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**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR AUTUMN WOODS. FOR PRESENT TEXT, SEE THE EXISTING MASTER DECLARATION.**

**AMENDED AND RESTATED  
MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
AUTUMN WOODS**

**KNOW ALL MEN BY THESE PRESENTS** that on May 6, 1997, the original Master Declaration of Covenants, Conditions and Restrictions for Autumn Woods (“Declaration” or “Master Declaration”) was recorded in Official Record Book 2311, at Page 2426 *et seq.*, of the Public Records of Collier County, Florida. Subsequent amendments were made on: March 10, 1998, on May 26, 1998, recorded at O.R. Book 2423, Page 1383, *et seq.*; on September 22, 1998, recorded at O.R. Book 2396, Page 2178 *et seq.*, recorded at O.R. Book 2463, Page 2377, *et seq.*, on March 1, 1999, recorded at O.R. Book 2518, Page 305 *et seq.*, on September 15, 1997, recorded at O.R. Book 2591, Page 3497, *et seq.*; on September 15, 1999, recorded at O.R. Book 2591, Page 3499 *et seq.*; on April 5, 2000, at O.R. Book 2659, Page 2385, *et seq.*; on July 6, 2001, recorded at O.R. Book 2854, Page 2039 *et seq.*; and on May 2, 2017 recorded at O.R. Book 5389, Page 1016, *et seq.*, all of the Public Records of Collier County, Florida. Except for the last referenced amendment, all prior amendments were made by the original declarant and developer of Autumn Woods, Centex Homes. That Declaration, including all the amendments thereto, is hereby further amended and restated in its entirety.

The land subject to this Declaration is legally described on Exhibits “A”, “B” and “D” of the original Declaration (Exhibit “C” was intentionally deleted) by the declarant and in those applicable amendments referenced above where land was annexed to Autumn Woods and the Declaration amended accordingly, all of which amendments are incorporated herein by reference.

No additional land is being added and no land is being removed by this Declaration. The covenants, conditions and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future Owners. The acquisition of title to a Lot or Unit, or any other ownership interest in the Property, or the Lease, occupancy or use of any portion of a Lot or Unit on the Property constitutes an acceptance and ratification of all the provisions of this Declaration, as amended from time to time, and an agreement to be bound by its terms. Autumn Woods is part of a planned unit development (“PUD”) created by Collier County Ordinance 95-8, as amended in 1996 by Amendment Ordinance No. 96-80. The Plat of Autumn Woods is recorded at Plat Book 28, Pages 27-32 for Unit One; Plat Book 29, Pages 59-62 for Unit Two; Plat Book 31, Pages 61-65 for Unit Three and Plat Book 32, Pages 75-83 for Unit Four, all in the Public Records of Collier County.

**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR AUTUMN WOODS**

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1. **DEFINITIONS.** The following words and terms used in this Declaration or any of the Governing Documents (unless the context shall clearly indicate otherwise) shall have the following meanings:

1.1 **“Amendment(s)”** mean any and all amendments to this Declaration, each of which shall be properly adopted pursuant to the terms of the Governing Documents and recorded in the Public Records of the County.

1.2 **“Architectural Review Committee - Master” or the “ARC-M”** means the committee established pursuant to Article 7 of this Declaration to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article 7.

1.3 **“Architectural Review Committee – Neighborhood” or “ARC-N”** means the committee established by a Neighborhood Association for the Neighborhood for the purpose set forth in Article 7 of this Declaration.

1.4 **“Area of Common Responsibility”** means the Common Property, together with those areas, if any, which by the terms of this Master Declaration or by contract or agreement with any Neighborhood Association or governmental agency become the responsibility of the Association.

1.5 **“Articles”** means the Articles of Incorporation of the Association, as amended from time to time. A copy of the Amended and Restated Articles of Incorporation is attached hereto as Exhibit “A” and made a part hereof.

1.6 **“Assessments”** means a share of the funds required for the payment of Common Expenses and individual expenses which from time to time are assessed by the Association against an Owner as Regular, Special and Individual Assessments, as further defined in Section 4.1 of this Declaration.

1.7 **“Association” or “Master Association”** means the Autumn Woods Community Association, Inc., a Florida corporation not for profit.

1.8 **“Board” or “Board of Directors”** means the Directors responsible for the administration of the Association.

1.9 **“Bylaws”** means the Bylaws of Autumn Woods Community Association, Inc., as amended from time to time. A copy of the Amended and Restated Bylaws is attached hereto as Exhibit “B” and made a part hereof.

1.10 **“Common Area” or “Common Property”** means all the real property including any improvements and fixtures thereon, owned, leased or the use of which has been granted or dedicated to the Association for the common use and enjoyment of its members. The Common Area of the Association includes all land described above and subject to this Declaration save and except for the individual Lots and Units. The Common Areas include but are not limited to the storm water management and drainage features, roads, gatehouse areas, recreational and other

facilities owned by the Association including personal property for the use and benefit of all Owners of Lots or Units in Autumn Woods.

**1.11** “Common Expenses” mean the expenses for which Owners are liable to the Association as described in this Declaration and any other Governing Documents and include, but are not limited to, the costs and expenses incurred by the Association in administering, operating, maintaining, financing, or repairing, replacing or improving, the Common Areas, Open Spaces, Surface Water Management Systems, Lakes and Public Areas, if any, or any portion thereof and improvements thereon, all other property owned by the Association and all costs and expenses incurred by the Association in carrying out its powers and duties hereunder or under any other Governing Documents.

**1.12** “Common Surplus” means the excess of all receipts of the Association including but not limited to assessments, rents, profits and revenues over the common expenses.

**1.13** “Community Systems” mean any and all television, telecommunication, internet, alarm/monitoring, utility or other lines, conduits, wires, satellites, amplifiers, towers, antennae, equipment, materials, installations and fixtures (including future technological advances), and serving the Association Property and/or more than one Lot or Unit.

**1.14** “County” means Collier County, Florida.

**1.15** “Declaration” or “Master Declaration” means the Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for Autumn Woods, as amended from time to time.

**1.16** “Director” means a member of the Board of Directors elected pursuant to the Bylaws.

**1.17** “Exclusive Common Area” means certain portions of the Common Area which are for the exclusive use and benefit of one or more, but less than all, Neighborhoods; provided, however, all Recreation Parcels, Parks, and Lakes which have been dedicated as Common Property shall be available for use by all Members of the Master Association in accordance with the rules and regulations established herein and by the Board and shall not be designated as Exclusive Common Areas. All costs incurred by the Master Association for the maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed against the Owners of Units in only those Neighborhoods which are benefitted thereby as a Neighborhood Assessment, as defined herein. Except as set forth above with respect to Recreation Parcels, Parks, and Lakes, any portion of the Common Area may be assigned as Exclusive Common Area of a particular Neighborhood or Neighborhoods and Exclusive Common Areas may be reassigned upon the vote of a majority of the total Master Association vote, including a majority of the votes within the Neighborhood(s) by which they are assigned.

**1.18** “Family” or “Single Family” means any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping unit, and the custodial children of such parties, if any.

**1.19** “Governing Documents” means and includes this Master Declaration, the Articles and Bylaws and Rules and Regulations, as amended from time to time.

**1.20** “Guest” means any person who is not the Owner or a Tenant of a Unit or a member of the Owner’s Family, who is physically present in, or occupies a Unit on a temporary basis at the invitation of the Owner or other legally permitted Occupant, without the payment of consideration, subject to the provisions of Article 10 herein. Temporary means not more than fourteen (14) days at one time. Any Guest who is physically present in, or occupies a Unit, longer than on a temporary basis shall be deemed a Tenant for all relevant purposes.

~~**1.21.1** “Master Irrigation System” means the central irrigation system installed by the developer and/or the Association using water from the Lakes and/or provided by the County for any or all of the Lots or Units within the Association up to but not including the shut off valve controlling the individual Lot.~~

**1.22.1.21** “Lakes” means natural or manmade water bodies identified as Lakes on the Plat. The Lakes are subject to the Surface Water Management System.

**1.23.1.22** “Lease” means the grant by a residential Owner of a temporary right of use of the Owner’s Unit for valuable consideration, subject to the provisions of Article 10 herein.

**1.24.1.23** “Lot” or “Unit” means the individual parcels of real property located within Autumn Woods including any structure thereon. All of the Land has been subdivided for residential use with fee simple title to each Lot or Unit having been conveyed to an Owner. No Lot or Unit shall include the Common Areas. No Lot or Unit may be subdivided or joined together without the consent of the Association. The Lot or Units may be depicted and numbered on sketches or surveys as recorded in the Public Records of the County.

~~**1.24** “Master Irrigation System” means the central irrigation system installed by the developer and/or the Association using water from the Lakes and/or provided by the County for any or all of the Lots or Units within the Association up to but not including the shut off valve controlling the individual Lot.~~

**1.25** “Members” mean those persons who are entitled to membership in the Association as provided in its Articles and Bylaws.

**1.26** “Neighborhood” means each residential area within the Property which is represented in the Master Association by a Neighborhood Association.

**1.27** “Neighborhood Association” means a homeowners association created as a not for profit Florida corporation and responsible for the Neighborhood.

**1.28** “Neighborhood Common Area” means any Common Area or Common Property owned, operated or maintained by a Neighborhood Association.

**1.29** **“Neighborhood Declaration”** means any declaration of covenants, conditions and restrictions applicable to a Neighborhood within the Properties creating a Neighborhood Association or imposing use restrictions on the Lots or Units within the Neighborhood.

**1.30** **“Neighborhood Expenses”** means the actual and estimated expenses incurred by the Association for the benefit of Owners of Lots or Units within a particular Neighborhood, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board and as more particularly authorized herein.

