

**Declaration of Conditions, Covenants,  
Easements and Restrictions  
for  
CROSS CREEK LAKE ESTATES  
a subdivision**

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**DECLARATION OF CONDITIONS, COVENANTS,  
EASEMENTS AND RESTRICTIONS  
FOR  
CROSS CREEK LAKE ESTATES,  
A SUBDIVISION**

THIS DECLARATION is made this 16<sup>th</sup> day of April, 2013, by Cross Creek Lake Estates, Inc., a Florida corporation (hereinafter referred to as "Developer"), and Campanelli Development Corporation, Inc., a Florida corporation (hereinafter referred to as "Campanelli"), which declare hereby that "the Property" described in Article II of this Declaration is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

**ARTICLE I**

**DEFINITIONS**

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

(a) "Assessment" means and refers to a share of the funds required for payment of the expenses of the Association, which funds shall be assessed against a Lot Owner from time to time.

(b) "Association" means and refers to the CROSS CREEK LAKE ESTATES HOMEOWNERS' ASSOCIATION, INC., a Florida corporation not for profit (HOA).

(c) "Common Areas" means and refers to the property as shown on a Plat, including but not limited to: Any area labeled as a tract, including but not limited to the Stormwater Management tract, recreational tract and street rights-of-way as shown on any Plat of the subdivision. All property designated as Common Areas in any future recorded supplemental Declaration recorded in the Public Records of Indian River County, Florida, shall be included with the Common Areas.

(d) "Community" means and refers to the Cross Creek Lake Estates Homeowners Community, which shall include all Lots in the initial phase of development as well as all Lots in all future phases of Cross Creek Lake Estates. The initial Lots comprising the Cross Creek Lake Estates Homeowners Community are identified on Exhibit "A" attached hereto and made a part hereof.

(e) "Declaration" means and refers to this Declaration of Conditions, Covenants, Easements and Restrictions for Cross Creek Lake Estates, a subdivision as recorded in the Public Records of Indian River County, Florida, and as the same may be amended from time to time.

(f) "Developer" means and refers to Cross Creek Lake Estates, Inc., its successors and such of its assigns as to which the rights of Developer hereunder are specifically assigned by written instrument recorded in the Public Records of Indian River County, Florida. The Developer may assign only a portion of its rights, hereunder, or all or a portion of such rights in connection with appropriate portions of the Property. In the event of such a partial assignment of its rights, the assignee shall not be deemed the Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis. A Lot purchaser, Lot Owner or a Lot mortgagee shall not be deemed to be the Developer by the mere act of purchase or mortgage of a Lot.

(g) "Entitled to Vote" means and refers to that Lot Owner entitled to a vote for a Lot at an Association meeting. If more than one person or legal entity shall own a Lot, the Owners thereof shall determine among themselves who shall be the member entitled to vote. Said determination shall be manifested upon a voting certificate, signed by all Owners of said Lot, and given to the Association Secretary for placement in the Association records. Notwithstanding anything contained herein, all Lot Owners whether entitled to vote or not are assured of all other privileges, rights, and obligations of Association membership and shall be members of the Association.

(h) "Institutional Lender" or "Institutional Mortgagee" means and refers to a bank, savings and loan association, insurance company, mortgage company, real estate investment trust, pension fund, pension trust, or any other generally recognized institutional-type lender or its loan correspondent, the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), or any agency of the United States Government or any lender providing funds to the Developer for the purpose of constructing improvements upon the Property (and such lender's successors and assigns) or any other lender approved by the Association Board of Directors as an "Institutional Lender" or "Institutional Mortgagee."

(i) "Lot" means and refers to any lot on a Plat (excluding Tracts) of portions of the Property, or by any other recorded plat to be subject to this Declaration (and to the extent the Developer is not the owner thereof, then designated by the Developer and joined by the owner thereof), any lot shown upon any resubdivision of any such Plat, and any other property hereafter declared as a lot by the Developer and thereby made subject to the Declaration. To the extent the Developer is not the owner thereof, then such declaration shall be made by the Developer and joined by the owner thereof.

(j) "Member" means and refers to all those Owners who are members of the Association as provided in Article III hereof.

(k) "Owner" means and refers to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property.

(l) "Plat" means and refers to any plat of Cross Creek Lake Estates, a subdivision, together with any plat of additional land made subject to this Declaration and to the jurisdiction of the Association.

(m) "Property" means and refers to all such existing properties as described in Article II, Section 1 of this Declaration, and additions (phases) thereto, as are now or hereafter made subject to the Declaration and to the jurisdiction of the Association, except such as are withdrawn from the provisions hereof in accordance with the procedures hereinafter set forth.

(n) "Residence" means and refers to any residential building constructed on a Lot.

(o) "Surface Water or Stormwater Management System" means and refers to a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, Florida Administrative Code. All drainage areas located on the Property are declared to be part of the Surface Water or Stormwater Management System.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION;

ADDITIONS THERETO

Section 1. 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 City of Sebastian, Indian River County, Florida, and is more particularly described as follows:

The Property described in metes and bounds in Exhibit "B" attached hereto and by this referenced made a part hereof.

To the extent all or any portion thereof is not owned by the Developer the respective owners thereof shall have joined in this Declaration for the purpose of subjecting that portion of the Property owned by each of them to this Declaration.

Section 2. Phasing. The development of Cross Creek Lake Estates will be phased. The Developer reserves the right, at its sole discretion, from time to time to bring other land under the provisions hereof by recording in the Public Records of the Clerk of the Circuit Court for Indian River County, Florida, amendments or supplemental declarations (which shall not require the consent of then existing Owners or the Association, or any mortgagee, except in the case of property not then owned by the Developer but proposed to be added to the Property, in which case the owner thereof shall join in the applicable supplemental declaration) and thereby add to the Property. To the extent that additional real property shall be made a part of the Property as a common scheme, reference herein to the Property should be deemed to be a reference intended to include property other than that legally described above. Nothing herein, however, shall obligate the Developer to add to the initial portion of the Property, to develop any such future portions under such common scheme, nor to prohibit the Developer from rezoning and changing the development plans with respect to such future portions and/or the Developer from adding additional or other property to the Property under such common scheme. All Owners, by acceptance of a deed to their Lot, are deemed to have consented to any rezoning, change, addition or deletion thereafter made by Developer and shall evidence such consent in writing if requested to do so by the Developer at any time.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a member of the Association. Notwithstanding anything else to the contrary set forth in this Section 1, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be member of the Association. Membership in the Association shall be appurtenant to each Lot and may not be separated from ownership of said Lot. The record title holder to each Lot shall automatically become a member of the Association and shall be assured of all rights and privileges thereof upon presentation of a photographically or otherwise reproduced copy of said Owner's deed recorded in the Public Records of Indian River County, Florida to the Association Secretary for placement in the records of the Association. To the extent that said deed shall pass title to a new Lot Owner from an existing Lot Owner, membership in the Association shall be transferred from the existing Lot Owner to the new Lot Owner.



Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Section 1 with the exception of the Developer (as long as the Class B membership shall exist, and thereafter, the Developer shall be a Class A member to the extent it would otherwise qualify). Except as provided below, Class A members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot, all such persons shall be members, but the vote for such Lot shall be exercised only by that one person who is entitled to vote. In no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B member shall be the Developer. The Class B member shall be entitled to one (1) vote, plus sixteen (16) votes (for a total of seventeen (17) votes) for each Lot owned by the Developer. The Class B membership shall cease and terminate: 1) at such time as 90% of all Lots to be ultimately subject (including future phases) to Association membership within the Property have been sold and conveyed by the Developer; or 2) thirty (30) years from the date of the first conveyance by Developer of a Lot; or 3) sooner at the election of the Developer, whichever event shall first occur, whereupon the Class A members shall be obligated to elect the Board and assume control of the Association. Upon termination of the Class B membership as provided for herein, the Class B membership shall convert to Class A membership with voting strength as set forth above for Class A membership.

Section 3. General Matters. When reference is made herein, or in the Association Articles of Incorporation or Bylaws, Rules and Regulations, management contracts or otherwise, to a majority or specific percentage of members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of members entitled to vote and not of the members themselves.

Section 4. Board of Directors. The Developer shall be entitled to elect all of the Board of Directors until three (3) months after ninety percent (90%) of the Lots in all phases of the community that will ultimately be operated by the Association have been conveyed to members, notwithstanding the number of votes available to the Developer or any contrary provision in the Articles of Incorporation or Bylaws of the Association. The Developer is entitled to elect at least one member of the Board of Directors of the Association as long as the Developer holds for sale in the ordinary course of business at least five percent (5%) of the Lots in all phases of the Community, notwithstanding the number of votes available to the Developer, or any contrary provision in the Articles of Incorporation or Bylaws of the Association. The Developer will elect one (1) representative from Campanelli to the Board of Directors as long as Developer is entitled to elect all of the Board of Directors or until Campanelli has sold all of its Lots within the Property, whichever shall occur first.

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE COMMON AREAS; OTHER EASEMENTS

Section 1. Members Easements. Each member, and each tenant, agent and invitee of such member or tenant, shall have a nonexclusive permanent and perpetual easement over and upon

the Common Areas for the intended use and enjoyment thereof in common with all other such members, their tenants, agents and invitees, in such manner as may be regulated by the Association. If any Lot Owner's sole ingress to or egress from his Lot is through the Common Areas, any transfer or conveyance thereof herein or hereafter made or made on a Plat shall be subject to such Lot Owner's ingress and egress rights.

Without limiting the generality of the foregoing, such rights of use and enjoyment are hereby made subject to the following:

(a) The right and duty of the Association to levy Assessments against each Lot for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Declaration, and with the restrictions on the Plat of portions of the Property from time to time recorded.

(b) The right of the Association, for violation(s) of deed restrictions, to suspend an Owner's and the Owner's tenants', guests' or invitees' rights to use common areas and facilities (but not ingress, egress or parking) and/or to levy reasonable fines up to \$100 per violation, subject to the due process requirements set forth in Article VIII, Section (3). A fine may be levied on the basis of each of day of a continuing violation, with a single notice of at least fourteen (14) days and opportunity for hearing, except that no fine shall exceed \$1000 in aggregate.

(1) The foregoing limitations on the enforcement rights of the Association shall be inapplicable to imposition of suspensions or fines upon any Owners because of failure to pay any assessments or other charges when due. The Association shall have the further right to suspend an Owner's voting rights for the nonpayment of regular annual Assessment delinquent in excess of 90 days. All suspensions must be approved at a properly noticed Board of Directors meeting.

(c) The right of the Association to adopt at any time and from time to time and to enforce rules and regulations governing the use of the Lots and Common Areas and all facilities at any time situated thereon, including the right to fine members as hereinafter provided. Any rule and/or regulation so adopted shall apply until rescinded or modified as if originally set forth at length in this Declaration.

(d) The right to the use and enjoyment of the Common Areas and facilities thereon shall extend to all permitted user's immediate family who reside with him, subject to regulation from time to time by the Association in its lawfully adopted and published rules and regulations.

Section 2. Easements Appurtenant. The easements provided in Section 1 shall be appurtenant to and shall pass with the title to each Lot.

Section 3. Maintenance. The Association shall at all times maintain in good repair and manage and improve, operate and insure, and shall replace as often as necessary, the Common Areas and community facilities on the Common Areas, including any buildings, paving, drainage structures, landscaping, fences, irrigation systems, entrance markers, signs, improvements, and other structures as initially placed by the Developer or later placed or erected by the Association on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the Association or the Architectural Control Committee taken by favorable vote of the majority of such Board present at a meeting at which a quorum exists. Without limiting the generality of the foregoing, the Association shall assume all of the Developer's responsibility to the City of Sebastian

with respect to the Common Areas and shall indemnify and hold the Developer harmless with respect thereto.

As hereinafter provided, the Association may at its option, maintain, repaint, and repair portions of the Lots and improvements constructed thereon and easements over, under, and across such Lots are hereby reserved in favor of the Association and its designees to effect such maintenance, painting, and repair. The Owner shall be responsible, however, for maintaining, replacing, and repairing all landscaping, structures and improvements located on his Lot in a neat, orderly, workmanlike manner and in a first-class condition, except to the extent that the Association shall elect to effectuate any or all maintenance, replacement, and repair of any or all items, pursuant to Article IV hereof.

All work pursuant to this Section and all expenses incurred hereunder shall be paid for by the Association through Assessments (either general or special) imposed in accordance herewith. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Areas, Lots or by abandonment of the right to use the Common Areas.

