

hand, and the Articles of Incorporation and By-Laws on the other hand, be interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, the Declarant intends that the provisions of this Declaration, or any supplemental or amended Declaration, control anything to the contrary in the Articles of Incorporation or By-Laws.

Section 9. Termination of Association. If the Association ceases to exist, all of the Owners shall be jointly and severally responsible for operation and maintenance of the Surface Water Management System facilities in accordance with the requirements of the Environmental Resource Permit, unless and until an alternate entity assumes responsibility.

ARTICLE V ASSESSMENTS

Section 1. Assessments Established. For each Lot, Declarant covenants, and each Owner of a Lot by acceptance of a deed thereto, whether or not it is so expressed in such deed, is deemed to covenant and agree, to pay to the Association:

- a. An annual assessment, as provided in Section 2 of this Article; and
- b. Special assessments, as provided in Section 3 of this Article; and
- c. Specific assessments; as provided in Section 4 of this Article; and
- d. All excise taxes, if any, that from time to time may be imposed by law upon all or any portion of the assessments established by this Article; and
- e. Interest and costs of collection of such assessments, including reasonable attorney's fees, as provided in this Declaration; and

All of the foregoing are a continuing charge on the Lot and secured by a continuing lien upon the Lot against which each assessment is made, as provided in Section 7, below. Each such assessment, together with excise taxes (if any), interest and all costs and expenses of collection, including reasonable attorney's fees, also is the personal obligation of the person who was the Owner of such Lot when such assessment became due. Such personal obligation will not pass to an Owner's successors in title unless assumed expressly in writing, however.

The annual or special assessments on Lots owned by the Declarant shall be fifty percent of the corresponding assessments for Lots owned by other Owners. If a deficit in funding occurs, the Declarant shall pay additional assessments equal to the deficit, however, the Declarant shall

pay no more than one hundred percent of the corresponding assessment for Lots owned by other Owners.

Section 2. Annual Assessment. The annual assessment shall be due on January 1 of each year and payable as provided in Article V, Section 5. The annual assessment shall be used exclusively to promote the value and desirability of the Property for the benefit of the Owners and Occupants, including (i) the operation, management, maintenance, repair, servicing, renewal, replacement and improvements of the Common Area required to be maintained by the Association, including the Surface Water Management System Facilities, monitoring and maintenance of any wetland mitigation areas until the Southwest Florida Water Management District determines that the area is successful in accordance with the Environmental Resource Permit, and the establishment of reserve accounts for all such items; and (ii) the cost of labor, equipment, materials, management and, supervision of the Common Area required to be maintained by the Association; and (iii) all other general activities and expenses of the Association.

Section 3. Special Assessments for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessment authorized above, the Association may levy special assessments as follows:

a. Upon the first sale of each Lot to a third party purchaser, a special assessment for a working capital fund, equal to six (6) months' estimated regular assessment may be assessed which shall be due and payable upon conveyance of each Lot to a third party purchaser. The aggregate working capital fund established by such special assessment shall be accounted for separately, and shall be available for all necessary expenditures of the Association.

b. In an assessment year, a special assessment (in addition to the annual assessment or the assessment provided in subsection (a) above) which is applicable to that year only for the purpose of defraying, in whole or in part, the cost of any nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon the Common Area required to be maintained by the Association, including fixtures and personal property related thereto may be assessed. The Association shall separately account for the proceeds of such special assessments and proceeds shall be used solely and exclusively to fund the nonrecurring maintenance or improvements in question, provided such assessment first is approved by a majority of the Members present and voting in person or by proxy at a meeting duly convened for such purpose. Any such special assessment shall be due on the date fixed by, and may be payable in one or more installments (with or without interests), as the Board determines.

Section 4. Specific Assessments. Any and all accrued, liquidated indebtedness of any Owner to the Association arising under the provision of this Declaration, or by contract expressed or implied, or because of any act or omission of any Owner or person for whom such