**1.31** **“Neighborhood Representative”** means the elected officer from each Neighborhood Association who shall be the person authorized by the Neighborhood Association to cast all votes attributable to the Lots or Units in the Neighborhood.

**1.32** **“Open Space”** means an exterior open area from the ground upward devoid of residential and commercial buildings, accessory structures and impervious areas; except however, those buildings and structures or areas used exclusively for recreational purposes may be included in the Open Space.

**1.33** **“Owner”** means the record owner of the Association of fee simple title to any Lot or Unit located within the Properties. Owner shall not mean or refer to the holder of a Mortgage unless and until such holder has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term “Owner” mean or refer to any lessee or tenant of an Owner.

**1.34** **“Owner”** means the record Owner of legal title to a Lot or Unit.

**1.35** **“Parks”** means lands so designated on the Master Plan, which lands may or may not be further designated as Common Property or as Neighborhood Common Property.

**1.36** **“Plat”** means the plat of Autumn Woods recorded at Plat Book 28, Pages 27-32 for Unit One; Plat Book 29, Pages 59-62 for Unit Two; Plat Book 31, Pages 61-65 for Unit Three and Plat Book 32, Pages 75-83 for Unit Four all in the Public Records of the County.

**1.37** **“Primary Occupant”** means the natural person approved for occupancy of a Unit when title to the Lot or Unit is held in the name of two or more persons who are not husband and wife, or by a trustee or a business entity which is not a natural person. When used in reference to a Unit owned in one of the forms listed above, the term “Primary Occupant” shall be synonymous with the term “Owner.”

**1.38** **“Prohibited Vehicle”** means any vehicle which is inoperable, unregistered, commercial, swamp buggy, stock car, or any other vehicle not normally used for highway travel, vehicles with body parts such as the hood, door, quarter panel, or bumper removed, unless the manufacturer’s specifications allow such use. As used herein the term “commercial” means trucks and other vehicles which are used for business purposes including but not limited to, any vehicle which displays a company name or logo on its exterior, is adorned with signs, flags, advertisements or any type of lettering or graphic of a commercial nature or any vehicle with racks, ladders, staging, or other equipment or attachments of a commercial nature, including supplies used for commercial purposes, on or visible in the vehicle. Additionally, and notwithstanding the foregoing, any vehicle, by whatever name designated, which is used for transporting goods, equipment or paying

customers shall be considered a commercial vehicle regardless of any definition found elsewhere to the contrary.

**1.39** **“Property” or “Properties”** means all the real property which is subject to this Declaration.

**1.40** **“Public Areas”** means all lands owned by the State of Florida or Collier County, Florida, which are to be maintained by the Master Association as all Area of Common Responsibility.

**1.41** **“Recreational Vehicle”** means any boat, trailer, motorhome, travel trailer and camper or any similar vehicle.

**1.42** **“Recreational Parcels”** mean those parcels of Common Areas which are shown as recreational areas on the Master Plan. The Recreation Parcels shall be owned by the Master Association and shall be used for the common benefit and enjoyment of the members of the Master Association, their invitees and guests and shall not be open to the general public.

**1.43** **“Roadway”** means those portions of the Property designed on the Plat as a street, drive, road, or roadway and which are reserved for or dedicated to the Association, but specifically excluding any street or roadway dedicated to the public.

**1.44** **“Rules and Regulations”** means the administrative rules and regulations governing the use, maintenance, management and control of the Common Areas, Common Property, Lots, Units and the operation of the Association as adopted by the Board of Directors pursuant to the Bylaws.

**1.45** **“Surface Water and Storm Water Management System”** means a system contained in the Open Space consisting of swales, inlets, culverts, retention ponds, detention ponds, lakes, outfalls, storm drains and the like, and all connecting pipes and easements.

**1.46** **“Tenant”** means any non-Guest who is physically present or occupying a Unit for at least fourteen (14) days in any calendar month with or without consideration.

**1.47** **“Unit”** means a residence for a single family detached houses on separately plotted Lots, an attached townhouse, villa or condominium unit.

**1.48** **“Voting Member”** means the Neighborhood Associations as to all the votes allocated to Members pursuant to the Bylaws.

## 2. ASSOCIATION.

**2.1 Membership-Master.** Every Owner of a Lot or Unit shall be a member of the Master Association, and by acceptance of a deed or other instrument evidencing his ownership interest, each Owner accepts his membership in the Master Association, acknowledges the authority of the Master Association as herein stated, and agrees to comply with the provisions of this Declaration, the Articles and Bylaws, and the Rules and Regulations of the Master Association, as amended from time to time.

**2.2 Membership-Neighborhood.** Every Owner of each Lot or Unit will be a member of a Neighborhood Association as well as a Member of the Master Association. The Neighborhood Associations will be subject and subordinate to the Master Association and will be responsible for performing the services and obligations imposed by the Master Association. Each Neighborhood will also be governed by its own separate Declaration, Articles, Bylaws and Rules.

**2.3 Voting Rights.** Each Neighborhood Association shall exercise the voting rights herein established on behalf of all Members whose Lots or Units are within the jurisdiction of such Neighborhood Association. On all matters requiring the votes of Members as may be described in this Master Declaration, or in the Articles of Incorporation or Bylaws, such votes shall be conducted by the Neighborhood Associations. The result of the vote shall be reported to the Master Association by the Neighborhood Representative of the Neighborhood Association and the total number of votes of each class of membership attributed to the Neighborhood Associations shall be cast accordingly. Members shall not have the right to cast votes directly in Master Association meetings and shall be bound by the outcome of the voting conducted by the Neighborhood Associations as reported and voted by the Neighborhood Representative.

**2.4 Delegation of Management.** The Association may contract for the management and maintenance of those portions of the Property it is required to maintain, and may authorize a licensed management agent to assist the Association in carrying out its powers and duties by performing functions which may include but are not limited to the submission of proposals, collection of Assessments, keeping of records, issuing estoppels and mortgagee questionnaires, enforcement of rules and maintenance, repair and replacement of the Common Areas and Common Properties with funds made available by the Association for such purposes.

**2.5 Acts of the Association.** Unless the approval or affirmative vote of the Owners is specifically made necessary by some provision of the law or the Governing Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Owners. The Officers and Directors of the Association have a fiduciary relationship to the Owners. An Owner does not have the authority to act for or bind the Association by reason of being an Owner.

**2.6 Official Records.** The Association shall maintain its official records as required by Florida law. The records shall be open to inspection by members or their authorized representatives' at all reasonable times. The right to inspect the records includes a right to make or obtain photocopies at the reasonable expense of the member seeking copies. The Board shall have the right to adopt

reasonable Rules and Regulations concerning the frequency, number and length of requests to inspect the official records.

**2.7 Purchase of Lots or Units.** The Association has the power, but not the obligation, to purchase Lots or Units in connection with the foreclosure of an Association lien for Assessments, charges or fines or any other foreclosure of an interest that affects the Association's lien and to hold lease, encumber or convey them with such power to be exercised by the Board of Directors without prior approval of the members.

**2.8 Interests in Real Property.** The Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. Except as otherwise provided in Section 2.7 above and Section 2.11 below, the power to acquire, encumber or convey ownership interests in real property, including Recreational Facilities, whether or not contiguous with the Property, shall be exercised by the Board of Directors only after approval by at least a majority of the Voting Interests.

**2.9 Disposition of Personal Property.** Any personal property owned by the Association may be sold or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Directors.

**2.10 Gatehouses and Entry Gates.** Autumn Woods includes a gatehouse and entry gates which may be manned unless otherwise determined by the Board of Directors. The Association's responsibility for the cost to maintain and operate the entry gate and guardhouse shall be a Common Expense including maintenance, repair and replacement thereof. Owners agree to hold the Association harmless from any loss or claim arising within Autumn Woods from the occurrence of a crime or other act. The Owners acknowledge that the entry gates are designed to deter crime and not prevent it.

~~**2.11 Bulk Agreements.** The Board of Directors of the Association, by a majority vote pursuant to the applicable provisions of the Bylaws, shall have the power to enter into an agreement with an entity providing bulk services, including but not limited to, cable television and internet services on a "bulk rate" basis. Pursuant to such "bulk rate" agreement, every residential Lot or Unit within the property subject to this Declaration shall receive the bulk service specified in such agreement and any "bulk rate" fee or payment provided for in any such agreement which is to be paid by the Association to the provider shall be a Common Expense of the Association.~~

### **3. FUNCTIONS OF MASTER ASSOCIATION.**

**3.1 Area of Common Responsibility.** The Master Association, subject to the rights of the Owners set forth in this Master Declaration, shall be responsible for the exclusive management and control of the Area of Common Responsibility and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep the Area of Common Responsibility in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and any agreement with another association or governmental agency.



**3.2 Personal Property and Real Property for Common Use.** The Master Association through action of its Board may acquire, hold, and dispose of tangible and intangible personal property and real property.

**3.3 Powers, Duties and Services.** The powers, duties and services of the Association include those set forth in Chapters 617 and 720, Florida Statutes, as amended from time to time, and in the Governing Documents, including but not limited to the following:

Maintenance of Areas of Common Responsibility, Parks, Lakes, Open Space, Surface Water and Storm Water Management Systems, Recreation Parcels, Master Irrigation System, landscaping lands covered by the master Plan and all county properties and rights-of-way (to the extent permitted by any governmental authority) which are

located within or in a reasonable proximity to the Properties where deterioration of any of the described items would adversely affect the appearance of the Properties or the operation of systems appurtenant to Autumn Woods.

(A) Maintenance of any real property located within Autumn Woods upon which the Master Association has accepted an easement for said maintenance.

(B) Maintenance of beaches, Lakes and canals owned by or dedicated for the use of the Master Association within the Properties, as well as maintenance of waterbodies if and to the extent permitted or required by any contract or by any governmental authority having jurisdiction thereof.