#### Section 4. Utility Easements.

(a) The Developer (during any period that the Developer shall own at least one (1) Lot) and the Association shall have the right to grant permits, licenses, and easements over the Common Areas for utilities including but not limited to cable television, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property. Use of the Common Areas for utilities, as well as use of the other utility easements as shown on a Plat, shall be in accordance with the applicable provisions of this Declaration. Perpetual, nonexclusive easements are reserved over, under, and across the Common Areas to the Developer and the Association, or such utility, security, and cable television companies to which the Developer or Association may convey easement rights, for and on behalf of the Developer, the Association, and the grantee utility companies, as may be required for the entrance upon, construction, connection to, disconnection from, replacement of, maintenance, and operation of utility services, Surface Water and Stormwater Management and drainage facilities, cable television system, security, and such other equipment as may be required to adequately serve the Property, any other lands subject to ownership by the Association or the Developer, it being expressly agreed that the Developer and any of its successors or assigns, the Association, utility companies and any other person benefited hereby making the entry shall restore the property as nearly as practicable to the condition which existed prior to commencement of construction of such utility or Stormwater management and drainage facilities. An easement is reserved over, under, and across each of the Lots for the placement and operation of electric utility meters and lines connected to the meters serving any and all Lots upon the Property, all of which Lots are depicted upon the Plat. The easements herein reserved shall include, but shall not be limited to, an easement for purposes of construction, maintenance, restoration, connection to or disconnection from and when appropriate, deactivation of such utilities, security, or cable television within the Common Areas. In addition, easements are reserved to the Association and the Developer, and may be created from time to time by the Developer during any period that the Developer shall own at least one (1) Lot, for such further utility, egress, ingress, or drainage easements over and across the Property as may be required from time to time to serve any of the Community, and/or any other or additional lands during the course of development of same, whether such additional lands become subject to the jurisdiction of the Association and part of the Property or not. Regarding any easement conveyed by the Developer, the joinder of the Association or any Lot Owner or Lot Owner's mortgagee shall not be required.

(b) Easements for installation, replacement, connection to, disconnection from, and maintenance of utilities, including but not limited to cable television and reclaimed water, are reserved as shown on the recorded Plat covering the Property and as provided herein. Within these easements, no structure, planting or other material may be placed or permitted to remain that will interfere with or prevent the maintenance of utilities or cable television facilities, unless said structure, planting or other material has been so placed by the Developer or the Association or with the permission of the Architectural Control Committee. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot, except as provided herein to the contrary and except for installations for which a public authority or utility company is responsible. The appropriate water and sewer authority, electric utility company, telephone company, the Association, and Developer and their respective successors and assigns, shall have a perpetual easement for the installation, replacement, connection to, disconnection from, and maintenance, all underground, of water lines, sanitary sewers (if any), storm drains, and electric, telephone, cable television, and security lines, cables and conduits, under and through the utility easements as shown on the Plat. The Developer and its designees, successors and assigns, shall have a perpetual easement for the installation and maintenance of cable, radio television and security lines within Platted utility easement areas. All utilities and lines within the Property, whether in street rights-of-way or utility easements, shall be installed and maintained underground.

Section 5. Public Easements. Fire, police, health and sanitation, park maintenance and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas.

Section 6. Ownership. The Common Areas are dedicated to the Association free and clear of all liens for the non-exclusive joint and several use, in common, of the Owners of all Lots that may from time to time constitute part of the Property and to such Owners' tenants, guests and invitees, subject to these Deed Restrictions. The Common Areas (or appropriate portions thereof) shall, upon the later of completion of the improvements thereon or the date when the last Lot within the Property has been conveyed to a purchaser (or at any time and from time to time sooner at the sole election of the Developer), be conveyed to the Association, which shall accept such conveyance. The Association is hereby granted an easement over, under, and across all Lots for access of personnel and equipment to maintain, repair, renovate or construct improvements upon, or achieve the objectives of Article IV, Section 3 hereof, upon all parts and parcels of the Common Areas. Beginning from the date these covenants are recorded, the Association shall be responsible for the maintenance of such Common Areas (whether or not then conveyed or to be conveyed to the Association) and shall have the option to be responsible for the maintenance of Lot landscaping. It is intended that all real estate taxes and assessments (ad valorem and non ad valorem) appearing in the annual property tax bill, if any, assessed against that portion of the Common Areas owned or to be owned by the Association shall be proportionally assessed against and payable as part of the taxes of the applicable Lots within the Property. However, in the event that, notwithstanding the foregoing, any such taxes or assessments are assessed directly against the Common Areas, the Association shall be responsible for the payment of the same, including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date these covenants are recorded, and such taxes shall be prorated between Developer and the Association as of the date of such recordation. The Developer shall have the right from time to time to enter upon the Common Areas and other portions of the Property for the purpose of construction, reconstruction, repair, connection to, disconnection from, replacement and/or alteration of any improvements or facilities on the

Common Areas or elsewhere on the Property that Developer elects to effect, and to use the Common Areas and other portions of the Property for sales, displays and signs or for any other purpose during the period of construction or sale of any portion of the Property. Without limiting the generality of the foregoing, the Developer shall have the specific right to maintain upon any portion of the Property sales offices, administrative offices, construction offices or other offices without charge, and appropriate easements of access and use are expressly reserved unto the Developer and its successors, assigns, employees and contractors, for this purpose. Any obligation to complete portions of the Common Areas shall, at all times, be subject and subordinate to these rights and easements and to the above-referenced activities. Accordingly the Developer shall not be liable for delays in such completion to the extent resulting from the above-referenced activities. The Common Areas shall not be mortgaged. The Owner of each Lot with frontage on the Stormwater Management Tract may free of charge to pump out and remove water from the water for the irrigation of the Owner's Lot, subject to such rules and regulations as the Association may impose.

Section 7. Other Easements.

(a) The Owner of each Lot shall have an easement of access over and upon the street rights-of-ways (roads) and other Common Areas shown on the Plat, and the Association, its agents and employees, shall have a perpetual easement over and across all Lots for access and for the purpose of allowing such Owner or the Association to: mow a Lot lawn and maintain landscaping. The Association shall have a perpetual easement over all waterfront Lots for access for maintenance of Crystal Lake. Easements are reserved over each Lot and the Common Areas in favor of each other Lot, each Community, and the Common Areas in order to permit drainage and run-off from one Lot (and its improvements) to another or to the Common Areas or from the Common Areas to any Lots(s).

(b) Utility easements, as depicted upon the Plat are hereby dedicated to and reserved to the Association and for use by public utilities, including but not limited to cable television, gas, street lighting, electric, telephone, sewer, water, and reclaimed water, all for the purposes of building, repairing, removing, connecting to, disconnecting from, maintaining, and replacing said underground utilities. Said easement shall be considered a part of the Common Areas subject to the jurisdiction, control, and maintenance of the Association through Assessments to all Lots.

Section 8. Additional Easements. The Developer, during any period in which there are any unsold Lots on the Property as now or hereafter defined, and thereafter, the Association shall each have the right to grant such additional electric, reclaimed water, sewer, water, security, telephone, gas, cable television or other utility easements, and to relocate any existing easements in any portion of the Property, and to grant access easements and relocate any existing access easements in any portion of the Property:

- (a) As the Developer or the Association shall deem necessary or desirable for
- (1) The proper operation and maintenance of the Property or
  - (2) The general health or welfare of the Lot Owners or
  - (3) To carry out any provisions of this Declaration,

if such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Lots for their intended purposes.

(b) As shall be necessary to comply with and implement the April 18, 2012 Access and Use Agreement recorded on April 30, 2012 in Official Records Book 2571, Page 1371, Public Records of Indian River County, Florida, between Cross Creek Lake Estates, Inc. and Henry

Anthony Fischer, which was joined by the Campanelli Development Corporation, Inc., and Cross Creek Lake Estates Homeowners' Association, Inc. That Agreement provides that at Henry Anthony Fischer's discretion, at a time of his choosing within thirty (30) years from the effective date of the Agreement he shall have the right to require that certain adjacent lands that may be owned by him (*Dominant Parcel*), currently as described in Exhibit "C", shall be added to and become part of the Cross Creek Lake Estates subdivision and be subject to the Declaration. Joinder or consent by the Association or any Lot Owner, Lot Owner's mortgagee or Campanelli Development Corporation, Inc. shall not be required to bring the Dominant Parcel within Cross Creek Lake Estates subdivision.

Section 9. Access at Reasonable Hours. For the purpose solely of performing the Lot and exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees or independent contractors, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours on any day to accomplish such work.

Section 10. Easements for the Stormwater Management Tract. The Stormwater Management Tract (which may also be referred to as "Crystal Lake") is a single body of water as shown on the Plat.

Section 11. Surface Water Management System.

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

(b) Association duties. The Association shall be responsible for the maintenance, operation and repair of the surface water or stormwater management system. *Maintenance of the surface water or stormwater management system(s)* shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the St. Johns River Water Management District.

(c) Covenant for Maintenance Assessments for Association. The Association shall levy and collect adequate assessments against members of the Association for the costs of maintenance and operation of the Surface Water or Stormwater Management System. Assessments shall be used for the maintenance and repair of the surface water or stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

(d) Easement for Access and Drainage. The Association shall have a perpetual nonexclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any Lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Water Management District permit. Additionally, the Association shall have a perpetual nonexclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer

areas or swales, without the prior written approval of the St. Johns River Water Management District.

(e) Amendment. Any amendment to the Declaration which alters any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the Common Areas, must have the prior approval of the St. Johns River Water Management District.

(f) Enforcement. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Article V, Section 4, which relate to the maintenance, operation and repair of the surface water or stormwater management system.

(g) Swale Maintenance. If the Developer has constructed a Drainage Swale upon any Lot or Common Area for the purpose of managing and containing the flow of excess surface water found upon such Lot or Common Area, from time to time, each Lot Owner, including builders, or (in the case of Common Areas) the Association, shall be responsible for the maintenance, operation and repair of the swales on the Lot or Common Area. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, excavation, construction of fences which obstruct the water flow or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human induced phenomena, shall be repaired and the Drainage Swale returned to its former condition by the Owner(s) of the Lot(s) or the Common Area upon which the Drainage Swale is located.

Section 12. General. All easements, of whatever kind or character, whether heretofore or hereafter created, shall constitute a covenant running with the land and, notwithstanding any other provisions of this Declaration, may not be substantially amended or revoked in a way which would unreasonably interfere with its proper and intended use and purpose. The Lot Owners do hereby designate the Developer and/or the Association as their lawful attorneys-in-fact to execute any and all instruments on their behalf for the purpose of creating all such easements as are contemplated by the provisions hereof.

Section 13. Easements. Should the intended creation of any easement provided for in this Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Owners designate hereby the Developer and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

## ARTICLE V

ASSOCIATION-COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of the Assessments. Except as provided elsewhere herein, the Developer (and each party joining in this Declaration or in any supplemental declaration), for all Lots within the Property, hereby covenants and agrees, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association annual Assessments or charges for the maintenance, management, operation and insurance of the Common Areas and the maintenance of Lot landscaping, including such reasonable reserves as the Association may deem necessary, capital improvement Assessments, as provided elsewhere herein, Assessments for maintenance as provided in Section 4 hereof and all other charges and Assessments hereinafter referred to and all other reasonable and necessary expenses of the Association (collectively "Operating Expenses"), all such Assessments to be fixed, established and collected from time to time as herein provided, equally from all Lot Owners as herein provided. In addition, special Assessments may be levied against particular Owners and Lots for fines, expenses incurred against particular Lots and/or Owners to the exclusion of others and other charges against specific Lots or Owners as contemplated in this Declaration. The annual, special and other Assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, including, but not limited to an administrative late fee not to exceed the greater of \$25.00 or five percent (5%) of the amount of each late installment, interest at the rate of eighteen percent (18%) per annum or the then highest lawful rate allowed by law, court costs, and attorneys' fees (including the costs of paralegals and support staff whether as a result of negotiation, arbitration, litigation, or appeal) shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest thereon, fees, and costs of collection thereof as herein provided, shall also be the personal obligation of the person who is the Owner of such Lot. Except as provided herein with respect to special Assessments which may be imposed on one or more Lots and Owners to the exclusion of others, all Assessments imposed by the Association shall be imposed as follows:

(a) With regard to reserves, maintenance, improvement, construction, paving, repaving, work on utilities, demolition, reconstruction, or repair of improvements or landscaping on the Common Areas, Assessments against all Lots subject to the Association's jurisdiction shall be assessed equally, in proportion to the number of Lots within the Community.

(b) With regard to reserves, maintenance, operation, insurance, improvement, construction, paving, repaving, work on utilities, demolition, reconstruction, or repair of improvements of the common or easement areas referred to herein or maintenance of landscaping on the Lots, Assessments against all Lots subject to the Association's jurisdiction shall be assessed equally, in proportion to the number of Lots within the Community.

Reference herein to "Assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned.

All liens created pursuant to this Declaration shall state the description of the Lot, the name of the record owner, the name and address of the Association, the amount due and the due date and shall be recorded in the Public Records of Indian River County, Florida. Prior to recording a lien and foreclosing a lien, notice shall be give to the Lot Owner as provided in Chapter 720 Homeowners' Association, Florida Statutes. Liens may be foreclosed by the Association in the same manner in



which a mortgage of real property is foreclosed and the Association may also bring an action to recover a money judgment without waiving any claim of lien.

