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**NOTE: SUBSTANTIAL AMENDMENT OF ENTIRE MASTER DECLARATION. FOR PRESENT TEXT SEE EXISTING MASTER DECLARATION.**

**AMENDED AND RESTATED DECLARATION (2022)  
OF MASTER COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
GATEWAY GREENS COMMUNITY ASSOCIATION, INC.**

**NOW, THEREFORE**, that on March 18, 1988, the original Declaration and General Protective Covenants for Gateway Greens, and the Articles of Incorporation and Bylaws for Gateway Greens Community Association, Inc., were recorded in Official Records Book 1977, Page 1367 et. seq., of the Public Records of Lee County, Florida (hereafter, the “Public Records”); and subsequently re-recorded at Instrument No. 2018000141529 of the Public Records (the “Original Declaration”). That Original Declaration, as it has been amended from time to time, is hereby further amended and is restated in its entirety.

The land subject to this Declaration (hereinafter “Gateway Greens” or the “Property”) is legally described in the aforementioned Original Declaration, the exhibits and amendments and supplements thereto. Said legal descriptions are hereby collectively re-recorded and attached hereto as Composite Exhibit “A”. No additional land is being added by this instrument and no land is being removed by this instrument. The covenants, conditions and restrictions contained in this Declaration (as defined in section 1.11 below) shall run with the land and be binding upon and go to the benefit of all present and future Owners in Gateway Greens. The acquisition of title to a Lot, Home or Unit or any other ownership interest in the Property, or the lease, occupancy or use of a portion of a Lot, Home or Unit in the Property, constitutes an acceptance and ratification of all provisions of this Declaration as amended from time to time, and an agreement to be bound by its terms.

All prior amendments and supplements to the Original Declaration, recorded in the Public Records, are shown by their recording information in Exhibit “B” hereto. To the extent that an amendment or supplement added land or property to Gateway Greens, or amended the Original Declaration in a manner that does not conflict with this Declaration, those amendments and supplements are incorporated herein by reference. However, in the event of a conflict between an amendment or supplement to the Original Declaration and this Declaration, this Declaration shall control.

**1. DEFINITIONS.** Defined words and terms, when used in this Declaration or in any Amendment or Supplement thereto, shall, unless the context shall otherwise clearly indicate, have the meanings specified below:

**1.1** "Articles" means the Amended and Restated Articles of Incorporation of Gateway Greens Community Association, Inc., attached hereto as Exhibit "C", as amended from time to time.

**1.2** "Assessment" or "Assessments" means a share of the funds required for the payment of the expenses of the Master Association which from time to time is assessed against the Members, including without limitation Regular, Special and Individual Assessments.

**1.3** "Association" or "Master Association" or "GGCA" means Gateway Greens Community Association, Inc., a Florida corporation not for profit, which is responsible for the maintenance and operation of the Common Areas and amenities in Gateway Greens, with the exception of improvements belonging to the Country Club (as hereafter defined) and common areas and other improvements maintained by the Neighborhood Associations.

**1.4** "Board of Governors" or "Board" means the Board of Governors of Gateway Greens Community Association, Inc.

**1.5** "Bylaws" means the Amended and Restated Bylaws of Gateway Greens Community Association, Inc., attached hereto as Exhibit "D", as amended from time to time.

**1.6** "Charge" or "Fee" means any legal or equitable indebtedness to the Association incurred by, or on behalf of, a Unit Owner, other than assessments for Common Expenses. Said obligation may arise by oral or written contract, by law or equity, or may be created by the Governing Documents. Charges may include attorney's fees. Said charges may be secured by a lien against the Lot or Unit as provided in Section 3 of this Declaration.

**1.7** "Committed Property" shall mean and refer to (a) those portions of GGC described in Exhibit A attached hereto and made a part hereof; and (b) those portions of GGC, if any, which may hereinafter become Committed Property pursuant to the recordation of one or more "Supplements" (as that term is described in Article 2.3 hereof.)

**1.8** "Common Area" means all real property and all improvements and fixtures thereon described herein and all improvements owned, leased or the use of which has been granted to the Association for the common use and enjoyment of its Members. The Common Areas of the Association include all land described above and subject to this Declaration save and except for the individual Lots and Units, and in the case of a Condominium or Homeowners Association operating a neighborhood within the Property, the appurtenant common elements and common area maintained by that association(s).

**1.9** "Common Expenses" or "Operating Expenses" or "Capital Expenditures" means the expenses incurred by the Association in the course of performing its duties under the governing documents and the law. Common Expenses of the Association include the costs of (a) administration and management of the Association, (b) maintenance, Ownership and operation of the Common Areas, (c) any item designated as a Common Expense in this Declaration, (d) any material, service, tax, premium, assessment or charge reasonably or necessarily incurred by the Association arising from its ownership, operation, maintenance, management, administrative or other obligations set forth herein, in the Articles or Bylaws, or which are in furtherance of the

purposes of the Association or that are incurred in discharge of any obligation expressly or impliedly imposed on the Association hereby.

**1.10** “County” means Lee County, Florida.

**1.11** “Declaration” means this Amended and Restated Declaration of Master Covenants, Conditions and Restrictions for Gateway Greens Community Association, Inc., as amended from time to time. The term “Declaration” shall have the same meaning as the term “Master Declaration” and the term “Master Covenants”.

**1.12** “Design Review Committee” or “DRC” means the Design Review Committee as established and empowered in Section 6 of this Declaration. The “Design Review Manual” or “DRM” refers to rules, standards, criteria and procedures governing exterior modifications to Common Areas, Lots, Homes, Units and common areas of Neighborhoods, as they may exist and be amended from time to time.

**1.13** “Effective Date” means the date upon which this Amended and Restated Declaration is recorded in the Public Records of Lee County, Florida.

**1.14** “Family” or “Single Family” shall refer to any one of the following:

(A) One natural person.

(B) Two or more natural persons who commonly reside together as a single housekeeping Unit, each of whom is related by blood, marriage or adoption to each of the others.

(C) Two or more natural persons meeting the requirement of (B) above, except that there is among them one person who is not related to some or all of the others

The decision as to whether two or more persons reside and constitute a qualifying Family, shall be a matter for the Board of Governors in its reasonable discretion.

**1.15** “First Area Master Plan” shall mean and refer to that portion of Gateway as defined in the Gateway Development of Regional Impact Development Order, as amended from time to time.

**1.16** “GATEWAY” shall mean and refer to those certain lands located in Lee County, Florida, with the general boundary of Interstate 75 to the west, Colonial Boulevard Extension to the north, State Road 82 to the east, and Daniels Road to the south, and certain land located to the west of Interstate 75, and such lands as may, from time to time, be added or subtracted from said lands.

**1.17** “Gateway Golf & Country Club” or “Country Club” or “Golf Course” means and refers to the private country club within the Property that is privately owned, leased, licensed and/or operated by Gateway Golf Country Club, Inc., a Florida corporation d/b/a The Club at Gateway (hereinafter referred to as the “Club Owner”). The property of the Country Club (hereinafter referred to as “Country Club Property”) includes without limitation clubhouses, tennis courts, pro shops, golf courses, driving ranges and golf maintenance facilities, all of which are

maintained and operated by the Country Club. Only the Clubhouse Site is part of the Committed Property. The Clubhouse Site is defined and described in that certain Nineteenth Supplement to the Original Declaration, recorded at O.R. Book 3544, Page 1217 of the County Public Records, and re-recorded at O.R. Book 3556, Page 1521 of the County Public Records to include the legal description of the Clubhouse Site (hereinafter the "Nineteenth Supplement"). The Nineteenth Supplement, incorporated herein by reference, sets forth the provisions of the Declaration that are binding on the Clubhouse Site.

**1.18** **"Gateway Greens" or "GGC" or "Gateway Greens Community"** means and refers to certain real property within GATEWAY, in Lee County, Florida, which may from time to time be designated as Committed Property as that term is defined herein. The residential property described in the First Area Master Plan which lies westerly of Gateway Boulevard and the Golf Course, is included in GGC. Not all of GGC is Committed Property under this Declaration.

**1.19** **"Governing Documents"** means and includes this Declaration, the Articles of Incorporation, Bylaws, the Rules and Regulations of the Association, and Resolutions of the Board of Governors, and all recorded exhibits thereto, all as amended from time to time. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority as listed herein.

**1.20** **"GSD" or "CDD"** shall mean and refer to the Gateway Services District, a community development district established by the State of Florida.

**1.21** **"Guest"** means any person who is physically present in, or occupies a Lot, Home or Unit on a temporary basis. Owners are responsible for the conduct of their Guests and ensuring that their Guests abide by the Association's covenants, rules and restrictions as they exist from time to time.

**1.22** **"Individual Assessments"** means any assessment levied only against a Lot, Home or Unit Owner for charges, expenses and professional fees incurred by the Association to correct maintenance obligations or other violations of the Governing Documents.

**1.23** **"Institutional Mortgagee"** means:

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

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

(C) An "Institutional Mortgage" is a mortgage held by an Institutional Mortgagee encumbering a Lot, Home or Unit.

**1.24** "**Lease**" or "**Rental**" means the grant by a residential Owner of a temporary right of use of the Owner's Unit or Home with or without valuable consideration.

**1.25** "**Lot**", "**Home**", or "**Unit**" means the residential lots and living units located within the Property described in Exhibit "A" subdivided for residential use upon which a fee simple title to a Home or Unit has been conveyed to the Owner, or which is approved for construction of a Home or Unit, and is shown on the Plats or other description of the Property, but shall not include the Common Areas. The Lots, Homes and Units may be depicted and numbered on sketches or surveys attached to other documents as recorded in the Public Records of Lee County, Florida. There are currently 1,380 Homes and Units built on residential lots, and it is anticipated there will be 1,423 completed Homes and Units after construction is complete on the remaining vacant Lots in the Property.

**1.26** "**Maintenance**", "**Repair**" and "**Replacement.**" Maintenance means the upkeep or preservation of the condition of the property. Repair means to mend, remedy, or restore to a sound or good state after decay, injury, dilapidation or partial destruction. Replace means to place again or restore to a former condition after substantial or full destruction.

**1.27** "**Members**" means and refers to those persons who are entitled to Membership in the Association as provided in its Governing Documents.

**1.28** "**Neighborhood**" shall mean and refer to any development of Homes or Units, business development or other sub-area development within the Committed Property, which has been designated as such by the developer(s) of GGC in a written instrument and which is within the Committed Property.

**1.29** "**Neighborhood Association**" means any property Owners association, Homeowners' association, condominium association or other such entity, their successors and assigns, responsible for administering a neighborhood within Gateway Greens. The covenants, rules and restrictions of a Neighborhood Association shall be subordinate to the Governing Documents, and in the event of a conflict between the Governing Documents and the documents or rules of a Neighborhood Association, the Governing Documents shall control.

**1.30** "**Neighborhood Common Area**" shall mean and refer to all real property including any improvements and fixtures thereon, owned, leased or the use of which has been granted to a Neighborhood or Neighborhood Association for the common use and enjoyment of the Owners in such Neighborhood.

**1.31** "**Neighborhood Covenants**" shall mean and refer to any and all covenants, conditions, restrictions, and other provisions imposed by a recorded instrument applicable to one or more specific Neighborhoods but not to all Neighborhoods.

1.32 "**Occupy**" when used in connection with a Home or Unit, means the act of staying overnight in a Home or Unit. "**Occupant**" is a person who occupies a Home or Unit.

1.33 "**Owner**" or "**Unit Owner**" means the record Owner of legal title to a Lot, Home or Unit.