(C) Insect, pest and aquatic control where necessary or desirable in the judgment of the Board to supplement the service provided by the state and local governments.

(D) Taking any and all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions or services delegated to the Master Association in any covenants, conditions or restrictions applicable to the Property or in the Articles or Bylaws.

(E) Conducting business of the Master Association, including but not limited to administrative services such as legal, accounting and financial, and communication services informing Members of activities, notice of meetings, and other important events.

(F) Establishing and operating the Architectural Review Committee Master [ARC-M].

(G) Adopting, publishing and enforcing such Rules and Regulations as the Board deems necessary.

(H) Lighting of the roads, sidewalks, walking and bike paths as deemed necessary by the Board.

**(I)** Conducting recreation, sport, craft, and cultural programs of interest to Members, their families, tenants and guests and charging admission fees for the operation thereof.

**(J)** Constructing improvements in Common Areas, Common Property, and easements as may be required to provide the services as authorized in this Article.

**(K)** Employment of personnel at the entry gates. All Owners, tenants, guests, and invitees of any Owner, as applicable, acknowledge that the Master Association and any Neighborhood Associations are not insurers and that each Owner, tenant, guest, and invitee assumes all risk of loss or damage to persons, to Units and to the contents of Units.

**(L)** Upon resolution of the Board, each Neighborhood Association shall be responsible for paying through Neighborhood Assessments, costs of maintenance of Exclusive Common Areas associated with such Neighborhood Association as well as certain portions of the Common Property within or adjacent to such Neighborhood Association, which may include, without limitation, buildings and amenities within the Neighborhood Association, the costs of maintenance of any right-of-way or greenspace or other Area of Common Responsibility within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Master Association. Any Neighborhood Association having responsibility for maintenance of all or a portion of the property within a particular Neighborhood Association pursuant to a Neighborhood Declaration shall perform such maintenance responsibility in a manner consistent with such Neighborhood Declaration. If any such Neighborhood Association fails to perform its maintenance responsibility as required herein and in any Neighborhood Declaration, the Master Association may perform it and assess the costs against all Units within such Neighborhood Association as provided in this Declaration.

**(M)** The Master Association may also provide exterior maintenance upon any Unit or upon any structure containing Units which, in the reasonable opinion of the Board of Directors of the Master Association, requires such maintenance because said Unit or structure is being maintained in a manner inconsistent with the overall appearance and standards prevailing within Autumn Woods. The Master Association shall notify the Owner of said Unit or structure in writing, specifying the nature of the condition to be corrected and, if the Owner has not corrected the condition within fifteen (15) days after date of said notice, the Master Association (after approval of a majority of the Board) may correct such condition. Said maintenance shall include but not be limited to painting, repairs, replacement and maintenance of roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. For the purpose of performing the exterior maintenance authorized by this Article, the Master Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Unit or exterior of any Unit or other structures or improvements located in the Autumn Woods at reasonable hours on any day, except Saturday and Sunday; provided, however, the Master Association shall have the right of entry without notice if necessary to correct an emergency situation. The cost of such maintenance shall be assessed against the Unit upon which such maintenance is performed.

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(N) Establish use fees and rules and regulations respecting the use of Common Property and Master Association facilities by Members and persons other than Members.

(O) Engage in any activities reasonably necessary and legally required to remove from the Areas of Common Responsibility, Common Property, Lakes, Surface Water and Storm Water Management System and Open Space any pollutants, hazardous waste or toxic materials, and by Special Assessment, if necessary, recover costs incurred from the owner(s) causing such condition or upon whose property such materials were located or generated.

The functions and services allowed in this Section to be carried out or offered by the Master Association at any particular time shall be determined by the Board taking into consideration proceeds of assessments and the needs of the Members of the Master Association. The functions and services which the Master Association is authorized to carry out or to provide may be added to or reduced at any time upon the affirmative vote of a majority of the Board; provided, however, the Board may not vote to reduce or abrogate the Master Association's responsibility to maintain Areas of Common Responsibility. The Master Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

**3.4 Pledge of Revenues for Loan.** The Board shall have the power and authority to pledge the revenues of the Master Association as security for loans made to the Master Association which loans shall be used by the Master Association in performing its functions.

**4. ASSESSMENTS.** The provisions of this Section shall govern Assessments payable by all Owners of Lots or Units, for the Common Expenses of the Association not directly attributable to one of the Lots or Units. Such Assessments shall be in an equal amount for each Lot Owner or Unit Owner and are separate and distinct from Assessments due to a particular Neighborhood Association.

**4.1 Covenant to Pay Assessments.** Each Owner of a Lot or Unit covenants and agrees, and each subsequent Owner of any Lot or Unit (including any purchaser at a judicial sale), by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

(A) The Owner's proportionate share of Assessments based on the annual budget adopted by the Board of Directors of the Association;

(B) The Owner's proportionate pro rata share of Special Assessments for capital improvements or other Association expenditures not provided for by annual Assessments;

(C) Any Individual Assessment charges properly levied against individual Owner(s) without participation from other Owners.

**4.2 Liability of Payment.** Assessments and charges shall be established and collected as provided herein and elsewhere in the Governing Documents. The Owner of each Lot or Unit,

regardless of how title was acquired, is liable for all Assessments and charges, together with interest, costs and reasonable attorney's fees, installments and any monetary obligation thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable for all monetary obligations. Whenever title to a Lot or Unit is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid Assessments and all charges, including but not limited to, administrative and attorney's fees, against the transferor, regardless of when incurred, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee. No Owner may waive or otherwise escape liability for the Assessments and charges provided for herein by waiver or non-use of the Common Areas, by abandonment, or otherwise. Except as provided elsewhere in the Governing Documents, no Owner may be excused from the payment of Assessments unless all Owners are similarly excused. Assessments and other funds collected by or on behalf of the Association become the property of the Association. No Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Lot or Unit. No Owner can withdraw or receive distribution of his prior payments to the common surplus or Association reserves, except as otherwise provided herein or by law. The Board of Directors shall have discretion to compromise, as each situation may require, regarding late charges, interest, attorney fees, and other collection costs, but not as to Assessments. A compromise in one situation will not in any way require a compromise in any other situation.

**4.3 Payment Due Date.** Assessments shall be payable at such time as the Board of Directors determines. Receipt of any reminder or invoice is not a prerequisite for requirement for payment. The responsibility to timely pay any Individual Assessment or Special Assessment levied by the Association is independent of such receipt.

**4.4 Purposes of Assessments.** The Assessments levied by the Association shall be used for the purposes of promoting the general welfare of the Owners and residents of the Association, to operate, maintain, repair, improve, construct, and preserve (on a non-profit basis) the Common Areas owned by the Association for the benefit of its members, their guests, tenants and invitees; the Surface Water and Storm Management Systems; the Area of Common Responsibility; Parks; Lakes and Public Areas within the Property; and to perform all other duties and responsibilities by the Association as provided in the Governing Documents. Common Expenses also include the funds necessary to provide reserve accounts for:

- (A) Renovation or major repairs to the Common Areas and Common Properties and/or the installation of entranceway(s) as described herein; and
- (B) For emergency and other repairs required as a result of a storm, hurricane, fire, natural disaster or other casualty loss.

**4.5 Share of Assessments, Regular, Special and Individual.** Each Owner shall be liable for an equal share of the Regular and Special Assessments levied by the Association for Common Expenses of the Association. Thereafter the actual assessment applicable to Lots or Units within a Neighborhood shall be adjusted for any Neighborhood Assessments applicable exclusively to that Neighborhood. Special Assessments applicable to all Lots or Units shall be established in the same manner; however, Special Assessments applicable to a particular Lot or Unit or Neighborhood for

expenses attributable exclusively to such Lot or Unit or Neighborhood shall be determined by dividing the applicable expense by the number of Lots or Units to which it applies. All monetary fines assessed against an Owner pursuant to the Governing Documents, or any expense or charge of the Association attributable to or on behalf of an individual Owner pursuant to the Governing Documents, shall be an individual Assessment and shall become a lien against such Owner's Lot or Unit which may be foreclosed or otherwise collected as provided herein.

**4.6 Special Assessments.** In addition to the Annual Assessments authorized herein, the Master Association may levy in any fiscal year a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas and Common Properties, including

fixtures and personal property related thereto; provided, such assessment shall have the affirmative vote or written consent, or combination thereof, at least a simple majority of the votes of each class of Members as evidenced by the results of votes taken by the Neighborhood Associations. The obligation to pay Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

**4.7 Lien.** The Association has a lien on each Lot or Unit for unpaid past due Association Assessments, and charges, together with interest, late payment penalties, costs and reasonable attorney fees incurred by the Association in enforcing this lien. The lien is perfected by recording a claim of lien in the public records of Collier County and shall relate back to the recording date of the original Declaration of the Association, which claim of lien shall state the description of the property encumbered thereby, the name of the record Owner, the amounts then due and the dates when due. The claim of lien must be signed and acknowledged by an Officer or agent of the Association. The lien shall continue in effect until all sums secured by said lien have been fully paid, and the lien satisfied or discharged. The claim of lien shall secure all unpaid Assessments, fines and charges, interests, late fees, costs and attorney fees which are due and which may accrue or come due after the recording of the claim of lien and before the entry of a final judgment of foreclosure. Upon full payment, the person making payment is entitled to a satisfaction of the lien.

**4.8 Foreclosure of Lien.** The Association may bring an action in its name to foreclose its lien for unpaid Assessments or charges upon a Lot or Unit by the procedures and in the same manner as is provided in Section 720.3085, Florida Statutes, as amended from time to time. All unpaid Assessments and charges also constitute a personal obligation of the Owners and the Association may, in addition to any other remedy herein provided, bring an action at law against any Owner liable for unpaid monetary obligations, charges or Assessments. If final judgment is obtained, such judgment shall include interest on the Assessments as above provided and reasonable attorneys' fees to be fixed by the Court, together with the costs of the action, and the Association shall be entitled to recover any attorney fees in connection with any appeal of such action.