Section 2. Purpose of Assessments. The regular or special Assessments levied by the Association shall be used exclusively for maintenance, repair, renovation, and construction upon the Common Areas, for maintenance of the Surface Water or Stormwater Management System, for maintenance of Lot landscape and lawn care, for capital improvements, reserves, management, administration, enforcement of the Declaration, any legal activity in which the Association may become involved, aesthetics of the Property, insurance and to promote the health, safety and welfare of the members of the Association and their families residing with them, their guests and tenants, all as provided for herein. Before turnover of control of the Association by the Developer to the Members, the Board of Directors controlled by the Developer may not levy a special assessment unless a majority of the Lot Owners other than the Developer has approved the special assessment by a majority vote at a duly called special meeting of the membership at which a quorum is present.

(a) Reserves for Replacement. The Association shall be required to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Areas. The reserve fund shall be maintained from annual Assessments. Reserve accounts shall be maintained as required by Chapter 720 Homeowners' Associations, Florida Statutes.

Section 3. Specific Damage. Owners (on their behalf and on behalf of their children and guests) causing damage to any portion of the Common Areas as a result of misuse, negligence, failure to maintain or otherwise shall be directly liable to the Association, and a special Assessment may be levied therefore against such Owner or Owners. Such special Assessments shall be subject to all of the provisions hereof relating to other Assessments, including, but not limited to, the lien and foreclosure procedures.

Section 4. Exterior Maintenance. All expenses of the Association for exterior maintenance, including but not limited to maintenance of landscaping, fences, paving, and improvements, including the clubhouse, if any, and other buildings, as initially placed by the Developer or later placed or erected by the Association on the Common Areas, shall be a lien and an assessment charged against all of the Lots on an equal basis. Said assessment shall be the personal obligation of all Owners of such Lots.

Section 5. Date of Commencement of Annual Assessments Due Dates. The annual Assessments provided for in this Article shall commence on the first day of the month next following the recordation of these covenants and shall be applicable through December 31 of such year. Each subsequent annual Assessment shall be imposed for the year beginning January 1 and ending December 31. The annual Assessments shall be payable in advance in monthly installments, quarterly installments, annual installments or any other installment basis if and as so determined by the Board of Directors of the Association. The Assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other Assessment that is in the future adopted. The original Assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, every six (6) months), but the amount of any revised Assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. The due date of any special Assessment shall be fixed in the Board resolution authorizing such assessment.

Section 6. Duties of Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the Assessment against each Lot subject to the Association's jurisdiction for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment shall thereupon be sent to every Owner subject thereto thirty (30) days prior to payment of the first installment thereof, except as to emergency Assessments. In the event no such notice of a change in the Assessments for a new Assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein. Subject to other provisions hereof, the Association shall upon demand at any time furnish to any Owner liable for an Assessment a certificate in writing signed by an officer of the Association, setting forth whether such assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any Assessment to the Association therein stated to have been paid. The Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of the Developer) for management services.

Section 7. Effect of Non-Payment of Assessment: the Personal Obligation; the Lien; Remedies of the Association. If the Assessments (or installments), whether general or special, are not paid on the date(s) when due (being the date(s) specified herein), then such Assessments (or installments) shall become delinquent and shall, together with the administrative fee, late charges, interest, attorneys' fees and the cost of collection thereof as herein provided, thereupon become a continuing lien on the Lot which shall bind such property in the hands of the then Owner, his heirs, personal representatives, successors and assigns. Each Assessment against a Lot shall also be the personal obligation of the Owner at the time the Assessment fell due. Such personal obligation of the then Owner to pay such Assessment shall bind successor Owners jointly and severally.

(a) If any installment of an Assessment is not paid within fifteen (15) days after the due date, at the option of the Association, the administrative late fee as provided herein may be imposed (provided that only one administrative late fee may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the administrative late fee shall accrue interest as provided herein but shall not be subject to additional administrative late fees; provided further, however, that each other installment thereafter coming due shall be subject to one administrative late fee each as aforesaid) or the next twelve (12) months' worth of installments may be accelerated and become immediately due and payable in full and all such sums shall bear interest from the dates when due until paid at the rate of eighteen percent (18%) per annum or the then highest lawful rate and the Association may bring an action at law against the Owner(s) personally obligated to pay the same or may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Lot on which the Assessments and late fees are unpaid or may foreclose the lien against the Lot on which the Assessments and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively. Any lien placed on a Lot may provide that it shall automatically increase for each future period for which the assessment is not paid. Attorneys' fees and costs of preparing and filing the claim of lien and the complaint, if any, in such action shall be added to the amount of such Assessments, late fees and interest. In the event a Judgment is obtained, such Judgment shall include all such sums as above provided and reasonable attorneys' fee to be fixed by the court together with the costs of the action, and the Association shall be entitled to attorneys' fees

in connection with any appeal of any such action. The procedures set forth in Chapter 720 Homeowners' Associations, Florida Statutes shall be followed for the filing and enforcement of a claim of lien.

(b) In the case of an acceleration of the next twelve (12) months' worth of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment; provided, that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Lot whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase. Special Assessments against such Lot shall be levied by the Association for such purpose.

(c) In addition to the rights of collection of Assessments stated in this Section, any and all persons acquiring title to or an interest in a Lot as to which the Assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Areas until such time as all unpaid and delinquent Assessments due and owing from the selling Owner have been fully paid, and no sale or other disposition of Lots shall be permitted until an estoppel letter is received from the Association acknowledging payment in full of all Assessments and other sums due; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 8 of this Article.

(d) It shall be the legal duty and responsibility of the Association to enforce payment of the Assessments hereunder. Failure of the Association to send or deliver bills shall not, however, relieve Owners from their obligations hereunder. It shall not be the duty of any mortgagee of any part or all of the Property to collect Assessments. All Assessments, late fees, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Association. Owners shall be obligated to deliver the documents originally received from the Developer, containing this and other declarations and documents, to any grantee of such Owner.

Section 8. Subordination of the Lien. The lien of the Assessments provided for in this Article shall be subordinate to tax liens and to the lien of any first mortgage to any Institutional Lender and which is now or hereafter placed upon any property subject to Assessment; provided, however, that any such mortgagee when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgagee acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgagee, shall hold title subject only to the liability and lien of any Assessment coming due after such foreclosure (or conveyance in lieu of foreclosure) subject to the right of the Association to collect for prior Assessments as provided in Section 720.3085 Florida Statutes. Upon an Institutional Lender, receiver, or other person, holding a first mortgage acquiring title by a deed in lieu of foreclosure to a Lot, the Association shall release its lien for unpaid Assessments accruing prior to the date that said Institutional Lender, receiver, or other person acquired title to said Lot. Any unpaid Assessment which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be an Assessment divided equally among, payable by and a lien against:

(a) all Lots subject to Assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place, with regard to services rendered exclusively to the Common Areas; and

(b) all Lots subject to Assessment by the Association, including the Lots as to which the foreclosure (or conveyance in lieu of foreclosure) took place, with regard to services rendered exclusively to the Lots.

Section 9. Collection of Assessments. The Association shall collect the Assessments of the Association. The Association shall have all of the authority as set forth in Chapter 720 Homeowners' Association, Florida Statutes to impose and collect Assessments. When Assessments are delinquent any payment received and accepted by the Association shall be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney's fees incurred in collection, and then to the delinquent assessment. This provision applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment.

Section 10. Effect on Developer. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Developer is in control of the Association, the Developer shall not be liable for Assessments against the Lots owned by the Developer; provided that Developer funds any deficit in Operating Expenses ( excepting reserves and management fees) of the Association. The Developer may at any time and from time to time commence paying such Assessments as to Lots that it owns and thereby automatically terminate its obligation to fund deficits in the Operating Expenses of the Association, or at any time and from time to time elect again to fund deficits as aforesaid; provided that if the Developer elects to fund the deficit, Campanelli shall be bound by this election and shall contribute forty-six percent (46%) of the deficit as provided in paragraph 11 of the Development Agreement between Campanelli and Cross Creek; provided further that if the Developer elects not to fund the deficit, Campanelli shall be bound by this election and shall be liable for and pay Assessments against Lots owned by Campanelli.

Section 11. Trust Funds. The portion of all regular Assessments collected by the Association for reserves for future expenses, and the entire amount of all special Assessments, shall be held by the Association for the Owners of all Lots, as their interests appear, and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions the deposits of which are insured by an agency of the United States. Reserve accounts shall be maintained as required by Chapter 720 Homeowners' Associations, Florida Statutes.

## ARTICLE VI

### CERTAIN RULES AND REGULATIONS

Section 1. Applicability. Article VI shall be applicable to all of the Property, except that it shall not be applicable to the Developer or Lots/property owned by the Developer. The Developer shall have the right but shall not be obligated to assign all or any portion of its rights and privileges under this Section to the Association.

Section 2. Land Use and Building Type. No Lot shall be used except for residential purposes. No building constructed on a Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Residence. Temporary uses by Developer for model homes, sales displays, parking lots, sales offices and other offices, or any one or combination of such uses, shall be permitted until permanent cessation of such uses takes place. No changes may be made in any buildings erected by the Developer (except if such changes are made by the Developer) without the consent of the Architectural Control Committee as

provided herein. Use of a Lot and structure thereon for Association management purposes shall not be prohibited.

Section 3. Opening Blank Walls; Removing Fences. No Owner shall make or permit any opening to be made in any Developer or Association erected blank wall, or masonry wall or fence, except as such opening is installed by Developer. No such building wall or masonry wall or fence shall be demolished or removed without the prior written consent of the Owner of the adjoining Lot and the Developer or the Architectural Control Committee.

Section 4. Nuisances. No noxious, offensive or unlawful activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to other Owners. As used herein "nuisance" means any activity which arises from unreasonable, unwarranted or unlawful use by a person of his own property, working obstruction or injury to the rights of another, or to the public, and producing such material annoyance, inconvenience and discomfort that law will presume resulting damage; that which annoys and disturbs one in possession of his property, rendering its ordinary use or occupation physically uncomfortable to him, especially a continuing or repeated invasion or disturbance; any smoke, odors, noise (including continuously barking dogs), vibration or any debris, garbage, junk, trash, weeds, unserviceable vehicles, excessive light, or any other substance or material which, by nature of its location, is considered a health or safety hazard, and/or which is considered obnoxious and offensive to the general public.

Section 5. Temporary Structures. No structure of a temporary character or trailer, trailer home, tent, tent trailer, mobile home, motor home, recreational vehicle (RV) or camper, shall be permitted on the Property at any time or used at any time as a residence, either temporarily or permanently, except by the Developer during construction. *Trailer, trailer home or mobile home* shall mean any building or structure with wheels and/or axles and any vehicle, used at any time, or constructed so as to be capable of transport on public streets or highways and constructed so as to permit occupancy thereof as a dwelling or sleeping place for one or more persons whether or not wheels and/or axles have been removed, after such building, structure or vehicle has been placed either temporarily or permanently on a foundation.

Section 6. Signs. No sign of any kind or character shall be erected, posted, or displayed to public view from the interior of the Residence or any structure or from the outside walls thereof nor from the fences nor from the common areas or dedicated areas, if any, nor on entryways nor on any vehicles within a Lot, excepting Association-approved Owner identification and address signs and such signs as may be placed there by the Developer or Association. This restriction shall be inapplicable to: advertising signs listing or selling property while owned by an institutional mortgagee which became Owner through foreclosure or deed in lieu of foreclosure; any sign used by the Developer to advertise the sale of Lots; to signs of any Developer-owned company during the construction and sales period; any sign erected by the Association to advertise or notify individuals on matters of general interest to residents of the Community; and to a sign of reasonable size for security services within 10 feet of any entrance to the home.

Section 7. Oil and Mining Operation. There shall be no oil drilling, development, refining or other mineral quarrying or mining or excavation operations of any kind on The Property.

Section 8. Pets, Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, excepting no more than two (2) household pets, but not for any commercial purpose, and provided that such pet(s) shall not become a nuisance or annoyance to any

neighbor. No dogs or other pets shall be permitted to excrete in any Common Areas, and Owners shall be responsible to promptly clean-up same. *Household pet* means a dog, a cat or domestic bird. Pets shall also be subject to applicable rules and regulations.

Section 9. Visibility at Intersections. There shall be no obstruction to visibility at street intersections or Common Areas.

Section 10. Trucks, Trailers, Campers and Boats. No trucks or commercial vehicles, or campers, mobile home, motor homes, trailer homes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or vans, shall be parked or stored at any place on the Property, nor in any dedicated areas, unless they are stored entirely within an Owner's closed garage and are not visible from outside the closed garage. This prohibition shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up and delivery and other commercial services, nor to vans for personal use which are in acceptable condition in the sole opinion of the Board (which favorable opinion may be changed at any time) nor to any vehicles of the Developer. The above notwithstanding, recreational vehicles and trailers that are loading or unloading are allowed to park on the Property for up to twelve (12) hours. No on-street parking, parking in swales or in yards shall be permitted. Boats may be kept at approved docks, either in the water or on davits. Motorcycles shall be permitted in the Community but must be parked in a garage and shall be used on the Community roads, subject to reasonable regulation by the Board, and not for off-street operation.

