

Return to: (enclose self-addressed stamped envelope)

**Name:**

Angela Tompkins, Paralegal

**Address:**

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**This Instrument Prepared by:**

Mark F. Grant, Esq.  
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Naples, Florida 34103

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**EIGHTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
ESPLANADE GOLF & COUNTRY CLUB AT LAKEWOOD RANCH**

THIS EIGHTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ESPLANADE GOLF & COUNTRY CLUB AT LAKEWOOD RANCH ("Eighth Amendment") is made this 29 day of January, 2019, by **TAYLOR MORRISON OF FLORIDA, INC.**, a Florida corporation ("Declarant").

**WHEREAS**, that certain Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Esplanade Golf & Country Club at Lakewood Ranch was recorded September 6, 2013, in Official Records Book 2489, Page 2080, of the Public Records of Manatee County, Florida, as the same has been amended and/or supplemented (the "Declaration"); and

**WHEREAS**, for clarification, no Sixth Amendment to the Declaration has been recorded in the Public Records of the County and the amendments to the Declaration skip from the Fifth Amendment to the Seventh Amendment; and

**WHEREAS**, Declarant is desirous of further amending the Declaration; and

**WHEREAS**, the Declaration provides in Article XIII, Section 8, that until the Turnover Date, all amendments or modifications shall only be made by Declarant without the requirement of the Club's consent or the consent of the Owners so long as such amendments or modifications do not materially impair the common plan of development of Esplanade Golf & Country Club at Lakewood Ranch; and

**WHEREAS**, the Turnover Date has not occurred as of the date of this Eighth Amendment; and

**WHEREAS**, this Eighth Amendment does not materially impair the common plan of development of Esplanade Golf & Country Club at Lakewood Ranch.

**NOW, THEREFORE**, Declarant hereby amends the Declaration as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The definitions provided in the Declaration are incorporated herein by reference.
3. Section 6 of Article VII of the Declaration is hereby amended to read as follows:

**Section 6. ASSESSMENTS PAYABLE BY DECLARANT;  
DECLARANT SUBSIDIES.**

Each Owner acknowledges and agrees that because Individual Lot Assessments, ~~Benefited Assessments~~ and Special Assessments are allocated ~~based on the formulas~~ set forth in ~~this~~ Article VII, ~~Section 4~~ above, it is possible that the Club may collect more or less than the amount budgeted for Operating Expenses in the Budget of the Club. Except as may be limited by applicable law, Declarant has the right (at its sole election) to: (i) pay Individual Lot ~~Assessments, Individual Golf Property Assessments and Benefited Assessments~~ for the Lots owned by Declarant in the same manner as other Owners ~~and~~ **(but** at the 20:1 ratio described above, ~~(ii), (ii) pay the Deficit (as calculated pursuant to Section 7 below, herein referred to as the "Deficit"), and/or (iii)~~ **(ii) pay the Deficit (as calculated pursuant to Section 7 below, herein referred to as the "Deficit"), and/or (iii)** subsidize the Budget of the Club as provided below by making voluntary contributions ~~or loans~~ in amounts determined by Declarant in Declarant's sole discretion, ~~and/or (iii) to be excused from payment of its share of Assessments related to its Lots if Declarant elects to deficit fund the amount of Individual Lot Assessments, Individual Golf Property Assessments and Benefited Assessments as provided in Section 7 of this Article VII below.~~

During the period of time that Declarant is offering Homes for sale in Esplanade and/or based on the number of Homes owned by Owners other than Declarant, Declarant may seek to keep Assessments lower than they otherwise may be by ~~either (i) subsidizing the Budget of the Club by making voluntary contributions in amounts determined by Declarant, or (ii) lending money to the Club in amounts determined by Declarant.~~ The amount of any such voluntary contributions ~~or loans~~ may vary from time to time or may be discontinued and recommenced by Declarant from time to time. The determination to subsidize the Budget of the Club, ~~to lend money to the Club,~~ the amount of any such voluntary contributions ~~or loans~~, the discontinuance and/or recommencement of any such voluntary contributions ~~or loan~~ shall all be made by Declarant in Declarant's sole discretion and in no event shall Declarant have any obligation whatsoever to make any such voluntary contributions ~~or loan~~. Each Owner shall be

solely responsible to review the Budget of the Club then in effect to determine if and to what extent Declarant is making any voluntary contributions to subsidize the Budget ~~or loans~~ and thus lower the Assessments payable by the Owners that would otherwise be higher based on the Operating Expenses of the Club.

4. Section 7 of Article VII of the Declaration is hereby amended to read as follows:

Section 7. DECLARANT'S OPTION TO FUND BUDGET DEFICITS.

