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**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF CRESCENT VIEW**

**Phelps Builders Group, Inc.**, a Florida Corporation (hereinafter called "Developer"), is the owner in fee simple of certain real property located in Polk County, Florida, known by official plat designation as **Crescent View**, located on the following described property in Polk County, Florida:

**CRESCENT VIEW, according to the plat thereof recorded in Plat Book  
142, Pages 18 and 19, Public Records of Polk County, Florida**

For the purpose of enhancing and protecting the value, attractiveness and desirability of the lots or tracts constituting such subdivision, developer hereby declares that all of the real property described above and each part thereof shall be held, sold, and conveyed only subject to the following easements, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I. DEFINITIONS**

**Section 1.** "Association" shall mean and refer to **Crescent View Homeowners Association, Inc.**, a nonprofit corporation, its successors and assigns.

**Section 2.** "Common Area" shall mean all platted subdivision roads, and easements together with the boundary walls located on a portion thereof, and the surface water management system as permitted by the Southwest Florida Water Management District including all lakes, retention areas, culverts and related appurtenances. These common areas are set forth on the recorded subdivision plat referred to above. The term "Common Area" also means any personal property appurtenant to any real property owned by the Association or acquired by the Association if the personal property is designated as such in the bill of sale or other

instrument conveying it. "Common Area or Common Property" does not mean any area that is (i) dedicated in the plat to the county or municipal government or other party other than the Association, or (ii) sold or dedicated by the Association.

**Section 3.** "Developer" shall mean and refer to **Phelps Builders Group, Inc.**, a Florida Corporation, and its successors and assigns.

**Section 4.** "Declarant" shall mean **CRESCENT VIEW, LLC.**

**Section 5.** "Lot." shall mean any unit of land shown on the recorded subdivision plat referred to above together with any amendments thereto with the exception of the common areas, and subject to easements as shown on said plat.

**Section 6.** "Maintenance" shall mean the exercise of reasonable care to keep improvements and fixtures in a condition comparable to their original condition, normal wear and tear excepted.

**Section 7.** "Member" shall mean every person or entity who holds membership in the association.

**Section 8.** "Mortgage" shall mean a conventional mortgage.

**Section 9.** "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of an Agreement for Deed.

**Section 10.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the subdivision, and shall include Agreement for Deed Buyers, but shall not include those holding title merely as security for performance of an obligation. Every "owner" shall be a "member".

**Section. 11.** "Short Term Rental" shall mean a dwelling unit which is made available more than three times a year for periods of fewer than 30 days or one calendar month at a time, whichever is less, for use, occupancy or possession by the public. Timeshares, vacation rentals and holiday rentals meeting this definition are examples of short-term rentals.

**Section 12.** "Subdivision" shall mean and refer to **Crescent View**, as shown in the plat thereof recorded in the Public Records of Polk County, Florida, and such additions thereto as may be brought within the jurisdiction of the association as herein-after provided.

**Section 13.** "Surface water management system facilities" shall include, but are not limited to; all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas,

**Section 14.** "Builder" shall mean and refer exclusively to any builder designated by **Declarant**. Only a Builder as designated by Declarant shall be entitled to construct homes

on any Lot. Notwithstanding this section, **Phelps Builders Group, Inc.** shall have the right to act as builder on any Lot owned by **Phelps Builders Group, Inc.** No owner of any Lot shall be permitted to use any builder other than as provided for in this Section 14.

## **ARTICLE II. MEMBERSHIP IN ASSOCIATION; VOTING RIGHTS**

**Section 1.** Every owner of a lot shall be a member of the association; membership shall be appurtenant to and may not be separated from ownership of a lot.