Section 11. Garbage, Trash and debris: container; disposal; personal property; no outside storage. No garbage, debris, yard trimmings (branches, cuttings and clippings and the like), refuse, trash or rubbish shall be permitted, accumulated or deposited on a Lot, except as provided herein. Each Owner shall comply with the applicable waste disposal authority requirements for storage, disposal or collection of waste. Each Owner shall contract with and use the waste disposal services of the company that the authorized franchisee by the City of Sebastian to collect solid waste and yard trash. All containers and equipment for storage or disposal of waste shall be kept in a clean and sanitary condition. Containers shall be as requested by the authorized franchisee or if there are no requirements the containers shall be rigid plastic, no less than 20 gallons or more than 32 gallons in capacity and well-sealed. Garbage or trash containers shall not be stored outside, unless buried or enclosed in a decorative enclosure or shrubs. Such containers shall not be placed out for collection more than 12 hours before scheduled collection and must be removed within 12 hours after collection. Yard debris and yard trimmings, including branches, cuttings, clippings and the like, may not be place out for collection for more than 72 hours before scheduled collections; after that, the Owner shall be responsible to promptly remove and dispose of such yard materials. Except as provided herein, no garbage cans or trash containers, supplies or other articles shall be placed on the exterior portions of any Residence or Lot and no linens, cloths, clothing, curtains, rugs, mops, or laundry of any kind, or other articles, shall be shaken or hung from or on the Residence, the Lot or any of the windows, doors, fences, balconies, patios or other portions of the Residence or Lot. Construction materials shall not be stored on a Lot for more than ninety (90) days prior to the commencement of construction nor for more than ninety (90) days after construction is concluded. Construction materials or debris on any Lot in violation of these rules may be removed by the Association and the Owner shall be liable for the cost of such removal. An Owner's personal property shall be stored in his/her residence or such outside storage areas as have been permitted by the Architectural Control Committee. No Lot shall be used or maintained as a dumping ground for rubbish. No burning of trash, leaves, debris, refuse or other material shall be allowed on any Lot.

No Owner or occupant of any Lot shall use the Lot for the open storage of any abandoned motor vehicle, ice box, refrigerator, stove, glass, building materials, building rubbish, or similar items. It shall be the duty and responsibility of each Owner or occupant of any Lot to keep such Lot clean and to remove from such Lot all such abandoned items listed above, including but not limited to trash, garbage and debris. For purposes of this provision, an abandoned motor vehicle is one that is currently unlicensed or in a state of disrepair or incapable of being moved under its own power.

Section 12. Fences. No fence, wall or other structure shall be erected on any Lot except for a wall or fence designed to conceal HVAC or pool equipment, as approved by the Architectural Control Committee as hereafter provided or except as installed by the Developer. No chain link fences shall be permitted on any Lot or portion thereof, unless installed by Developer during construction periods or approved by the Architectural Control Committee during construction periods.

Section 13. Outside Drying; Basketball Equipment. Outside clotheslines or drying stands are prohibited on all Lots. Basketball hoops and backboards are prohibited on the Property, whether mounted on a structure or free standing.

Section 14. Exterior Antennas. No exterior antennas, including satellite dishes, in excess of 24 inches in diameter, shall be permitted on any Lot or improvement thereon, except as approved by the Architectural Control Committee, except that the Developer or the Association shall have the right to install and maintain community antenna, microwave antenna, dishes, satellite antenna and radio, television and security lines.

Section 15. Post Lamp. Each Lot on which there is a Residence shall have a post lamp located in the front yard. The post lamp shall be installed prior to the issuance of the Certificate of Occupancy for the Residence. The post lamp shall be operated by a photo cell. The post lamp is required to be lighted during all non-daylight hours. The location and intensity of the light shall be subject to approval of the Architectural Control Committee.

Section 16. Small Portable Boats and Access to Crystal Lake. Small boats that do not exceed twelve (12) feet in length (no restrictions on the length of canoes or kayaks) may be utilized within the Property water areas (Crystal Lake) provided, that they are not powered by combustion engines. Combustion engines are prohibited in all water areas. Such craft are to be owned and operated only by the Owners of Lots. In no event shall the craft be repaired or maintained in the lake, or material infused thereof in the lake water. The waterside area of a Lot and maintenance thereof is the responsibility of the Lot Owner, and it shall be maintained in conformance with reasonably established standards for the whole of their perimeters as to appearance, condition and uniformity. Waterside docks with davits thereon shall be allowed in accordance with uniform standards to be set by the Architectural Control Committee and the dock shall not exceed two hundred (200) square feet in area and must run parallel to the shoreline. A covered dock or covered boat house is prohibited. The right of a Lot Owner to have a dock is subject to review, approval and issuance of all of the necessary permits by cognizant governmental agencies. No swimming shall be permitted on or in the Property water areas except as necessary for maintenance work performed by or on behalf of the Developer or Association. All Lot Owners shall have the right to use Tract I as shown on the Cross Creek Lake Estates One Plat on a temporary basis for access to Crystal Lake; however, no parking or storing of vehicles, boat trailers, boats, canoes, kayaks or any other type of water related vessel or equipment is allowed whatsoever on Tract I. However, temporary parking of

vehicles and boat trailers is allowed during the time of actual use of Crystal Lake. Tract I is to be maintained in a unobstructed open space condition, except for temporary use as authorized above.

Section 17. Owner's Responsibility. An Owner shall be responsible for maintenance of the Owner's Lot in a clean and sanitary condition. Lot Owners must keep vacant Lots mowed if said Lots are cleared of the natural vegetation. Each Lot shall at all times be maintained in an aesthetically attractive appearance and all debris, dead growth and fallen vegetation shall be removed therefrom. Each Owner shall maintain in good repair and appearance all improvements and landscaping within the Owner's Lot and any easement or drainage areas located therein. No changes shall be made to the existing slope, contour or depth of the water bodies.

Section 18. Leases and Time Shares. No portion of a Lot and Residence other than an entire Lot and Residence may be rented or leased. An Owner wishing to rent or lease said Owner's Lot and Residence shall give prior written notice of same to the Association, including the names and addresses of the proposed occupants under such lease (and such other information required by the Association). The Association may charge each Owner an administrative fee for reviewing a proposed Lease. A Lot or Residence may not be leased more often than twice during any calendar year. No lease may be less than thirty (30) days. The Association may (but shall not be obliged to) promulgate standard provisions to be included in all lease forms, in which case all leases shall include such standard provisions and, in default thereof, shall be deemed to include same. Furthermore, the right is reserved to the Association to reject for reasonable cause any proposed lease of a Lot and Residence, and a lease so rejected shall not be permitted. In the event a Lot or Residence is leased without prior written approval of the Association, the Owner shall be subject to a fine of Fifty Dollars (\$50.00) per day for each day of the unapproved tenancy. The Owner shall remain liable for all Assessments levied by the Association, whether the tenant has been approved or not, and the Owner shall also be responsible to pay for any damages, clean-up, repairs, maintenance costs, or similar costs incurred by the Association as a result of any action or thing done or left undone by any tenant whether approved or not. The sale of any time share or interval ownership interest in a Lot and Residence is strictly prohibited.

Section 19. Division of Lot and Assessments. Once a Lot is sold by the Developer, it shall not be subdivided, divided or split again in any manner. Two or more contiguous Lots, if in the same ownership, may be combined into one larger Lot for the purpose of applying this Declaration, provided that the record Owner makes such election in writing and a Unity of Title or other appropriate instrument irrevocably combining such Lots is duly recorded in the County Public Records. The recording of a Unity of Title combining any two or more contiguous Lots shall not relieve the Owner from the provisions of this Section. Provisions to the contrary notwithstanding, where a Residence is constructed on two or more Lots, for any fine or assessment purposes, one Lot will be assessed in the normal way, but each additional Lot included within the building site shall be levied at 50% of the otherwise applicable fine or assessment (i.e., each additional Lot in excess of one, included within one building site shall be treated as 1/2 of a Lot for fine or assessment purposes). The lien for fines or assessments as to such multiple Lot building sites shall be deemed to attach to and encumber all Lots within the building site. A Member owning Lots so unified shall be entitled to only 1 vote on account of all such Lots.

Section 20. Flagpole. Only one flagpole shall be permitted on each Lot, provided that it shall not exceed 20 feet in height in keeping with §720.304 of the Florida Statutes.



Section 21. Generators. Permanent house generators may be installed only with written approval in advance by the Architectural Control Committee. Such a generator shall use a whisper-quiet, hospital-quiet or equivalent low noise technology and its maintenance cycle shall run only during the week (Monday through Friday), between 10:00 A.M. and 3:00 P.M. The diesel tank serving such a generator shall be buried or hidden from view behind a wall. Other provisions herein set forth notwithstanding, if the Governor designates Indian River County as a natural disaster area, an Owner may have a trailer generator on his/her Lot for a period of up to 1 year from the date of such designation.

Section 22. Obligation to Complete Construction. Each Owner covenants that, once commenced, construction shall be diligently pursued to completion and that a Certificate of Occupancy shall be obtained within 24 months after the building permit is issued. Each Owner further agrees that, if construction is not completed within 1 year after the building permit is issued, to sod the Lot and to install and operate thereafter an automatic sprinkler/irrigation system to water and maintain the Lot.

Section 23. Business Use. No trade or business, garage sale, moving sale, rummage sale, or similar activity may be conducted on or from any Lot, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all governmental requirements; (c) the business activity does not involve persons coming onto the residential properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; (d) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Property which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; and and (e) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

*Business and trade*, as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full time or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. The foregoing notwithstanding, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Founder with respect to its development and sale, resale, or rental of the Properties or its use of any Lots which it owns within the Properties.

Section 24. Sidewalks. Every Lot Owner within the Property is required to construct, at their sole expense, a sidewalk five (5) feet in width in the right-of-way of the street contiguous with their Lot, in the location and to the construction standards required by the City of Sebastian, along the entire length of the Lot, before a Certificate of Occupancy is issued for the Residence on the Lot.

Section 25. Additional Rules and Regulations. Attached as Exhibit "D" are certain additional rules and regulations of the Association which are incorporated herein by this reference and which, as may the foregoing, may be modified, in whole or in part, at any time by the Board of

Directors of the Association without the necessity of recording an amendment hereto or thereto in the public records. The Association may promulgate rules and regulations governing the Property, may adopt Assessment schedules and rates for the Property or for each Lot therein, and will set up a separate budget for the Property.

## ARTICLE VII

### ARCHITECTURAL CONTROL

Section 1. Acknowledgment. Each Owner of a Lot on the Property, by virtue of his acceptance of the warranty deed to said Owner's Lot, acknowledges the necessity of maintaining the physical appearance and image of the Property as a quality residential community and, additionally, that the success of the Developer in developing and selling the remaining portions of the Property is closely related to the physical appearance and image of the completed portions of the development.

Section 2. Set Standards; Committee Membership. Accordingly, there is established a committee known as the "Architectural Control Committee" (ACC). The Architectural Control Committee shall be composed of three (3) members who shall be members of the Association. Architectural Control Committee members shall be appointed for terms of one (1) year each and shall be appointed by the Developer for as long as the Developer owns any Lots within the Property. The Developer will appoint one (1) representative from Campanelli to serve on the Architectural Control Committee as long as the Developer is entitled to appoint all of the members of the Architectural Control Committee or until Campanelli has sold all of its Lots within the Property, whichever shall occur first. After such time as the Developer is no longer entitled to appoint all members to the Architectural Control Committee, the committee shall be appointed by the Association Board of Directors. The Board of Directors is encouraged, but shall not be required, to appoint a committee membership which includes individuals with a background in building and landscape architecture, contracting, and subcontracting. The Architectural Control Committee is empowered to adopt and promulgate from time to time minimum standards for maintenance of the physical appearance of the exterior Common Areas and structures on Lots, all of which are herein after referred to as "areas to be maintained." The standards established by the Architectural Control Committee shall relate particularly to the exterior painting and appearance of the improvements, landscaping, paving, trash and litter removal, and repair of exterior building surfaces. The minimum standards however, shall not be applicable to the interior of any structure on a Lot.

Section 3. Right of Inspection. The Architectural Control Committee shall have the right to inspect, from time to time, the areas to be maintained in order to determine whether the maintenance of same meets the minimum standards.

Section 4. Deficiencies Report. If the Architectural Control Committee shall find that the areas to be maintained are not being maintained in accordance with the minimum standards, it shall issue a report to the Association Board of Directors particularizing the deficiencies. Unless the Board of Directors rejects the report, within ninety (90) days of receipt of the report, the Association shall commence the maintenance or painting work specified in the report and shall diligently pursue completion of same in an expeditious manner.

