recreational and other common facilities and amenities, to be known as Osprey Cove.

WHEREAS, the real property which is intended to be developed as Osprey Cove (the "Lands") is described in Exhibit "A" to this Declaration, as it may be amended and added to from time to time; and

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

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, Osprey Cove Master Association, Inc., a Florida corporation not for profit (hereinafter the "Master Association") has been incorporated; and

WHEREAS, Declarant shall, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within or without the Community by deed, easement, or otherwise to the Master Association, (which must accept the same) for the purpose of maintenance, landscaping, drainage, recreation or other purposes for the use and benefit of the members and their families, tenants and guests;

OSPREY COVE - MASTER DECLARATION

NOW THEREFORE, the Declarant, and any other person owning an interest in the subject property who consents to or joins in the making of this Declaration, hereby declares that the Lands described in **Exhibit "A"** hereto, as it may be amended from time to time, are and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Lands and be binding on all parties having any right, title or interest in the Lands or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. Additional real property may be added to the Lands by an amendment to **Exhibit "A"**, consented to or joined in by the Declarant and all persons having a record ownership interest in the property being added. Nothing herein contained, and no violation of these covenants, conditions and restrictions shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of Declarant is that substantive contract rights created hereunder shall not be retroactively offered by legislation enacted subsequent to the recording of this Declaration.

1. DEFINITIONS. The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, or if not defined below unless the context clearly requires another meaning.

1.1 "Architectural Review Committee" ("ARC") means the Architectural Review Committee as established and empowered in Section 6 of this Declaration.

1.2 "Assessment" or "Assessments" means a share of the funds required for the payment of the expenses of the Master Association which from time to time is assessed against the members, including without limitation annual assessments and special assessments, as authorized by Section 9 of this Declaration and does not mean a non-ad valorem special assessment (by any name) which may be levied and imposed on the property by a general purpose or special purpose local government.

1.3 "Master Association" or "Association" means Osprey Cove Master Association, Inc., a Florida corporation not for profit, which has its principal place of business in Lee County, Florida, and its successors and assigns.

1.4 "Board" means the Board of Directors of Osprey Cove Master Association, Inc.

1.5 "Builder" means any or all of the following: the Declarant, or any of their successors, assigns or designees, and any other person or entity that acquires land in Osprey Cove for the purpose of development or to whom the Declarant sells land within Osprey Cove and specifically assigns, in writing, any development rights it may have under this Declaration. The owner of a Parcel shall not, solely by virtue of having purchased a Parcel, be deemed a builder or a successor or assignee of the development rights of a builder, or of the Declarant for the purposes of this paragraph, unless an instrument of assignment or conveyance expressly so states.

1.6 "**Community**" means all real property comprising Osprey Cove Master Association, Inc., and the improvements thereon.

1.7 "**Common Area**" means all property, real or personal, dedicated to or owned, administered or operated as property for the use and enjoyment of all the members.

1.8 "**County**" or "**the County**" means Lee County, Florida.

1.9 "**Declarant**" means U.S. Home Corporation, a Delaware corporation authorized to do business in the State of Florida, its successors or assigns.

1.10 "**Developer**" means U.S. Home Corporation, a Delaware corporation authorized to do business in the state of Florida, its successors or assigns, or any other developer to which the Declarant specifically assigns all rights it may have under this Declaration to develop part or all of Osprey Cove. The Declarant may also be a Developer.

1.11 "**Governing Documents**" means this Declaration, and the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Master Association. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority as listed herein.

1.12 "**Institutional Mortgagee**" means:

(A) a lending institution having a first mortgage lien upon a Parcel, including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing business in the State of Florida, or a life insurance company; or

(B) a governmental, quasi-governmental or private agency that is engaged in the business of holding, guaranteeing or insuring residential mortgage loan (including without limitation the Federal National Mortgage Association), Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and which holds, guarantees or insures a first mortgage upon a Living Unit; or

(C) the Developer, and any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Developer to acquire, develop, or construct improvements upon, the Community and who have a mortgage lien on all or a portion of the Community securing such loan. An Institutional Mortgagee" is a mortgage held by an Institutional Mortgagee encumbering a Living Unit.

1.13 "**Lands**" means the land described in Exhibit "A" to this Declaration, as it may be amended from time to time.

1.14 "**Living Unit**" or "**Unit**" means any residential structure, including a single family detached or attached dwelling unit(s), condominium unit(s) or apartment unit(s), located within the Community and intended for occupancy by one family or household.

1.15 "**Member**" means any or all of those persons who are entitled to membership in the Master Association, as provided in the Governing Documents.

1.16 "**Osprey Cove**" is the name of the Community.

1.17 "**Neighborhood**" means a condominium or any other residential sub-area development within the Community, where all the Living Units are subject to a single common recorded declaration of neighborhood covenants.

1.18 "**Neighborhood Association**" means a condominium association, or any other incorporated mandatory membership property owners association operating a Neighborhood, or operating facilities or property serving two or more Neighborhoods.

1.19 "**Neighborhood Common Area**" means that real property, including any improvements and fixtures thereon, which is owned or leased by, or dedicated to, a Neighborhood Association for the common use and enjoyment of its members.

1.20 "**Neighborhood Covenants**" means any and all covenants, conditions, restrictions, and other provisions imposed by recorded declaration or other instrument, applicable to one or more specific Neighborhoods, including the recorded Articles of Incorporation and Bylaws of the Neighborhood Association.

1.21 "**Owner**" means the record owner of legal title to any Living Unit or Parcel.

1.22 "**Parcel**" means any and all unplatted portions of the Community.

1.23 "**RPD**" means and refers to residential planned development project, created by Lee County Resolution # _____ as adopted by the Board of County Commissioners of Lee County, Florida, on _____, and as amended from time to time.

1.24 "**Rules and Regulations**" means the administrative regulations governing use of the Common Areas and procedures for administering the Master Association, as adopted, and amended from time to time by resolution of the Board of Directors.

1.25 "**SFWMD**" means South Florida Water Management District.

1.26 “SFWMD Permit” refers to the SFWMD Permit as it may be amended from time to time.

1.27 “Service Assessment” means a charge against one or more Living Units for any service, material or combination thereof which may be provided by the Master Association for the use and benefit of the owner(s) on a voluntary basis, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Master Association on behalf of the owners accepting or receiving such material or service shall be a service assessment against the Living Units so benefitted. An owner is deemed to have agreed to such assessment by the act of subscribing to, requesting, or accepting the material or service.