**Section 2.** The association shall have two classes of voting members as follows:

**Class A.** Class A members shall be all owners with the exception of Declarant and Builder, until such time as Class B membership has been converted to Class A membership as provided in the Articles of Incorporation, and after such conversion all Owners of Lots classified as Residential Property shall be Class A Members. Class A Members shall be entitled to one vote for each lot owned. When more than one person holds an interest in a given lot, all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any lot owned by Class A members. The Association may, but shall not be obligated to, recognize the vote or written assent of any co-owner of a Lot, but the Association shall recognize the vote or written assent of a particular co-owner who or which is designated in writing by a majority interest of all co-owners entitled to cast the vote attributable to the Lot owned by such co-owners, provided that such written designation shall be delivered to the Association not less than twenty-four (24) hours prior to the taking of the particular vote in question. Corporations, partnerships, and other entities must notify the Association of the natural person who will be considered a Member of the Association and be entitled to exercise its vote not less than twenty-four (24) hours prior to the taking of the particular vote in question.

**Class B.** The Class B members shall be Declarant and Builder, who shall be entitled to exercise three votes for each lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or at anytime before at the election of Declarant or Builder.

## **ARTICLE III. ASSESSMENTS**

**Section 1. Lien and Personal Obligation of Assessments.** Developer hereby covenants for each lot sold within the subdivision, and each owner of a lot is hereby deemed to covenant by acceptance of his deed for such lot, whether or not it shall be so expressed in his deed, to pay to the association (1) annual assessments (2) special assessments and (3) individual lot assessments. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and a continuing lien on each lot against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.

**Section 2. Purpose of Annual Assessments.** The annual assessments levied by the association shall be used exclusively to promote the health, safety, welfare, and recreation of the residents in the subdivision, and for the improvement, mowing and maintenance of the common areas and any lots within the subdivision, to be determined within the opinion of the Board of Directors of the Association. Annual assessments shall include, and the association shall acquire and pay for out of the funds derived from annual assessments, the following:

(a) Maintenance and repair of the common areas, including all surface water management systems facilities, and street light leasing, operation and maintenance and contracting for services as to same by a maintenance company.

(b) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, or the like, which the ASSOCIATION is required to obtain pursuant to the terms of this Declaration, or which shall be necessary or proper in the opinion of the Board of Directors of the ASSOCIATION for the benefit of lot owners, or for the enforcement of these restrictions.

**Section 3. Maximum Annual Assessments.** Until July 1, 2009, the maximum annual assessment shall be \$500.00.

**Section 4. Special Assessments.** In addition to the annual assessments authorized above, the association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement on the common area, including fixtures and personal property related thereto and any unusual or emergency maintenance or repair or other expense that this Declaration requires the Association to pay (including, after depletion of reserves, any unexpected expenditures not provided by the budget, or unanticipated increases in the amounts budgeted).

**Section 5. Individual Lot Assessments.** The Association may levy at any time an Individual Lot Assessment against a particular Lot for the purpose of defraying, in whole or in part the cost of any special services to that Lot or any other charges designated in this Declaration as an Individual Lot Assessment. An Individual Lot Assessment may be levied on account of any legal expenses (at trial or on appeal) and costs incurred by the Association in enforcing this Declaration or in enforcing any other declaration the Association is authorized to enforce.

**Section 6. Notice and for Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized by Section 3 or 4 shall be sent to all members not less than ten (10) nor more than thirty (30) days in advance of such meeting. In the event the proposed action is favored by a majority of the votes cast at such meeting, but less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing within five (5) days after the date of such meeting.

**Section 7. Commencement and Collection of Annual and Special Assessments.** The annual assessments provided for herein shall commence as to all lots, except Exempt Lots, on

the first day of the month following the conveyance of the common area. The board of directors shall fix the amount of the annual assessment against each lot and shall fix the dates such amounts become due. The initial homeowner's fee for the first sale of each completed lot shall be \$250.00, which shall not be prorated. Thereafter until changed as provided herein the annual assessment shall be \$500.00, payable annually. Notice of a change in the annual assessments shall be sent to every owner subject thereto. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessments against a specific lot have been paid, and may, after the due date thereof, cause to be recopied in the Public Records of Polk County, a list of delinquent assessments as of that date.