Section 5. Architectural Control. The Architectural Control Committee shall have authority to review and approve plans and specifications for the location, size, type and appearance of any structure or other improvements on a Lot, and to enforce standards for the external appearance of such structures or improvements. No building, dock, wall, fence or other structure or improvement

of any nature (including landscaping or exterior paint or finish) shall be erected, placed or altered on the Common Areas, or any Lot, until the construction plans and specifications and a plan showing the location of the Residence/structure and landscaping or of the materials as may be required by the Architectural Control Committee have been approved in writing by the Architectural Control Committee named below and all necessary governmental permits are obtained. Each Residence, building, wall, fence or other structure or improvement of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved and applicable governmental permits and requirements. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the reasonable discretion of said Architectural Control Committee is sufficient. Any change in the exterior appearance of any Residence, building, wall, fence or other structure or improvements, including but not limited to the color of paint used, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Control Committee shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. The address of said Board shall be the address of the Association's registered agent. The Architectural Control Committee shall act on submissions to it, or request further information thereon, within thirty (30) days after receipt of the same (and all further documentation required) or else the request shall be deemed approved.

Section 6. Building Contractors. All building contractors shall be quality custom builders, licensed by the State of Florida to build in Indian River County. The contractor shall be one from a list currently qualified by the Association or its designee, which may be the Architectural Control Committee, and who shall have met specific requirements as established by the Association or its designee. All Lot Owners, however, have the sole responsibility for the financial reliability and trust-worthiness of the contractor finally selected and the Association's qualification of the contractor shall impose no liability or obligation on the Association or its designee. The above notwithstanding, an individual Owner of a Lot shall be entitled to construct any structure on their Lot without having to hire a building contractor licensed by the State of Florida, provided the Owner obtains an "owner builder" permit for the construction of the Residence/structure from the City of Sebastian or other governmental body having jurisdiction over the construction and assumes full responsibility for the construction of the Residence/structure and further provided that all subcontractors of the Owner are licensed in their trade to work within the City of Sebastian or other governmental body having jurisdiction over the construction of the Residence/structure.

Section 7. Building Design and Specifications. Reference is made to the attached Exhibit "E", which sets forth the approved Architectural Standards and Requirements governing the Community.

Section 8. Exterior Appearances and Landscaping. The paint, coating, stain and other exterior finishing colors on all Residences on all Lots may be maintained as that originally installed, without prior approval by the Architectural Control Committee, but prior approval by the Architectural Control Committee shall be necessary before any such exterior finishing color is changed.

Section 9. Unit Air Conditioners and Reflective Materials. No air conditioning units may be mounted through windows or walls except as part of a central air-conditioning/heat unit. No building shall 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 such as may be approved by the Architectural Control Committee for energy conservation purposes.

Section 10. Utilities Underground. All utility service within the Property shall be underground. There shall be no electric power/telephone poles allowed within the Property, except as maybe authorized by the Developer, in the Developer's sole discretion.

## ARTICLE VIII ENFORCEMENT

Section 1. Compliance by Owners. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Association.

Section 2. Enforcement. Failure of an Owner to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend use of Common Areas (except for legal access, including the right to park) of defaulting Owners. The offending Lot Owner shall be responsible for all costs of enforcement, including attorneys' fees actually incurred and court costs.

Section 3. Fines and Suspension of Use of Common Areas. In addition to all other remedies, suspension of use of the Common Areas and/or a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation; provided the following procedures are adhered to, subject to the provisions of Article IV, Section 1(b):

(a) Notice: The Association shall notify the Owner of the alleged violation(s). Included in the notice shall be the date, time and place of a hearing before a committee of at least three (3) members appointed by the Board of Directors, who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The Owner has the right to present reasons why penalties should not be imposed. At least fourteen (14) days' notice of such meeting shall be given.

(b) Hearing: The alleged non-compliance shall be presented to the committee for a hearing during which the committee shall hear reasons why penalties should not be imposed. A written decision of the committee shall be submitted to the Owner by not later than twenty-one (21) days after the committee's meeting. The Owner shall have a right to be represented by counsel and to cross examine witnesses.

(c) Penalties: The committee (if by a majority vote, its findings are made against the Owner) may suspend use of the Common Areas and/or may impose a fine by special assessment against the Lot owned by the Owner in an amount not to exceed One Hundred Dollars (\$100.00) per violation.

(d) Penalties for Continuing Violations: For a continuing violation, upon a single notice and opportunity for hearing, the fine shall accrue daily from the date for correction until correction is actually made, as determined by the Committee, and the cumulative amount of the fine shall not exceed One Thousand Dollars (\$1,000). A *Continuing Violation* means a recurring violation where the Committee found the same violation to have existed within two (2) years prior to the initial

violation and chooses to treat it as a continuing violation, under the original notice and hearing, rather than a new violation, requiring a new notice and hearing.

(e) Payment of Penalties: Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(f) Collection of Fines: Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein; provided that a fine for failure to comply with F.S. Chapter 720, the Articles, Bylaws, Deed Restrictions, and/or the Association rules shall not be a lien against an Owner's Lot unless the fine is for failure to pay assessments or other charges when due.

(g) Application of Penalties: All monies received from fines shall be allocated as directed by the Board of Directors.

(h) Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled, including but not limited to injunctive relief; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

(i) Non-Applicability: The requirements of this Section 3 shall not apply to the imposition of suspension of use of the Common Areas or fines upon any member because of the failure of the member to pay assessments or other charges when due. The Board of Directors, in its sole discretion, may impose the suspension of use of the Common Areas, or impose fines upon any member because of the failure of the member to pay assessments or other charges when due and the further right to suspend an Owner's voting rights for the nonpayment of a regular annual Assessment, which is delinquent in excess of 90 days.

Section 4. Enforcement. Enforcement of this Declaration may be by any Owner, the Association, the Association Board of Directors, or the Architectural Control Committee, and may be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain a violation or to recover damages, and against the Lot to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Developer, the Association, the Architectural Control Committee and the Owner of any land or Lot subject to this Declaration, and their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 75% of all the Lots subject hereto has been recorded, agreeing to revoke said covenants and restrictions. Provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in

advance of any action taken and further provided that any amendment or termination of any covenant or restriction that affects the Surface Water or Stormwater Management System or Conservation Easement Areas must have the prior approval of the St. Johns Water Management District.

Section 2. Notice. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing, or when given by such other means as authorized by law (e.g., electronic mail or posting).

Section 3. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 4. Amendment. In addition to any other manner herein provided for the amendment of this Declaration, the conditions, covenants, restrictions, easements, charges, liens and Exhibits of this Declaration may be amended, changed or added to at any time and from time to time upon the execution and recordation of an instrument executed by both Developer and Campanelli through their mutual agreement, which agreement by Campanelli shall not be unreasonably withheld, as long as Campanelli has more than five (5) Lots for sale within the Property, when Campanelli has five (5) or fewer lots for sale Campanelli's signature shall no longer be required, (without the consent of any other Owner(s) or the Association) until three months after ninety percent (90%) of the Lots in all phases of the Community have been conveyed to members; or alternatively by approval at a meeting of members holding not less than 66 2/3% vote of the membership in the Association; provided that until three months after ninety percent (90%) of the Lots in all phases of the Community have been conveyed to members, the Developer's consent shall be obtained if such amendment, in the sole opinion of the Developer, affects its interest. In addition, as long as the Developer is in control of the Board of Directors of the Association, the Developer reserves the right to enter into agreements with the Owner of any Lot (without the consent of the Owner of any other Lot(s) or the Association) to modify the conditions, restrictions, limitations and agreements set forth in this Declaration, and any such deviation or variance shall be evidenced by agreement in writing. Such variance shall not constitute a waiver of any such condition, restriction, limitation or agreement as to the remaining Lots, and the same shall remain fully enforceable as to all other Lots located on the Property, except as against the Lot where such deviation is permitted. The Developer reserves the right to add additional restrictions in the conveyance of title to any Lot or Lots. The above provision in this Section 4 providing for Campanelli to join in any amendment, change or addition to this Declaration shall be limited to Campanelli and may not be assigned or transferred by Campanelli. Any assignment or transfer, including but not limited to, any sale or transfer of stock in Campanelli whereby Ralph Campanelli no longer has a majority ownership interest in Campanelli, shall be considered a prohibited assignment or transfer and result in the termination of Campanelli's right to join in any amendment, change or addition to this Declaration. The foregoing provisions of this Section 4 may not be amended without the prior written approval of the Developer.

Section 5. Effective Date. This Declaration shall become effective upon its recordation in the Indian River County Public Records.

Section 6. Withdrawal. The Developer 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 Property then owned by the Developer or the Association from the provisions of this Declaration to the extent included originally in error or as a result of reasonable changes in the plans for the Property desired to be effected by the Developer.

Section 7. Conflict. This Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and Bylaws of the Association and the Articles shall take precedence over the Bylaws.

Section 8. Standards for Consent, Approval, Completion, Other Action and Interpretation. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Developer, the Association or the Architectural Control Committee, such consent, approval or action may be withheld in the reasonable discretion of the party requested to give such consent or approval or to take such action, and all matters required to be completed or substantially completed by the Developer or the Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Developer or Association, as appropriate. This Declaration shall be interpreted by the Board of Directors and an opinion of counsel to the Association rendered in good faith that a particular interpretation is not unreasonable shall establish the validity of such interpretation. Restrictions promulgated by the Association under the authority reserved by the governing documents shall be reasonable.

Section 9. Covenants Running With The Land. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF SECTION I HEREOF, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS AND RESTRICTIONS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTIES. WITHOUT LIMITING THE GENERALITY OF SECTION 1 HEREOF, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS AND RESTRICTIONS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

Section 10. Dissolution of Association.

(a) In the event of a permanent dissolution of the Association, all assets of the Association shall be conveyed to a non-profit organization with similar purposes. Failing the ability to find a non-profit organization to succeed to the Association within ninety (90) days of dissolution of the Association, all Association assets may, upon approval of and at the sole option and in the sole discretion of the City of Sebastian be dedicated to said local government. Said successor non-profit organization or governmental entity shall pursuant to this Declaration provide for the continued maintenance and upkeep thereof.

(b) In the event of termination, dissolution or final liquidation of the Association, the responsibility for the operation and maintenance of the Surface Water or Stormwater Management System must be transferred to and accepted by an entity which would comply with Rule 40C-42.027, Florida Administrative Code, and be approved by the St. Johns River Water Management District prior to such termination, dissolution or liquidation.

Section 11. Indemnification. Subject to Florida law, the Association shall indemnify and hold harmless every Association officer, director, and committee member against any and all expenses, including counsel and paralegal fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify and defend shall be limited to those actions for which liability is limited under this Section. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful malfeasance or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member, or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers, and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 12. Security. Each Owner and occupant of a Lot, and their respective guests and invitees shall be responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support security measures within the Property to make the Community safer than otherwise might be; provided, however, that in doing so the Association and Declarant shall not be insurers or guarantors of such security nor liable for loss or damage for failure to provide adequate security or the ineffectiveness of measures undertaken. No representation or warranty is made that any fire protection system, alarm system, or other security system will not fail or be otherwise compromised or circumvented or that such systems will prevent all losses or always provide the intended detection or protection. Each person using or occupying the Community assumes all risks for loss or damage to persons, Lots, contents and personal property located thereon resulting from the acts of third parties. Each Owner shall inform its invitees and lessees of the provisions of this Section 12.

## ARTICLE X

### INFORMATION AND FINANCIAL STATEMENT

Section 1. Information. The Association shall make available to Owners and any Institutional Lender granted a first mortgage on any Lot, and to holders, insurers or guarantors of any first mortgage on any Lot, current copies of the Declaration, rules and regulations for Cross Creek Lake Estates subdivision, Articles of Incorporation and Bylaws of Cross Creek Lake Estates Homeowners' Association, Inc., and the books, records and financial statements of the Association.



The term "available" as used in this section, means available for inspection at the office of the Association, upon request, during normal business hours or under other reasonable circumstances.

Section 2. Financial Statement. Any holder of a first mortgage on a Lot is entitled, upon written request, to a financial statement of the Association for the immediately preceding fiscal year.

## ARTICLE XI

### INSURANCE AND LENDER'S NOTICES

#### Section 1. Insurance.

(a) Association insurance. Commencing not later than the first conveyance of a Lot to a person other than a Developer, the Association shall maintain, to the extent reasonably available:

(1) Property insurance. Property insurance on the common areas and elements and also on property that must become Common Areas, insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than the current replacement value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

(2) Liability insurance. Liability insurance, including medical payments insurance, in an amount determined by the Board of Directors, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas, the limits of which shall be not less than \$1,000,000, covering all claims for personal injury and property damage arising out of a single occurrence.

(b) If the insurance described in Section 1(a) is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Lot Owners.

(c) In addition, the Board shall use reasonable efforts to procure insurance policies pursuant to Sections 1(a) providing that:

(1) Additional insured. Each Lot Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Areas or membership in the Association;

(2) Subrogation waiver. The insurer waives its right to subrogation under the policy against any Lot Owner or member of the Owner's household;

(3) Act or omission by Lot Owner. No act or omission by any Lot Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(4) Primary insurance. If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy shall provide the primary insurance.

(d) Adjusting loss. Any loss covered by the property policy under Section 1(a)(1) shall be

adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association and not to any security interest holder. The insurance trustee or the Association shall hold any insurance proceeds in trust for the Association, Lot Owners and lien holders as their interests may appear. Subject to the provisions of Section 1(g), the proceeds shall be disbursed first for the repair or restoration of the damaged property, and the Association, Lot Owners, and lien holders shall not be entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Community is terminated.