1.34 "**Primary Occupant**" means the natural person approved for occupancy of a Home or Unit when title thereto is held in the name of two or more persons who are not husband and wife, or by a trustee or a corporation or other entity which is not a natural person. When used in reference to a Home or Unit owned in one of the forms listed above, the term "primary occupant" shall be synonymous with the term "Owner".

1.35 "**Property**", "**Properties**", "**Gateway Greens**" or "**Community**" means all the real property that is subject to this Declaration.

1.36 "**Rules and Regulations**" or "**Rules**" means the rules, regulations, and policies governing the Property, including the Common Areas, Association Property, and the Lots, Homes and Units, that may be promulgated or amended by the Board from time to time by resolution.

1.37 "**Special Assessments**" means any assessment levied against a Lot, Home or Unit Owner for unforeseen or unbudgeted Common Expenses other than the regular assessment required by a budget adopted annually.

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

## 2. ASSOCIATION AND MEMBERSHIP.

2.1 **Purpose.** The purpose of the Association shall be to hold title, operate, maintain and repair the Common Area, including, but not limited to roadways, sidewalks, gatehouse facilities, landscaping, entrance monuments and any improvements thereon, and medians in the streets within the Properties designated by the Board of Governors; to enforce restrictive covenants applicable to the Association; to adopt architectural guidelines and restrictions to be enforced as provided herein; to pay costs incident to these responsibilities and the costs of street lighting for the Common Area; the option to contract with cable television and internet companies and other bulk service providers; and to take such other action as the Association is authorized to take pursuant to the Governing Documents or applicable law, as amended from time to time.

2.2 **Membership.** Every Owner of record title to a Lot, Home or Unit shall be a Member of the Association, and by acceptance of a deed or other instrument evidencing his/her Ownership interest, each Owner accepts his/her Membership in the Association, acknowledges the authority of the Association as herein stated, and agrees to abide by and be bound by the provisions of the Governing Documents, as amended from time to time. Membership in the Association

automatically terminates upon the sale or transfer of an Owner's title or interest in a Lot, Unit or Home.

### **2.3 Voting Rights.**

(A) One (1) vote may be cast for each Lot, Home or Unit owned by a Member. The Golf Course Owner may cast ~~one (1) vote~~ eight (8) votes. In the event that two (2) or more Members are the Owners of a Lot, Home or Unit, then the Member who shall be entitled to cast the vote shall be determined by the method in the Association's Bylaws.

(B) The votes of Members shall be cast at meetings of the Members by their representative (the "Representative") if the Lot, Home or Unit owned by such Member is operated, governed or administered by a Neighborhood Association. The Representative shall be the President of the Neighborhood Association or the President's written proxy. Such votes of the Members shall be cast by the Representative in the same manner as they were cast at a meeting of the members of such Neighborhood Association duly called and held in accordance with the articles and bylaws of such Neighborhood Association. The Representative shall, prior to voting such votes at a meeting of its members, supply the Master Association with an affidavit attesting to the outcome of such vote by the members of the Neighborhood Association. No member of a Neighborhood Association, except the Representative or the Representative's written proxy, may directly cast a vote at a meeting of the Members of the Master Association. The Master Association shall be under no duty or obligation to determine whether the manner for determining how such votes are cast is correct, fair or equitable. Notwithstanding the foregoing, all Members of the Master Association shall vote directly, and not through a Representative, for the election or recall of the Board of Governors as further provided in the Master Association's Bylaws.

**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 company 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, enforcement of rules and maintenance, repair and replacement of the Common Areas with funds made available by the Association for such purposes.

**2.5 Powers and Duties.** The powers and duties of the Association include those set forth in Chapter 617, Florida Statutes, Chapter 720, Florida Statutes, and in the Governing Documents, all as amended from time to time. The Association may contract, sue or be sued with respect to the exercise or non-exercise of its powers and duties. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the Common Areas. The Association has the power to enter into agreements to acquire leaseholds, Memberships and other Ownership, possessory, easement or use interests in lands or facilities for the use and enjoyment of the Owners.

**2.6 Official Records.** The Association shall maintain its official records as required by 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 Association may adopt reasonable rules governing the frequency, time, location, notice and manner of inspection.

**2.7 Purchase of Unit.** The Association has the power to purchase a Lot, Home or Unit in Gateway Greens 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, mortgage, encumber or convey them with such power to be exercised by the Board of Governors without prior approval of the Members. In all other cases approval of the Members is required as provided in Section 2.8 below.

**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 Governors. Except as otherwise provided in Section 2.7 above, the power to acquire, encumber or convey Ownership interests in real property shall be exercised by the Board of Governors only after approval by at least two-thirds (2/3) of the voting interests present and voting, in person or by proxy, at a Members' meeting at which a quorum is present.

**2.9 Disposition of Personal Property.** Any personal property owned by the Association, may be mortgaged, sold, or otherwise encumbered or disposed of by the affirmative vote of a majority of the entire Board of Governors, without need for authorization by the Owners.

**2.10 Roster.** The Association shall maintain a current roster of names and mailing addresses of Owners, based upon information supplied by the Owners. Owners are responsible for notifying the Association of any change in their mailing address or names. All such notices shall be in writing, and an electronic mail or other digital transmission shall suffice. A copy of the official roster (as defined by section 720.303(4), Florida Statutes) shall be made available to any Member upon request. The roster shall include e-mail addresses for those Owners who consent in writing to receive official Association notices by e-mail, subject to applicable law. It is the obligation of each Owner to keep the Association informed as to his or her mailing address (including e-mail address if the Owner has provided consent as provided above) and contact information.

**2.11 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 Governors, without a vote of the Owners. The officers and Governors of the Association have a fiduciary relationship-responsibility to the Owners. An Owner does not have the authority to act for or bind the Association by reason of being an Owner.

**3. ASSESSMENTS and RESALE CAPITAL CONTRIBUTION.** The provisions of this section shall govern assessments and capital contributions payable by all Owners and buyers of Lots, Homes and Units, and the Common Expenses of the Association not directly attributable to one of the Lots, Homes or Units.



**3.1 Covenant to Pay Assessments.** Each Owner of a Lot, Home or Unit by the act of becoming an Owner covenants and agrees, and each subsequent Owner of any Lot, Home or Unit (including any purchaser at a judicial sale), by acceptance of a deed therefore, 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 share of annual assessments based on the annual budget adopted by the Board of Governors for budgeted Common Expenses of the Association;

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

(C) any charges properly levied against individual Owner(s) as provided in this Declaration which are not shared by other Owners (which are referred to as "Individual Assessments" throughout).

Assessments and charges shall be established and collected as provided herein and elsewhere in the Governing Documents. The Owner of each Lot, Home or Unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while he is the Owner. Multiple Owners are jointly and severally liable. Except as provided in Section 3.11 below, whenever title to a Lot, Home Unit is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments and charges 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 as to Institutional Mortgagees or as to Association-owned Lots, Homes or Units, 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, Home 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. Each Neighborhood Association shall have the obligation to collect the assessments for the Lots, Units or Homes that it administers or controls and pay same to the Association when such assessment is due in accordance with this Declaration. An Owner's failure to pay the Neighborhood Association the assessments due hereunder shall not relieve the Neighborhood Association's obligation to timely remit to the Association all assessments due hereunder. The Association may, in its sole discretion, elect to collect or not collect assessments directly from Owners.

**3.2 Purposes of Assessments.** The assessments levied by the Association shall be used to promote the general welfare of the Owners and residents of Gateway Greens; 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; and to perform all other duties and responsibilities of 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;
- (B) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; and
- (C) capital improvements and deferred maintenance.

**3.3 Share of Assessments, Regular, Special and Individual.** The Owners of each Lot, Home or Unit shall be liable for an equal pro-rata share of the annual and special assessments levied by the Association for Common Expenses of the Association. 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, Home or Unit which may be foreclosed or otherwise collected as provided herein to the extent authorized by law. In the event that a Home or Unit is built on more than one (1) Lot, the Owner shall only be assessed and charged for bulk cable and internet service that is activated for the Home or Unit (i.e. the Owner will not be assessed for bulk cable and internet for multiple Lots if only a single Home or Unit is connected for service).

**3.4 Special Assessments.** Special Assessments include those assessments levied for capital improvements which include the costs (whether in whole or in part) of constructing or acquiring improvements for or on the Common Areas, or the cost (whether in whole or in part) of reconstructing or replacing such improvements. Special Assessments also include those assessments for unbudgeted Common Expenses where, in the sole discretion of the Board of Governors, the Board determines that the expense is proper and that a Special Assessment is necessary. Special Assessments levied against Owners and other parties responsible for assessments hereunder shall be paid in addition to regular annual assessments. Special Assessments shall be paid in such installments or in a lump sum as the Board of Governors shall determine from time to time.

**3.5 Capital Contribution Fees.** There are two (2) types of capital contribution fees owed to the Master Association upon a sale of a Lot, Home or Unit.

- (A) Initial Sale. The Master Association shall require the purchaser of a new Lot, Home or Unit, at the time of closing the conveyance from seller to purchaser, to pay the Master Association an initial capital contribution fee. The amount of any such initial capital contribution shall be as determined at the sole discretion of the Board of Governors of the Master Association by Resolution, however in no event shall the amount exceed ~~one (1) percent (1%) of the sales price of the Lot, Home or Unit~~ three thousand dollars (\$3,000.00) without approval from a majority of the Owners who are present and voting at a meeting at which a quorum is present. Further, the applicable amount of the initial capital contribution fee shall be the amount in effect when the bona fide purchase contract is fully executed and no change in the initial capital contribution fee shall apply to bona fide purchase contracts entered into before such change.

(B) Re-Sales. The Master Association shall require the purchaser on re-sale of a Lot, Home or Unit, at the time of closing the conveyance from seller to purchaser, to pay the Master Association a re-sale capital contribution fee. The amount of any such re-sale capital contribution shall be as determined at the sole discretion of the Board of Governors of the Master Association by Resolution, however in no event shall the amount exceed ~~one (1) percent (1%) of the sales price of the Lot, Home or Unit~~ one thousand five hundred dollars (\$1,500.00) without approval from a majority of the Owners who are present and voting at a meeting at which a quorum is present. Further, the applicable amount of the re-sale capital contribution fee shall be the amount in effect when the bona fide purchase contract is fully executed and no change in the re-sale capital contribution fee shall apply to bona fide purchase contracts entered into before such change.

(C) The funds derived from capital contributions collected pursuant to subparagraphs ~~(B) and (C)~~ (A) and (B) above shall be used at the sole discretion of the Board of Governors in order to meet Common Expenses or other unbudgeted expenses of the Association. The capital contribution fees, together with interest, costs and reasonable attorney's fees, shall be the personal obligation of the purchaser of the Lot, Home or Unit and shall be secured by a continuing lien. Said lien may be foreclosed in the same manner as provided herein for an assessment lien. For purposes of this Section, the term "conveyance" shall mean the transfer of record legal title to a Lot, Home 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. It does not refer to a transfer of title resulting from foreclosure of a lien, or death of the transferee, nor to a transfer of title (via trust or otherwise) to the transferor's spouse, domestic partner, or family Members without changing occupancy, solely for estate planning or tax reasons.

**3.6 Lien.** The Association has a lien on each Lot, Home and Unit for unpaid past due Association assessments, fines and charges, together with interest, late payment penalties, costs and reasonable attorney fees incurred by the Association in the collections process and in enforcing this lien. The Association's lien shall relate back to the date the original declaration was recorded in the Public Records. The lien is perfected by recording a Claim of Lien in the public records of the County, 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 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, charges, and fines plus 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.