Upon conveyance of an Exempt Lot, the Annual Assessment will become due for such Lot(s), provided however, that the Annual Assessment will be prorated on a monthly or daily basis, whichever the Board elects, and only the portion of the Annual Assessment attributable to the remainder of the fiscal year will be due. The portion of the Annual Assessment attributable to the portion of the fiscal year in which the affected Lot was an Exempt Lot will not be assessed. If payment of the Annual Assessment is by installment, only the applicable portion of the current installment will be due.

**Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common area or abandonment of his lot.

**Section 9. Subordination of Assessment Lien to Mortgages.** The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the assessment lien as to payment which becomes due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### **ARTICLE IV. PROPERTY RIGHTS**

**Section 1. Easements of Enjoyment.** Only the Association shall have such rights in and to the common area as follows:

- (a) For the purpose of drainage and utilities, and the maintenance thereof;
- (b) To dedicate or transfer all or any part of the common area to any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument executed by two-thirds of each class of members agreeing to such dedication or transfer has been duly recorded.

**Section 2. Reservation of Easements.** Developer reserves for itself, its successors and assigns, and for the Association the following perpetual easements:

(a) Utilities. Easements, for ingress, egress, installation, replacement, repair, and maintenance of all public and private utilities and conveniences, upon all property subject to Public Utility Easements as shown on the Plat; across, over, through, and under the Common Area.

(b) Police Powers: Security. A blanket easement for police powers and services supplied by the local, state, and federal governments and for any security services that may be provided by the Association.

(c) Easement to Construct and Maintain Surface Water or Stormwater Management System. A perpetual non-exclusive easement over all areas of the surface water or stormwater management system, for access to operate, maintain or repair. By this easement, the Association and the Developer shall have the right to enter upon any portion of any lot which is part of the surface water or stormwater management system at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water, stormwater management system as required by the Southwest Florida Water Management District. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the Southwest Florida Water Management District.

**Section 3. Right of Entry.** The Association, through its duly authorized agents, employees and contractors, shall have the right after reasonable notice to the owner thereof, to enter any lot at any reasonable hour on any day to perform such maintenance as may be authorized herein.

**Section 4. No Partition.** There shall be no judicial partition of the common area, nor shall developer, or any owner or any other person, acquiring any interest in the subdivision or any part thereof, seek judicial partition thereof. However, nothing contained herein shall be construed to prevent judicial partition of any Lot owned in co-tenancy.

## **ARTICLE V. USE RESTRICTIONS**

The subdivision Crescent View shall be occupied and used only as follows:

**Section 1. Use.** Each lot shall be used exclusively for residential purposes only, and no trade or business of any kind may be carried on therein, provided, however, the lease or rental of a Unit shall not constitute a violation of this covenant. However, any tenant will be subject to this Declaration and the rules and regulations of the Association, so long as they occupy a Unit. Short-term rental of units is prohibited in Crescent View. For purposes of this section, a "short-term rental" is defined by Polk County Ordinances as a dwelling unit which is made available more than (3) times a year for periods of fewer than thirty (30) days or one (1) calendar month at a time, whichever is less, for use, occupancy or possession by the public. No

business activity or commercial use shall be conducted or carried on in connection with the residential usage of the above described real property, other than sales of homes and lots.

**Section 2. Sidewalks and Driveways.** A concrete or paver apron from the street curb to the Lot line shall be constructed; and a concrete or paver sidewalk four (4) feet in width and four (4) inches in depth, located adjacent to the Lot line and within the street right-of-way, shall be constructed along the boundary line of the public street which shall be used for public pedestrian traffic.

**Section 3. Landscaping and Trees.** All areas on each Lot not covered by improvements, driveways, parking areas and walkways shall be properly landscaped within a period of one (1) month after completion of the construction of the dwelling on such Lot. All landscaped areas shall be maintained and good horticulture standards shall be observed in the maintenance of plants and other vegetation in the landscaped area. Within one (1) month after the issuance of a Certificate of Occupancy of a dwelling on a Lot, all front and side yard areas must be sodded with grass, the rear yard must be sodded, and a sprinkler system shall be installed for entire yard which shall be properly maintained in good working order. Trees on Lots shall be maintained in a good and healthy condition including trimming of dead wood and protection against rot and proper fertilization. No provision herein shall be interpreted to limit a property owner from implementing Xeriscape or Florida friendly landscape on his or her land.