(e) Owner's insurance. An insurance policy issued to the Association shall not prevent a Lot Owner from obtaining insurance for the Owner's own benefit. Each Lot Owner shall maintain a policy or policies to insure the Owner's improvements from all casualty losses. If improvements are damaged by a casualty, including fire, flood, hurricane, acts of God, or acts of man, the affected Owner shall promptly have the Owner's home and other improvements repaired and rebuilt substantially in accordance with architectural plans approved by the Architectural Control Committee.

(f) Notice of cancellation. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Lot Owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Lot Owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(g) Duty to repair, etc. Any portion of the Community for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety or (ii) 80% of the Lot Owners vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If the entire Community is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common areas shall be used to restore such damaged area to a condition compatible with the remainder of the Community and (ii) except to the extent that other persons will be distributees, the remainder of the proceeds shall be distributed to all the Lot Owners or lien holders, as their interests may appear, in proportion to the common expense liabilities of all the Lots.

Section 2 Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any mortgage holder, insurer or guarantor shall be entitled to timely written notice of:

- (a) any condemnation or casualty loss that affects either a material portion of the Property or the Lots securing its mortgage;
- (b) any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
- (c) a lapse, cancellation, or material modification of any insurance policy or fidelity bond, maintained by the Association; and
- (d) any proposed action that requires the consent of a specified percentage of mortgage holders.

ARTICLE XII

LIMITATIONS ON ASSOCIATION

Section 1. Limitations on Actions of Association. Unless at least two thirds (2/3) of the first mortgagees of Lots (based on one vote for each first mortgage owned) or two thirds of the members entitled to vote (other than the Class B member) have given their prior written approval, the Association shall not be entitled to take any of the following actions:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas by the members is not a transfer in the meaning of this clause.

(b) Change the method of determining the obligations, Assessments or other charges that may be levied against Owner.

(c) By act or omission, change, waiver or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Residences, the maintenance of and landscaping of Lots, the maintenance of the Common Areas, walks, fences, and driveways, and the upkeep of lawns and plantings in the Property.

(d) Fail to maintain fire and extended coverage on insurable Common Areas on a current replacement cost basis in an amount of at least 100% of the insurable value (based on current replacement costs), to the extent that such insurance is available.

(e) Use hazard insurance proceeds, to the extent that such insurance is available, for losses to the Common Areas for other than the repair, replacement or reconstruction of the Common Areas.

ARTICLE XIII

PAYMENT OF CHARGES BY FIRST MORTGAGEES

Section 1. Payment of Charges by First Mortgagees. First Mortgagees of Lots may:

(a) Jointly or singularly pay taxes or other charges that are in default and that may or have become charges against any Common Areas; and

(b) Pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Areas, to the extent that such insurance is available, in the case of lapse of a policy.

First Mortgagees making such payments shall be due immediate reimbursements from the Association. The Association shall duly execute an agreement reflecting such entitlement to reimbursement.

ARTICLE XIV

ASSOCIATION; BOARD OF DIRECTORS

Section 1. Powers of the Association. The Association shall have all of the other powers provided in its Articles of Incorporation and By-Laws and at law, attached hereto respectively as Exhibits "F" and "G".

(a) Except as otherwise provided in subsection (b), and subject to the provisions of the Declaration, the Association shall have the power to:

- (1) adopt and amend bylaws and rules and regulations;
- (2) adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from Lot Owners;
- (3) hire and discharge managing agents and other employees, agents, and independent contractors;
- (4) institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Owners on matters affecting the Community;
- (5) make contracts and incur liabilities;
- (6) regulate the use, maintenance, repair, replacement, and modification of common areas and elements;
- (7) cause additional improvements to be made as a part of the common areas or elements;
- (8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but Common Areas may be conveyed or subjected to a security interest only pursuant to Article XII, Section 1;
- (9) grant easements, leases, licenses, and concessions through or over the common areas;
- (10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common areas or elements and for services provided to Owners;
- (11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, bylaws, rules, and regulations of the Association;
- (12) impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid assessments;
- (13) provide for the indemnification of its officers and board members and maintain directors' and officers' liability insurance;
- (14) exercise any other powers conferred by the Declaration or Bylaws;
- (15) exercise all other powers that may be exercised in Florida by a not for profit corporation such as Association;
- (16) exercise any other powers necessary and proper for the governance and operation of the Association; and
- (17) by regulation, require that disputes between the Board of Directors and Owners or between two or more Owners regarding the Community must be submitted to nonbinding alternative dispute resolution in the manner described in its regulation as a prerequisite to commencement of a judicial proceeding.

(b) The Association may adopt rules and regulations affecting use of or behavior with regard to Lots that may be used for residential purposes only to:

- (1) prevent any use of a Lot which violates the Declaration;
- (2) regulate behavior in or occupancy of Lot which violates the Declaration or adversely affects the use and enjoyment of other Lots or the Common Areas by other Owners; or
- (3) restrict leasing of residential Lots to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders who regularly lend money secured by first mortgages on Lots in such communities or regularly purchase those mortgages.

Otherwise, the Association may not regulate any use of or behavior in Lots.

(c) If a tenant of an Owner violates the Declaration, Bylaws, or rules and regulations of the Association, in addition to exercising any of its powers against the Owner, the Association may:

- (1) exercise directly against the tenant the powers described in subsection (a)(11);
- (2) after giving notice to the tenant and the Owner and an opportunity to be heard, levy reasonable fines against the tenant for the violation; and
- (3) enforce any other rights against the tenant for the violation which the Owner as landlord could lawfully have exercised under the lease or which the Association could lawfully have exercised directly against the Owner, or both.

(d) The rights granted under subsection (c)(3) may only be exercised if the tenant or Owner fails to cure the violation within 10 days after the Association notifies the tenant and Owner of that violation.

(e) Unless a lease otherwise provides, this section shall not:

- (1) affect rights that the Owner has to enforce the lease or that the Association has under other law; or
- (2) permit the Association to enforce a lease to which it is not a party in the absence of a violation of the declaration, bylaws, or rules and regulations.

Section 2. Board of Directors Compensation. No member of the Board of Directors shall receive any compensation for services rendered in such capacity.

Section 3. Annual budget. The Board of Directors shall prepare a budget for each fiscal year setting forth estimated revenues and expenses, including annual Operating Expenses, and an estimated year end surplus or deficit and separately itemizing all fees or charges for recreational amenities, whether owned by the Association, the Developer, or another. Each Member shall be provided with a copy of the annual budget or a written notice that such a copy is available at no charge within 10 business days of its completion. The annual budget shall be prepared in accordance with the requirements of Chapter 720 Homeowners' Association, Florida Statutes.

Section 4. Financial Reporting. Within 90 days after the close of the fiscal year the Board of Directors shall prepare or cause to be prepared in conformance with generally accepted accounting principles as adopted by the Board of Accountancy an annual financial report consisting of:

- (a) If there are fewer than 50 Lots or if annual revenues are \$100,000 or less, a report of cash receipts and expenditures. A report of cash receipts and disbursement shall disclose the amount of receipts by account and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security,

professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves if maintained by the association; provided however that, if such annual revenues exceed \$100,000 and there are more than 50 Lots, such financial report(s) shall be prepared as required by Chapter 720 Homeowners' Associations, Florida Statutes.

(b) Within 21 days after the final financial is completed by the Association or received from the third party preparer of such report, but not later than 120 days from the end of the fiscal year, each Member shall be provided with a copy of the annual financial report or a written notice that such a copy is available at no charge.

#### ARTICLE XV CONTRACTS

Prior to assumption of control of the Association as provided in the Declaration, the Association shall not be bound either directly or indirectly to contracts or leases (including a management contract) unless it includes a right of termination exercisable by the Association, without cause and without penalty at any time after transfer of control, upon not more than 90 days notice to the other party.

Section 1. Written contracts. Any for the purchase or lease of materials or equipment that cannot be performed within one year and all contracts for services shall be in writing.

Section 2. Competitive bidding. Any contract for materials or equipment or for the provision of services requiring payments by the Association exceeding 10% of the total annual budget, including reserves, shall be competitively bid by the Board of Directors as required by law; provided that this shall not compel the Association to accept the lowest bid nor shall it limit the Association's ability to obtain products and services in an emergency and it shall not apply if the business entity with which it desires to contract is the sole source of supply in the County.

Section 3. Fairness and reasonableness. Any grant or reservation made by any document and any contract with a term in excess of 10 years made by the Association before control of the Association is turned over to the members other than the Developer, which provide for operation, maintenance, or management of the Association or common areas shall be fair and reasonable.

Section 4. Certain Contracts. Contracts with employees of the Association and with the Association attorney, accountant, architect, community manager, engineer and landscape architect need not be competitively bid. A contract for a manager, which is competitively bid may be for a term of up to 3 years in length.

#### ARTICLE XVI COMPLIANCE WITH CERTAIN STATUTORY REQUIREMENTS

The Association shall comply with various statutory requirements bearing upon it from time to time, including but not limited to the following:

Section 1. Community Association Manager. The Association shall comply with the

requirement to have a Community Association Manager, once it meets the definition of *Homeowner's Association* set forth in Chapter 720 Homeowners' Association, Florida Statutes.

Section 2. Disclosure requirements. To the extent that the disclosure requirements of Florida Statutes §720.401 apply to the Association, it shall comply with them.

Section 3. Approval of action for more than \$100,000. Before commencing any court action against any party in the name of the Association, including an action based on construction defects, involving amounts in controversy in excess of \$100,000, the Association shall obtain the affirmative approval of a majority of the members at a meeting of the members at which a quorum is present in person or by proxy.

Section 4. Presuit procedures. Before filing a court claim for construction defects, the Association shall comply with presuit procedures set forth in F.S. §§558.001, et seq.

Section 5. Mediation; Arbitration. Disputes between an Owner and the Association regarding: use of or changes to the Owner's Lot or the Common Areas; the covenants; meetings of the Board and/or its committees; meetings of the members not involving elections; and access to official records of the Association shall be submitted to the Florida Department of Business and Professional Regulation for mandatory mediation before proceedings are filed in court. Election disputes and recall disputes regarding Board member(s) must be submitted to the Florida Department of Business and Professional Regulation for mandatory binding arbitration. Filing a petition for mediation or arbitration shall toll any statute of limitations applicable to the dispute.

Section 6. Estoppel certificates. Within fifteen (15) days after the date on which a request for an estoppel certificate is received from a Lot Owner or mortgagee, or his or her designee, the Association shall provide a certificate signed by an officer or authorized agent of the Association stating all assessments and other moneys owed to the Association by the Lot Owner or mortgagee with respect to the Lot. The Association or management company may charge a fee for the preparation of such certificate, and the amount of such fee must be stated on the certificate.

(1) Any person other than a Lot Owner who relies upon a certificate receives the benefits and protection thereof.

(2) A summary proceeding pursuant to Section 51.011 Florida Statutes may be brought to compel compliance with this section, and the prevailing party is entitled to recover reasonable attorney's fees.

(3) The authority to charge a fee for the certificate shall be established by a written resolution adopted by the Board of Directors or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a parcel but the closing does not occur and no later than thirty (30) days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the Lot Owner, the fee shall be refunded to that payor within thirty (30) days after receipt of the request. The refund is the obligation of the Lot Owner, and the Association may collect it from the Lot Owner in the same manner as an assessment as provided in this Declaration.

IN WITNESS WHEREOF the parties hereunto have entered into this Declaration of Conditions, Covenants, Easements and Restrictions for the Cross Creek Lake Estates Subdivision.

Signed, sealed and delivered in the presence of: WITNESSES:

(signature) Warren W. Dill (print name) WARREN W. DILL (signature) JOE L. BUCK (print name) JOE L. BUCK

DEVELOPER: Cross Creek Lake Estates, Inc., a Florida Corporation

By: Henry Andrew Fischer, its President

"SEAL"

Signed, sealed and delivered in the presence of: WITNESSES:

(signature) Linda A. White (print name) LINDA A. WHITE (signature) PATTY BOWLANDER (print name) PATTY BOWLANDER

CAMPANELLI: Campanelli Development Corporation, Inc., a Florida Corporation

By: Ralph Campanelli, its President

"SEAL"

Signed, sealed and delivered in the presence of: WITNESSES:

(signature) Warren W. Dill (print name) WARREN W. DILL (signature) JOE L. BUCK (print name) JOE L. BUCK

Cross Creek Lake Estates Homeowners' Association, Inc., a Florida Not-for-Profit Corporation

By: Henry Andrew Fischer, its President

"SEAL"

STATE OF FLORIDA COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 5th day of April, 2013, by Henry Andrew Fischer, as President of Cross Creek Lake Estates, Inc., a Florida Corporation, on behalf of the corporation, who [X] is personally known to me or [ ] produced a Florida driver's license as identification.