**3.7 Foreclosure of Lien.** The Association may bring an action in its name to foreclose its lien for unpaid assessments or charges by the procedures and in the same manner as is provided in the Florida Statutes, as amended from time to time. All unpaid assessments, fines, charges, interest, late fees, attorney fees and costs 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 such unpaid amounts. If final judgment is obtained, such judgment shall include interest on the assessments as above provided and reasonable attorney fees to be fixed by

the court, together with the costs of the action, and the Association shall be entitled to recover reasonable attorney fees and costs in connection with any appeal of such action. If the Association holds title due to its foreclosure action or by deed in lieu of foreclosure, the Association will not be considered an "Owner" that is jointly and severally liable with any subsequent buyer for the payment of any monetary amounts due to the Association.

**3.8 Priority of Liens.** The Association's lien shall relate back to the date the Original Declaration was recorded in the County's public records and be superior to, and take priority over, any other mortgage, lien or interest recorded after that date except as provided for by law. Any lease of a Home or Unit shall be subordinate and inferior to the lien of the Association, regardless of when the lease was executed.

**3.9 Application of Payments; Failure to Pay; Interest.** Assessments, charges and installments thereon paid on or before thirty (30) days after the date due shall not bear interest, but all sums not so paid shall bear interest at 1.5% monthly or the highest rate allowed by law, calculated from the date due until paid. In addition to interest the Association may also charge an administrative late payment fee in an amount not to exceed the maximum amount allowed by law. Assessments, charges and installments thereon shall become due on the date established in the Bylaws or otherwise set by the Board of Governors for payment. Any restrictive endorsement or instruction on or accompanying a payment notwithstanding, all payments on account shall be applied first to interest, then, to late fees, then to costs (including but not limited to reasonable collection charges imposed by the management company, attorney and court), then to attorney's 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 Home or Unit to pay rent directly to the Association until such time that all assessments and other charges owed to the Association are paid and current. Any tenant who fails to comply with a demand for rent from the Association shall be subject to eviction proceedings under Chapter 83, Florida Statutes. The Association may suspend the voting and use rights of a Member, or the Member's tenant, guest or invitee for the nonpayment of any monetary obligation that is delinquent in excess of ninety (90) days. A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the Association is not eligible to run in an election for the Board, and any Board Member who becomes delinquent on any monetary obligation to the Association in excess of ninety (90) days is no longer eligible to serve and shall be deemed to have resigned and abandoned his or her seat.

**3.10 Acceleration.** If any special assessment or installment of a regular assessment becomes more than sixty (60) days past due, the Association shall have the right to accelerate the due date of the entire unpaid balance of the Home 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. In the event a delinquency continues into the next fiscal year after acceleration, the Association shall be entitled to accelerate the assessment for each fiscal year in which the Owner remains more than thirty (30) days past due. 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, by certified or registered mail to the Owner's last known address and shall be deemed given upon mailing of the notice.

**3.11 Removal of Property.** After the Association successfully performs a foreclosure on a Lot, Home or Unit and is issued a Certificate of Title, 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. 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.

**3.12 Certificate as to Assessment, Mortgagee Questionnaire.** Within ten (10) days after request by an Owner or Institutional Mortgagee, the Association shall provide a certificate (sometimes referred to as an "estoppel letter") stating whether all assessments and other monies owed to the Association by the Owner with respect to the Home or Unit have been paid. Any person other than the Owner who relies upon such certificate shall be protected thereby. The Association or its authorized agent may charge a reasonable fee for the estoppel letter, which shall be due upon preparation of the letter. If the Association elects to respond to a mortgagee questionnaire the Association may charge a reasonable fee (in addition to any charge for an estoppel letter), plus reasonable attorney's fees incurred for doing so.

**3.13 Mortgage Foreclosure.** If an Institutional Mortgagee of a first mortgage acquires title to a Lot, Home or Unit as a result of foreclosure of the mortgage, or as the result of a deed given in lieu of foreclosure, such acquirer of title shall be liable for the share of regular, special and individual assessments attributable to the Lot, Home or Unit, or to the former Owner, which came due prior to the mortgagee's acquisition of title, plus interest, late fees, attorney's fees and costs incurred by the Association in the collections process, and the Association will not be considered jointly and severally liable for the payment of any monetary amounts with any subsequent buyer if the Association holds title due to its foreclosure action or by deed in lieu of foreclosure. Any unpaid share of assessments 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, Home or Unit as the result of a foreclosure or other Court ordered sale shall be obligated to pay all past due charges, assessments, interest, late fees, attorney's fees and costs regardless of whether or not the Association has filed a lien and the Association will not be considered jointly and severally liable for the payment of any monetary amounts with any subsequent buyer if the Association holds title due to its foreclosure action or by deed in lieu of foreclosure. No Owner or acquirer of title to a Lot, Home or Unit by foreclosure, or by a deed in lieu of foreclosure, may be excused from the payment of any charges, assessments, interest, late fees, attorney's fees and costs coming due after title is acquired.

**4. EASEMENTS AND COMMON AREAS.** The following easements are hereby granted and/or reserved and Common Areas described:

(A) Easements for the performance of all its duties and responsibilities over, across and through the Property are hereby reserved for the Association and its agents, managers, employees, licensees and invitees.

(B) Easements over, across and through the Property are hereby granted to the Association for access to their exterior portions of each Home and Unit for the purpose of providing necessary maintenance as determined by the Association.

**4.1 Appurtenant Easements.** Subject to the restrictions found elsewhere in this Section 4, the Owner of each Lot, Home or Unit, their guests, lessees and invitees, shall have as an appurtenance to their Lot, Home 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 of Lots, Homes and Units, their guests, lessees and invitees, subject to the provisions of this Declaration.

**4.2 Interior Roadway Easements.** The roadways are subject to the rules and regulations as the Association imposes, however, each Owner of a Lot, Home or Unit shall have an easement for ingress and egress over said roadway system. The Association shall have the right to establish parking regulations and to enforce such regulation by all lawful means.

**4.3 Utility Easements.**

(A) A perpetual easement shall exist upon, over, under and across the Property for the purpose of maintaining, installing, repairing, altering and operating all utilities including but not limited to sewer lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal systems, pipes, valves, gates, pipelines, cable television and all machinery and apparatus appurtenant thereto as may be necessary for the installation and maintenance of utilities servicing all Owners of Lots, Homes and Units and the Common Areas. All such easements shall be of a size, width and location so as to minimize and not unreasonably interfere with the use of any improvements which are now, or will be, located upon the Property.

(B) The Association reserves the right, and the power, to declare and file of record, additional easements granting the full free right, power and authority to lay, operate and maintain all utilities facilities that the Association or GSD is responsible for pursuant to this Declaration, as amended or supplemented. This reserved easement right shall be through, in, over and under a strip of land up to seven (7) feet in width from all sides, front and rear lines of any Lot, Common Area or Neighborhood Common Area, and no Structure shall be placed on such seven (7) foot strip. The duration of any such easement shall be as set forth in an instrument of record. Said easement and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Lot, Common Area or Neighborhood Common Area.

(C) The Association further reserves the right to impose upon the Common Area and Neighborhood Common Area such easements and cross-easements for ingress and egress and the installation, maintenance, construction or repair of facilities, including, but not limited to, electric power, telephone, golf cart crossings, governmental purposes, sewer, water, gas, drainage, irrigation, lighting, television transmission, security, garbage and waste removal and the like as it deems to be in the best interests of, and necessary and proper for GGC, the Property or the Golf Course.

**4.4 Buffer Areas, Open Space, Drainage and Storm Water Management Systems.** The buffer areas and open space are Common Areas. The maintenance, operation and preservation of the buffer areas and open space are the responsibility of the Master Association. The GSD owns and shall be responsible to maintain and operate the drainage and Storm Water Management Systems within the Common Area, including but not limited to the utilities and water and sewer system aspects thereof. The GSD shall own, operate, and maintain the Storm Water Management System as permitted by the South Florida Water Management District, including without limitation, all ponds, retention areas, culverts, and related appurtenances. GSD's ownership of said facilities is vested in that certain quit claim deed from the Master Association, recorded May 30, 2014 at Instrument Number 2014000114068 of the County Public Records. The GSD, and the Association and Owners as beneficiaries of the Storm Water Management System, are hereby provided the right to legally enforce the warranties, covenants, and assurances provided herein. The Storm Water Management System, including all water management and drainage aspects of all easements and rights of way, as well as any other covenants creating obligations of performance with respect to the drainage systems, will be continuously maintained by the GSD.

**4.5 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.

**4.6 Extent of Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

(A) the right of the Association, in accordance with its Bylaws, to borrow money for the purpose of improving and/or maintaining the Common Areas and providing the services herein, and, to aid thereof, to mortgage said properties;

(B) the right of the Association to impose rules and regulations governing the use of the Common Areas and Association property;

(C) the right of the Association to a non-exclusive easement over, across and through the exterior portions of each Lot, Home or Unit as necessary to meet the Association's maintenance responsibilities; and

(D) the right of the Association to charge reasonable admission and other fees for the use of any recreational or common facility by an Owner's tenants, guests or invitees.

**4.7** Any Owner of a Lot, Home or Unit in the Property which contains an existing structure which encroaches upon another Lot, Home or Unit, or the Common Areas, shall have a valid and perpetual easement for the encroachment and maintenance of same, as long as it stands and exists.

**4.8** **Country Club Property.** The Country Club Property and Golf Course is privately owned, leased, licensed and/or operated by the Club Owner and is not part of the Common Areas. Only the “Clubhouse Site” is part of the Committed Property, as further stated in section 1.7 of this Declaration. The Country Club has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Country Club Property shall be used. The Country Club Property is held and is subject to an easement (the “Club Easement of Enjoyment”) for the use of the Country Club Property in accordance with its membership plan documents and all improvements now or hereafter located thereon, which Club Easement of Enjoyment shall be appurtenant to and shall run forever with the title to each Lot, Home and Unit, for the benefit of the Owners.

The Country Club also reserves the following powers:

(A) To exercise all the rights described herein and elsewhere in Country Club’s bylaws, rules and Membership plan documents or allowed by law in regard to the Country Club Property.

(B) To grant easements over the Common Areas, Lots, Homes and Units on the Property to permit the doing of every act necessary and proper to the playing of golf. These acts shall include, but not be limited to, the recovery of golf balls from any area of the Property, the flights of golf balls over and upon the Property, the use of necessary and usual equipment upon the Golf Course, the usual and common noise level created by the playing of the game of golf, together with all of the other common and usual activity associated with the operation of the Country Club’s golf course and golf facilities.

(C) To determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Country Club Property shall be used.

**4.9** **Errant Golf Balls.** All persons owning, occupying, using or entering on the country club property, or common areas, lots, homes and units near or adjacent to the golf course are hereby notified that there is a possibility that errant and misdirected golf shots may result in injury or damage to persons or property. Neither the Association, any director, officer, employee nor agent thereof shall be liable for any such injury or damage including without limitation, as to the design of the golf course or any property adjacent or nearby the golf course or as to any maintenance of any of the foregoing. Accordingly, all persons owning, occupying, using or entering upon any common area, lot, home or unit within, adjacent to or near the golf course assumes the risk of injury or damage from such errant golf balls.

**4.10** **Irrigation of Golf Course.** All Owners within Gateway Greens hereby acknowledge and agree to the irrigation of the Golf Course and golf facilities located within GGC with water pumped from the ponds and drainage areas by the Club, pursuant to a permit issued by the SFWMD.