**Section 4. Garages.** Each single family dwelling shall have a private garage, capable of housing at least two (2) cars, together with a concrete driveway or such other driveway as is approved by the Declarant, extending from the garage to the front Lot lines. Each garage shall be attached to the dwelling and shall conform architecturally to the design of the dwelling.

**Section 5. Construction.** The finished exterior of each dwelling and garage constructed on each Lot must be either wood, brick, brick veneer, stucco or stone and there shall be no exposed concrete block. All construction on each Lot shall be new construction. No used building or structures shall be moved onto any Lot. Furthermore, there shall be no storage of building supplies on any Lot except in connection with the immediate construction of a single family dwelling upon said Lot. No prefabricated or modular single family dwelling shall be erected, placed or permitted to remain on any Lot without the prior written consent of the Developer. The minimum roof pitch shall be 5/12 and the roofing shingles shall have a minimum of a 20 year life. No mobile homes or house trailers shall be permitted on any Lot at any time. If construction of a residence on any Lot is not commenced within sixty (60) days after such Lot is purchased from Declarant, the Owner of such Lot shall be required to keep the Lot free from litter, refuse, trash and debris and to keep the Lot in a condition which does not detract from the neighborhood, including proper trimming and mowing on a regular basis. If the Owner fails to comply with the foregoing, Declarant or the Association may remove all such trash or debris from the Lot and/or mow the Lot and the Owner of the Lot shall pay Declarant or the Association, within ten (10) days after receipt of an invoice from Declarant or the Association, the reasonable cost of such removal or mowing, plus twenty (20%) percent of such cost as an administrative charge.

**Section 6. Prohibited Dwellings.** Other than new utility buildings, no building or structure of any sort may be moved on any lot, it being the intention of these restrictions that

any and all buildings and structures constructed on the property be of new materials. No tent, motor home, camper, travel trailer, garage outbuilding or attachment shall be erected or placed on any lot prior to the placement or the construction or delivery of the main dwelling unit, nor at any time may be used as a residence, either temporary or permanent.

**Section 7. Setbacks.** No part or portion of any dwelling unit or structure shall be placed closer than twenty (20) feet from the front property line, or twenty (20) feet from rear property line, nor five (5) feet from side property line, or within twenty (20) feet of any side property line abutting a street. Notwithstanding the foregoing, the Developer reserves the right to amend the setback provision for any Lot that may require special consideration due to its irregular shape or location, provided all zoning laws are complied with. All dwellings will face the road that has the minimum amount of frontage.

**Section 8. Garbage.** All above-ground containers for garbage and trash shall be permanently housed so as not to be seen from the front of the property, said containers to be covered at all times and emptied regularly by a commercial garbage service. There shall be no open garbage pits, nor shall garbage or trash be stored or burned in a manner and location so as to be a nuisance to the neighboring property or properties. All garbage, landscape debris or excess building materials shall be removed within seven days.

**Section 9. Nuisances and Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot; however, household pets may be kept on a leash or in a fenced in area provided they are not kept or bred for any commercial purposes. No residence shall have more than three (3) dogs, provided that they are not maintained or bred for any commercial purpose. No noxious activity or trade of any sort shall be carried on upon any lot, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood, nor shall any use be made of this property that will in any way injure or lower the value of any adjoining property or the property of the subdivision as a whole.

**Section 10. Signs.** No advertising sign of any kind shall be displayed on any lot except for one sign when advertising the property for sale or rent, and any signs used by a builder or developer to advertise the property during construction or sales period.

**Section 11. Visual Obstructions Aerials. Television Antennas.** Outside antenna or satellite dishes shall not be located between dwelling unit and adjacent street. However, the Developer or the Association may approve one small personal satellite dish not exceeding 24 inches in diameter mounted on the rear side of the roof of the dwelling constructed and maintained in good condition and in a location so as not to be visible from the street abutting the dwelling. All mowers, bicycles, appliances, etc., are to be permanently stored out of sight. All appliances and miscellaneous items of personal property are to be housed in an enclosed permanent structure. All newspaper boxes shall be mounted on the same post as the mailbox.