Notary Public, State of Florida Print Name: JOE L. BUCK My Commission Expires: 11-19-14 My Commission No.: EE 041872





STATE OF MASSACHUSETTS  
COUNTY OF NORFOLK

The foregoing instrument was acknowledged before me this 16th day of April, 2013, by Ralph Campanelli, as President of Campanelli Development Corporation, Inc., a Florida Corporation, on behalf of the corporation, who [  ] is personally known to me or [  ] produced a Florida driver's license as identification.



Josephine DeFlavis  
Notary Public, State of Massachusetts  
Print Name: Josephine DeFlavis  
My Commission Expires: Nov. 7, 2014  
My Commission No.: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of April, 2013, by Henry Andrew Fischer, as President of the Cross Creek Lake Estates Homeowners' Association, Inc., a Florida Not-for-Profit Corporation, on behalf of the corporation, who [  ] is personally known to me or [  ] produced a Florida driver's license as identification.



Jodee Buck  
Notary Public, State of Florida  
Print Name: Jodee Buck  
My Commission Expires: 11-19-14  
My Commission No.: EE009872

MORTGAGEE'S JOINDER AND CONSENT

Marine Bank & Trust Company whose address is 571 Beachland Blvd., Vero Beach, Florida 32963, hereinafter referred to as "Mortgagee" is the owner and holder of a Mortgage and Security Agreement recorded in Official Records Book 2120, Page 909; Collateral Assignment recorded in Official Records Book 2120, Page 922; UCC Financing Statement recorded in Official Records Book 2120, Page 927; Loan Document Modification recorded in Official Records Book 2318, Page 1665; Second Loan Document Modification recorded in Official Records Book 2357, Page 1673; Third Loan Document Modification recorded in Official Records Book 2363, Page 2351; Fourth Loan Document Modification recorded in Official Records Book 2369, Page 1161; UCC Continuation recorded in Official Records Book 2512, Page 1055; Fifth Loan Document Modification recorded in Official Records Book 2632, Page 2086, all recorded in the Public Records of Indian River County, Florida, hereinafter collectively referred to as "Mortgage Loan Documents". The Mortgage Loan Documents encumber the following described land:

South 1/2 of the Northwest 1/4 of Section 30, Township 31 South, Range 39 East, Indian River County, Florida.

LESS AND EXCEPT Right-of-way as shown on MAINTENANCE MAP FOR 70th AVENUE (A.K.A. POWERLINE ROAD) as recorded in Plat Book 21, Pages 10 and 11, of the Public Records of Indian River County, Florida.

The Mortgagee does hereby consent, ratify and join in the execution of the Declaration of Conditions, Covenants, Easements and Restrictions for Cross Creek Lake Estates to which this Joinder and Consent is attached for the purposes herein expressed and agrees that its Mortgage Loan Documents shall be subordinated, in all respects, to the Declaration of Conditions, Covenants, Easements and Restrictions for Cross Creek Lake Estates.

IN WITNESS WHEREOF, the Mortgagee has caused this Joinder and Consent to be signed by its Executive Vice President and its seal to be affixed by and with the authority of its Board of Directors this 19th day of April, 2013.

Signed, sealed and delivered in the presence of:

Print Name: Anne Sheppard
Sharon J. MacBride
Print Name: Sharon J. MacBride

"Mortgagee"

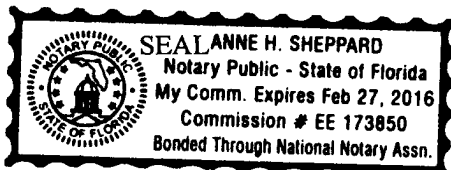
Marine Bank & Trust Company
By: Brian C. Fowler
Print Name: Brian C. Fowler
Its: EVP - Chief Lending Officer

"SEAL"

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 19th day of April, 2013, by Anne Sheppard, the Banker of Marine Bank & Trust Company, on behalf of the bank. He/she is personally known to me or who has produced a Florida driver's license as identification.

Notary Public, State of Florida
Print Name: Anne H. Sheppard
My Commission Expires:
My Commission No.:



**EXHIBIT "A"**  
**TO**  
**DECLARATION OF CONDITIONS, COVENANTS,**  
**EASEMENTS AND RESTRICTIONS**  
**FOR**  
**CROSS CREEK LAKE ESTATES,**  
**A SUBDIVISION**  
  
**LOTS**

The following Lots comprise the Cross Creek Lake Estates Homeowners Community as shown on Cross Creek Lake Estates Plat One and Plat Two:

Lots 8 through 11, Block 1 and Lots 1 through 6, Block 2, Cross Creek Lake Estates Plat One according to the Plat thereof, as recorded in Plat Book 26 Page 70 Public Records of Indian River County, Florida.

Lots 1 through 16, Block 10 and Lots 16 through 29, Block 8, Cross Creek Lake Estates Plat Two according to the Plat thereof, as recorded in Plat Book 26, Page 74, Public Records of Indian River County, Florida.

**EXHIBIT "B"**  
**TO**  
**DECLARATION OF CONDITIONS, COVENANTS,**  
**EASEMENTS AND RESTRICTIONS**  
**FOR**  
**CROSS CREEK LAKE ESTATES,**  
**A SUBDIVISION**

**DESCRIPTIONS OF THE PROPERTY**

Property submitted to Declaration by Cross Creek Lake Estates, Inc.

The South ½ of the Northwest ¼ of Section 30, Township 31 South, Range 39 East, Indian River County, Florida, less and except the East 35.00 feet thereof.

Property submitted to Declaration by Campanelli Development Corporation, Inc.

The Northeast ¼ of the Southwest ¼ in Section 30, Township 31 South, Range 39 East, excepting therefrom the West 5 acres and the South 50 feet of the subject property, also less and except that parcel described in Official Records Book 2283, Page 1064, Public Records of Indian River County, Florida.

All of the property described above is collectively referred to as the "Property".

**EXHIBIT "C"**

**TO**

**DECLARATION OF CONDITIONS, COVENANTS,**

**EASEMENTS AND RESTRICTIONS**

**FOR**

**CROSS CREEK LAKE ESTATES,**

**A SUBDIVISION**

**ACCESS AGREEMENT**

**LEGAL DESCRIPTION OF LAND CURRENTLY COMPRISING THE**

**"DOMINANT PARCEL" UNDER THE ACCESS AND USE AGREEMENT BETWEEN**

**CROSS CREEK LAKE ESTATES, INC. AND HENRY ANTHONY FISCHER AND JOINED BY**

**CAMPANELLI DEVELOPMENT CORPORATION, INC. AND CROSS CREEK LAKE ESTATES**

**HOMEOWNERS' ASSOCIATION, INC. GRANTING CERTAIN RIGHTS TO**

**THE DOMINANT PARCEL**

From the center of Section 30, Township 31 South, Range 39 East, Indian River County, Florida, run South 89 degrees 32 minutes 01 seconds West along the North boundary of the Southwest quarter of Section 30 a distance of 1163.97 feet to the POINT OF BEGINNING; thence run South 00 degrees 09 minutes 57 seconds East a distance of 1336.24 feet to the quarter-quarter line; thence run South 89 degrees 50 minutes 01 seconds West along said quarter-quarter line a distance of 835.12 feet; thence run North 00 degrees 05 minutes 51 seconds West a distance of 1331.88 feet to the North boundary of the Southwest quarter; thence run North 89 degrees 32 minutes 01 seconds East a distance of 833.55 feet to the POINT OF BEGINNING.

LESS AND EXCEPT the Southern fifty (50) feet of the above-described property pursuant to Chancery Order Book 9, Page 564, in the Public Records of Indian River County, Florida.

**EXHIBIT "D"**  
**TO**  
**DECLARATION OF CONDITIONS, COVENANTS,**  
**EASEMENTS AND RESTRICTIONS**  
**FOR**  
**CROSS CREEK LAKE ESTATES,**  
**A SUBDIVISION**  
**RULES AND REGULATIONS**

1. The Common Areas and facilities shall not be obstructed nor used for any purpose other than the purposes intended therefore. No carts, bicycles, carriages, chairs, tables or any other similar objects shall be stored therein.

2. The personal property of Owners must be stored in their respective Residences or in outside storage areas (if any are provided by Developer).

3. No garbage cans, supplies, milk bottles or other articles shall be placed on the exterior portions of any Residence or Lot and no linens, cloths, clothing, curtains, rugs, mops, or laundry of any kind, or other articles, shall be shaken or hung from or on the Residence, the Lot or any of the windows, doors, fences, balconies, patios or other portions of the Residence or Lot, except as provided in the Declaration with respect to refuse containers.

4. No Owner shall permit anything to fall, nor sweep or throw, from the Residence any dirt or other substance onto the Lot or Common Areas.

5. Employees of the Association are not to be sent out by Owners for personal errands. The Board of Directors shall be solely responsible for directing and supervising employees of the Association.

6. No motor vehicle which cannot operate on its own power or unlicensed motor vehicles, boats, recreational vehicles or trailers shall be permitted to be parked or to be stored at any place on the Property unless they are stored entirely within Owner's closed garage and are not visible from outside the closed garage. The above notwithstanding, recreational vehicles and trailers that are loading or unloading are allowed to park on the Property for up to twelve (12) hours. No portion of the Common Areas, including but not limited to the internal road system and grassy areas, may be used for parking purposes, except those portions specifically designed and intended therefore and designated as parking areas by proper signage. Areas designated, if any, for guest parking shall be used only for this purpose and neither Owners nor occupants of Residences shall be permitted to use these areas. Vehicles which are in violation of these rules and regulations shall be subject to being towed by the Association as provided in the Declaration. No outside repair of vehicles is allowed.

7. No Owner shall make or permit any disturbing noises to emanate from his or her residence or Lot or such as shall be made by family, servants, employees, agents, visitors or licensees, nor permit any conduct by such persons as will interfere with the rights, comforts or conveniences of other

Owners. No Owner shall play or permit to be played any musical instrument, nor operate or permit to be operated a phonograph, television, radio or sound amplifier or any other sound equipment in his Residence or on his or her Lot in such a manner as to disturb or annoy other residents. No Owner shall conduct, nor permit to be conducted, vocal or instrumental instruction at any time which disturbs other residents. On Sundays no Owner shall operate or permit to be operated on the grounds of his or her Lot power gardening or other maintenance equipment (e.g., lawn mowers, chain saws, blowers, etc.), the noise from which is considered unreasonably disturbing to his or her neighbors.

8. No electronic equipment may be permitted in or on any Residence or Lot which interferes with the television or radio reception of another Residence.

9. No awning, canopy, shutter, enclosure or other projection shall be attached to or placed upon the outside walls or roof of the Residence or on the Lot, except as approved by the Architectural Control Committee.

10. No Owner may alter in any way any portion of the Common Areas, including, but not limited to, landscaping, without obtaining the prior written consent of the Architectural Control Committee.

11. No vegetable gardens shall be permitted except in fully enclosed patio areas.

12. No commercial use, except any management or lot sales office, shall be permitted in the Development even if such use would be permitted under applicable zoning ordinances.

13. No flammable, combustible or explosive fluids, chemicals or substances shall be kept in any Residence, on a Lot or on the Common Areas, except as may be intended solely to service a gas cooking grill, provide fuel for a lawn mower or other yard maintenance equipment or in order to heat a pool or outdoor spa, in which case all such containers used for heating purposes shall be stored completely underground.

No gas tank, gas container or gas cylinder shall be permitted to be placed on or about the outside of any Residence or on or about any ancillary building, except for such gas container as may be intended solely to provide gas to a gas grill for cooking or to be used for the heating of a pool or outdoor spa. No gas container to service a gas grill shall when completely filled weigh more than fifty (50) pounds. All gas containers to be used for the heating of a pool or spa shall be placed entirely underground and shall not be visible whatsoever nor exceed a maximum of 500 gallons in capacity.

14. An Owner who plans to be absent during the hurricane season shall prepare his or her Residence and Lot prior to his or her departure by designating a responsible firm or individual to care for his or her Residence and Lot should the Residence suffer hurricane damage, and furnishing the Association with the name(s) of such firm or individual. Such firm or individual shall be subject to the approval of the Association. There shall be no "boarding up" of houses in excess of thirty (30) total days or 10 consecutive days within any twelve (12) month period while homes are vacant. There shall be allowed storm protection, only in the event of and during the period of time a storm is likely to cause damage to a Residence.

15. An Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of his or her Residence.

16. Children will be the direct responsibility of their parents or legal guardians, including full supervision of them while within the Property and including full compliance by them with these Rules and Regulations and all other rules and regulations of the Association. Loud noises will not be tolerated.

17. Pets and other animals shall neither be kept nor maintained in or about the Property except in accordance with the Declaration and with the following:

(a) Under no circumstances shall more than two (2) household pets be permitted for each Lot. No pet shall be permitted outside of its Owner's Residence unless attended by an adult and on a leash of reasonable length. Said pets shall only be walked or taken upon those portions of the Common Areas designated by the Association from time to time for such purposes.

(b) Any pet deemed to be objectionable by the Board of Directors for any reason shall be removed promptly by the Owner on fifteen (15) days' notice.

18. An Owner shall not permit its garage door(s) to remain open during time periods other than when necessary for the ingress or egress of an automobile or while cleaning or painting the interior area of the garage.