**4.9 Priority of Liens.** The Association's lien for unpaid charges, Assessments and all other amounts shall be subordinate and inferior to any recorded institutional first mortgage, unless the Association's claim of lien was recorded before the mortgage was recorded, but shall relate back to

the date the original Declaration was recorded in the Public Records and be superior to, and take priority over, any other mortgage, lien or interest recorded after that date. The above subordination shall in no way extinguish the liability of an institutional first mortgagee for any monetary obligations owed to the Association. Any Lease of a Lot or Unit shall be subordinate and inferior to the lien of the Association, regardless of when the Lease was executed.

**4.10 Application of Payments; Failure to Pay; Interest.** Assessments, charges and installments thereon paid on or before fifteen (15) days after the date due shall not bear interest, but all sums not so paid shall bear interest at the highest rate allowed by law, calculated from the date due until paid. In addition to interest, the Association may also charge an administrative cost and a late payment fee in an amount not to exceed the maximum amount allowed by law. Assessments, charges and installments thereon shall become due, and the Owner shall become liable for said Assessments or installments, on the date established in the Bylaws or otherwise set by the Board of Directors for payment. Any restrictive endorsement on or accompanying a payment notwithstanding, all payments made to the Association by or on behalf of an Owner shall be applied first to interest, then, to late fees, then to costs (including but not limited to collection charges imposed by the management company, attorney and court) then to attorney fees, then to fines (if allowed by law), then to other charges, and then to the oldest outstanding unpaid Regular, Special or Individual Assessments. No payment by check is deemed received until the check has cleared. The Association shall also have the right to require any Tenant occupying the Lot or Unit during any period in which Assessments for the Lot or Unit are due but have not been paid to the Association to pay the rent to the Association as provided below.

**4.11 Acceleration.** If any Special Assessment or installment of a regular Assessment as to a Lot or Unit becomes more than thirty (30) days past due, and a claim of lien is recorded, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Lot or Unit's Assessments for that fiscal year. The due date for all accelerated amounts shall be the date the claim of lien was recorded in the public records. The Association's claim of lien shall secure payment of the entire accelerated obligation, together with interest on the entire balance, attorney fees and costs as provided by law; and said claim of lien shall not be satisfied or released until all sums secured by it have been paid. The right to accelerate shall be exercised by sending to the delinquent Owner a notice of the exercise, which notice shall be sent by certified or registered mail to the Owner's last known address, and shall be deemed given upon mailing of the notice.

**4.12 Removal of Property.** After the Association successfully performs a foreclosure on the property, if the Owner does not remove personal property from the foreclosed premise, such property will be deemed forfeited to the Association and the Association may authorize removal and may sell or donate such forfeited property after ten (10) days written notice by certified mail addressed to the Owner at the last known address or at such address on record as provided to the Association by the Owner. Such remedy shall be in addition to all other remedies available to the Association under applicable laws, Rules and Regulations including the right to compel removal of the property and right to impose any and all fines.

**4.13 Capital Improvement Fee.** A Capital Improvement Fee was established with an effective date of July 1, 2017. The amount of the Capital Improvement Fee shall be One Thousand Five

Hundred Dollars (\$1,500.00). On the third anniversary, namely July1, 2020, and each three (3) year cycle thereafter, the Board of Directors shall have the authority to determine and approve an adjustment to the Capital Improvement Fee in an amount not to exceed ten percent (10% ) per annum thereof. The Capital Improvement Fee shall be due and payable to Autumn Woods Community Association, Inc. by the transferee upon the conveyance of a Lot or Unit or Condominium Unit by a member and collected at closing. The estoppel letter from the Association shall include the Capital Improvement Fee. Funds derived from the Capital Improvement Fee shall be deposited in a specially created Capital Improvement account and shall be used for capital projects only. Payment of the Capital Improvement Fee shall be the legal obligation of the new member and shall be collected at closing by the settlement agent on behalf of the Association and secured by a continuing lien in the same manner as unpaid assessments as provided for elsewhere in this Declaration. For purposes of this Article, the term “conveyance” shall mean the transfer of record legal title to a Lot or Unit or Unit by deed or other authorized means of conveyance with or without valuable consideration and shall also refer to a transfer of possession and beneficial ownership by means of an agreement for deed.

**4.14** The following conveyances shall be exempt from payment of the Capital Improvement Fee: (a) to the owner’s estate, surviving spouse or other heirs, resulting from the death of an owner; (b) to a trustee or the owner’s current spouse solely for bona fide estate planning or tax reasons; (c) between spouses as a result of a divorce proceeding; (d) to a transferee when the transfer is a gift from the transferor; (e) to a mortgagee or the Association pursuant to a Final Judgment of Foreclosure or Deed in Lieu of Foreclosure; and (f) to a transferee who is, at the time of the transfer, already an owner/member of the Association by reason of his/her/its ownership of another Lot or Unit or Unit within Autumn Woods. Any subsequent transfer that is not exempt shall be subject to the provisions of this Section.

**4.15 Mortgage Foreclosure.** Unless otherwise provided by law, if the mortgagee of a first mortgage or an institutional mortgage of record acquires title to a Lot or Unit as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer or title shall be jointly and severally liable for all past due monetary obligations attributable to the Lot or Unit, or to the former Owner of the Lot or Unit, which came due prior to the mortgagee’s acquisition of title or as required by Section 720.3085, Florida Statutes, including, but not limited to, Assessments, charges, interest, late fees, costs (including any administrative or collection costs) and attorneys’ fees. Any unpaid share of Common Expenses for which such acquirer is exempt from liability becomes a Common Expense collectible from all Owners, including such acquirer and his successors and assigns. All other persons or entities acquiring title to a Lot or Unit as the result of a foreclosure or other court ordered sale shall be obligated to pay all past due Assessments and monetary obligations due and owing at the time of sale regardless of whether or not the Association has filed a lien. No Owner or acquirer of title to a Lot or Unit by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any Assessments coming due during the period of his ownership.

## **5. EASEMENTS.**

**5.1 Appurtenant Easements.** Subject to the restrictions found elsewhere in this Section 5, the Owner of each Lot or Unit, their Guests, Tenants and invitees, shall have as an appurtenance to their Lot or Unit a perpetual nonexclusive easement for ingress and egress over, across and through the Common Areas, for the use and enjoyment of all Recreational Facilities, such use and enjoyment to be shared in common with the other Owners, their Guests, Tenants and invitees, subject to the provisions of this Declaration, and except for such Exclusive Common Areas that may be restricted by a Neighborhood Association.

**5.2 Utility Easements.** The Association shall have the right to grant such electric, telephone, gas, water, sewer, irrigation, drainage, central service or other easements, and to relocate any existing easement in any portion of the Property as the Association shall deem necessary or desirable, for the proper operation and maintenance of the Property, or any portion thereof or for the general health or welfare of the owners for the purpose of carrying out any provisions of this Declaration. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the use of the Lots or Units. Each Lot or Unit, shall be subject to an easement in favor of all other portions of the Property to locate utilities and provide drainage and support and to use, maintain, Repair, alter and replace structural supports, roofs, pipes, wires, ducts, vents, cables, conduits, public utility lines and other similar or related facilities serving other portions of the Property. Each Lot or Unit, shall be subject to all easements recorded in the Official Records of Collier County, whether by recorded instrument, plat dedication or otherwise.

**5.3 Landscape Buffer Easements.** The Association shall maintain all landscape buffer easements.

**5.4 Subordination.** Notwithstanding any of the foregoing to the contrary, it is understood that these covenants and restrictions are subordinate, and will be subordinate without the necessity of any other instrument, to any existing easement or easements to any public or quasi-public utility for the installation and maintenance of service lines in the Common Areas.

**5.5 Extent of Easements.** Every Owner and family member, guest, lessee, agent or invitee of an Owner shall have a permanent and perpetual, nonexclusive easement for ingress and egress over, enjoyment in, and use of Association Property within the Property, in common with all other Owners, their family members, guests, lessees, agents and invitees, which easement shall be appurtenant to, and shall pass with title to each Owner's Lot or Unit. This right shall be subject to the following conditions and limitations:

(A) The right and duty of the Association to reasonably limit the number of Guests, invitees or Tenants of an Owner using the Association property.

(B) The right and duty of the Association to levy Assessments against each Lot or Unit for the purpose of Maintaining, Repairing and Replacing the Property and facilities thereon in compliance with the provisions of this Declaration and the restrictions on portions of the Property.



(C) The right of the Association to establish uniform Rules and Regulations pertaining to the use of the Association Property and enhancing the aesthetic uniformity of the Property.

(D) The right of the Association for the purpose of improving the Property and facilities thereon, to pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred provided that the rights of such lender shall be subordinated to the use rights of the Owners.

(E) The right of the Association to dedicate, release, alienate, or transfer all or any part of the Association Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

(F) The right of the Association to grant easements, rights-of-way or strips of land, where necessary, for utilities, sewer facilities, cable television, and other services over the Property without a vote of the Owners.

(G) The right of the Association, by action of the Board, to reconstruct, replace, or refinish any improvement or Structure or portion thereof upon the Property, in accordance with the original design, finish, or standard of construction of such improvement.

(H) The right of the Association to replace destroyed trees or other vegetation, and plant trees, shrubs, and ground cover.

(I) The right of the Association to provide for the maintenance, preservation and architectural control of Lots or Units including but not limited to the right to maintain the grounds and landscaping within any landscape easement encumbering an individual Lot or Unit.

(J) The restrictions contained on any and all Plats for Autumn Woods.