**Section 12. Architectural Control.**

(a) Review Procedure. Except for activities undertaken by Declarant, no building, fence, antennas, aerials, satellite dishes, wall, yard ornament, mailbox, accessory structure, exterior window awnings, or other structure shall be, commenced, erected, maintained or painted upon



the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external, design and location in relation to surrounding structures and topography by the Developer prior to all lots being sold and structures erected, unless Developer declines to make a decision, and thereafter by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Developer, Board, or its designated committee fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. In making its decisions, the Developer, Board, or its designated committee may consider purely aesthetic matters that in the sole opinion of the Developer, Board, or its designated committee will affect the desirability or suitability of the construction or modification. The Developer, Board, or its designated committee will not be limited to the specific restrictions and requirements of this Article in making its decisions.

(b) **Enforcement.** If any construction or modification is undertaken that has not been approved or that deviates substantially from the approved plans, the Developer, Board, or its designated committee, may bring an action for specific performance, declaratory decree, or injunction, and will be entitled to recover all costs of such action including attorneys' fees at trial or on appeal. The failure to strictly enforce these provisions as to a particular violation or violations will not be deemed a waiver to enforce these provisions as to future or continuing violations.

(c) **Liability.** The Developer, Board, or its designated committee will not be liable to the applicant or to any other party for inadequacy or deficiency in the plans resulting in defects in the improvements, and will not be obligated to ensure either that the proposed plans comply with any applicable building codes or that construction was done in accordance with the plans.

**Section 13. Fencing .** No continuous hedge or planting shall be permitted between the front setback line and the front Lot line, except shrubbery next to the dwelling which does not detract from the neighborhood. No continuous fence, wall or like structure shall be permitted between the rear of the dwelling and the front Lot line. No continuous fence, wall, hedge, planting or like structure over six (6) feet in height shall be permitted on any Lot. Each fence which is installed or placed on any Lot in the subdivision must be of new material and constructed of either, wood, plastic PVC, aluminum, ornamental iron or finished masonry. Each such fence shall be constructed in a manner that does not detract from the neighborhood and shall be maintained in good condition. For wood fences, all supporting framework shall face the interior of the Lot.

**Section 14. Boats and Vehicles.** No boats, boat trailers, mobile homes, house trailers, travel trailers, camper vehicles, motor homes, trucks (such term shall not include pickup trucks, SUVs, passenger vans, and minivans), and commercial vehicles shall be permitted to remain in the subdivision overnight; except that boats and boat trailers, travel trailers, motor homes, camper vehicles and commercial vehicles are permitted when (a) parked in an enclosed garage; or (b) parked on the driveway to a Lot on a temporary basis not exceeding seven (7) days; or (c) parked on a Lot in a location fifty (50) feet behind the front property line, and when such boat or vehicle is not visible from the street and does not detract from the

neighborhood. Except for inoperative vehicles which are parked in an enclosed garage, all vehicles shall have a current license tag registration and shall be in an operating condition. No vehicles shall be parked on any street or front lawn of the subdivision overnight or on a regular or continuing basis. Notwithstanding the foregoing, a member of a family residing in the home may park a passenger car or pickup truck in the driveway of the residence as long as such vehicle is operable and has a current tag registration.

**Section 15. Pools.** No above ground pools may be installed on any Lot. All pools must be enclosed by fences or wall enclosures on all sides or screen enclosures.

**Section 16. Clotheslines.** Clotheslines and the drying of clothes or other items on lines on the Property are prohibited to the extent permitted by law.