**4.11 Right to Modify Easements.** Notwithstanding anything to the contrary contained herein, the Association has the power without the joinder 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 Common Areas, Lots, Homes and Units.

**4.12 Public Facilities.** In order to supplement the public facilities and services that may be furnished by any local governmental agency, and in order to provide additional facilities and services that may not be otherwise available, the Association is hereby authorized and empowered by all of the Owners, when the Association in its sole discretion deems necessary or desirable, to act on their behalf to contract for the installation of a water plant and supply system, irrigation water system, a gas system, a sewage disposal plant and sanitary sewer system, storm sewers, gutters, burbs, bike paths and sidewalks, street lighting and any other facilities or services customarily furnished or provided by local governmental agencies. No Owner shall install any potable or irrigation well or draw irrigation water from any pond, lake or drainage area without the written approval of the Association and GSD.

## **5. MAINTENANCE.**

**5.1 Association Maintenance.** The Association is responsible for the maintenance, operation, repair, replacement, insurance, protection and control of all Common Areas, including but not limited to, the roadways, guardhouse facilities, bridges, perimeter walls, monuments, and any improvements thereon, and shall keep the same in good, safe, clean, attractive and sanitary condition, and in good working order at all times. There shall be no material alterations of or substantial additions to the Common Areas costing more than five percent (5%) of the Association's annual total budget, including capital reserves, in any given year unless first approved by a majority of the Voting Interests voting in favor, in person or by proxy, of the expenditure at a duly called meeting of the Members of the Association at which a quorum is present. However, if work that is reasonably necessary to meet the Association's maintenance, repair and replacement obligations described herein, or is otherwise budgeted in the Association's capital reserve study (as the same is updated from time to time), also constitutes a material alteration or substantial addition, no prior Membership approval is required. For the purposes of interpreting this section 5.1, a "material alteration or substantial addition" is an improvement or change that materially or appreciably changes the use, function or appearance of the Common Areas.

**5.2 Owner Maintenance.** The individual Lot, Home and Unit Owners or, as applicable, any Neighborhood Association, shall have the maintenance, repair and replacement responsibility of all property to which they hold title or which constitutes the common elements or common areas of the Neighborhood Association including but not limited to the following:

- (A) All grounds, green areas, structures, roads, sprinkler systems and other improvements located on an individual Lot, Home, Unit, or Neighborhood Association common area.

(B) Lots, Homes, Units and Neighborhood Association common areas shall be kept in a neat and well maintained condition at all times, free from debris and rubbish and the lawn areas and other landscaping shall be regularly mowed and maintained.

(C) Specific Maintenance Standards.

i. Roofs and exteriors of Homes and Units, including driveways and walkways, must be cleaned on a regular basis to remove and discourage mold growth and accumulation of dirt. Owners are responsible to ensure that they timely clean their roof in order to keep Gateway Greens looking clean and well maintained. The timing of roof and driveway cleaning is based on a number of factors, such as weather, light conditions, surrounding trees and color. The decision of whether a roof, driveway or walkway is unreasonably dirty and/or moldy and is in need of immediate cleaning shall be made by the Board of Governors or Association manager, in their sole and absolute discretion.

ii. Owners shall apply mulch or other ground cover approved in the DRM on a periodic basis to ensure that all landscaped areas on a Lot remain in a neat and attractive condition at all times.

iii. Owners shall trim trees, bushes and hedges on a periodic basis in order to maintain a clean, healthy and attractive appearance of said plantings at all times. Should a tree or other planting on a Lot become dead, diseased or otherwise unsightly, the Owner is solely responsible for the immediate repair, replacement or treatment. The decision of whether a tree or planting requires repair, replacement, removal or treatment shall be made by the Board of Governors or Association manager, in their sole and absolute discretion.

**5.3 Enforcement of Maintenance.** If the Owner of a Lot, Home or Unit, or as applicable a Neighborhood Association, fails to maintain the Lot, Unit, Home or common areas as required above, the Master 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 property, with or without consent of the Owner or Neighborhood Association, to perform the maintenance that is deemed necessary by the Association in its sole discretion. Before taking such corrective action, the Association shall provide at least a single written notice and at least fifteen (15) days' notice to the Owner or Neighborhood Association describing the required action. The Association's right of entry as provided above is limited to Neighborhood Association common areas, vacant Lots, and the exterior portions of a Home or Unit and shall not permit or obligate the Association to enter the interior of a Home or Unit. The Association may repair, replace or maintain any item which constitutes a hazard 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 Property. Any expenses so incurred by the Association shall be billed directly to the Owner of the Lot, Home Unit or Neighborhood Association to which such services are provided, and shall be an individual assessment, secured by a lien as provided in Section 3.3 above.

**5.4 Negligence; Damage Caused by Condition in Unit.** Each Owner shall be liable for the expenses of any maintenance, repair or replacement of Common Areas, other Lots, Homes or Units, or personal property made necessary by his act or negligence or by that of any Member of his family or his guests, employees, agents, or lessees.

**5.5 GSD Maintenance – Ponds, Canals and Secondary Drainage**

The provisions of this section 5.5 shall govern the maintenance of the canals, ponds and secondary drainage facilities located on the Committed Property, whether or not same is part of the Association's Common Area.

(a) Application of herbicide for aquatic weed control on ponds and canals on the Committed Property shall in all instances be performed by or through the GSD, and the Association has no responsibility for same.

(b) The cost and expense of applications of herbicides for aquatic weed control, in excess of the normal GSD application thereof (as determined by the GSD), for canals and ponds located upon the Committed Property, shall be an Association Common Expense. The Association shall have the right to approve such additional applications of herbicides before the GSD performs an additional application that it determines to be necessary.

(c) The cost and expense of maintaining and clearing all "secondary drainage facilities" (as same are defined by the GSD) on Committed Property shall be a Common Expense and the cost and expense, and the cost and expense of maintaining and clearing drainage facilities not on Committed Property, but which are necessary for the proper functioning and operation of the "secondary drainage facilities" on the Committed Property shall be a Common Expense.

(d) The Association, in its sole discretion, may but is not obligated to enter into an agreement with the GSD regarding the matters set forth in his section 5.5.

**6. DESIGN REVIEW COMMITTEE.** The architectural review and control functions of the Association shall be administered and performed by the Design Review Committee (the "DRC"), which shall consist of at least five (5) persons (but not more than seven), who shall be Members of the Association, and at least one of whom shall also be a Member of the Board of Governors. All Members of the DRC shall be appointed by and shall serve at the pleasure of the Board of Governors. A majority of the DRC Members present at any duly advertised DRC meeting shall constitute a quorum to transact business at any meeting of the DRC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the DRC. Any vacancy occurring on the DRC because of death, resignation, or other termination of service of any Member thereof, shall be filled by the Board of Governors. The Members of the DRC shall receive no compensation for services other than reimbursement for actual expenses approved in advance by the Board incurred by them in the performance of their duties hereunder. The DRC shall, with the prior approval of the Board of Governors, have the power to engage the services of professionals for compensation for purposes of aiding the DRC in carrying out its functions.

**6.1 DRC Approval.** Any modifications, alterations, installations or additions to the exterior of a Lot, Home, Unit or common area made by an Owner or Neighborhood Association requires DRC written approval. Certain exterior modifications, changes and replacements are considered as “minor” and do not require advance approval from the DRC. Those minor-type items are listed in the DRM as it may be amended from time to time, and the Owner is solely responsible to inspect the DRM and confirm whether an alteration, change or replacement is considered as “minor” before proceeding with work. The Owner or Neighborhood Association shall be responsible for insurance, maintenance, repair and replacement of 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 Property for which the Association is responsible.

**6.2 Powers and Duties.** The DRC shall have the following powers and duties:

(A) To recommend, from time to time, to the Board of Governors the creation or modification and/or amendments to the Design Review Manual (or DRM) and to publish and distribute such standards to the Members. The DRM and 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 Governors at a meeting duly called and noticed and at which a quorum is present. Notice of the adoption or amendment to the DRM, including a copy of same shall be delivered to each Member of the Association. However, the lack of receipt of notice of a Board meeting concerning the DRM or a copy of any adoption of or modification to the DRM shall not affect the validity of such change or modification.

(B) To require submission to the DRC of a complete set of all plans and specifications for any improvement, structure of any kind or any other work which in any way alters the exterior appearance of any structure, Home, Unit, Common Area, Neighborhood Common Area or condominium common element, including without limitation, any building, fence, well, swimming pool, tennis court, enclosure, sewer, drain, disposal system, decorative building, monument or landscape device, object or other improvement, the construction or placement of which is proposed upon the Property. The DRC 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 the DRM.

(C) To approve or disapprove any exterior improvement or structure of any kind, including, without limitation, any building, screen enclosure, drain or disposal system, or other improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon the Property. No fences or walls shall be allowed unless constructed by the developer of a Neighborhood as part of the original common elements. Evidence of approval by the DRC may be made by a certificate, in recordable form, executed by the Chairman of the DRC. For the purposes of interpreting this section 6 governing DRC review, the term “exterior” shall mean anything on the Lot, Home, Unit or common area that is visible from the street or an adjoining Lot, Home or Unit. In the case of lanais, terraces or balconies that are attached to a Home or

Unit, DRC approval is still required for structural improvements and changes that are visible from the outside, including without limitation painting, outdoor kitchens, patio renovations, pool renovations/installations, screening, enclosures, pergolas and exterior lighting. Owners shall refer to the DRM for the complete list of exterior improvements, changes and alterations that require approval.

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

(E) To hire or engage the services of a design professional, architect, engineer or other similar contractor to assist the DRC with its review obligations hereunder, the reasonable expenses of which shall be assessed to the Owner or Neighborhood Association seeking approval.

**6.3 DRC Time Constraints.** The following time constraints shall apply to the DRC review process:

(A) Within forty-five (45) days of receipt of an application required under this Section 6 and the DRM, the DRC will:

1. Approve the application
2. Deny the application, with reasons
3. Request more information from the applicant

(B) If in the case the DRC has not taken any of the above actions within the specified forty-five (45) day period, the applicant can request a special DRC meeting to take place within ten (10) days.

(C) All DRC approvals are good for a maximum of ninety (90) days, but once the work has started sixty (60) days are allowed for completion. In extenuating circumstances, the applicant may petition for a time extension.

**6.4 Appeals.** The Board of Governors shall hear any appeals of DRC decisions. Appeals shall be filed in writing within thirty (30) days of the DRC denial. Written appeals shall include the written reasons for the appeal, together with any supporting documentation, so that the Board of Governors has a meaningful opportunity to review the DRC decision. The Board of Governors shall have thirty (30) days to examine this appeal, conduct hearings and render decisions. The Board of Governors has the authority to overrule, vacate or otherwise modify in all respects any decision of the DRC. Any appeal decision of the Board of Directors shall be made in its sole and absolute discretion and shall be final. The Board of Governors shall not be obligated to, but may, conduct a hearing or meeting with an Owner upon the filing of an appeal. The Board, in its sole discretion, has the right to review the written appeal, the DRM, any materials from the DRC, and render a decision only in writing.

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 approval of the DRC may be withheld pending payment or correction of the violation(s).