**5.6 Maintenance of Easement Area.** In the event the Association has landscape maintenance obligations for any areas subject to any easement, the Association shall only be obligated to repair and replace any landscaping over an easement area with sod cover. No Owner may install or construct any additional landscaping or improvements on any Lot or Unit burdened by said easement without prior written approval of the ARC as provided for in Article 7 of this Declaration. The Owner is responsible for the landscaping on the Lot.

**5.7 Lateral and Subjacent Support.** Each Lot or Unit shall be burdened with an easement in favor of all adjoining Lots or Units and Common Areas for lateral and subjacent support.

**5.8 Easement to Enter Upon Lots or Units.** An easement or easements for ingress and egress in favor of the Association including the Board or the designee of the Board, to enter upon the Lots or Units for the purposes of fulfilling its duties and responsibilities of ownership, maintenance and/or Repair in accordance with the Governing Documents, including, by way of example, the

making of such repairs, maintenance or reconstruction as are necessary and to maintain any Lot or Unit in the event the Owner thereof fails to do so.

**5.9 Encroachments.** If a building, window, eaves, projection, gutter, roof or any other Structure on a Lot or Unit encroaches upon any adjoining Lot or Unit, by reason of original construction, reconstruction, repair, shifting, settlement, or movement of any portion of the improvements, or by the unintentional act of the Owner, then an easement for the encroachment, appurtenant to the encroaching Lot or Unit, to the extent of such encroachment, shall exist so long as such encroachment exists. Any Lot or Unit which encroaches upon another Lot or Unit or the Common Areas, shall have a valid easement for the encroachment and maintenance of same, as long as it stands and exists. Notwithstanding anything to the contrary contained herein, the Association has the power, without the consent of any Owner, to grant, modify or relocate easements in any portion of the Common Area or Association property, as the Board shall deem necessary or desirable for the Association. Such easements, or the relocation of existing easements, may not prevent or unreasonably interfere with the use of the Lots or Units. In the event an encroachment exists against property owned by the Association which is not permitted by this section, the Association shall have all rights and remedies available at law to remove the encroachment, including entering a Lot or Unit to correct said encroachment.

**5.10 Discharge into Water Bodies.** Nothing other than storm water or irrigation waters may be discharged into any lake, canal, or other body of water located within or adjacent to the Properties. Water may not be withdrawn from any body of water within the Properties or from the ground, and no wells or systems for extracting water from the ground or bodies of water shall be permitted.

**5.11 Assignments.** The easements reserved hereunder may be assigned by the Association in whole or in part to any city, county, or state government agency thereof, or any duly licensed or franchised public utility. The Owners hereby authorize the Association to execute, on their behalf and without further authorization, such grants of easements or other instruments as may from time to time be necessary to grant easements over and upon the Property or portions thereof in accordance with the provisions of this Declaration.

## **6. MAINTENANCE.**

**6.1 Association Maintenance.** The Association shall, in addition to other maintenance obligations contained elsewhere herein, have the maintenance, repair and replacement responsibility for all Common Area property located within the Association and as follows:

(A) The Association shall operate, maintain, repair and replace the Master Irrigation System, as it shall deem appropriate.

(B) The Association shall own, operate, maintain and repair the Storm and Surface Water Management System constructed over, through and upon the Property. Should any Neighborhood Association fail to sufficiently maintain any portion of the Surface Water and Storm Water Management System or any conservation easement within its boundaries (or any portion of a surface water management systems which connects with the Surface Water and Storm Water Management System), the Master Association shall have the

authority to maintain such areas and the cost of such maintenance shall be assessed against and become a debt of the Neighborhood Association. Consequently, no owner shall utilize, in any way, any of the Autumn Woods drainage facilities or incorporate such facilities in the Owner's development plans, without the express prior written consent of the Master Association. Further, where an Owner's Lot or Unit is contiguous to any of the drainage facilities of Autumn Woods, the Owner shall prepare its site plan so that the utilization of its property will not adversely affect the drainage facilities and structures and so as to be aesthetically compatible with such drainage facilities and structures.

(C) The Association shall be responsible for the maintenance, repair and replacement of all roadways located upon the Property and there is hereby reserved in favor of the Association the right to enter upon any and all parts of the Property and Lots or Units for such purpose. To the extent permitted by the appropriate governmental authority, the Association may, but shall not be obligated to, also provide maintenance of all city, County, or municipal properties which are located within or in a reasonable proximity of the Property to the extent that their deterioration or unkempt appearance would adversely affect the appearance of the Property, including the right to enhance the landscaping in any public right of way.

(D) The Association shall be responsible for the maintenance, repair and replacement, of the Recreation Parcels which shall always be kept and maintained by the Association for recreational uses or beautification and attendant uses and not for residential, commercial or industrial construction of any kind.

(E) The Association shall be responsible for the maintenance and repair of the Lakes. The Association shall not alter the slopes, contours, or cross sections of the Lakes, Lake Banks and littoral zones or chemically, mechanically, or manually remove, damage or destroy any plants in any littoral zones except upon the written approval from the applicable governmental authority. The Association shall be responsible for maintaining the required survivorship and coverage of any planted littoral areas, to ensure the ongoing removal of prohibited and invasive non-native plant species from these areas, and to comply with all governmental regulations. The Association is not responsible for any damage to person or property which is caused by the violation of these covenants concerning Lakes or any Rules and Regulations adopted by the Board concerning the use of Lakes.

(F) Water levels in the Lakes may rise and fall significantly due to among other things, fluctuations in ground water elevations within surrounding areas. Accordingly, the Association has no control over such water levels and/or ground water elevations. Each Owner, by acceptance of title to his Lot or Unit, hereby releases the Association from and against any and all kinds of losses, claims, demands, liabilities, damages, costs and expenses of whatever nature or kind (including, without limitation attorneys' fees and court costs at trial and all appellate levels), related to, arising out of and/or resulting from water levels in the Lakes.

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**(G)** The Association shall be responsible for the maintenance, repair and replacement of the street lights and any associated facilities placed within the Property and any street lights and associated facilities placed within public road rights of way by agreement between the Association and the public utility responsible therefore. In the event a public utility assumes the maintenance, repair and replacement responsibility for the streetlights, the Association is authorized to pay all fees associated with such installation, repair, replacement and maintenance and the furnishing of electricity thereto.

**(H)** All expenses incurred by the Association in connection with the services, maintenance, repair and replacement described in above are Common Expenses, payable by each Owner under the provisions of this Declaration concerning Assessments. Should the maintenance, repair or replacement be caused by the negligence of or misuse by an Owner, his family, Guests, servants, invitees, or lessees, such Owner shall be responsible therefore, and the Association shall have the right to levy an Assessment against such Owner's Lot or Unit and said Assessment shall constitute a lien upon the appropriate Lot or Unit and Unit with the same force and effect as liens for Common Expenses, and impose fines.

**(I)** The Association has a reasonable right of entry upon any Lot or Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Association.

**(J)** The Master Association shall maintain, as part of the Common Areas and Common Properties, drainage structures for the properties and comply with conditions of the permits from the South Florida Water Management District ("SFWMD") for the drainage system, including, without limitation, perpetual maintenance of all signage required by the permit.

**(K)** The Master Association shall hold and save the SFWMD harmless from any and all damages, claims, or liabilities which may arise by reason of the operation, maintenance or use of any facility authorized by the permit.

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

- (1)** Having access to and copying any records that must be kept under the conditions of the permit; and
- (2)** Inspecting the facility, equipment, and practices, or operations regulated or required under the permit; and
- (3)** Sampling or monitoring any substances or parameters at any location reasonably necessary to assure compliance with the permit or SFWMD rules; and

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- (4) Gather of data and information.
- (5) Reasonable time may depend on the nature of the concern being investigated.

(M) The Master Association shall have the right to operate and maintain a Master Irrigation System for the delivery of Irrigation Water to the Property, together with the

right to modify, extend or improve the transmission lines, pipes, valves, pumps, controls, meters and other distribution and delivery apparatus, equipment or fixtures that supply Irrigation Water to the Property. A Neighborhood Association may allow but not require the Association to maintain any Neighborhood Irrigation System.

(N) A Neighborhood Association may allow but not require the Association to maintain lawns in any Neighborhood.

(O) A Neighborhood Association may allow but not require the Association to maintain trees in any Neighborhood.

**6.2 Owner Maintenance.** The individual Owners shall, in addition to other obligations contained elsewhere herein, have the maintenance, repair and replacement responsibility of the following:

(A) The Unit and all structural components, including courtyard walks, entry doors, garage doors, painting, caulking, and roof components, windows, sliding glass doors, screens, screen doors and their hardware, frameworks, mailboxes (including related components and poles), lanais, walkways located on the Lot or Unit, and locks serving the Unit. The roofs and exterior of the structure and driveways shall be kept in a good and serviceable condition and cleaned on a regular basis to remove and discourage mold growth and with no damage or defect therein.

(B) The complete interior of the Unit including all interior walls, floors, ceilings, partitions, cabinets, plumbing and all other interior components.

(C) Interior and exterior electrical lines and hookups, all air conditioning components, appliances, coaxial cables and connections, telephone and other similar lines and connections and sewer pipes serving the individual Lot or Unit.

(D) All grounds, green areas, storm drains (excluding Common Area storm drains), drain courses and other portions of same located on the individual Lot or Units including but not limited to all potable and non-potable water lines from the shut-off valve and serving the individual Lot or Unit. No refuse or unsightly objects shall be allowed to be placed or to remain anywhere on the Lot or Unit, nor shall trash burning be permitted. Owners are prohibited from having visible mold or mildew on the residence or other improvements, or other debris in the yard, dead or dying landscaping, personal property in disrepair, or creating or maintaining any other condition which, in the Board's judgment or

discretion, has a negative aesthetic or economic impact on the Property or constitutes a hazard to other property or to residents.