**Section 17. Maintenance.** Each lot owner shall be responsible for the improvements, care and maintenance of his property and shall keep the same neat, clean, and mowed. Failure to abide by this requirement or any of the restrictions herein will allow the Developer or Homeowners' Association at their discretion, to enter upon the premises and make improvements and perform maintenance at the owner's expense and will become an Individual Lot Assessment; payment of said expense or pro-rata share of common area maintenance shall be made by lot owner with fifteen (15) days from billing mailing date. Unless timely paid, Developer or Homeowners' Association may add actual cost plus twenty percent (20%) for administrative expenses in handling delinquent accounts, plus interest, cost and attorney fees to the individual Lot Assessment and to any mortgage indebtedness then owing to Developer on said lot and may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property.

**Section 18. Regulations.** Lot purchasers shall have the responsibility of meeting all governmental regulations and requirements applicable for the use of their lot for residential purposes. All dwelling units within the subdivision shall utilize the public water and sewer service facilities as made available and each owner thereof shall pay the duly authorized tap, service, and other charges occasioned by the use thereof. Owner shall not obstruct or allow the obstruction of the flow of drainage in any ditches.

**Section 19. Easements.** Easements for roadways, utilities and drainage facilities are reserved as shown on the recorded plat of the Subdivision. Within these easements, no structure, permanent improvements, or landscaping plants, other than grass, shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of roadways, utilities and drainage facilities.

**Section 20. Utilities.** All utility lines, including electrical and telephone lines, shall be installed underground. This shall apply to all connections to both underground and overhead terminals.

**Section 21. Vegetation in Rights-of-way.** Each Owner of a Lot agrees to maintain and trim the vegetation in the road right-of-way adjacent to such Owner's Lot and agrees to maintain and trim the vegetation located within all drainage swales and all easements located on such Owner's Lot. Each purchaser of a Lot acknowledges and understands that lands in the vicinity of a road right-of-way, drainage swale or drainage easement swale may be subject

to temporary standing water when conditions decrease the rate of percolation and drainage runoff from such road right-of-way of drainage easements.

**Section 22. Fire or Casualty.** No building within the Subdivision which has been partially or totally destroyed by fire or other casualty shall be allowed to remain in such partially or totally destroyed state for a period in excess of six (6) months from the time of such fire or other casualty. If not reconstructed or repaired within such six (6) month period, the Owner shall promptly raze and remove such dwelling from the Lot. Any repair or reconstruction after casualty shall be in accordance with the original plans and specifications previously approve by the Developer. Any construction or repair which is not in accordance with such original plan shall be resubmitted to the Developer, Association Board, or its designated committee for review and approval. Any such repair and reconstruction shall be pursued diligently and continuously until completed.

**Section 23.** No construction activities may be conducted relative to any portion of the surface water management system facilities. Prohibited activities include, but are not limited to: digging or excavation; depositing fill, debris or any other material or item; constructing or altering any water control structure; or any other construction to modify the surface water management system facilities. Construction and maintenance activities which are consistent with the design and permit conditions approved by the Southwest Florida Water Management District in the Environmental Resource Permit may be conducted without specific written approval from the District.

**Section 24.** Each Property owner within the subdivision at the time of construction of a building, residence, or structure shall comply with the construction plans for the surface water management system approved and on file with the Southwest Florida Water Management District.

## **ARTICLE VI. HOMEOWNERS ASSOCIATION**

The Developer has formed the Association. The Owners of all Lots in the Property shall be members of the Association and the Developer reserves the right to add other lands in the vicinity of the Property to the area in which the Owners Lots are members of the Association. Such additional property shall be added by reference to the Association in the restrictions recorded for each new subdivision. The Association will be responsible for the management, maintenance, control, and improvement of the Common Area including but not limited to the street lighting, all utilities, fire hydrants and roadways not dedicated to the City and must keep the same attractive, clean, and in good repair in accordance with this Declaration and applicable governmental regulations. The Association will be responsible for the maintenance, operation, and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system shall mean the exercise of practices which allow the system to provide drainage, water storage, conveyance, or other surface water or stormwater management capabilities as permitted by the Southwest Florida Water Management District. The Association is empowered to:

1. Maintain all Subdivision streets in a good and safe condition and repair and resurface when and if necessary, unless maintained by a governmental entity.