**6.5 Variances.** The ~~DRC may~~ Board has the sole authority to authorize variances from compliance with any of the architectural provisions of this Declaration or the DRM when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental, which must be signed by at least a majority of the ~~DRC-Board members~~ following review at an DRC meeting. 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 or the DRM for any purpose 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 the use of the Lot, Home, Unit or property, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority. ~~Notwithstanding the foregoing, all variance approvals must be submitted to the Board of Governors within ten (10) days of the issuance of same.~~

**6.6 Noncompliance.** In the event any work for which approval plans are required under this Section 6 is not completed in substantial compliance with said approval plans, within the time limit for completion, the DRC, or its duly authorized representatives, shall notify the applicant in writing of such noncompliance specifying the particulars of noncompliance and require the applicant to remedy same within thirty (30) days. If, upon the expiration of thirty (30) days from the date of such notification, the applicant shall have failed to remedy such noncompliance, the DRC shall notify the Board in writing of such failure. The Board shall then determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing same. If a noncompliance exists, the applicant shall remedy or remove same within a period of not more than thirty (30) days from receipt of written notice of the Board's decision. If the applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the non-complying improvements or remedy the noncompliance, and the applicant shall reimburse the Association for all expenses incurred in connection therewith including legal expenses incurred to compel compliance. If such expenses are not promptly repaid by the applicant to the Association, the Board shall levy an Individual Assessment for noncompliance against such applicant's Home, Unit or common area which shall be secured by a lien as provided in section 3.3 hereof.

**6.7 Superiority of Master Architectural Guidelines.** Notwithstanding any provisions contained elsewhere to the contrary, and it being deemed to be in the best interests of Gateway Greens and all Owners collectively that architectural guidelines be uniform and consistent throughout the Property, the terms of this Section and the Association's Architectural Planning Criteria shall be superior in all respects to any other architectural restrictions, guidelines or provisions contained in the governing documents of the Neighborhood Associations.

**6.8 No Liability of DRC Members.** Neither the DRC nor any Member or agent thereof, 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 DRC's duties hereunder, unless due to the willful misconduct or bad faith of a Member, and only that Member shall be liable therefore. The DRC 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 the immediate vicinity and to the Property. The DRC shall take into consideration the aesthetic aspects of the architectural designs, placement or buildings, landscaping, color schemes, exterior finishes, materials and other features governed by this Declaration and the DRM, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

**6.9 Attorney's Fees.** For all purposes necessary to enforce this Section 6, the Association shall be entitled to collect reasonable attorney fees, costs and other expenses against the Owner, whether or not litigation is instituted, and the Board may assess such amounts in the form of an individual assessment for noncompliance.

## **7. ASSOCIATION'S SUPERIOR RIGHTS AND POWERS; CONFLICT.**

**7.1 Ownership in Gateway Greens.** In taking title to a Lot, Home or Unit, each Owner becomes subject to the terms and conditions of this Declaration. In the case of any inconsistencies between the terms of this Declaration and any governing documents of a Neighborhood Association or other recorded covenants, the terms of the more restrictive provision shall control unless such terms are prohibited by or conflict with this Declaration, in which event the terms of this Declaration shall control.

**7.2 Supremacy of Declaration; Authority to Enforce Other Governing Documents.** In addition to the rights and obligations conferred upon the Association pursuant to this Declaration, the Articles and the Bylaws of the Association, the Association shall be entitled to exercise or require the exercising of any of the rights contained in any governing documents of the Neighborhood Associations within Gateway Greens. Further all such other associations and all committees thereof within Gateway Greens shall also be subject to all superior rights and powers conferred upon the Association pursuant to this Declaration, the Articles, Bylaws and Rules and Regulations of the Master Association. No Neighborhood Association or other association within Gateway Greens shall take any action in derogation of the rights of, or contrary to, the interests of the Master Association.

**8. USE RESTRICTIONS.** The following rules and standards apply to all Lots, Units, Homes and other property within Gateway Greens and shall be enforced by the Association pursuant to Section 12 hereof.

**8.1 Home.** Each Lot, Home and Unit shall be occupied by only one Family at any time. Each Lot, Home and Unit shall be used as a personal residence and for no other purpose. However, "no impact" or "low impact" Home based businesses in and from a Lot, Home or Unit are allowed. Such uses are expressly declared customarily incident to residential use. Examples of businesses

which are prohibited and are considered “impact” businesses are businesses or commercial activity or ventures that create customer or employee traffic to and from the Home, create noise audible from outside the Home, or generate fumes or odors noticeable outside the Home, including but not limited to, a Home day care, adult care facility, beauty salon/barber, mechanic, and/or animal breeding. Signs and other advertising material visible from the street are prohibited. No business or commercial activity shall be conducted in or from any Home which entails visitation of the Home by clients, customers, suppliers, employees or other business invitees, or door-to-door solicitation of residents or the storage of inventory. In the event there is any disagreement or ambiguity as to whether an activity constitutes “no impact”, “low impact” or “impact”, the Board of Governors shall classify the activity in its discretion, and its decision shall be final. In the event that any Neighborhood Covenants also govern the use of a Home or Unit in the manner provided in this section 8.1, the more stringent covenant, rule or restriction shall govern.

**8.2 Minors Conduct of Family Members, Guests and Invitees.** ~~All persons under eighteen (18) years of age shall be closely supervised at all times by an adult to ensure that they do not become a source of unreasonable annoyance to other residents.~~ Owners shall be responsible, jointly and severally, responsible with any other adult who may have primary responsibility for the minor for the conduct of Family Members, Guests and Invitees who commit violations of the Governing Documents, or who become a source of unreasonable annoyance to other residents in Gateway Greens or agents or vendors of the Master Association.

**8.3 Operation of Motor Vehicles on Common Area.** Any person that does not have a valid, current driver’s license is prohibited from operating any motor vehicle on the roadways in Gateway Greens and other Common Areas unless said person is under the direct supervision of another person that has a valid, current driver’s license. All vehicles including golf carts must be registered through the Association’s access control system. Motorized or electronic recreational vehicles such as “go-karts”, ATV’s, powered bicycles and powered scooters shall not be operated on the Association’s roadways or other Common Areas. Any Owner, tenant or other resident who permits the operation of a vehicle that is restricted by this section 8.3, shall fully indemnify and hold the Association harmless from any resulting injury, death or property damage.

**8.4 Pets.** The keeping of pets is a privilege not a right. Pets shall at all times, whenever they are outside of the Home or Unit or in the Common Areas, be carried or confined on a leash and under the control of the responsible person(s). Invisible fences are not permitted ~~unless approved by the DRC.~~ Pets shall not be allowed to become a source of unreasonable nuisance or a danger to other residents and their families and invitees. The Board of Governors, in its sole discretion, shall have the right to (a) declare whether a pet is an unreasonable nuisance or danger to the Gateway Greens Community; and (b) require that such a pet be removed from the Gateway Greens Community. Any Owner or other person who keeps or maintains a pet shall, in exchange for and in consideration of the privilege to keep the pet, hereby indemnify and hold the Association free and harmless from any loss, claim or liability of any kind or character of whatever nature arising from or related to the keeping or maintaining of such pet. The foregoing shall not restrict or impose any right of a Neighborhood Association from establishing more stringent or specific standards for pets.



**8.5 Nuisances.** No Owner shall use his Lot, Home or Unit, or permit it to be used, in any manner which constitutes or causes an unreasonable amount of annoyance or nuisance to the occupant of another Lot, Home or Unit, or which would not be consistent with the maintenance of the highest standards for a first class residential community, nor permit the premises to be used in a disorderly or unlawful way. The use of each Common Area, Lot, Home and Unit shall be consistent with existing laws and the Governing Documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner. No solicitation will be allowed at any time within the Community. No Owner, or any family member, tenant, guest of an invitee of an Owner, shall be permitted to harass or be abusive to representatives, agents or vendors of the Master Association, which shall constitute a nuisance under this section. The Board of Governors' determination as to what constitutes a nuisance or annoyance shall be dispositive and shall control without regard to any legal definition of such terms. Should the Association incur legal or management expenses with respect to a nuisance or other improper conduct of an Owner (or the Owner's family, lessees, guests or invitees) that is deemed by the Board to be unreasonably detrimental or disruptive to the Association or its Members, including without limitation pre-litigation "cease and desist" or other notices of violation, said expenses shall be an Individual Assessment against the responsible Owner and secured by a lien.

**8.6 Signs.** Except as provided herein no Owner or person may post signs of any type whatsoever in Gateway Greens. The temporary posting or display of one (1) "For Sale", "Open House", or other similar sign shall be permitted with the prior approval of the DRC. The Board or DRC shall adopt specifications in the DRM regarding the size, shape, content, location, number and duration of permissible signs. Owners who own a Lot that sits on a street corner or pond may be permitted to post or display up to two (2) signs with prior approval of the DRC. Owners may post security/alarm signs issued by the security/alarm service provider. The Board or its DRC may also allow other types of signs as it deems permissible from time to time and adopt specifications regarding same. Notwithstanding anything else, "For Rent" signs are specifically prohibited under all circumstances. The Association shall have the right to remove any unapproved sign without prior notice to the Owner, and the Owner shall be responsible for any costs so incurred which shall be an individual assessment.

**8.7 Garages.** In order to maintain a harmonious and aesthetic appearance, garage doors in Gateway Greens shall remain closed except when in actual use. Garages shall be used primarily for storage of motor vehicles and a reasonable amount of personal property. ~~Garages shall not be used for storage or other purposes such that the resident cannot park their regular passenger vehicles (including golf carts) in the garage overnight on a routine basis.~~ No garage shall be enclosed or converted to living quarters or other use inconsistent with this section, unless permitted by applicable governmental code and approved in advance by the DRC

**8.8 Lots and Lot Structures.** Other than one single family Home or Unit, and related garage, no structure, trailer, house trailer, tent, shack, shed, barn, pergola, fountain, statute, entrance signage, gates, clubhouses, or other outbuilding shall be used or placed on any Lot or in the common areas of Neighborhood Associations at any time either temporarily or permanently without the approval of the DRC and the Board of Governors.

**8.9 Setback Lines.** All building and structures erected or constructed shall conform to (a) the Lee County land development code and applicable County setback limitations and (b) any prior amendment or supplement to this Declaration governing setbacks within a particular Lot or Neighborhood, and shall further be subject to approval by the DRC and Board of Governors.

**8.10 Motor Vehicles and Boats.** No maintenance or mechanical repairs of vehicles or boats are permitted on the Property except within an enclosed garage or in the case of an emergency. No boats, ATV's, golf carts, swamp buggies, dune buggies, go carts, wave runners, jet skis, motorcycles, mopeds, trailers, motor Homes, travel trailers, campers, recreational vehicles or commercial vehicles shall be parked anywhere on the Property except within an enclosed garage and further in accordance with the Association's rules and regulations for vehicles as they may be amended from time to time. As used herein the term "commercial vehicle" means trucks, vans, including but not limited to "panel vans" lacking windows on all sides, 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 graphics 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. No vehicle or equipment, regardless of type, shall be parked on lawns, unpaved areas, or other areas that are not designated for parking pursuant to the Governing Documents or subdivision plat. Overnight parking in streets and roadway within Gateway Greens is only permitted in accordance with the Association's rules and regulations, as they may be amended from time to time, and shall require prior approval and a parking pass from the Association's access control personnel. The Association shall have the right to tow any vehicle violating the law, this Section, the rules or regulations, or other restriction contained in the Governing Documents and the cost of towing shall be the obligation of the Owner of the vehicle, and if not promptly paid, shall be an Individual Assessment against the property secured by a lien.

**8.11 Window Coverings and Storm Protection.** Hurricane shutters and hurricane window film are not prohibited; however, the DRC may adopt uniform specifications and guidelines covering the type, style, installation, duration and color of hurricane shutters. Electronic hurricane or storm shutters may be installed on a permanent basis only after approval in writing by the DRC, which approval shall be subject to the stipulation that the shutters shall remain in the open position until an official "hurricane watch" or "hurricane warning" for Lee County has been posted by the National Weather Service. The stipulation shall also provide that the shutters will be reopened within 48 hours of the termination of the "hurricane watch or warning". The DRC shall have the authority to allow certain types of hurricane or storm shutters to remain in the closed position during certain months of the year, subject to rules and other conditions set forth in the DRM as it exists from time to time.