1.28 “Stormwater Management System” means that system approved by the SFWMD permit.

1.29 “Structure” means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words “or part thereof.” The term includes, without limitation, all Living Units, swimming pools, spas, fences, flagpoles, antennas, basketball backboards, skateboard ramps, swing sets or other play equipment, and storage sheds.

1.30 “Voting Interests” means the arrangement established in Section 2 of the Bylaws of the Master Association by which certain classes of members are entitled to vote in the affairs of the Master Association.

2. GENERAL DEVELOPMENT PLAN. The Community is a Residential Planned Development (“RPD”), comprising initially of land described in **Exhibit “A”** but intended ultimately to comprise of approximately thirty (30) acres of land. Under the current site plan, the Developer anticipates the construction and development of five (5) separate condominiums for a total of ten (10) buildings for a projected total of 328 units. The total amount of units is based upon current projections and may increase.

The entry feature, gated entry and interior roads, streets and road right-of-ways within the community are intended to be dedicated to the Master Association as Common Area. Additional recreational amenities, including a Community Center and swimming pool and spa, are also projected to be Common Areas.

The Declarant and/or its assigns may establish a separate utility corporation which may own all the water in the lakes, well sites and flow lines and the Declarant or its assigns will provide irrigation water to the various condominiums and/or the Master Association. A separate utility company may be formed to provide and operate the water irrigation system which is designed to follow and adhere to the Phase I Restrictions of the South Florida Water Management District. All other irrigation functions will be carried out and operated by the Master Association.

The Declarant has the right, but not the obligation in its sole and unbridled discretion, to further expand the Community by adding additional land, or Units, Recreational Amenities or memberships that are compatible with the overall Community.

(A) Legal Description. The Real property which, initially is and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in the County and is more particularly described in Exhibit "A" attached hereto and made a part hereof, all of which real property (and all improvements thereto), together with additions thereto, but less any withdrawals therefrom, is herein referred to collectively as "The Lands." Said Exhibit "A" may not necessarily describe all Common Areas to the extent any of same are maintenance Common Areas.

(B) Supplements. In accordance with Declarant's current intention (but not obligation) to increase the land constituting The Lands from time to time by adding additional Tracts and/or Common Areas, Declarant may from time to time subject other land to the provisions hereof by recorded Supplemental Declarations (which shall not require the consent of then existing Owners, the Master Association or any mortgagee other than that, if any, of the land intended to be added to The Lands) and thereby add to The Lands. To the extent that such additional real property shall be made a party of The Lands, reference herein to The Lands shall be deemed to be reference to all of such additional property where such reference is intended to include property other than that legally described above. Nothing herein, however, shall obligate Declarant to add to the initial portion of The Lands, to develop any such future portions under a common scheme, nor to prohibit Declarant (or the applicable Declarant-affiliated Owner) from re-zoning and changing plans with respect to such future portions. All Owners, by acceptance of a Deed to or other conveyance of their Living Units, shall be deemed to have automatically consented to any such re-zoning, change, addition or deletion thereafter made by Declarant (or the applicable Declarant-affiliated Owner) and shall evidence such consent in writing if requested to do so by Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general and automatic effect of this provision).

In furtherance of the plan of development of The Lands as a Community of distinct Neighborhoods, a Supplemental Declaration may vary the terms of this Declaration by addition, deletion or modification so as to reflect any unique characteristics of the Neighborhood identified therein; provided, however, that no such variance shall be directly contrary to the overall uniform scheme of development of The Lands.

(C) Withdrawal. Declarant reserves the right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of The Lands then owned by Declarant or its affiliates or the Master Association from the provisions of this Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for The Lands desired to be effected by

Declarant; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for The Lands. Any withdrawal of land not owned by Declarant shall require the written consent or joinder of the then-Owner(s) and mortgagee(s) of such land, but not of any others.

2.2 LONG TERM DEVELOPMENT. SOME AREAS OF OSPREY COVE MAY BE UNDER DEVELOPMENT FOR AN EXTENDED TIME. INCIDENT TO THE DEVELOPMENT PROCESS, THE QUIET ENJOYMENT OF THE COMMUNITY MAY BE UNAVOIDABLY INTERFERED WITH TO SOME EXTENT BY THE CONSTRUCTION OPERATIONS. FROM TIME TO TIME, DECLARANT, DEVELOPER, BUILDERS AND OTHERS MAY PRESENT TO THE PUBLIC, CERTAIN RENDERINGS, PLANS AND MODELS SHOWING POSSIBLE FUTURE DEVELOPMENT OF OSPREY COVE. DECLARANT DOES NOT WARRANT IN ANY WAY THE SCHEMES IN THESE RENDERINGS, PLANS OR MODELS OR HOW THE FUTURE IMPROVEMENTS IN OSPREY COVE WILL ACTUALLY BE DEVELOPED. ANY SUCH RENDERINGS, PLANS OR MODELS ARE PRIMARILY THEMATIC AND IN NO WAY REPRESENT A GUARANTEED FINAL DEVELOPMENT PLAN FOR OSPREY COVE.

2.3 KORESHAN CONSERVATION AREA. The lands making up the Osprey Cove community are part of the Koreshan Conversation Area and are encumbered by the Declaration of Restrictions, Easements, and Covenant for Assessments for Koreshan Conservation Area, recorded in O.R. Book 3768, Page 4309, et.al. The Koreshan Conservation Area, Inc. was incorporated to operate and maintain certain infrastructure common to Osprey Cove and the commercial parcel adjacent to Osprey Cove. This shared infrastructure includes, but is not limited to, the operation, repair and replacement of conservation areas, common entry roads, and the surface water management system. The Osprey Cove Master Association, Inc. is a member of the Koreshan Conservation Area, Inc. and, along with _____ is responsible for implementing the cost sharing obligations of Osprey Cove for the shared infrastructure.

2.4 Proximity to Railroad and Southwest Florida Regional Airport. Osprey Cove is located in close proximity to the Seminole Gulf Railway Railroad and the aircraft flight pattern of the Southwest Florida International Airport. Due to its close proximity to the railroad and the airport, this project may be affected by the natural consequence of being located nearby. In addition, this project may be affected by the aircraft and railway noise caused by the operation of railroad and aircraft traffic over and near the subject property. Each purchaser acknowledges the risks and negative potential impacts of purchasing within a community that is developed within the vicinity of the railroad as well as the aircraft flight pattern of the Southwest Florida International Airport.