19. The plans and specifications for all solar collection devices shall be submitted to the Architectural Control Committee. Written approval of the Architectural Control Committee must be received before constructing or installing any solar collector. Among other things, the Architectural Control Committee must consider when reviewing any request for a solar collection device, the size, design and location of the collector, as well as the reflection or glare that may be cast upon Lots within the Property. In no event will a solar collector device be placed on the front elevation of a house.

20. Every Owner and occupant shall comply with these rules and regulations as set forth herein, any and all rules and regulations which from time to time may be adopted, and the provisions of the Declaration, Bylaws and Articles of Incorporation of the Association, as amended from time to time. Failure of an Owner or occupant to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The Association shall have the right to suspend voting rights and use of recreation facilities, if any, in the event of failure to so comply. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his or her tenants, family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Declaration, or Articles of Incorporation or Bylaws, as provided in the Declaration.

21. There shall be no use or discharge of firecrackers or other fireworks. There shall be no discharge of firearms; provided that the Board shall have no obligation to take action to prevent discharge of firearms.

22. There shall be no capturing, trapping or killing of wildlife within the Community, except in circumstances posing an imminent threat to the safety of persons using the Community.

23. There shall be no activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality of the Community or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution.



24. There shall be no construction, erection, placement, or modification of anything, permanently or temporarily, on the outside of a Lot, whether such portion is improved or unimproved, except as specifically authorized by Architectural Control Committee. This shall include, without limitation, swing sets and similar play equipment, garbage cans, docks, piers and similar structures, hedges, and fences for pool area. The following are prohibited on any Lot within the Property: signs, basketball hoops and similar sports play equipment, clotheslines, woodpiles, dog runs and animal pens, above ground swimming pools, and walls or fences of any kind.

25. The Stormwater Management Tract (Crystal Lake) is an unsupervised body of water. No lifeguards or water safety equipment or monitoring for natural and wildlife hazards is provided by the Developer or the Property Owner's Association with respect to Crystal Lake, the responsibility for such matters being completely and entirely upon the Lot Owners. Swimming is prohibited in Crystal Lake. Any recreation, whether it be boating, fishing or other use of Crystal Lake by the Owners and their guests and invitees, specifically including children of all ages, is allowed only on an *AT-YOUR-OWN-RISK* basis. The Developer and the Homeowners' Association specifically disclaim any responsibility or liability therefore. Any Lot Owner using Crystal Lake or who allows their guests and invitees, specifically including children of all ages, to use Crystal Lake, by such use agrees at such Lot Owner's own cost and expense to hold harmless, defend and indemnify the Developer, the Association, and the other Lot Owners from any and against liability of any kind whatsoever whether known or unknown, foreseen or unforeseen which may arise from such use whether occasioned by alleged error or omissions or otherwise.

26. These rules and regulations shall not apply to the Developer, nor its affiliates, agents or employees and contractors (except in such contractors' capacity as owners), nor property while owned by either the Developer or its affiliates. All of these rules and regulations shall apply, however, to all other Owners and occupants even if not specifically so stated in portions hereof. The Board of Directors shall be permitted (but not required) to grant relief to one or more Owners from specific rules and regulations upon written request therefore and good cause shown in the sole opinion of the Board.

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**EXHIBIT "E"**  
**TO**  
**DECLARATION OF CONDITIONS, COVENANTS,**  
**EASEMENTS AND RESTRICTIONS**  
**FOR**  
**CROSS CREEK LAKE ESTATES,**  
**A SUBDIVISION**  
  
**ARCHITECTURAL STANDARDS AND REQUIREMENTS**

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**SIGNAGE**

No signs of any kind, at any time, shall be displayed except those provided by the Developer. Builders and/or homeowners must keep the lot free from contractor, subcontractor vendor and for sale signs. Notwithstanding the above, builders may display one (1) sign not to exceed two (2) feet by two (2) feet in area during construction of a house, up to a maximum period of time of twelve (12) months. The Developer is exempt from all sign regulations.

**PLAN REVIEW**

The plan review package shall consist of all construction plans including proposed floor plans elevation designs, colors, landscape plans, plot plan and all other relevant information. The plan review package shall be submitted to the Architectural Control Committee for approval prior to being submitted to the City of Sebastian for a building permit OR at least three weeks before any work is scheduled to begin. All flat work (i.e. driveways, sidewalks, patios, etc.) shall be shown on the plot plan.

No changes shall be made in flat work, landscape design, elevation design (including a decorative rear elevation), color choice or orientation without prior written approval from the Architectural Control Committee.

**COMPLETION OF CONSTRUCTION**

Once construction has commenced, all improvements to the lot and the construction of the home shall be completed within one (1) year. The Architectural Control Committee may extend this time for good cause shown upon appeal from the Owner. Failure to complete within the approved time frame may result in forfeiture of the cash bond or letter of credit.

**CONSTRUCTION**

**STRUCTURE:** All houses shall be built of concrete block and stucco (CBS), fiberglass reinforced concrete, Hardi-Plank or equivalent materials designed as a hurricane-resistant structure. All houses shall have a minimum soffit finish height of 9'0". The full height of any house must comply with City of Sebastian height standards and may not exceed two (2) stories.

**ROOFS:** Roofs shall be a minimum 6/12 pitch on one story structures and a minimum 6/12 pitch on two-story structures and composed of 5/8 inch sheathing with a

metal, shingle (only architectural shingles) or tile roof. Fascia board shall be a minimum of 6 inches in width and made of cedar mill finish.

**SOFFITS:** Soffits shall be Hardi-Plank or tongue and groove wood. Soffits must have a minimum overhang of 24 inches

**WINDOWS:** Windows shall be white aluminum.

**SQ. FOOTAGE:** All single story houses shall contain a minimum air conditioned area of 1,800 square feet. All two story houses shall have a minimum air conditioned area of 1,600 square feet in the ground floor.

**SET BACKS:** Standards: Front - 25 feet, Sides – 10 feet, Rear -20 feet.

**GARAGES:** All houses shall have at a minimum an attached two (2) car garage, with side entrance. Garages may not have entrances facing the street.

**FINISH FLOOR:** All houses shall have a finish floor elevation consistent with existing grade.

**SCREEN CAGES:** All aluminum screen cages shall be white.

**POOLS:** All pools must be installed in the ground..

**SITE WORK**

**DRAINAGE:** All finish grading shall be in conformance with the typical lot grading plan. Builder is responsible for constructing rear swales on cul-de-sac lots using a typical grading plan.

- LANDSCAPING:**
- ◆ All lots shall have a landscape package, including sod/irrigation/trees.
  - ◆ All lots shall have full Floratam sod (not Bahia).
  - ◆ All lakefront lots shall have an irrigation system drawing from the lake.
  - ◆ Outside A/C units and pool equipment shall be fully screened from view at the time that the Certificate of Occupancy is issued with shrubs or enclosed behind a block wall screened with shrubs.
  - ◆ All lots shall meet the requirements of the Sebastian Tree Planting Ordinance.
  - ◆ All lots shall have at a minimum the following landscaping:

1 – Street Tree Per Lot

1 – Canopy Tree Every 2,400 s.f.

1 – Palm Tree	Every 2,400 s.f.
1 – Accent Plant	Every 2,400 s.f.
4 – Shrubs and Bedding Plants	Every 1,200 s.f.
25 – Ground Cover Plants	Every 1,200 s.f.

◆All landscaping shall take place within the construction time frame and remain a part of the construction contract with the approved builder.

**LAKEBANKS:** All lake lots shall be finish sodded to water's edge with floritam sod. Any pot holes, ruts, etc. shall be filled with clean sand and any ripples or hills shall be cut so as to provide a consistent cross elevation prior to sodding. Builders may sod floritam over the existing bahia or remove the bahia at their own discretion as long as the lots blend side to side and to the lake.

**SIDEWALKS:** All lots shall have a continuous sidewalk running parallel to the curb placed 4' from the back of curb with a 1" slope. The top of the far side of the sidewalk shall be set at 5" above the back of curb. The sidewalk shall be five (5) feet in width and shall be constructed of concrete and shall be scored and picture framed consistently throughout the community. The sidewalk shall run through the driveway. If the above construction standards conflict with the City of Sebastian construction standards the more restrictive shall apply. The sidewalk shall be constructed before a Certificate of Occupancy is issued for the Residence on the Lot.

**DRIVEWAYS:** Driveways shall be brick paver, stamped concrete or concrete.

**WALLS/FENCES:** No wall (other than dwelling walls) or fence shall be constructed on any Lot, except for a wall or fence designed to conceal HVAC or pool equipment. No such wall or fence of any height shall be constructed on any Lot until the height, type, design, construction material and approximate location thereof shall have been approved in writing by the Architectural Control Committee.

**MAILBOXES:** There shall be only community mail boxes. Individual mailboxes and newspaper receptacles are prohibited.

**COLOR:** All outside paint colors shall be determined exclusively by the Architectural Review Committee.

**CLEAN-UP:** All sites shall be kept clean. Adequate roll off trash containers shall be used and dumped at reasonable intervals. Houses shall be clean swept daily during periods of construction activity.

**LAKES:** No materials, especially paint or chemicals, shall be dumped or washed into the lakes or drainage system through the streets.

- MAINTENANCE:** Lots shall be kept cut by the builder during the construction phase. No Lot will be permitted to be overgrown.
- SURVEYS:** A final as-built survey showing all improvements, including grades for drainage, sidewalks and finish floor shall be provided to the Developer/HOA at the time construction is complete.
- SURETY:** Builders may be required to post a cash bond in the amount of One Thousand Dollars (\$1,000.00) as security to ensure timely completion of construction of the home and protecting the community from infrastructure damage. A review of the curb, road, drainage and grading will be conducted at the time of contract and at the finish of construction with the builder. The security will be released within 30 days of final inspection of the finished construction providing no damage has been caused by the builder or the builder's subcontractors and/or vendors and provided the home has been completed in a timely manner. The builder is responsible for controlling any individuals working on the job site under an oral or written contract with the builder.
- NOISE:** Construction shall not begin outside before 7:00 A.M. or continue beyond 7:00 P.M. Monday through Saturday. No outside work shall take place on Sunday. No radios shall be played outside on Sunday or loudly enough inside as to be heard outside the building. No music shall be played before 9:00 A.M. on any day. All music shall be maintained at a level that does not offend residents of the community. Any complaints shall be responded to promptly.
- LANGUAGE:** No offensive language shall be used within the hearing of any resident, customer or sales agent.
- APPEARANCE:** No house shall be constructed with the same color schemes or front architectural elevations as a house on adjoining / adjacent lots. No two lots, side by side, shall have the same color schemes or front architectural elevations.
- ATTACHMENT:** Subcontractor Agreement

## SUBCONTRACTOR AGREEMENT

All subcontractors shall sign the following agreement outlining the rules and regulations of Cross Creek Lake Estates. Subcontractors violating the rules and regulations of the community will be banned from future work within Cross Creek Lake Estates. Builders will be held responsible for their subcontractors actions while on the site.

- NOISE:** Construction shall not begin outside before 7:00 A.M. or continue beyond 7:00 P.M. Monday through Saturday. No outside work shall take place on Sunday. No radios shall be played outside on Sunday or loudly enough inside as to be heard outside the building. No music shall be played before 9:00 A.M. on any day. All music shall be maintained at a level that does not offend residents of the community. Any complaints shall be responded to promptly and politely.
- LANGUAGE:** No offensive language shall be used within the hearing of any resident, customer or sales agent.
- PARKING:** No parking on the lots is permitted. Serious erosion results from this practice. Parking areas will be designated.
- CLEAN-UP:** All sites shall be kept clean. Adequate roll off trash containers shall be used and dumped at reasonable intervals. Houses shall be clean swept daily during periods of construction activity.
- SIGNAGE:** No signs of any kind, at any time, shall be displayed except those provided by the Developer and one (1) sign not to exceed two (2) feet by two (2) feet in area during construction of a house up to a maximum period of time of twelve (12) months. Except as provided herein builders/subcontractors/vendors/homeowners are required to keep the lot free from signs.
- POOLS:** Subcontractors/builders/ homeowners are responsible for removed materials from pool shell area.
- TRAFFIC:** All builders, subcontractors, vendors and employees shall maintain slow speeds and reasonable radio levels driving through Cross Creek Lake Estates and the adjacent community. Special care shall be used at turning radii to remain on the paved street.

ATTACHMENT "A"

TO

ARCHITECTURAL STANDARDS AND REQUIREMENTS

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**LAKES:** No materials, especially paint or chemicals, shall be dumped or washed into the lakes or drainage system through the streets.

**PETS:** No dogs or other pets shall be allowed on any job site.

*(sign)* \_\_\_\_\_

Date: \_\_\_\_\_

*(print)* \_\_\_\_\_

Subcontractor or Vendor

*(sign)* \_\_\_\_\_

Date: \_\_\_\_\_

*(print)* \_\_\_\_\_

Builder

ATTACHMENT "A"

TO

ARCHITECTURAL STANDARDS AND REQUIREMENTS

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