## **ARTICLE VII. GENERAL PROVISIONS**

**Section 1. Enforcement.** The Developer, Declarant, Association, or any Owner or the Southwest Florida Water Management District shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this declaration. Failure by Developer, the Association, the District, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

### **Section 3. Amendments.**

(a) Declarant specifically reserves the absolute and unconditional right, as long as the transition of the Homeowners' Association to the non-developer members has not occurred, to amend this Declaration without the consent or joinder of any party to (i) conform to the requirements of the Southwest Florida Water Management District, Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Veterans Administration, Department of Housing and Urban Development, or any other generally recognized institution involved in the purchase and sale of home loan mortgages; (ii) conform to the requirements of mortgage lenders or title insurance companies; or (iii) perfect, clarify, or make internally consistent the provisions of this Declaration.

(b) Declarant reserves the right to amend this Declaration in any other manner without the joinder of any party, as long as the transition of the Homeowners' Association to the non-developer members has not occurred, and as long as no Owner's right to the use and enjoyment of the Owner's Lot is materially altered.

(c) This Declaration may be amended by consent of Owners of 50% or more of the Lots as evidenced by recording an instrument executed by said Owners in the Public Records, provided that no such amendment will be effective without the consent of Declarant, or its assigns, until Declarant and its affiliates own no Lots or other property within the subdivision.

(d) Any amendments which would affect the surface water or stormwater management system, beyond maintenance in its original condition, including, the water management portions of the common area, must also be approved, executed and acknowledged by the Southwest Florida Water Management District.

**Section 4. Subordination.** No breach of any of the conditions herein contained or reentry by reason of such breach shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the subdivision or any lot therein, provided, however, that such conditions shall be binding on any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

**Section 5. Duration.** The covenants and restrictions of this declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the association of any member thereof for a period of twenty-five (25) years from the date hereof. Thereafter, they shall be automatically extended for additional periods of twenty-five (25) years unless otherwise agreed to in writing by the then owners of at least three-quarters of the subdivision lots, except that any agreement by the then owners which would affect the surface water management system, including the water management portions of the common area, must also be approved, executed and acknowledged by the Southwest Florida Water Management District.

**Section 6. Violations.** Any violation of the above shall entitle the Association or any owner of any lot to enforce same by injunction or otherwise as provided herein, and further, the invalidation of any one of these restrictions by judgment or order of court will in no way affect any of the other restrictions, and such other restrictions shall remain in full force and effect.

**Section 7. Attorney Fees and Costs.** In the event suit is brought to enforce these restrictions, the losing party shall be responsible for all court costs and a reasonable attorneys' fee incurred by the prevailing party.

**Section 8. Common Area.** Nothing shall be altered in, constructed on, or removed from the common area except on the written consent of the association, after the original development thereof by the developer.

**Section 9. Right of Completion.** The completion of the developing of all lots, and the sale, rental, or other disposition of residential units is essential to the establishment and welfare of the subdivision as an ongoing residential community. In order that such work may be completed and the subdivision be established as a fully occupied residential community as soon as possible, nothing in this declaration shall be understood or construed to:

(a) Prevent developer, developer's transferees, or their employees, contractors, or subcontractors of developer or developer's transferees from doing on any part or parts of the subdivision owned or controlled by developer or developer's transferees or their representatives, whatever they determine may be reasonably necessary or advisable in connection with the completion of such work;

(b) Prevent developer, developer's transferees, or their employees, contractors, or subcontractors of developer or developer's transferees from constructing and maintaining on any part or parts of the subdivision property owned or controlled by developer, developer's transferees, or their representatives, such structures as may be reasonably necessary for the completion of such work, the establishment of the subdivision as a residential community, and the disposition of lots by sale, lease, or otherwise, but not limited to, model homes and sales offices;

(c) Prevent developer, developer's transferees, or their employees, contractors, or subcontractors of developer or developer's transferees from conducting on any part or parts of the subdivision property owned or controlled by developer or developer's transferees or

their representatives, the business of completing such work, of establishing the subdivision as a residential community, and of disposing of lots by sale, lease, or otherwise; or

(d) Prevent developer, developer's transferees, or their employees, contractors, or subcontractors of developer or developer's transferees from maintaining such sign or signs on any of the lots owned or controlled by any of them as may be necessary in connection with the sale, lease, or other disposition of subdivision lots; or

As used in this section, the words "its transferees" specifically exclude purchasers of lots improved with completed residence.