3. THE MASTER ASSOCIATION'S PURPOSES AND POWERS. The primary purposes of the Master Association are to hold title to, operate and maintain the Common Areas of Osprey Cove; to enforce restrictive covenants applicable to the Community; to provide architectural and aesthetic control; and to take such other action as the Master Association is authorized or required to take with regard to the Community pursuant to the Governing Documents. The Master Association shall

operate, insure, maintain and repair all property and related improvements designated by Declarant as Common Areas, regardless of whether legal right to that property has been formally conveyed to the Master Association.

3.1 Community Common Areas. The Master Association shall operate, maintain and, when deeded or caused to be deeded by the Developer, hold record title to the Community Common Areas. Community Common Areas may include the Community Center, vehicle parking area, perimeter road, surface water management system, and swimming pool, as depicted on the site plan. The Board of Directors may promulgate reasonable rules and regulations regarding use of the Community Common Areas consistent with the Governing Documents. Use of Community Common Areas shall be available to all members and their invitees, guests, family members and tenants, subject to the rules and the Governing Documents. The costs of operating, maintaining, repairing, insuring and protecting the Community Common Areas and the facilities located thereon or connected therewith shall be assessed equally against all Living Units, subject to the provisions of Section 9.2.

3.2 Manager. The Master 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 Master Association shall determine to be necessary or desirable.

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

3.4 Insurance. The Master Association at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary and as required in Section 13 below. The Master Association additionally shall cause all persons with access to Master Association funds to be insured or bonded with adequate fidelity insurance or bonds.

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

3.6 Acts of the Master 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 Master Association may be given or taken by its Board of Directors, without a vote of the members. The officers and Directors of the Master Association have a fiduciary relationship to the members. A member does not have the authority to act for the Master Association by reason of being a member.

3.7 Articles of Incorporation. The Articles of Incorporation of the Master Association are attached as Exhibit "B."

3.8 Bylaws. The Bylaws of the Master Association shall be the Bylaws attached as **Exhibit "C"** as they may be amended from time to time.

3.9 Official Records. The official records of the Master Association shall be maintained within the State of Florida and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within ten (10) business days after receipt by the Master Association of a written request for access. This requirement may be complied with by having a copy of the official records available for inspection or copying within the Community. The Master Association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The Master Association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members, and may charge its actual costs for reproducing and furnishing these documents to those persons who are entitled to receive them.

3.10 Polling Places. Accommodation may be made for the future use of building space within the Common Areas for the purposes of accommodating the function of an electoral polling place.

3.11 Hurricane Preparedness. It shall be the responsibility of the Master Association to establish and maintain an educational program for hurricane preparedness. The program must, at a minimum, consist of annually describing to the residents the risks of hurricane hazards and actions to mitigate the dangers that these hazards present.

3.12 Reserve Parking. As a condition of the zoning and permitting approval, the Declarant, for itself and on the behalf of the Master Association, agrees to perform and provide a parking study to the Lee County Department of Community Development, Director of Zoning, which shows the actual parking demand during peak hours of peak season, yearly for each of the first three years after Osprey Cove has been granted a Certificate of Compliance. Failure to provide the yearly parking study may require the employment of the reserve parking which has been allocated within Osprey Cove.

3.13 Member Approval of Certain Litigation. Notwithstanding any other provisions of the Governing Documents, the Board of Directors shall be required to obtain the prior approval of at least a two-thirds (2/3rds) of all classes of the voting interests of the Master Association prior to the payment of, or contracting for the payment of, legal fees to any person engaged by the Master Association for the purpose of commencing any lawsuit, other than for the following purposes:

- (A) the collection of assessments;
- (B) the collection of other charges which members are obligated to pay;
- (C) the enforcement of the Governing Documents;

- (D) the enforcement of the rules and regulations of the Master Association;
- (E) in an emergency, when waiting to obtain the approval of the members creates a substantial risk of irreparable injury to the Master Association or its members; or
- (F) filing a compulsory counterclaim.

4. MASTER ASSOCIATION MEMBERSHIP VOTING RIGHTS. Every owner of record legal title to a Living Unit within the Community shall be a member of the Master Association as further defined in Section 4.1 below. The Declarant shall hold Declarant membership as provided for in Section 4.1(B) below. Membership is appurtenant to, and may not be separated from, ownership of a Living Unit. The rights, powers, duties and privileges of members shall be as set forth in this Declaration, and in the Articles of Incorporation and Bylaws of the Master Association.

4.1 Classes of Membership. The Master Association will initially have two (2) classes of voting membership, as follows:

(A) Regular Members. Regular Members shall be the Owners of Units within the Community.

(B) Declarant Member. The Declarant shall be a member. Declarant membership and voting rights shall cease to exist at the Turnover Meeting described in Section 8 of the Bylaws, but all of the Declarant's other rights and privileges as the Declarant, as set forth elsewhere in this Declaration or in the Bylaws, shall continue as long as the Declarant holds any property within the Community for sale in the ordinary course of business. If the Declarant conveys undeveloped property within the Community to a successor developer, the Declarant may assign its Declarant membership and/or some or all of its voting rights and privileges to the successor developer.

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

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

(B) The right of the Master Association, by and through its Board of Directors, to charge any admission, use, or other fees for any Common Areas as the Board may deem appropriate. The fees may be higher for non-owners than for owners;

(C) The right of the Master Association, by and through its Board of Directors, to suspend a member's right to use Common Areas for the period during which any assessment or charge

against the member's Living Unit remains unpaid and past due, and for a reasonable period during or after any infraction of the Master Association's rules and regulations;

(D) The right of the Master Association, by and through its Board of Directors, to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority, or utility.

(E) The right of the Master Association, by and through its Board of Directors, to grant easements over, across or through the Common Areas;

(F) The right of the Master Association, by and through its Board of Directors, to open the Common Areas for use by non-members of the Master Association, or non-owners.