**8.12 Landscaping.** Except for areas maintained by the Association, all common areas maintained by Neighborhood Associations and all areas of Lots, Homes and Units not covered by structures, walkways or paved parking facilities shall be maintained by their Owners as lawn or landscaped areas to the roadways edge of any abutting streets and to the waterline of any abutting ponds, canals or water management areas. Stone, gravel or paving may not be used as a substitute for grass in a lawn. All lawn and landscaping shall be kept in good condition by the Owner or association, if applicable. Lawns must be regularly cut and mulched areas regularly mulched. The

landscaping on Lots, Homes and Units, including without limitation the trees, shrubs, lawns, flowerbeds, walkways and ground elevations, shall be maintained by the Owner thereof in a well-groomed manner. Such grooming shall include but not be limited to regularly cutting, trimming, watering and fertilizing. Mulched areas must be regularly mulched. Upon fifteen (15) days written notice to the Owner or Neighborhood Association (as the case may be), the Association shall have the irrevocable right to enter upon any common area, Lot, Home or Unit and perform lawn, landscaping or other maintenance which the Owner has failed to perform. Said action shall not be deemed a trespass. The cost of such maintenance shall be charged to the Owner or Neighborhood Association as an Individual Assessment and if said charge is not paid within thirty (30) days shall be secured by a lien against the Lot, Home or Unit.

**8.13 Guest Occupancy.** There is no limit on the number of days or overnights that family members of an Owner(s) can occupy a Home or Unit when the Owner(s) is not present. For non-family members of an Owner(s), occupancy of a Home or Unit when the Owner(s) is not present is limited to fourteen (14) days or overnights in any twelve (12) month period.

**8.14 General.**

(A) No towels, garments, rugs, etc., may be hung from windows, railings or other parts of the Homes or Units. No clotheslines or drying yards shall be located so as to be visible from neighboring Homes or Units, or from the interior roadways within the Property.

(B) No weeds, underbrush or other unsightly growths shall be permitted to grow or remain upon any part of the Property and no refuse pile or unsightly objects shall be allowed to be placed or remain anywhere thereon.

(C) Trash, garbage, recycling, and other waste shall be kept only in sanitary containers which shall be kept in a clean and sanitary condition and screened from view from neighboring Lots, Homes and Units and the interior roadways except when out for pick-up. Recycle and trash bins shall not be put on the curb for pick-up prior to 5:00 p.m. the night before the scheduled pick-up and shall be removed from the curb no later than 6:00 p.m. the day of pick-up. Placement of trash and recycle bins shall otherwise conform with applicable County regulations. No Lot, Home, Unit or common area in a Neighborhood Association shall be used as dumping ground for rubbish, trash, waste or yard/horticultural waste matter (i.e., lawn clippings, tree branches/brush, palm fronds, leaves etc.). No incinerator or outdoor burning shall be permitted. In the case of yard/horticulture waste, Owners are responsible for the County's pick up and disposal standards (i.e. bagging, bundling). Yard and horticulture waste may only be kept at the curb for pick up within twenty-four (24) hours of the scheduled pick-up time by County waste management.

(D) No antenna of any kind shall be placed or erected upon any Unit or affixed in any manner to the exterior of any building other than a satellite antenna less than one meter in diameter, an aerial designed to receive over-the-air television broadcast, or an antenna designed to receive multi-channel, multi-point distribution service which may be installed only at a location on a Home or Unit approved by the DRC. In approving the installation and location of any antenna the DRC and Board shall comply with state and federal laws.

(E) No wall or fence shall be constructed without prior approval from the DRC. No hedge or shrubbery abutting the Lot lines shall be permitted without prior approval of the DRC. No wall, fence, hedge or shrubbery shall be constructed on any Lot until its height, length, type, design, composition, material and location is first approved by the DRC. Any dispute as to these features and restrictions shall be resolved by the DRC, whose decision shall be final. Any wall or fence approved by the DRC shall be maintained in good condition and repair, and any hedges or shrubbery approved by the DRC shall be regularly groomed and in good condition.

(F) All recreational facilities, accessory structures and other similar improvements constructed or placed in or on Neighborhood common area or on a Lot, Home or Unit, including but not limited to swimming pools, spas, tennis courts, ramps, jungle gyms, playground type structures, play houses, tree forts, platforms, basketball hoops/backboards, dog houses or any other structure of a similar type, kind or nature shall be allowed only upon written approval of the DRC in advance of placement or construction. The Owner is responsible to keep all such recreation facilities maintained in a good manner. If upon inspection, if the Owner has not maintained any approved recreation facility(s), the Board may order them removed and the Owner shall be responsible for any expenses incurred as an Individual Assessment.

(G) Energy saving devices and equipment, including without limitation solar panels, window tinting and clothes lines, are permitted provided they are installed and maintained in accordance with the DRM as they exist from time to time. The Association shall have the authority to regulate the location, appearance, installation and placement of solar panels and collectors provided such regulations and restrictions comply with applicable law.

(H) Oil tanks, bottled gas tanks, swimming pool equipment and housings and sprinkler pumps and other such outdoor equipment must be underground or placed in sight-screened, walled-in or fenced-in areas so they shall not be readily visible from any adjacent street or Lot. In addition, the Association may require that adequate landscaping be installed around these facilities and maintained by Owner. Any gas tank with a volume over 20 pounds must be installed underground and with proper permits. No unenclosed storage area shall be permitted on any Lot. No enclosed storage area shall be constructed or erected which is separated from the Home.

(I) All exterior lighting of a Lot, Home or Unit shall be conforming to the APC as they exist from time to time. The DRC may require mailbox lighting and lighting adjacent to the street lines of a Lot. Game court lighting shall only be permitted upon conditions specified by the DRC, including without limitation designation of the hours of illumination.

**8.15 Driveways.** All Lots, Homes and Units, if applicable, shall have a paved driveway of stable and permanent construction. All driveways shall be made of concrete or pavers unless otherwise approved by the DRC in advance and in writing. Any top coating, painting, seal coating or other driveway modifications must be consistent with the DRC's standards and specifications and approved in writing by the DRC before application or installation.

**8.16 Water Management, Retention and Drainage Areas.** The water management, retention and drainage areas (ponds) are not part of the Common Areas. Except as provided herein the maintenance, repair and replacement of the water management, retention and drainage areas are the obligation of the GSD. Such maintenance shall include removal of aquatic weeds and debris. Swimming or bathing in water retention areas shall be prohibited. Docks or other structures may not be erected in water retention areas without the prior written approval of the Board of Governors and GSD. All other uses of water retention areas shall be subject to the prior written approval of the Board of Governors and GSD.

Neither the Association nor any of its officers, governors, committee members, employees, management agents, agents, contractors or subcontractors (collectively the “Listed Parties”) shall be liable or responsible for maintaining or assuring the safety, water quality or water level of/in any pond, canal, creek, stream, river or other water body within the properties, except as such responsibility may be specifically imposed by, or contracted for with, an applicable governmental or quasi-governmental agency or authority. Further, none of the Listed Parties shall be liable for any property damage, personal injury or death occurring in, or otherwise related to, any water body, and all persons using same do so at their own risk.

All owners and users of any portion of the property located adjacent to or having a view of any of the aforesaid water bodies shall be deemed, by virtue of their acceptance of the deed to or use of, such property, to have agreed to release the Listed Parties from all claims for any and all changes in the quality and level of the water in such bodies.

All persons are hereby advised that from time to time alligators and other wildlife may habituate or enter into water bodies with or nearby the properties and may pose a threat to persons, pets and property, but that the Listed Parties are under no duty to protect against, and do not in any manner warrant or insure against, any death, injury or damage caused by such wildlife.

**8.17 Air Conditioning Units.** All air conditioning Units shall be shielded and hidden so that they are not readily visible from any adjacent street, or adjacent Lot, Home or Unit. Wall air conditioning Units may be permitted only upon prior approval of the DRC. With the exception of an emergency, window air conditioning Units shall not be permitted on any Lot, Home or Unit. [Emergency conditions excepted]

**8.18 Irrigation and Sewer.** All Lots, Homes and Units shall be connected to the municipal sewer system. No Owner shall install any potable or irrigation well or draw irrigation water from any lake or drainage area.

**8.19 Garage, Estate Sales.** Garage sales on any Lot, Home or Unit are strictly prohibited. Estate sales shall be approved in advance by the Association’s access control personnel and in accordance with any rules and regulations adopted by the Board from time to time.

**8.20 Ponds.** Boats of any kind and swimming in the ponds are prohibited. The Board, in its sole discretion, and provided there is no objection from the GSD, may permit fishing on the ponds and may adopt reasonable rules and regulations concerning the same.

**8.21 Mailboxes and Post Lamps.** All mailboxes and post lamps shall conform to the standards and designs approved by the DRC in the DRM or Neighborhood Association Documents, as they exist from time to time. Mailboxes and lampposts shall be maintained in a good, neat and clean condition.

**8.22 Electronic Monitoring Systems.** In order to preserve the tranquility and peacefulness for all Owners and the Community, no audible siren, horn, bell or other noisemaking device shall be permitted in connection with an electronic monitoring or alarm system. All electronic monitoring or alarm systems shall use silent or inaudible alarms (i.e. electronic notice to a central station).

**8.23 Windows and Sliding Doors Facing Golf Course.** All windows and sliding doors on a Home or Unit which face the Golf Course shall be of tempered glass or “Lexan” or other similar material. The choice of such material shall be up to the Owner. No “mirrored” window or sliding door shall be permitted.

**9. INSURANCE.** In order to protect adequately 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 Governors. 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 Governors, 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 Governors.

(D) **Compensation.** Workers' Compensation insurance if required by law.

(E) **Governors and Officers Liability Coverage.** Adequate liability coverage for claimed errors and omissions of Governors, officers, volunteers and committees that serve at the pleasure of the Board.

(F) **Crime and Cyber.** Crime coverage for direct loss of Association funds through malfeasance, dishonesty or social engineering, and cyber coverage for economic damages arising through a failure of network security or privacy controls.

**9.2 Duty to Insure.** Each Owner is responsible for insuring the real and personal property within his own Lot, Home or Unit. Each Owner recognizes that he or she bears financial responsibility for any damage to their property or liability to others that would otherwise be covered by such insurance liability including all risk, flood, liability, etc.

**9.3 Duty to Reconstruct.** If any Neighborhood common area, Lot, Home or Unit or other improvement is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner or Neighborhood Association (as the case may be) shall cause repair or replacement to be commenced within ninety (90) days from the date that such damage or destruction occurred, and to complete the repair or replacement within nine (9) 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 DRC. The Board of Governors may, in its sole and exclusive discretion, extend the time periods for reconstructions contained herein.

**9.4 Failure to Reconstruct.** If the Owner or Neighborhood Association fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 9.3 above, the Association shall give written notice of default. If after thirty (30) days the responsible party has not made satisfactory arrangements to meet his obligations, the Association shall be deemed to have been granted the right, as such Owner's attorney-in-fact, to commence and/or complete the repairs sufficient to substantially restore the improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this section, which shall be in the sole discretion of the Board of Governors, the Owner shall be deemed to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvement. The Association shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Neighborhood common area, Lot, Home or Unit to secure payment.

**9.5 Association Insurance; Duty and Authority to Obtain.** The Board of Governors 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.