**Section 10. Incorporation of the Land Use Documents.** Any and all deeds conveying a Lot shall be conclusively presumed to have incorporated therein all of the terms and conditions of this Declaration.

**Section 11. Assignment.** Developer shall have the right, from time to time, to assign in whole or in part any of its rights or obligations under this Declaration.

**Section 12. Notices.** Notices shall be given, as to Owners by posting at the Owner's dwelling or vacant Lot, or mailing first class postage prepaid to the Owner's address maintained by the Association, or by posting a notice applicable to all Owners at the Common Area, and as to Developer, by sending certified mail to the corporate address of Developer filed with the Florida Secretary of State.

**Section 13. Captions and Statement of Purpose.** Captions inserted throughout this Declaration are intended only as a matter of convenience and for reference only, and in no way shall such captions or headings define, limit, or in any way affect any of the terms or provisions of this Declaration. The Statement of Purpose is a summary of general information only and in no way shall such statement define, limit, or in any way affect any of the terms or provisions of this Declaration.

**Section 14. Gender and Plural Terms.** Whenever the context so requires, any pronoun used in this Declaration may be deemed to mean the corresponding masculine, feminine, or neuter form of the pronoun, and the singular form of any noun or pronoun may be deemed to mean the corresponding plural form of the pronoun and vice versa.

IN WITNESS WHEREOF, the undersigned, being Developer hereunder, has hereunto set its hand and seal this 27 day of FEBRUARY, 2009.

WITNESSES:

Phelps Builders Group, Inc., a Florida Corporation

Carbitt Woods  
Print Name: Carbitt Woods

MIKE PHELPS  
Print Name: MIKE PHELPS

By: Stephen D. Palmer  
Name: Stephen D. Palmer  
Title: Vice President

(SEAL)

GEORGIA  
STATE OF FLORIDA )  
COUNTY )  
OF WINNETT )

The foregoing instrument was acknowledged before me this 27 day of FEBRUARY, 2009 by STEPHEN PALMER, as VICE-PRESIDENT of PHILIPS BUILDERS GROUP, INC., a Florida limited liability company, who is personally known to me or who has produced DRIVERS LICENSE as identification.

My commission expires:

Reinal Rieth  
NOTARY PUBLIC, (State of Florida at Large)  
Print Name: REINAL RIETH GEORGIA

JOINDER

HIGHLAND MEADOWS HOMEOWNERS ASSOCIATION, INC.

HIGHLAND MEADOWS HOMEOWNERS ASSOCIATION, INC. ("Association") does hereby join in the Declaration for Highland Meadows (the "Declaration"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this Joinder is for convenience purposes only and does not apply to the effectiveness of the Declaration, as Association has no right to approve the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 27<sup>th</sup> day of FEBRUARY, 2009.

WITNESSES:

Tara K Watson  
Print  
Name: Tara K Watson

Mary Bailey  
Print  
Name: Mary Bailey

CRESCENT VIEW HOMEOWNERS  
ASSOCIATION, INC., a Florida not-for-profit  
corporation

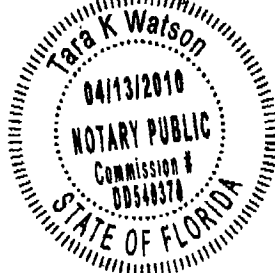
By [Signature]  
Name: TERRY W. MOORE  
Title: DIRECTOR

{SEAL}

STATE OF FLORIDA )  
COUNTY )  
OF Polk )

The foregoing instrument was acknowledged before me this 27 day of FEBRUARY, 2009 by TERRY W. MOORE, as DIRECTOR of CRESCENT VIEW HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



Tara K Watson  
NOTARY PUBLIC, State of Florida at Large  
Print  
Name: Tara K Watson