(G) The right of the Master Association, by and through its Board of Directors, with the prior assent of a two-thirds (2/3rds) of the voting interests, to borrow money for the purpose of improving the Common Areas, and in aid thereof, to mortgage Common Areas;

(H) The right of the Master Association, by and through its Board of Directors, to take such steps as are reasonably necessary to protect the Common Areas;

(I) The right of the Master Association, by and through its Board of Directors, to close or restrict access to the Common Areas for limited periods of time to conduct special events, including those intended primarily to benefit the Developer or its sales efforts;

(J) The right of the Master Association, by and through its Board of Directors, to regulate parking and traffic on the private roads within the Community, including without limitation the use of access gates or speed bumps;

(K) The provisions of this Declaration, the Articles of Incorporation and Bylaws of the Master Association; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Master Association;

(L) The right of the Master Association to dedicate or transfer ownership or control of all or any part of the Common Areas to any other governmental agency, public authority, or utility.

So long as there is a Declarant member, any and all rights of members, and any and all restrictions, limitations, conditions and rules and regulations that a member shall be subject to, shall not be amended without the consent of the Declarant.

4.3 Delegation of Use Rights In Common Areas. Guests accompanied by a member shall have the right to use the Common Areas, but only to the extent provided in Section 2.6 of the Bylaws, or in the Master Association's rules and regulations, and subject to the conditions, limitations and

restrictions as may be stated therein. If the Master Association permits a member to delegate his/her use rights in Common Areas to his/her guests, then a fee may be imposed, which fee may be charged in an amount which is not necessarily limited by or related to the cost of processing the delegation. Each member shall be financially and legally responsible to the Master Association for the actions and debts to the Master Association of any person to whom the member has delegated his right to use the Common Areas. The member may not delegate the obligation to pay Master Association assessments. Upon the lease of a Living Unit to which a membership is appurtenant, the lessor may retain the right to use the membership, in which case the tenant shall have no such rights. If a member delegates his privileges to a tenant residing in his Living Unit, the member shall not be entitled to use of the facilities, except as a guest of another member, during the period of the delegation.

4.4 Separation of Ownership. The ownership of the Living Unit constructed thereon, may not be separated or separately conveyed from membership in the Master Association, nor may any person who does not own record legal title to at least one Living Unit or Parcel hold membership in the Master Association.

5. GENERAL COVENANTS AND USE RESTRICTIONS. The Community may be used for those purposes provided in the RPD. Declarant reserves the right and the power to assign and reassign various land uses within the Community in accordance with the RPD, or any amendments thereto, and where reasonably necessary and advisable, to inaugurate and implement variations from, modifications to, or amendments of the RPD and any other governmental plans, land development regulations, development orders and development permits applicable to the Community, so long as Declarant or Developer maintains and preserves the overall general scheme of the Community.

5.1 Subdivision and Regulation of Land. No Living Unit may be divided or subdivided without the express written consent of the Declarant and the Developer. No owner or Neighborhood Master Association shall initiate, undertake or attempt to inaugurate or implement any variation from, modification to, or amendment of the RPD or any other governmental plans, land development regulation, development orders or development permits applicable to the Community, or to any Parcel, without the prior written approval of Declarant, which approval may be denied at the sole discretion of Declarant. Nothing herein is intended to prohibit judicial partition of a Living Unit owned by two or more persons.

5.2 Surface Water Management Systems, Lakes, and Wet Retention Ponds. The Master Association shall be responsible for maintenance of all surface water management systems, ditches, canals, lakes, and water retention ponds in the Community. All surface water management systems within Osprey Cove which are accepted by or constructed by the Master Association, excluding those areas (if any) normally maintained by the county, will be the ultimate responsibility of the Master Association, which may enter any Neighborhood Common Area and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore property water management. The cost shall be an expense of the Master Association. Nothing in this Section shall

be construed to allow any person to construct any new water management facility, or to alter any storm management systems or conservation areas, without first obtaining the necessary permits from all governmental agencies having jurisdiction.

(A) No structure of any kind (including docks) shall be constructed or erected in or on, nor shall an owner or Neighborhood Association in any way change, alter, impede, revise or otherwise interfere with the flow or volume of water in, any portion of any water management area including, but not limited to lakes, ponds, swales, drainage ways, or wet retention ponds or areas intended for the accumulation of runoff waters, without the specific written permission of the Master Association.

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

(C) No Parcel or Neighborhood Common Area shall be increased in size by filling in any lake, pond or other water retention or drainage areas which it abuts. No person shall fill, dike, rip-rap, block, divert or change the established water retention and drainage areas that have been or may be created without the prior written consent of the Master Association. No person other than the Declarant, Developer or the Master Association may draw water for irrigation or other purposes from any lake, pond or other water management area, nor is any boating, swimming, or wading in such areas allowed.

(D) All Stormwater Management Systems, excluding those areas (if any) maintained by the County, will be the ultimate responsibility of the Master Association. The Master Association may enter any Parcel or Neighborhood Common Area and make whatever alterations, improvements or repairs are deemed necessary to provide, maintain, or restore proper surface water management. The cost shall be an expense of the Master Association.

NO PERSON MAY REMOVE NATIVE VEGETATION THAT MAY BECOME ESTABLISHED WITHIN THE CONSERVATION AREAS. "REMOVAL" INCLUDES DREDGING, APPLICATION OF HERBICIDE, PULLING AND CUTTING.

(E) Nothing in this Section shall be construed to allow any person to construct any new water management facility, or to alter any Stormwater Management Systems without first obtaining the necessary permits from all governmental agencies having jurisdiction, including South Florida Water Management District, and the Developer, its successors and assigns.

(F) **Lake Maintenance and Management.** The Association shall maintain the lake in such a fashion so that the lake management techniques of the Association, including operation of the destratification system specified in the Deep Lake Management Plan, will be maintained for the life of the lake.

PARCELS MAY CONTAIN OR ABUT CONSERVATION AREAS, WHICH ARE PROTECTED UNDER RECORDED CONSERVATION EASEMENTS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE CONSERVATION EASEMENT, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING WITHOUT LIMITATION MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. PROPERTY OWNERS ARE RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE PERMIT ISSUED BY SOUTH FLORIDA WATER MANAGEMENT DISTRICT, WHICH MAINTENANCE WILL BE MAINTAINED TO THE GREATEST DEGREE LAWFUL BY THE MASTER ASSOCIATION.

5.3 Exotic Species. Exotic species vegetation, including but not limited to Melaleuca, Brazilian Pepper, Australian Pine, Japanese Climbing Fern, Cattails, Primrose Willow or Grape Vine are hereby declared to be a nuisance. All lands within the Community shall be forever maintained free of exotic species vegetation in accordance with the exotic vegetation removal plan submitted to Lee County in conjunction with any Development Order.