(E) The driveway serving the Owner's Lot or Unit, including that portion of the driveway in the Roadway, if any, unless the driveway was damaged by the Association in the fulfillment of its obligations and duties under the Governing Documents.

(F) Pest, insect and rodent control, whether applied inside the Unit or on the Lot.

(G) Any modifications, alteration, installation or addition to the Lot or Unit or Common Areas made by the Owner or his predecessors in title with ARC or Board approval including but not limited to, any decks, concrete pads, hedges and other landscaping improvements installed by the Owner of his predecessor in title. The Owner shall be responsible for insurance, maintenance, repair and replacement of such modifications, installations or additions and the cost of removing and replacing or reinstalling such modifications if their removal by the Association becomes necessary in order to maintain, repair, replace or protect other parts of the properties for which the Association is responsible.

(H) The Lot Owner is responsible for maintaining a functioning Irrigation System for the Lot within a Neighborhood.

~~6.3 Community Systems Services. The Association shall have the right to enter into one or more agreement(s) ("Bundled Service Agreements") for receipt of television entertainment, telecommunication, internet, monitored alarm and/or other services (collectively, "Bundled Services") for Units in Autumn Woods. Any and all costs and expenses incurred by the Association under or pursuant to any Bundled Service Agreements entered into by the Association for Bundled Services will be assessed against all Owners. It is contemplated that there may be features and services that are or will be available in addition to and not part of the Bundled Services (each, an "Optional Service"). Notwithstanding anything to the contrary contained in this Declaration, the costs and expenses charged to the Association under the Bundled Services Agreements shall be apportioned equally, but only amongst those Units with respect to which the Association is being charged under or pursuant to the Bundled Services Agreement except to the extent, if any, that any Owner elects to receive an Optional Service (being a service not automatically received by all Owners entitled to receive Bundled Services pursuant to the Bundled Services Agreements). Each Owner who receives an Optional Service, if any, shall be responsible for paying for the costs thereof. The foregoing shall in no way obligate the Association to enter into any Bundled Service Agreement.~~

**6.4.6.3 Drainage System.** No structure of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of a water management, lake or preserve area reserved for drainageways, sluiceways or for the accumulation of runoff waters. No Owner shall permit his Lot or Unit or Unit to exist in a condition which, intentionally or unintentionally, causes damage or otherwise interferes with the drainage system and the Association shall be permitted to adopt various standards and requirements to cause a Unit or Lot or Unit to be altered at the expense of an Owner in order to cure the damage

or condition which is causing damage to the drainage system. Units with a pool may not utilize an overflow drain system which allows pool water to drain directly into a Lake. Each Owner shall keep all drainage structures (such as catch basins) located on the Lot or Unit clear of grass, leaves and other debris unless approved by the ARC-M.

**6.56.4 Notice to Owners; Non-Disturbance; and Maintenance.** Owners are hereby notified that certain Lots or Units may include, or be adjacent to, wet detention ponds, jurisdictional wetlands, designated mitigation areas or designated conservation easements. It is the Owner's responsibility not to remove native vegetation that becomes established with the wet detention ponds, jurisdictional wetlands, designated mitigation areas or designated conservation easements abutting their property. Removal includes dredging, the application of herbicide, and cutting. Owners should address any question regarding authorized activities within the wet detention ponds, jurisdictional wetlands, designated mitigation areas or designated conservation easements to SFWMD, Surface Water Permitting Department. The SFWMD may authorize removal of certain exotic or nuisance vegetation upon application by Lot or Unit Owners or the Master Association.

**6.66.5 Enforcement of Maintenance.** If the Owner of a Lot or Unit fails to maintain his Lot or Unit as required above, the Association shall have the right to fine and/or suspend the Owner for the use of recreational facilities, or to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including but not limited to entering the Lot or Unit and remedying the violation, with or without consent of the Owner but only after ten (10) days written notice of intent to do so. The Association may repair, replace or maintain any item in violation of the covenants contained in the Governing Documents or which constitutes a hazard or negative aesthetic impact to other property or residents, prevents the Association from fulfilling its maintenance responsibilities, or which has a materially adverse effect on the appearance of the Properties. Any expenses so incurred by the Association shall be billed directly to the Owner of the Lot or Unit to which such services are provided, and shall be an individual Assessment charged against the Lot or Unit, secured by a lien against the Lot or Unit as provided in Article 4 above.

**6.76.6 Negligence: Damage Caused by Condition in Lot or Unit.** Each Owner shall be liable to the Association for all costs and expenses it incurs for maintenance, repair or replacement made necessary by the neglect or negligence of the Owner, any member of the Owner's family, or his or her Guests, employees, agents or Tenants. In the event the Association is required to incur expenses to maintain the Lot or Unit, including the provision of any landscape services for Owner obligations, or any expense necessary in the Board's discretion to maintain any Unit, such costs shall be an individual Assessment charged against the Lot or Unit, secured by a lien against the Lot or Unit as provided in Article 4 above.

**6.86.7 Reimbursement.** All costs and expenses incurred by the Association pursuant to this Article, including attorney fees and costs connected with such matters, shall be reimbursed to the Association by the Owner and shall constitute a service Assessment against the Owner and his or her Lot or Unit.

**7. ARCHITECTURAL CONTROL TO PRESERVE THE BEAUTY, QUALITY AND VALUE OF THE COMMUNITY.**

**7.1 Improvements Requiring Approval.** No building, Unit, roof enclosure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, plantings or removal of plants, trees or shrubs, change of exterior color, or other work which in any way alters the exterior appearance of any Unit or Lot or Unit shall occur unless and until complete and accurate plans, specifications and location of same shall have been submitted to, and approved in writing by, the Architectural Control Committee-Master (“ARC-M”). All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding Lots Units and topography. The ARC-M shall have thirty (30) days to review architectural requests. The 30-day review period begins after receipt of a submitted written request delivered to the Autumn Woods property manager. If the ARC-M cannot meet within the 30-day review period due to unforeseen reasons (i.e. no quorum for noticed ARC-M meeting, weather, emergencies, etc.), the ARC-M shall have an additional 30 days to review submitted ARC requests.

The ARC-M shall have 30 days (except as noted above) after delivery of all required information, complete and accurate plans and materials to approve or deny any such plan, and if not denied within such period, said plans shall be deemed approved unless within the same period the Board of Directors denies the plan in which case regardless of any action or inaction by the ARC-M the plan shall be deemed denied. All approved modifications or improvements shall be completed within a time period prescribed by the ARC-M, and if none, one hundred eighty (180) days from the date of approval. All changes, alterations or modifications to an approved plan must also be approved pursuant according to these same requirements. In the event that any construction or improvement requires the presence of a dumpster, the ARC-M shall be permitted to adopt reasonable Rules and Regulations concerning the duration, location and size of said dumpster.

**7.1.2 The Architectural Review Committee - Master.** The architectural review and control functions of the Association shall be administered and performed by the ARC-M, which shall consist of at least three (3) persons. All three (3) persons on the ARC-M shall be Members of the Association. All members of the ARC-M shall be appointed by and shall serve at the pleasure of the Board of Directors of the Association. A majority of the ARC-M shall constitute a quorum to transact business at any meeting of the ARC-M, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARC-M. Any vacancy occurring on the ARC-M because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors. The members of the ARC-M shall receive no compensation for services other than reimbursement for actual expenses approved in advance by the Board of Directors incurred by them in the performance of their duties hereunder. The ARC-M shall, with the prior approval of the Board of Directors, have the power to engage the services of professionals for compensation for purposes of aiding the ARC-M in carrying out its functions. Notwithstanding anything to the contrary contained herein or elsewhere all decisions of the ARC-M are subject to review by the Board of Directors and the Board of Directors has the authority to overrule, void or otherwise modify in all respects any decision of the ARC-M.



**7.27.3 Powers and Duties.** The ARC-M shall have the following powers and duties:

(A) To recommend, from time to time, to the Board of Directors of the Association the creation or modification and/or amendments to the Architectural Planning Criteria. Any modifications or amendments thereto shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association at a meeting duly called and noticed and at which a quorum is present. Notice of the adoption, modification or amendment to the architectural restrictions including a verbatim copy of such adoption, change or modification, shall be delivered to each Member in advance of the meeting. However, receipt of notice of a Board meeting concerning the Architectural Planning Criteria or a copy of any adoption of or modification or amendment to the Architectural Planning Criteria shall not affect the validity of such change or modification.

(B) To require submission to the ARC-M of two (2) complete sets of all plans and specifications for any improvement, Unit or any other work which in any way alters the exterior appearance of any Unit, or Lot or Unit including without limitation, any fence, well, swimming pool, screen enclosure, sewer, drain, disposal system, landscape devise, object or other improvement, the construction or placement of which is proposed upon the Properties. Any improvements impacting drainage must contain a drainage plan consistent with the water drainage plan for Autumn Woods. The ARC-M may also require submission of samples of building materials proposed for use on or as part of any Unit, and may require such additional information as may reasonably be necessary to completely evaluate the proposed Structure or improvement in accordance with this Declaration and the Architectural Planning Criteria. Any party aggrieved by a decision of the ARC-M or Board of Directors shall have the right to make written request to the Board of Directors of the Association within thirty (30) days of the decision, for a re-review thereof. The determination of the Board upon re-reviewing any such decision shall in all events be final.

(C) To adopt a procedure for inspecting approved changes during and after construction to insure conformity with approved plans. If it is determined by the ARC-M that the improvement or work is not in compliance with the approved plans and specifications, then upon written demand from the ARC-M the work shall be suspended until such time as the ARC-M authorizes the work to be recommenced.

(D) Notwithstanding anything to the contrary contained herein, if an Owner is delinquent in the payment of Assessments, fines or other charges or has failed to correct a violation of these covenants or the rules of the Association for which they have been given notice, the processing of an application for approval of the ARC-M may be denied or withheld pending payment of the Assessments, fines or other charges or correction of the violation.