**9.6 Optional Coverage.** The Association may purchase and carry other such insurance coverage as the Board of Governors may determine to be in the best interests of the Association and its Members.

**9.7 Description of Coverage.** A detailed summary of the coverage included in the Association's policies, and copies of the policies, shall be available for inspection by Members or their authorized representatives as provided by applicable law.

**9.8 Waiver of Subrogation.** If available and where applicable, the Board of Governors shall endeavor to obtain insurance policies which provide the insurer waives its right to subrogation as to any claim against the Owners, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

**9.9 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, Homes and Units, the shares of each Owner being the same as his share in the Common Areas.

(B) **Mortgagee.** If a mortgagee endorsement has been issued as to a Home or 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 Lots, Homes 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.

**9.10 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 applied to the Association's retained earnings or Operating Surplus.

**9.11 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 Lots, Homes, Units or Common Areas.

**9.12 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 Governors shall within ninety (90) days obtain reliable and detailed estimates of the cost of repair and restoration, and shall negotiate and contract for repair and reconstruction, to be completed thence within nine (9) months. However, if the repairs are so extensive that additional time is needed to complete the repairs, the Board of Governors shall have in its exclusive discretion the ability to extend the time for completion.



(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 through the Board shall promptly declare an emergency, and upon determination of the deficiency, levy a special assessment against all Owners for the deficiency without approval from the Owners. The special assessment shall be added to other funds available for repair and restoration of the property.

**10. LEASING OF UNITS.** In order to foster a stable residential Community and prevent a motel-like atmosphere, the leasing of Homes and Units by their Owners shall be restricted as provided in this Section.

**10.1 Restrictions and Procedures.**

(A) All leases of Homes and Units must be in writing and approved in writing as provided in Section 11 below. An Owner may only lease his entire Home or Unit to a Family or Single Family as that term is defined in this Declaration. Tenants are prohibited from sub-leasing any portion of the Home or Unit to any third party. No Owner may lease to any third party any single room, such as a bedroom, within the Owner's Home Unit. Daily or weekly usage or occupancy arrangements, such as Airbnb or VRBO, are not permitted regardless if the arrangement is considered a license and not a lease. If such an arrangement is for occupancy of at least thirty (30) days, the Owner shall still comply with the procedure for leases stated in section (B) below.

(B) All of the provisions of the Governing Documents and the rules and regulations of the Association shall be applicable and enforceable against any person occupying a Home or Unit as a lessee or guest to the same extent as against the Owner. A covenant on the part of each occupant to abide by the Governing Documents and rules and regulations of the Association, designating the Association as the Owner's agent with the authority to terminate any lease agreement and evict or remove the tenants in the event of breach of such covenant in accordance with Chapter 83, Florida Statutes, shall be deemed to be included in every lease agreement, whether oral or written and whether specifically expressed in such agreement or not. No lease shall be for a period of less than thirty (30) days or for a period greater than twelve (12) months. No Home or Unit may be leased more than three (3) times in any twelve (12) month period. All lease agreements shall be in writing. A notice and copy of the lease must be delivered to the Association at least twenty (20) days before the lease term begins, which shall include an application fee in an amount established by the Board of Governors from time to time. Owners leasing their Home or Unit shall be jointly and severally liable for the conduct of their tenants and their tenants' families, guests and invitees while the Home or Unit is under lease, which shall include without limitation liability for legal fees and expenses incurred by the Association to enforce the Governing Documents or the rules and regulations whether or not a legal action is filed. Neighborhood Associations shall have the right, but not the obligation, to establish more stringent or specific standards and requirements for leasing and may reserve the right to require screening and advance approval of the prospective lessee(s) before a Unit or Home can be leased.

**10.2 Use of Common Area and Association Property.** To prevent overtaxing the facilities, an Owner whose Home or Unit is leased may not use the Association's recreation or common parking facilities during the lease term.

**10.3 Collateral Assignment of Rents.** In the event an Owner is in default in payment of assessments for Common Expenses or any other monetary amounts owed to the Association, the Association shall have the authority to garnish and collect rents directly from the Owner's tenant. Upon demand by the Association the tenant shall pay said rent to the Association. Such rental payments shall be collected in accordance with the procedures established by the Board of Governors and applied in accordance with the law until all past due amounts are paid in full. In the event such tenant fails to remit said rents directly to the Association, the Association shall have the right to terminate the lease and evict the tenant in accordance with Chapter 83, Florida Statutes. For the purpose of such eviction, the Association shall be deemed to be an agent of the landlord and all attorney's fees and costs shall be the responsibility of the Owner and shall constitute a charge and may be collected as provided for in Section 3 of this Declaration. The authority granted in this Section is in addition to any authority granted by law.

**10.4 Attorney Fees and Costs.** All attorney fees and costs associated with any legal action taken against a tenant or occupant shall be the responsibility of the Owner. This includes, but is not limited to, all attorney fees and costs incurred by the Association in connection with a covenant enforcement matter, collateral assignment of rents, or legal action with regard to a tenancy/occupancy issue, termination of a lease, and/or eviction of any lessee and/or occupant, whether or not a lawsuit is filed.

## **11. FORMS OF OWNERSHIP AND APPROVAL OF TRANSERS.**

**11.1 Forms of Ownership.** In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Lots, Homes and Units, and facilitating the development of a stable, quiet community and peace of mind for all residents in Gateway Greens, the transfer of Ownership of a Lot, Home or Unit shall be subject to the following terms and conditions:

A. Individual Ownership. A Lot, Home or Unit may be owned by an individual person.

B. Co-Ownership. Co-Ownership of Lots, Homes and Units is permitted, but all Owners must be members of a Single Family or living together as a single-family housekeeping unit. If co-ownership is to be by more than two persons, the Owner shall designate one natural person as Primary Occupant, and the use of the Lot or Unit by other persons shall be as if the Primary Occupant is the actual Owner.

C. Entity Ownership. A Lot, Home or Unit may be owned in trust or by a corporation, partnership, or other entity which is not a natural person. However, the intent of this provision is to allow flexibility in estate or tax planning, and not to create circumstances in which the Lot, Home or Unit may be used as short-term transient

accommodations for several individuals or families. Said corporation, trustee or any entity which is not a natural person shall designate one natural person to be the Primary Occupant, and the use of the Lot, Home, or Unit by other persons shall be as lessees and as if the Primary Occupant is the only actual Owner.

D. Life Estates. A Lot, Home or Unit may become subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, during said life estate, the life tenant shall be the only member of the Association and occupancy shall be as if the life tenant was the only Owner. However, the life tenant and remaindermen shall be jointly and severally liable for all Assessments and charges against the Lot, Home or Unit. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. If there is more than one life tenant, they shall be treated as if they were co-Owners for purposes of voting and occupancy rights.

E. Notification of Community Association. The Association must be notified of any transfer of a Lot or Unit as provided in section 11.3 below. The Association may delegate the approval process required in section 11.3 below to a Neighborhood Association, which can be revoked at any time by the Master Association. If a Neighborhood Association administers the approval process, copies of all applications and written decisions must be furnished to the Community Association upon request.

[Note: The following sections 11.2 through 11.5 will be a separate vote at the members' meeting for consideration of this Amended and Restated Declaration. If at least 2/3 of the membership does not approve sections 11.2 through 11.5 in their entirety, they will not become a part of this Amended and Restated Declaration.]

**11.2 Maintenance of Community Interests.** In order to maintain a community of congenial Owners who are financially responsible, and thus protect the value of the Lots, Homes and Units, the transfer of Lots, Homes and Units by any Owner shall be subject to the following provisions:

Transfers Subject to Approval.

(a) Sale. No Owner may dispose of a Lot, Home or Unit or any interest therein by sale without approval of the Association.

(b) Lease. No Owner may dispose of a Lot, Home or Unit or any interest therein by lease without approval of the Association.

(c) Gift. If any Owner shall acquire his title by gift, the continuance of his ownership of his Lot, Home or Unit shall be subject to the approval of the Association.

(d) Devise or Inheritance. If any Owner shall acquire his title by devise or inheritance, the continuance of his ownership of his Lot, Home or Unit shall be subject to the approval of the Association.

(e) Other Transfers. If any Owner shall acquire his title by any manner not considered in the foregoing subsections, the continuance of his ownership of such Lot, Home or Unit shall be subject to the approval of the Association. Notwithstanding, if an Owner transfers title solely for estate or tax planning purposes, without a change in occupancy (i.e., into a revocable living trust), said transfer shall not be subject to Association approval.

**11.3 Approval by Association.** The approval of the Association that is required for the transfer of ownership of Lots, Homes and Units shall be obtained in the following manner:

(a) Notice to Association.

(1) Sale. An Owner intending to make a bona fide sale of his Lot, Home or Unit or any interest in it shall give to the Association notice of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require including without limitation a copy of the executed sales contract.

(2) Lease. An Owner intending to make a bona fide lease of his Lot, Home or Unit in accordance with this Declaration shall give to the Association notice of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require and an executed copy of the proposed lease.

(3) Gift, Devise or Inheritance; Other Transfers. An Owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously considered, shall give to the Association notice of the acquiring of his title, together with such information concerning the Owner as the Association may reasonably require, and a certified copy of the instrument evidencing the owner's title.

(4) Failure To Give Notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Lot, Home or Unit, the Association at its election and without notice may approve or disapprove the transaction or ownership.

(b) Certificate of Approval.

(1) Sale. If the proposed transaction is a sale, then within ~~twenty (20) fifteen~~ (15) days after receipt of such notice and information, the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the Association in recordable form, which shall be recorded in the public records of Lee County, Florida, at the expense of the purchaser.

(2) Lease. If the proposed transaction is a lease that conforms with the terms and conditions stated in section 10 above, then within ~~twenty (20) fifteen~~ (15) days after receipt of such notice and information the Association must either approve or disapprove the proposed

transaction. If approved, the approval shall be stated in a certificate executed by the Association and delivered to the lessee. Proposed leases that do not conform with the terms and conditions in section 10 of this Declaration shall not be approved.

(3) Gift, Devise or Inheritance; Other Transfers. If the Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within ~~twenty~~ fifteen (15) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the Owner's ownership. If approved, the approval shall be stated in a certificate in recordable form executed by the Association, which shall be recorded in the public records of Lee County, Florida, at the expense of the Owner.

(c) Approval of Occupant. If the Owner or purchaser is a corporation, partnership, trust or some other entity or two or more natural persons (other than husband and wife or domestic partners), or any combination thereof (even if only one natural person is involved), the approval of ownership shall be conditioned upon occupancy of the Lot, Home or Unit by only a Single Family as defined in this Declaration and the members of that Single Family shall be designated "Primary Occupants." Only the Primary Occupant(s) shall be entitled to occupy the Lot, Home or Unit.

(d) Disapproval of Transfer for Good Cause.

(1) Approval of the Association for any transfer contemplated by this section 11 may be withheld only for good cause and only if ~~a majority of the whole~~ the entire Board so votes unanimously. Only the following may be deemed to constitute good cause for disapproval:

(a) The person seeking approval, within ten (10) years of making application, has been convicted of a felony involving violence to persons or property, a felony involving possession or sale of a controlled substance, ~~a felony demonstrating dishonesty or moral turpitude or any criminal conviction~~ or a felony involving a minor;

(b) The person seeking approval has a record of severe financial irresponsibility, including without limitation multiple prior bankruptcies, foreclosures or bad debts;

(c) The application on its face gives the Board reasonable cause to believe that the applicant intends to conduct himself in a manner inconsistent with the Association's Governing Documents;

(d) The person seeking approval has evidenced an attitude of continuous disregard for Association rules by his or her conduct in Gateway Greens as a tenant, Owner or occupant of a Lot, Home or Unit;

(e) The person seeking approval has failed to provide the information, fees or interviews required to process the application in a timely manner, or

provided false information during the application process.