5.4 Open Space. Any land subjected to this Declaration and designated as open space, landscape buffer, preserve area, Conservation Area or words of similar import on any plat, declaration of covenants and restrictions, site plan, permit or other document shall be preserved and maintained by the owner of such land as open space. If such land or an easement over such land has been conveyed or dedicated to the Master Association or to a Neighborhood Association, the Master Association or Neighborhood Association shall preserve and maintain such land. No development may occur on such land except structures or improvements which promote the use and enjoyment of the land for open space purposes.

5.5 Lawns, Landscaping; Irrigation Systems. Except for designated Conservation Areas, buffer zones, open space or other similar areas, all areas not covered by structures, walkways or paved parking facilities shall be maintained by their owners as lawn or landscaped areas to the pavement edge of any abutting streets and to the waterline of any abutting lakes, canals or water management areas regardless of ownership of the underlying lands. Stone, gravel, or paving may not be used as a substitute for grass in a lawn. Certain areas as determined by the Developer or the RPD shall remain in a natural or unimproved state. Lawns must be regularly cut and mulched areas regularly re-mulched. Maintenance, repair and replacement of the main irrigation line shall be the responsibility of the Master Association. The components of the irrigation system serving each individual Neighborhood Common Area, including but not limited to the tap into the main line,

timers and switching devices shall be the responsibility of the Master Association. The maintenance, repair and replacement of irrigation heads shall be the responsibility of the Neighborhood Association. The Master Association shall have the right, at its sole discretion to adopt a schedule of irrigation times and duration of irrigation, subject to intervention by the SFWMD.

5.6 Maintenance of Premises. No high weeds, underbrush, high grass or other unsightly vegetation shall be permitted to grow or remain upon any Neighborhood Common Area, and no refuse or waste shall be allowed to be placed or suffered to remain upon any Neighborhood Common Area. If an owner or Neighborhood Association permits such weeds, high grass, underbrush or other unsightly growths, and fails to correct same after five (5) days notice by the Master Association, the Master Association shall have the right to enter upon the premises and make such corrections and shall charge the owner or Master Association for the cost of the corrections. Said charge, until paid, shall be a lien against the offending Neighborhood Common Area. All lawns, landscaping and sprinkler systems and all structures, improvements and appurtenances shall at all times be kept in safe, and attractive condition, and all structures shall be maintained in a finished, painted and attractive condition. Provisions under section are intended to obligate the Master Association to maintain all streets, roads and thoroughfares and other open areas within the subdivision.

5.7 Sidewalks. Declarant may construct sidewalks in various locations within the Community.

5.8 Walking Path. Declarant may construct a walking path within the Community in accordance with plans and specifications approved by the Declarant.

5.9 Litter. In order to preserve the beauty of the Community, no garbage, trash, refuse or rubbish shall be deposited, dumped or kept within the Community except in closed containers, dumpsters or other garbage collection facilities deemed suitable by the Board, or in proper-sized, closed plastic bags for curbside pickup as required. All containers, dumpsters and other garbage collection facilities shall be screened from view, kept in a clean condition, and without noxious or offensive odors emanating.

5.10 Walls, Fences, Hedges, etc. Unless approved in writing by Declarant, no wall, fence, hedge, or other divider shall be constructed or maintained on any Neighborhood Common Area, it being the express intent that no fences, walls or dividers shall be permitted on any Neighborhood Common Area which abuts lakes, preserve areas, streets or roads unless the Declarant so approves. Any dispute as to height, length, type, design, composition or material shall be resolved by the Master Association's Board of Directors, whose decision shall be final. Approval may not be given for the construction of any wall, fence or hedge which materially interferes with the water view or preserve view of any Living Unit.

5.11 Parking Areas. Parking areas must be paved with concrete, paver blocks, or another hard surface approved by Declarant. Maintenance and repair of all parking and other paved parking facilities shall be the responsibility of the Master Association (if located in the Common Areas) or

the responsibility of the Neighborhood Association (if located in a Neighborhood Common Area). Parking areas must be kept clean and free from excessive oil, rust or other unsightly stains.

5.12 Color. No exterior colors on any structure shall be permitted that, in the judgment of the Architectural Review Committee or Declarant, would be inharmonious, discordant or incongruous with the Community or a particular Neighborhood. The initial exterior color and design of structures shall be as approved by Declarant, and any later changes must be approved by the Architectural Review Committee.

5.13 Underground Utilities. No lines or wires for communication or the transmission of current shall be constructed, or placed, or permitted to be placed within the Common Areas unless the same shall be protected cables; all such lines or wires which are not located in buildings shall be constructed or placed and maintained underground, unless otherwise approved in writing by Declarant. No water pipe, gas pipe, sewer pipe, drainage pipe or storage tank shall be installed or maintained above the surface of the ground, except hoses and movable pipes used for irrigation purposes.

5.14 Water Supply; Wells; Water Rights. The Declarant, its successors or assigns, shall have the exclusive right to develop and utilize the ground and surface water resources of the Lands for any legal purpose, including the transport and use of such waters beyond the Lands, and the conveyance of any Living Unit by Declarant does not include the right to develop or utilize any ground water or sub-surface water resources within such Living Unit. The Declarant, or an affiliate of Declarant, may establish a separate "for profit" utility company which will own all of the water in the lakes, well sites, flow lines, and the entity will be the exclusive provider of irrigation water to all Living Units or Parcels.

5.15 Temporary Factory-Built or Existing Structures. No structure of any kind of what is commonly known as "factory-built", "modular", or "mobile home" type construction shall be erected without the prior written permission of Declarant. No tent, trailer or temporary structure other than those used by Declarant for construction and sales activities shall be permitted unless its size, appearance and temporary location have first been approved by the Architectural Review Committee.

5.16 Antennas and Flagpoles. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Tract or upon any improvements thereon, unless expressly approved in writing by the Architectural Review Committee, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the federal Telecommunications Act of 1996, as amended from time to time. The Master Association shall be empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The Master Association may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to side or rear yard

locations, not visible from the street or neighboring properties, and integrated with the Residence and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. A flagpole, for display of the American Flag only, may be permitted if its design and location are first approved by the Master Association. An approved flagpole shall not be used to mount an antenna. This provision is intended to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances, which is sometimes caused by the operation of ham radios, CB base stations or other high-powered broadcasting equipment. This Section 5.16 shall not apply to the Declarant.