(E) From time to time and at least once every five (5) years, the Architectural Planning Criteria will be reviewed for current compliance.

**7.37.4 Variances.** The ARC-M may not authorize variances from compliance with any of the architectural provisions of this Declaration. Variances from compliance with any of the architectural provisions of this Declaration for ~~when~~ circumstances such as topography, natural obstructions, hardship, aesthetic or the environment, ~~which~~ must be approved~~signed~~ by the Board of Directors~~at least two-thirds (2/3) of the ARC-M~~. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variances were granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose, or create a precedent, except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the Lot or Unit, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority. ~~The Board of Directors may overrule and void any variance granted by the ARC-M if such action is taken within twenty (20) days from the date the variance is received by the Board.~~

**7.47.5 No liability of ARC-M Members.** Neither the ARC nor any member thereof nor its duly authorized ARC-M representative, shall be liable to the Association or any Owner or any other person or entity for any loss, damage, or injury arising out of or in any way connected with the performance or nonperformance of the Access duties hereunder, unless due to the willful misconduct or bad faith of a member, and only that member shall be liable therefore.

The ARC-M shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration, or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to Autumn Woods. The ARC-M shall take into consideration the aesthetic aspects of the ARC architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval from the standpoint of structural safety or conformance with building, health, or other codes.

**7.57.6 Violation.** In the event an Owner installs improvements or modifies the Owner's Lot or Unit without obtaining approval as required in this Article, including, but not limited to, modifications to the Water Management System, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation, including, but not limited to, entering the Lot or Unit and remedying the violation or removing any unapproved improvements, with or without consent of the Owner, but only after reasonable notice of the Association's intent to do so. Any expense incurred by the Association shall be billed directly to the Owner of the Lot or Unit to which such services are provided, and shall be an individual. Assessment charged against the Lot or Unit, secured by a lien against the Lot or Unit as provided herein. The Association shall not be required to provide the Owner with a hearing prior to enforcing this Article as provided herein, but may, in the Board's sole discretion, elect to do so if requested by the Owner.

**7.67.7 Architectural Review Committee - Neighborhood ARC-N.** The ARC-~~M~~**N** may delegate any portion or all of its powers reserved hereunder to a Neighborhood Association that enacts and

enforces architectural standards as stringent as set forth herein. Such delegation may thereafter be canceled at any time for any reason. Enforcement of these standards and requirements may be delegated to a duly authorized Architectural Review Committee of a Neighborhood Association (“ARC-N”).

**7.7.8 Pool Enclosures.** Swimming pools shall be enclosed in approved screened or fenced enclosures. Such a fence may be installed in lieu of a screen enclosure wherein the Owner shall have the right to erect permanent security fencing around the swimming pool in lieu of a screen enclosure provided that such security fencing shall follow the same setback and horizontal dimensional criteria as required for a screened enclosure. ~~Pool/fence enclosures are to be completely contained within their rear lot and is~~ subject to additional criteria specified by the ARC-M and applicable County Building Codes.

## 8. USE RESTRICTIONS.

**8.1** All Lots and Units in Autumn Woods shall be subject to restrictive covenants that place reasonable limitations on use and occupancy and are intended to protect the health, safety and welfare of the residents of the Properties and enhance and protect property values. Each Neighborhood Declaration sets forth use restrictions applicable to the Neighborhood. Each Neighborhood may have restrictive covenants that are appropriate to that Neighborhood but may not be identical to the restrictive covenants applicable to other Neighborhoods. Each Neighborhood Association, and the residents of each Neighborhood, shall have the right to enforce the restrictive covenants contained in the Neighborhood Declaration, and, in addition, the Declaration and the Master Association shall also have the right, but not the obligation, to enforce such restrictive covenants in the absence of action by the Neighborhood Association.

**8.2 Master Irrigation System.** Neither the Master Association, nor any Neighborhood Association, nor any Owner shall install or operate any irrigation system, apparatus or device that does not receive Irrigation Water from the Master Irrigation System. Water may not be drawn from any Lake for irrigation purposes. No water wells shall be permitted on any Lot or Unit, Unit or Common Property, except those wells belonging to the governmental authorities. No Owner may connect any irrigation system on the Owner’s property to any source except the Master Irrigation System or a potable approved by Collier County utilities.

**9. INSURANCE.** In order to adequately protect the Association and its members, insurance shall be carried and kept in force at all times in accordance with the following provisions:

**9.1 Association; Required Coverage.** The Association shall maintain adequate property insurance covering all the Common Areas and all Association property. The Association shall also provide adequate general liability insurance. The amounts of coverage shall be determined annually by the Board of Directors and the premium on any policy purchased by the Association shall be paid as a Common Expense. The insurance carried by the Association shall afford at least the following provisions:

(A) Property. Loss or damage by fire, extended coverage (including windstorm), vandalism and malicious mischief, and other hazards covered by the standard “All Risk” property contract.

(B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as are determined by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

(C) Automobile. Automobile liability for bodily injury and property damage for all owned and non-owned motor vehicles when used for Association business, in such limits of protection and with such coverage as may be determined by the Board of Directors.

(D) Workers’ Compensation. The Association shall maintain workers’ compensation insurance if required by law.

(E) Fidelity Bond Coverage. The Association shall maintain insurance or a fidelity bond for all persons who control or disburse funds of the Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Association or its management agent at any one time. As used in this subsection, the term “persons who control or disburse funds of the association” includes, but is not limited to, persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The Association shall bear the cost of any insurance or bond.

(F) Flood Insurance. If any part of the Common Areas are in a special flood hazard area, and are insurable as defined by the Federal Emergency Management Agency, the Association shall insure same. The coverage shall be one hundred (100%) percent of the current Replacement cost of any Common Area improvements or Structures and other insurable common property, or the maximum coverage available for such improvements, Structures, or property under the National Flood Insurance Program, if less.

**9.2 Duty to Insure.** Each Owner is responsible for insuring the full replacement of real and personal property within his or her own Lot or Unit. Each Owner must recognize that he or she bears financial responsibility for any damage to his or her property or liability to others that would otherwise be covered by such insurance.

**9.3 Duty to Reconstruct.** If any Unit or other improvements located on any Lot or Unit are destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner of such improvements shall cause repair or replacement to be commenced within one hundred and eighty (180) days from the date that such damage or destruction occurred, and to complete the repair or replacement within eighteen (18) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and condition, shall utilize and conform with the original foundation and appearance of the original improvements except as otherwise approved by the Board of Directors. The Board of Directors may, based on its sole and exclusive discretion, extend the time periods for reconstructions contained herein. The Association

will have a cause of action to compel repair and reconstruction. Attorney's fees and costs incurred in any such litigation shall be awarded to the prevailing party.

**9.4 Association Insurance; Duty and Authority to Obtain.** The Board of Directors shall obtain and keep in force the insurance coverage which it is required to carry by law and under this Declaration, and may obtain and keep in force any or all additional insurance coverage as it deems necessary. The name of the insured shall be the Association and the Owners without naming them, and their mortgagees, as their interests shall appear. To the extent permitted by law, the Association may self-insure.

**9.5 Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board of Directors may determine to be in the best interest of the Association and Owners.

**9.6 Description of Coverage.** A detailed summary of the coverage included in the master policies, and copies of the master policies, shall be available for inspection by Owners or their authorized representatives upon request.

**9.7 Insurance Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees as their interests may appear, and all proceeds shall be payable to the Association. The duty of the Association shall be to receive such proceeds as are paid, and to hold the same in trust, and disburse them for the purposes stated herein and for the benefit of the Owners and their respective mortgagees in the following share:

(A) **Common Areas.** Proceeds on account of damage to Common Areas shall be held in as many undivided shares as there are Lots or Units, the shares of each Owner being the same as his or her share in the Common Areas.

(B) **Mortgagee.** If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Lot or Unit or Lots or Units, except to the extent that insurance proceeds exceed the actual cost of Repair or restoration of the damaged building or buildings. Except as otherwise expressly provided, no mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

**9.8 Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the Owners in the following manner: The proceeds shall be paid to defray the costs of reconstruction or Repair by the Association. Any proceeds remaining after defraying cost shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being paid jointly to them.

**9.9 Association as Agent.** The Association is hereby irrevocably appointed as agent for each Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Units, Lots or Units or Common Areas.

**9.10 Damage to Common Areas.** Where loss or damage occurs to the Common Areas or Association property, it shall be mandatory for the Association to Repair, restore and rebuild the damage caused by the loss, and the following procedures shall apply:

(A) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction.

(B) If the proceeds of insurance and available reserves are insufficient to pay for the cost of Repair and reconstruction of the Common Areas, the Association shall promptly, upon determination of the deficiency, levy a Special Assessment against all Owners for the deficiency. Such Special Assessments need not be approved by the Owners. The Special Assessment shall be added to the funds available for Repair and restoration of the property.

## **10. AMENDMENTS; TERMINATION.**

**10.1 Duration.** The covenants, conditions and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, and any Owner, their respective legal representatives, heirs, successors and assigns, for an initial period of thirty (30) years from the date of the original Declaration recorded on May 6, 1997. This Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year renewal periods; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial period, or during the last year of any subsequent ten (10) year renewal period, three-fourths ( $\frac{3}{4}$ ths) of all voting interests Vote in favor of terminating this Declaration at the end of its then current term. Written notice of any meeting at which such a proposal will be considered shall be given at least sixty (60) days in advance of the meeting. If the members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association and the total number of votes cast in favor or such resolution of termination so adopted. Said certificate shall be recorded in the Public Records of Collier County, Florida, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

**10.2 Amendments by Members.** Except as otherwise provided herein or by law, this Declaration may be amended at any time by the affirmative vote of at least sixty-seven (67%) of the Voting Interests present, in person or by proxy, and voting at meetings called as described in the notice and conducted by the Neighborhood Associations at which a quorum is present or by written consent of at least sixty-seven percent (67%) of the members in lieu of a meeting ~~if the matter is a material amendment as described in Section 10.3, below. A non-material amendment requires fifty one percent (51%) of the Members, namely 27 votes, in favor of any proposal.~~ A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall identify the Book and Page of the Public Records where the Declaration is recorded, and shall be executed by the President of the Association with the formalities of a deed. The amendment shall be effective when the certificate and a copy of the amendment are recorded in the Public Records of Collier County, Florida.