(f) The person seeking approval is delinquent in the payment of Assessments, fines or other charges owed to the Association or is in violation of any of the Association's Governing Documents at the time the application is considered.

**11.4 Disapproval by Association.** If the Association shall disapprove a transfer of ownership or possession of a Lot, Home or Unit for good cause as provided above, the transfer shall not be made and shall be void.

**11.5 Exceptions.** The foregoing provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer to or purchase by an Institutional Lender or other mortgagee approved by the Association that acquires its title as the result of owning a mortgage upon the Lot, Home or Unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings. The provisions of this section shall apply, however, to a transfer, sale or lease by an Institutional Lender or Association approved mortgagee that so acquires its title.

**11.6 Additional Provisions for Leases.** The provisions of this Declaration shall be deemed expressly incorporated into the lease of any Lot, Home or Unit, and shall supplement the terms, conditions and restrictions stated in section 10 above. An Owner may lease a Lot, Home or Unit only in accordance with the following provisions:

A. Any lease entered into without Board approval, or in violation of the above provisions, shall, at the option of the Board, be treated as a nullity, and the Board shall have the right to evict the tenant on seven (7) days' notice, without securing consent to such eviction from the Owner, and the Owner will be subject to fines, suspensions and other legal and equitable remedies available to the Board.

B. Tenants are not permitted to perform their own exterior maintenance on a Lot or Unit and must employ licensed and insured professionals for exterior maintenance. As a condition of approval, the Board may require lease applications to list all vendors for landscape, irrigation and pool maintenance and to promptly notify the Association if there are changes in the vendor list during the lease term. This is a material condition for any lease approval, violation of which shall be grounds for termination of the lease and eviction by the Association as agent for the Owner.

C. In order to preserve a residential quality and avoid an atmosphere of transient and motel-like environment, the Board may, by regulation, impose further restrictions upon the leasing, number of guests and the frequency of their visits in the case of leased Lots, Homes and Units. All of the provisions of the Association's Governing Documents pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Lot, Home or Unit as a tenant or Guest, and a covenant upon the part of each occupant and Guest to abide by the Association's Governing Documents, and designating the Association as the Owner's agent for the purpose of, and with the authority to,

terminate any such lease or occupancy agreement in the event of a violation by the tenant and evict such tenant, shall be an essential element of any lease or occupancy agreement, whether oral or written, and whether specifically expressed in such lease or agreement or not.

D. Any person(s) occupying a Lot, Home or Unit for more than thirty (30) days in any calendar year shall not be considered a Guest, but rather such person shall be considered a lessee subject to approval by the Association as provided in this Article, regardless of whether such person is paying rent or other consideration to occupy the Lot or Unit.

## **12. AMENDMENTS AND DURATION.**

**12.1 Duration.** The conditions of this Declaration shall run with the land and shall inure and accrue to the benefit of and be enforceable by the Association or the Owner of any real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns for thirty (30) years from the recording date hereof. Thereafter, the Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) years.

**12.2 Amendments.** Except as otherwise provided herein or by law, this Declaration may be amended at any time upon a) approval of at least a majority of the Board of Governors; and b) the affirmative vote of at least ~~two-thirds (2/3) of the Members present and voting, in person or by proxy, at a meeting of the Members for which proper notice has been given and at which a quorum exists~~ a majority of the total voting interests in the Association. 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 copy of the amendment are recorded in the Public Records of Lee County, Florida.

## **13. ENFORCEMENT; GENERAL PROVISIONS.**

**13.1 Enforcement.** Enforcement of the Governing Documents 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, persons or organization violating or attempting to violate or circumvent any covenant, condition, rule or restriction, either to restrain violation or to recover damages, and against any Lot, Home 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.

**13.2 Owner and Member Compliance.** The Governing Documents of 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 Home or Unit under lease from the Owner or by permission or invitation of the Owner or his tenants (express or implied), and their licensees, invitees or guests. Failure of any Owner to notify any person of the existence of the rules, 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 family members, tenants, licensees, invitees or guests and by the guests, family members, licensees and invitees of his tenants, at any time.

**13.3 Fines and Suspensions.** The Board of Governors may levy fines and/or suspensions against Members, or Members' tenants or guests, or both, who commit violations of Florida Statutes, the provisions of the Governing Documents including the Rules and Regulations, or who fail to pay assessments or other charges. 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 accrued fine for a continuing violation shall not exceed \$3,000.00, or the maximum allowed by applicable law. Suspensions of the use of Common Areas, facilities, Member-only access points, and non-essential services (e.g. 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) a 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 panel of three (3) Members appointed by the Board, none of whom may then be serving as Governors 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 Governors shall levy and enforce same.
  
- (C) Written Notice of Fine or Suspension. If the Association imposes a fine or suspension, the Association must provide written notice of such fine or suspension



by mail or hand delivery to the Owner and, if applicable, any tenant, licensee, or invitee of the Owner.

- (D) **Collection of Fines.** Any fine not paid within thirty (30) days of the Written Notice in subsection (C) above shall become delinquent. Fines may be treated as an Individual Assessment subject to the provisions for the collection of assessments set forth in this Declaration, and any fine of \$1,000.00 or more may become a lien against a Lot, Home or Unit. Fines may also be collected utilizing any lawful method. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney fees and costs.

**13.4 Suspensions and Fines without Hearing.** The foregoing notwithstanding, if allowed by law, no prior notice or opportunity for a hearing is required for the imposition of a fine or suspension upon any Member for the nonpayment of any monetary obligation that is delinquent in excess of ninety (90) days. The suspension must be approved at a properly noticed Board meeting and upon approval, the Association must notify the Owner and if applicable, the Owner's occupant, lessee, or invitee by mail or hand delivery of the suspension.

**13.5 Voting Suspension and Board Eligibility.** As stated in Section 3.8 above, the Association may suspend, with no prior notice or opportunity for a hearing, the voting rights of a Member for the nonpayment of any monetary obligation that is delinquent in excess of ninety (90) days. The suspension must be approved at a properly noticed board meeting and upon approval, the Association must notify the Owner by mail or hand delivery of the suspension. A person who is delinquent in the payment of any fee, fine, or other monetary obligation to the Association is not eligible to run for a seat on the Board.

**13.6 Litigation.** Enforcement actions for damages, or for injunctive relief, or both, on account of any alleged violation of law, or of the Governing Documents or Association rules, may be brought by any Owner, or the Association against:

- (A) the Association;
- (B) the Owner;
- (C) anyone who occupies or is a tenant or guest of a Home or Unit; or
- (D) any officer or Director of the Association who willfully and knowingly fails to comply with these provisions.

**13.7 Legal Expenses.** In any legal proceeding arising out of an alleged failure of a guest, tenant, residential 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.

## **14. NEIGHBORHOODS**

**14.1 Individual Property.** In the event that any Neighborhood Association, which has been granted a right of enforcement by the Master Association, does not enforce any or all of its Neighborhood Covenants or perform any of its duties and responsibilities pursuant to its articles of incorporation, bylaws or rules and regulations, the Master Association shall enforce such Neighborhood Covenants, and perform such duties and responsibilities, including any and all maintenance provisions, and obtain the payment of the cost of such enforcement and maintenance pursuant to section 5 hereunder. The Master Association shall be entitled to reimbursement of attorney's fees and court costs, including fees incurred for pre-litigation demands and notices, incurred during the enforcement of Neighborhood Covenants.

**14.2 Entry Rights.** Each Neighborhood Association and each Owner shall permit the Master Association, or any agent or employee to enter upon the Neighborhood Common Area and upon Owner's Lot at reasonable times, to carry out the provisions of this Declaration and the same shall not constitute a trespass.

**14.3 Neighborhood Common Area.**

- (a) The cost and expense of the Neighborhood Common Areas shall not be an Association Common Expense, but rather shall be borne by the Owners of the Lots, Homes and Units in the Neighborhood as set forth in the Neighborhood Covenants.
- (b) The Master Association may contract with any Neighborhood Association to provide for the operation and maintenance of its Neighborhood Common Area.

**14.4 Neighborhood Covenants.** The Master Association reserves the right to amend the specific provisions of this Declaration insofar as they apply to one or more Neighborhoods without amending those provisions with respect to all Neighborhoods. The Master Association further reserves the right to determine consistency of all Neighborhood Covenants with this Declaration and the plan of development of GGC, and approve and consent to all Neighborhood Covenants prior recording in the Lee County Public Records. Neighborhood Covenants shall not be effective until the Master Association approves and consents to same. In the event of a conflict between the Association's Governing Documents and any Neighborhood Covenant(s), as determined in the sole and absolute discretion of the Board of Governors, the Association's Governing Documents shall control.

**15. GENERAL PROVISIONS**

**15.1 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.

**15.2 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 roster record of the Association. In the absence of such roster information then the notice shall be mailed to the address of the Home or Unit. Notice to one of two or more co-Owners of a Home 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 or management company in writing of any change of address or name.

**15.3 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 effect, then such provision will be deemed null and void but have no effect on the remaining provisions herein.

**15.4 Interpretation; disputes.** The Board of Governors is responsible for interpreting the provisions of this Declaration, 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.

**15.5 Non-Profit Status.** Notwithstanding anything contained herein to the contrary, the Association will perform no act nor undertake any activity inconsistent with its non-for-profit status under applicable state or federal law.

**15.6 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.

**15.7 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.

**16. DISCLAIMER OF LIABILITY OF ASSOCIATION.** Notwithstanding anything contained herein or in the Articles of Incorporation, any rules and regulations of the Association or any other document governing, binding on or administered by the Association (collectively, the "Governing Documents"), the Association shall not be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any owner, occupant or user of any portion of the properties including, without limitation, residents and their families, guests, invitees, agents, servants, contractors or subcontractors or for any property or any such persons, without limiting the foregoing:

**16.1** It is the express intent of the Association documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the properties have been written, and are to be interpreted and enforced, for the sole purpose of enhancing and maintaining the enjoyment of the properties and the value thereof.

**16.2** The Association is not empowered, and has not been created, to act as an entity which enforces or ensures the compliance with the laws of the United States, State of Florida, Lee County and/or any other jurisdiction or the prevention of tortuous activities.

**16.3** Any provisions of the Association documents setting forth the uses of assessments which relate to the health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if assessment funds are chosen to be used for any such reason.

**16.4** Each owner and each other person having an interest in or lien upon any portion of the property shall be bound by these disclaimers and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association arising from or connect with any matter for which the liability of the Association has been disclaimed herein.

**16.5** As used herein “Association” shall include with its meaning all of the Association’s governors, officers, committee members, employees, agents, contractors (including management companies), subcontractors, successors and assigns.

**LIST OF EXHIBITS TO THE DECLARATION  
AND DISSEMINATION REQUIREMENTS**

**Composite Exhibit “A”**

The land subject to this Amended and Restated Declaration legally described in the Original Declaration and the amendments and supplements thereto. Said legal descriptions are hereby collectively incorporated herein by reference only and renamed “Composite Exhibit A”.

**Exhibit “B”**

Historical amendments and supplements to Original Declaration (referred to only be recording information in the County public records).

**Exhibit “C”**

The Amended and Restated Articles of Incorporation of Gateway Greens Community Association, Inc.

**Exhibit “D”**

The Amended and Restated Bylaws of Gateway Greens Community Association, Inc.