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

(A) No commercial vehicle of any kind shall be parked in the Community except for construction or service vehicles temporarily present on business. The term "commercial vehicle", as restricted under this subsection, is defined as meaning all vehicles of every kind whatsoever which, from the viewing the exterior of the vehicles or any portion thereof, shows or tends to show any commercial markings, signs, displays, equipment, or otherwise indicates a commercial use.

(B) No boat, trailer, semi-tractor trailers, or house trailer of any kind, camper, mobile home, motor home, bus, truck camper, or disabled, inoperative or unlicensed motor vehicle of any kind may be parked or kept in the Community unless it is kept fully enclosed inside a structure. For purposes of this paragraph only, an open carport shall not be deemed a structure. House trailers, semi-tractor trailers, campers, buses, motor homes, mobile homes, truck campers, and the like are permitted to be parked in the Community for loading and unloading purposes only, and then for a maximum of 12 hours. Parking for longer periods of time may be permitted, only with the prior written approval of the Board of Directors.

(C) No motor vehicle shall be parked anywhere other than on paved or other areas designated for that purpose, or in garages. Parking on lawns or landscaped areas is prohibited.

(D) No motor vehicle shall be used as a domicile or residence, either permanent or temporary.

(E) Passenger automobiles, vans and light pick-up trucks with single rear wheels of no more than one (1) ton designation, in a presentable condition, and which will fit within an enclosed garage, shall be permitted. The term "vans and light pick-up trucks" is defined to mean vehicles with no more than one (1) ton, rear single wheels or less rated weight carrying capacity.

(F) Paragraphs (A) through (E) shall not be deemed to prohibit any temporary facility permitted by Section 5.15 above.

(G) Any vehicles parked in violation of this Section 5.17 shall be subject to being towed away at the owner's expense.

5.18 Lighting. All exterior lighting of structures or landscaping shall be accomplished in accordance with plans approved in writing by Declarant. Except as may be initially installed or approved by Declarant, no spotlights, floodlights or similar high intensity lighting shall be placed or utilized upon any Living Unit which in any way will allow light to be reflected on any other Living Unit the improvements thereon, or upon any Common Areas or any part thereof, without the approval of the Master Association. Other types of low intensity lighting, including normal and customary Christmas or other holiday decorations, which do not unreasonably disturb other owners or occupants of the Community, shall be allowed.

5.19 Signs. No signs, banners, billboards or advertisements of any kind, including without limitation, those of Realtors, politicians, contractors or subcontractors, shall be erected or displayed anywhere within the Community, including in windows and on motor vehicles. The Board of Directors and Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. If any sign is erected in violation of this provision, the Declarant, the Master Association, or any Neighborhood Association shall have the right to enter the property on which the sign is located and remove it, as well as levy a fine of \$100.00/day for each day's violation and suspend the violator's use privileges of the community common areas. Said action to enter one's property and remove the sign, if necessary, shall be deemed expressly permitted by the property owner. The foregoing shall not apply to signs, banners, flags, billboards or advertisements used or erected by Declarant, nor to entry and directional signs installed by Declarant, and signs required by law.

5.20 Living Units; Residential Use. Each Living Unit shall be used as a single family residence and for no other purpose. No business or commercial activity shall be conducted in or from any Living Unit, nor may the address or location of the Unit be publicly advertised as the location of any business or commercial activity. Notwithstanding however, neither the listing on any occupational license or the listing within any telephone directory of the Living Unit serving as a business address shall be dispositive of the property being used as for commercial or business purposes. Any owner may use his/her residence for incidental commercial purposes, so long as (1) property is not used for manufacturing, construction or installation of materials sold or advertised to be sold, whether retail or wholesale customers; (2) the nature of the business activity does not invite or permit suppliers, customers or vendors to visit or frequent the Living Unit, even on isolated occasions; (3) the business activity within the Living Unit is limited to telephone calls and written correspondence in and from the Living Unit; and (4) no employees or contractors, other than those who regularly reside within the Living Unit may perform any work or other services to the business at the Living Unit. This restriction shall further not be construed to prohibit any owner from maintaining a personal or

professional library, from keeping personal, business or professional records in his Living Unit, or from handling personal, business or professional telephone calls and written correspondence in and from his Living Unit. Such uses are expressly declared customarily incident to residential use.

5.21 Leasing of Living Units. No Living Unit may be leased or rented for a period of less than thirty (30) consecutive days. Neighborhood Covenants may establish stricter standards for particular Neighborhoods.

THE DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE FINANCIAL FEASIBILITY OF RENTING UNITS OR THE INCOME TO BE DERIVED THEREFROM. ANY OWNER WHO DESIRES OR INTENDS TO RENT A LIVING UNIT MUST INDEPENDENTLY DETERMINE AND ASSUME RESPONSIBILITY FOR THE FEASIBILITY OF RENTING, AND SHOULD CONSULT HIS OR HER OWN ADVISOR WITH RESPECT TO THE TAX CONSEQUENCES AND ECONOMIC ADVANTAGE OF OWNERSHIP.

5.22 Pets and Animals. Not more than two (2) commonly accepted household pets such as a dog or cat, and reasonable numbers of tropical fish or caged birds may be kept in a Living Unit, subject to other reasonable regulation by the Master Association or Neighborhood Association. All animals shall be leashed (if outdoors), or kept within the Living Unit and shall not be permitted to roam free. The Master Association may restrict the walking of pets to certain areas. Owners who walk their pets on Master Association or Neighborhood Common Areas must clean up after their pets. Commercial activities involving pets, including without limitation, boarding, breeding, grooming or training, are not allowed. The ability to keep a pet is a privilege, not a right. If in the opinion of the Board, any pet becomes the source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the owner, upon written notice, may be required to remove the pet from the Community. Pets may not be left unattended or leashed in or on porches or lanais.

5.23 Nuisances. Nothing may or shall be done which is, or may become, a source of unreasonable annoyance or nuisance to residents of any Neighborhood. Any question with regard to the interpretation of this Section shall be decided by the Declarant so long as it owns any property in the Community and thereafter by the Master Association whose decision shall be final.