~~10.3 **Material Amendments and Extraordinary Actions.** The Association may amend this Declaration in regard to the matters identified herein as “Material Amendments, upon a sixty-seven percent (67%) vote of the Voting Interests present in person or by proxy.~~

~~(A) **Material Amendments.** The matters listed below are deemed to be material to this Declaration, and any proposed amendment concerning such matters shall be deemed to be a “Material Amendment:”~~

~~(1) the manner of determining the basis for assessments or the administration of assessment liens;~~

~~(2) any method of imposing or determining any charges to be levied against individual Unit Owners;~~

~~(3) reserves for maintenance, repair or replacement of Common Area improvements;~~

~~(4) maintenance obligations;~~

~~(5) allocation of rights to use Common Areas;~~

~~(6) any scheme of regulation or enforcement of standards for maintenance, architectural design or appearance of improvements on Units;~~

~~(7) reduction of insurance requirements;~~

~~(8) restoration or repair of Common Area improvements;~~

~~(9) the addition, annexation or withdrawal of land to or from the Autumn Woods;~~

~~(10) voting rights;~~

~~(11) restrictions affecting leasing or sale of a Unit; or~~

~~(12) any provision which is for the express benefit of Mortgagees.~~

~~10.4~~**10.3 Amendments Affecting Surface Water Management System.** Any proposed amendment to the Declaration which would affect the surface water management system (including environmental conservation areas and the water management portions of the Common Areas), shall be submitted to the South Florida Water Management District for a determination of whether the proposed amendment necessitates a modification of the applicable Surface Water Management permit

## **11. ENFORCEMENT; GENERAL PROVISIONS.**

**11.1 Enforcement.** Enforcement of these covenants, conditions and restrictions may be by a proceeding at law or in equity and may be instituted by the Association, its successors or assigns, or

by any Owner, against any person or persons violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and against any Lot or Unit to enforce any lien created by these covenants. Failure of the Association or any Owner to enforce any covenants, condition or restriction herein contained for any period of time shall not be deemed a waiver or estoppel of the right to enforce same thereafter. The Association shall also have the right but not the obligation to enforce such restrictive covenants in the absence of action by the Neighborhood Association.

**11.2 Owner and Member Compliance.** The protective covenants, conditions, restrictions and other provisions of the Governing Documents and the Rules and Regulations promulgated by the Association shall apply to members and all persons to whom a member has delegated his right of use in and to the Common Areas, as well as to any other person Occupying any Unit under Lease from the Owner or by permission or invitation of the Owner or a Tenant (express or implied), and their licensees, invitees or Guests. Failure of any Owner to notify any person of the existence of the Rules and Regulations, or the covenants, conditions, restrictions, and other provisions of the Governing Documents shall not in any way act to limit or divest the Association of the power to enforce these provisions. Each Owner shall be responsible for any and all violations by his Tenants, licensees, invitees or Guests and by the Guests, licensees and invitees of Tenants, at any time.

**11.3 Fines; Suspensions.** The Board of Directors may levy fines and/or suspensions against members, or members' Tenants or Guests, or both, who commit violations of Chapters 617 or 720, Florida Statutes, [as amended from time to time](#), the provisions of the Governing Documents, or the Rules and Regulations, or who condone such violations by their Family members, Guests or Tenants. Fines shall be in amounts deemed necessary by the Board to deter future violations, but in no event shall any single fine exceed the maximum amount allowed by law. The maximum fine for a continuing violation shall be \$1,000.00. Fines shall be secured by a lien if permitted by law on the Owner's Lot or Unit. Suspensions of the use of Common Areas, facilities and common non-essential services (e.g. gate access barcodes, bulk cable TV and/or internet) may be imposed for a reasonable period of time to deter future violations. The procedure for imposing fines or suspending use rights shall be as follows:

**(A) Notice.** The party against whom the fine and/or suspension is sought to be levied or imposed shall be afforded an opportunity for hearing after reasonable notice of not less than fourteen (14) days, and the notice shall include:

- (1) a statement of the date, time and place of the hearing;
- (2) short and plain statement of the specific facts giving rise to the alleged violation(s); and
- (3) the possible amounts of any proposed fine and/or possible use rights of Common Areas or facilities to be suspended.

**(B) Hearing.** At the hearing the party against whom the fine and/or suspensions may be levied shall have a reasonable opportunity to respond, to present evidence, and to



provide written and oral argument on all issues involved, and to review, challenge, and respond to any evidence or testimony presented by the Association. The hearing shall be conducted before a ~~committee~~ panel of three (3) Owners appointed by the Board, none of whom may then be serving as Directors or Officers, or who are employees of the Association, or the spouse, parent, child, brother or sister of an Officer, Director or employee. If the committee, by majority vote, does not agree with the proposed fine and/or suspension, it may not be levied or imposed. If the committee agrees with the proposed fine and/or suspensions, the Board of Directors shall levy the same.

(C) **Suspensions and Fines without Hearing.** The foregoing notwithstanding, as provided in 720.305(2)(b), Florida Statutes, as amended from time to time, no prior notice or opportunity for a hearing is required for the imposition of a fine or suspension upon any member because of the failure of the member to pay Assessments or other charges when due.

(D) **Correction of Health and Safety Hazards.** Any situation, condition or violation of the Association rules which creates conditions of the property which are deemed by the Board of Directors to be a hazard to the public health or safety may be dealt with immediately as an emergency matter by the Association, and the cost thereof shall be charged to the member.

**11.4 Attorney Fees.** In any legal proceeding arising out of an alleged failure of a Guest, Tenant, Owner, Officer, Director or the Association to comply with the requirements of the law, or the Governing Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such attorney fees as may be awarded by the court. The Association shall be entitled to recover any attorneys' fees incurred to enforce any provision of the Governing Documents and Rules and Regulations as an Individual Assessment in the event any dispute is resolved without litigation.

**11.5 No Election of Remedies.** All rights, remedies and privileges granted to the Association or Owners under the law and the Governing Documents shall be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party from exercising any other rights, remedies, or privileges that may be available.

**11.6 Notices.** 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, and notice thereby given, when mailed, with the proper postage affixed to the last known address of the Owner appearing in the records of the Association, or to the address of the member's Unit. Notice to one of two or more co-Owners of a Lot or Unit shall constitute notice to all co-Owners. It shall be the obligation of every member to immediately notify the Secretary of the Association in writing of any change of address.

**11.7 Severability.** Should any covenant, condition or restriction herein contained, or any section, subsection, sentence, clause, phrase or term of this Declaration or its recorded exhibits be declared to be void, invalid, illegal, or unenforceable, for any reason, by any court having jurisdiction over the parties hereto and the subject matter hereof such judgment shall in no way affect the other provisions hereof

which are hereby declared to be severable and which shall remain in full force and effect. Nothing contained in this Declaration is intended to affect vested rights. If any provision contained herein is deemed by a competent court of law to have such affect, then such provision will be deemed null and void but have no effect on the remaining provisions herein.

**11.8 Interpretation; Disputes.** The Board of Directors is responsible for interpreting the provisions of this Amended and Restated Master Declaration of Covenants, Conditions, and Restrictions, its exhibits and rules promulgated by the Board. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel retained by the Board that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation. In the event there is any dispute as to whether the use of the Property complies with the covenants and restrictions contained in this Declaration, its exhibits or the rules promulgated by the Board the matter shall be referred to the Board and the determination of the Board with respect to such dispute shall be dispositive on the issue and binding on all parties.

**11.9 Covenant Running With the Land.** All provisions of this Declaration shall, to the extent applicable and unless otherwise expressly provided herein to the contrary, be construed to be covenants running with the Lot or Units and Units and the Property and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon and inure to the benefit of the Association and subsequent Owner(s) of the Units, Lots or Units and Property or any part thereof or interest therein, and their respective heirs, successors, and assigns. However, the same are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public, unless specifically provided herein to the contrary. All present and future Owners, lessees, and occupants of the Lots or Units and Units, as applicable, shall be subject to and shall comply with the provisions of this Declaration and the Articles, Bylaws and applicable Rules and Regulations as they exist and may from, time to time be amended. The acceptance of a deed of conveyance of a Lot or Unit, or the entering into a lease of or occupancy of a Unit, shall constitute an adoption and ratification .by such Owner, lessee, or occupant of the provisions of this Declaration, and the Articles, Bylaws, and applicable Rules and Regulations of the Association, as they may be amended from time to time. In the event that any easements granted herein shall fail for want of a grantee in being or for any other purpose, the same shall constitute and be covenants running with the land.

**11.10 Not-for-Profit Status.** Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity inconsistent with its not-for-profit status under applicable state or federal law.

**11.11 No Public Right or Dedication.** Nothing contained in the Governing Documents shall be deemed a gift or dedication of all or any portion of the Property to the public, or for any public use.

**11.12 Use of Singular and Plural and Gender.** Whenever the context so permits, the use of the singular shall include the plural and the plural shall include the singular and the use of any gender shall be deemed to include all genders.

**11.13 Headings.** The headings used in the Governing Documents are for reference purposes only, and do not constitute substantive matter to be considered in construing the terms and provisions of these documents.

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