5.24 Correction of Health and Safety Hazards. Any Conditions of the physical property which are reasonably deemed by the Board of Directors to be an immediate hazard to the public health or safety may be corrected as an emergency matter by the Master Association, and the cost thereof shall be charged to the responsible owner or Master Association.

5.25 Assignment of Approval Rights. At such time as neither Declarant nor any subsequent developer hold any Living Units in the Community for sale in the ordinary course of business, or at such earlier time as Declarant may determine, all rights of Declarant to approve or disapprove any construction, alteration or other aspect of the appearance of the physical property in the Community

shall automatically devolve upon and be deemed assigned to the ARC. At that same time all other approval powers of the Declarant shall automatically devolve upon and be assigned to the Board of Directors of the Master Association.

5.26 Waterfront Property. As to all portions of The Lands which have a boundary contiguous to any lake, canal, river or other body of water, the following additional restrictions and requirements shall be applicable:

(A) No boathouse, dock, wharf or other structure of any kind shall be erected, placed, altered or maintained on the shores of the lake unless erected by Declarant, Developer or its affiliates.

(B) No solid or liquid waste, litter or other materials may be discharged into/onto or thrown into/onto any lake or other body of water or the banks thereof.

(C) No landscaping (other than that initially installed or approved by Declarant or Developer), fences, structures or other improvements (regardless of whether or not same are permanently attached to the land or to other improvements) shall be placed within any lake maintenance or similar easements around lakes or other bodies of water.

(D) Any boats, canoes or kayaks operated on lakes or other water bodies or other recreational use of the lakes, including fishing on the lakes or other water bodies owned by, or dedicated to, the Master Association or any other public authority shall be subject to any regulations of the Master Association or such authority.

5.27 Hurricane Shutters. Any hurricane or other protective devices visible from the outside of a home or unit shall be of a type as approved by the ARC, and in accordance with the guidelines as promulgated by the ARC. No such devices shall be installed without the prior written approval of the ARC. Except as otherwise provided in this Section, an owner's accordion, roll-up, panel, or other style storm shutters must be left in an open position at all times. Whether they consist of accordion, roll-up, panel, or any other style shutter, the owner may only install, operate, or have in a closed or down position, storm shutters if and when the National Weather Service has issued a hurricane watch for the County or Municipality where the owner's dwelling is located. All storm shutters must be returned to the open or up position within seventy-two (72) hours after such hurricane watch expires or is otherwise no longer in effect. In no event shall an owner rely upon any other party to operate the owner's storm shutters, to either remove, close or open such shutters, and each owner is individually responsible for the full operation of their storm shutters. If any owner fails to comply with the terms of this Section, such owner shall be subject to the imposition of fines as detailed in this Declaration.

5.28 Declarant's Exculpation. The Declarant or Developer may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required,

without any liability of any nature or kind to any owner or Master Association or any other person for any reason whatsoever, and any permission or approval granted shall be binding upon all persons. The use restrictions of this Section 5 shall not apply to any property owned by a Developer prior to its conveyance to an owner other than a Developer.

6. ARCHITECTURAL AND AESTHETIC CONTROL

6.1 General. Except for the initial construction of Living Units, Neighborhood Common Area facilities, Common Area facilities, and related improvements by the Developer, no building, structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any structure, Living Unit, or Neighborhood Common Area be performed without the prior written approval of the ARC. In obtaining said written approval, an owner or any other person applying shall comply with all applicable requirements and procedures.

6.2 Architectural Review Committee. The architectural and aesthetic review and control functions of the Master Association shall be administered and performed by the ARC. The ARC shall consist of not less than three (3) individuals, who need not be members of the Master Association. The term of office, composition, compensation (if any), qualifications and meeting procedures of the ARC shall be as provided in Section 6 of the Bylaws.

6.3 Powers. The ARC shall have the power, subject to and limited by the guidelines of the approved regulatory permits of South Florida Water Management District, the County and the RPD to:

(A) Propose the adoption, modification or amendment by the Board of Directors, of written Design Review Guidelines which shall set forth such things as design requirements, landscape materials, construction standards and colors and materials which the ARC finds acceptable. Said Guidelines shall be consistent with provisions of this Declaration, and shall not be effective until adopted by at least a majority of the whole Board of Directors at a meeting duly called and noticed. Notice of any adoption, modification or amendment of Design Review Guidelines, including a verbatim copy of the proposed modification or amendment thereof, shall be mailed to each Neighborhood Association at least thirty (30) days prior to the Board meeting at which such action is to occur;

(B) Require submission to the ARC of complete plans and specifications for any building, structure, or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which materially alters the exterior appearance of any structure, Unit or Neighborhood Common Area. The ARC may also require submission of samples of building materials or colors proposed for use on any Unit, and may require such additional

information as may reasonably be necessary for the ARC to fully evaluate the proposed work;

(C) Approve or disapprove the erection or alteration of any building, structure or other improvement; or any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any structure, Unit or Neighborhood Common Area. All decisions of the ARC shall be forwarded in writing to the Board. Any person aggrieved by a decision of the ARC shall have the right to make a written appeal to the Board within thirty (30) days after notification of the decision. The determination by the Board, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;

(D) Adopt procedures and a schedule of reasonable fees for processing requests for ARC review. Fees, if any, shall be payable to the Master Association, in cash or check, at the time the request is submitted to the ARC; or

(E) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.

6.4 Enforcement. Any decisions of the ARC shall be enforced by the Neighborhood Association involved, as well as by the Master Association.

6.5 Declarant's Rights. Notwithstanding the foregoing, the Declarant shall have the right, so long as any Developer is offering any property in Osprey Cove for sale in the ordinary course of business, to appoint all of the members of the Architectural Review Committee, or such lesser number as it may choose. During this time, the Declarant shall also have the power, in its sole discretion, to establish, amend, or revoke any and all Design Review Guidelines.

7. EASEMENTS. In addition to the easements created elsewhere herein, and those already of public record at the time this Declaration is recorded, easements are hereby provided for:

7.1 Utilities, Services and Support. Each Unit and Parcel and the Common Areas and Neighborhood Common Areas is and are hereby subjected to easements for public services, communications and telecommunications, and utilities purposes including, but not limited to, fire, police protection, and emergency services, garbage and trash removal, potable and non-potable water, sewage, telephone, electric and irrigation, lake maintenance, and cable television.

The utilities and governmental agencies having jurisdiction, and their employees and agents, shall have the right of access to any Unit, Parcel or the Common Areas in furtherance of such easements. The easement areas on any Parcel, whether or not shown on any plat, shall at all times be properly maintained by the owner, whether or not the utility or service company property maintains the easement area.

(A) There is hereby reserved, for the purpose of installing, operating and maintaining governmental, public or private utility facilities, and for other purposes incidental to the development of the Community, those easements described herein and those shown upon the recorded plat of the Community, and there are also reserved such easements and rights-of-way for any other purposes as Declarant in its sole discretion may in the future grant.

(B) Declarant hereby reserves the right, and the power, during a period of twenty (20) years from the date of recording this Declaration, to declare, grant, modify, vacate and record easements for drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, telephone and other telecommunication lines, cable television lines, and such other service facilities as Declarant may deem necessary or desirable, along the various utility service routes, through, in, over and under all Parcels and Common Areas, and Neighborhood Common Areas. The purpose, duration and scope of any such easement shall be set forth in an instrument of public record. Said easements and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Parcel or Common Area, or materially change the rights of the owners. If any agreement is entered into by the Master Association for the exclusive provision of System services or other services to the Community, as described in either Section 7.2, 7.3 or both below, it shall be the affirmative obligation of the Master Association to grant all appropriate and reasonably necessary easements for the furnishing of those services; and upon the expiration or termination of such agreement, to provide subsequent or alternate easements so as to insure the continuous accessibility and availability to the Community, of those services.

7.2 Cable T.V. and Broadband Telecommunications and Utilities Services System. The Declarant hereby reserves for itself and its successors, assignees and licensees, the right, without obligation, to construct or install over, through, under, across and upon any portion of the Community for the use and benefit of the Owner and that committed or authorized guests, invitees, tenants and family Members, one (1) or more cable and/or internet access telecommunications receiving and distribution systems and electronic surveillance systems, internet access, emergency, medical and surveillance monitoring, or alarm systems; (2) utility services for supplying irrigation, lake maintenance, natural gas, potable and non-potable water and sewage (all or any part of which shall be referred herein collectively as the "System"), the exact description, location and nature of which may have not yet been fixed or determined.

Declarant shall have and hereby reserves to itself and its designees, successors, assignees and licensees, a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (the scope, extent, size and location of which over, across, upon and through the Community shall be determined solely by Declarant, its successors, designees and assigns) together with a perpetual and exclusive right and privilege of:

(A) Unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System including, without limitation, television and radio signals, electronic banking, surveillance, fire, police and emergency medical protection.

(B) Transmitting the facilities and equipment of which, shall be owned and exclusively controlled by Declarant, its successors and assigns or its designees.

7.3 Right to Contract with Service Providers. The Master Association shall have the right, but not the obligation, to enter into one or more contracts for the provision of one or more System Services for all or any part of Osprey Cove. Prior to the turnover, all contracts between a System Provider and the Master Association shall be subject to the prior written approval of Declarant. Declarant and/or its nominees, successors, assigns, affiliates, and licensees may contract with the Master Association and act as a Service System Provider for one or more System Services, subject only to the requirements of all applicable laws, statutes, and regulations.

If Declarant is not the Service Systems Provider for any particular System Service, Declarant shall have the right to receive, on a perpetual basis, all or a portion of access fees and/or revenues derived from such System Service within Osprey Cove, as agreed, from time to time, between the System Service Provider and Declarant.

Any such contract for cable television or other similar services shall provide, and if it does not, shall be deemed to provide, that during any period of occupancy of a Living Unit by a hearing impaired or legally blind Unit Owner who does not occupy the Living Unit with a non-hearing impaired or sighted person, said Owner may refuse or discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such Living Units, the Owners shall not be required to pay any charge related to such service.

7.4 Collection of "System" Assessments by Master Association. Every Living Unit to which the service System is available for many contractual designee(s) shall be subject to a System service assessment, payable per Living Unit for System services, including, without limitation, cable television services and utility services. The Master Association shall bill the appropriate System service assessment to each Living Unit along with other assessments for common expenses, which may be due and payable at the same time, and shall collect same and remit payment to the contractual designee(s) providing the System services.

7.5 Construction and Maintenance. Declarant (including its designees and contractors) shall have the right to enter any part of the Community and take any action reasonably necessary or convenient for the purpose of completing the construction or sales thereof, and for maintenance purposes and

the completion of warranty work, provided such activity does not prevent or unreasonably interfere with the use or enjoyment of the Living Units by owners.

8. COMMON AREAS; CONVEYANCE, USE AND MAINTENANCE.

8.1 Designation. Except for the Conservation Areas and the Stormwater Management System, Declarant shall have the right, and the power, in its sole discretion, to determine which parts of the Community shall be Common Areas, and to convey, lease or grant a license or other right to use real property within the Community to the Master Association or any Neighborhood Association as Common Areas.

(A) Any such conveyance, lease or grant of license or use right to the Master Association may be exclusive or non-exclusive, so that persons or entities other than the Master Association may or may not have a right, power, duty, or privilege with respect to all or any part of any real property so conveyed, leased, licensed or the use of which has been granted. The Master Association must accept from Declarant, any such conveyance, lease, grant of license or grant of use right. The Master Association shall not accept, from any person other than Declarant, a conveyance, lease, grant or license or grant of use right except upon the prior written approval of the Declarant.

(B) Prior to the conveyance of Common Areas by Declarant to the Master Association, the Master Association shall have the right to charge reasonable fees, rents, or other charges for the use of the property; however, rents, fees and other charges required to be paid to Declarant under leases, grants, licenses or contracts creating use rights to third parties shall continue to be paid.

The foregoing notwithstanding, the Master Association shall own and maintain the surface water management system of Osprey Cove which have been constructed by or accepted by the Master Association, unless those duties and obligations are transferred to the Master Association.

8.2 Conveyance and Use. Declarant will initially hold the legal title to the Common Areas, but agrees to convey the Common Areas to the Master Association. Not later than sixty (60) days after the date when members first elect a majority of the Board of Directors, the Declarant shall convey the Common Areas to the Master Association by special warranty deed, and the Master Association shall accept such conveyance, subject to taxes for the year of conveyance (if any) and to mortgages, restrictions, limitation, conditions, reservation and easements of record. The Declarant may, however, convey title at any earlier time the Declarant chooses. Declarant shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent property and for the purpose of construction of any facilities on the Common Areas that Declarant elects to build.