To the extent permitted by Florida law, until the Turnover Date, Declarant may satisfy the obligation for Assessments on Lots which it owns either by paying Assessments in the same manner as any other Owner **(but at the 20:1 ratio described above)** or by funding the ~~Budget deficit~~ **budget Deficit**. The ~~Budget~~ **budget deficit ("Deficit")** is the difference between (i) the amount of Assessments levied on Owners' Lots plus any other income, **revenue or sums** received **by the Club** during the ~~fiscal year period during which Declarant has elected to fund the Deficit~~, and (ii) the amount of the Club's actual expenditures during the fiscal year, and excluding **to the maximum extent allowable by law, contributions to reserves, if any, and** Special Assessments arising as a result of any unusual loss or liability. **The calculation of Declarant's Deficit funding obligation shall be done on a cumulative basis (from the inception of the election to fund the Deficit until Declarant's election to cease funding the Deficit) although Declarant will fund the Club to meet its cash flow obligations as they arise during the Deficit funding period. Should Declarant, in its sole discretion, elect to fund cash shortfalls caused by delinquencies or other matters which would not otherwise require deficit funds from Declarant, such funds shall be considered a loan to the Club to be paid back to Declarant by the Club. Declarant is not required to make contributions to reserves while Deficit funding even though Owners other than Declarant may be required to make such contributions.**

**Unless Declarant otherwise notifies the Board in writing at least thirty (30) days before the beginning of the fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year.** Regardless of Declarant's election, Declarant's Assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these, the value of which shall be reasonably determined by Declarant. After the Turnover Date, **or sooner if Declarant elects to pay Assessments and cease Deficit funding,** Declarant shall pay Assessments on Lots which it or its affiliates own in the same manner as any other Owner.

The Declarant's obligation to ~~deficit~~Deficit fund is not a guarantee of the Assessments or Operating Expenses as contemplated by Florida Statutes Section ~~720.308~~720.308 because the amount of Assessments or Operating Expenses to be paid by Owners during any Deficit funding period may change based upon changes in the then buildout Budget.

5. Section 8 of Article VII of the Declaration is hereby amended to read as follows:

Section 8. WORKING FUND CONTRIBUTION. Each subsequent Owner of a Lot (meaning any Owner who purchases a Lot from a previous Owner other than Declarant or a Builder) shall pay to the Club a Working Fund Contribution at the time legal title is conveyed to such Owner by the previous Owner. The Working Fund Contribution shall be ~~One~~ Two Thousand Five Hundred and No/100 Dollars (\$~~1~~ 2,500.00) for each Lot and each subsequent conveyance of the Lot. In the event an Institutional Mortgagee acquires title through foreclosure or a deed in lieu, the Institutional Mortgagee shall be exempt from paying such Working Fund Contribution. The purpose of the Working Fund Contribution is to ensure that the Club will have cash available for initial start-up expenses, to meet unforeseen expenditures and to acquire additional equipment and services deemed necessary or desirable by the Board. Working Fund Contributions are not advance payments of Individual Lot Assessments and shall have no effect on future Individual Lot Assessments, nor will they be held in reserve. To further ensure that the Club will have sufficient cash available to pay for start-up expenses, Operating Expenses and other expenses, Declarant may from time to time advance to the Club the Working Fund Contribution applicable to any Lot(s) prior to the time legal title to such Lot(s) is conveyed to the Owner(s) thereof. In the event Declarant advances the Working Fund Contribution applicable to any Lot, then, at the time legal title to such Lot is conveyed to the Owner thereof, the Working Fund Contribution to be paid by such Owner to the Club pursuant to this Section 8 shall be paid directly to Declarant in reimbursement of the advance, instead of to the Club. Working Fund Contributions (whether paid by Owner or advanced by Declarant) may also be used to offset Operating Expenses and fund any deficit between yearly Operating Expenses and income collected from Assessments. Developer may, in its sole discretion, move the Working Fund Contributions into a reserve account at the time of the Turnover Date.

Builders shall be required to collect from each Owner who purchases a Lot from such Builder at the time legal title is conveyed to such Owner a "Community Contribution" payable to Declarant in the amount of ~~One~~ Two Thousand Five Hundred and No/100 Dollars (\$~~1~~ 2,500.00) for each Lot conveyed by a Builder.

6. Article VII of the Declaration is hereby amended to add a new Section 10 to read as follows:

**Section 10. BUDGETING FOR RESERVES.**

**The Board may, but is not obligated to, prepare and periodically review separate reserve budgets for the Club Property and Golf Property for which the Club maintains capital items which takes into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of capital items under each budget. The Board may include in the Operating Expense Budget adopted pursuant to Section 1, as appropriate, a contribution to fund reserves in an amount which the Board, in the exercise of its business judgment, deems sufficient to meet the projected needs under each budget with respect to both amount and timing by annual contributions over the budget period. The budgeted amount for reserves need not be for one hundred percent (100%) of the repair or replacement cost but may be for a lower amount as determined by the Board. The Board may determine to pool reserves, meaning that a general reserve fund may be used for any item for which reserves are being collected. Completed Lot Owners are referred to the then current Budget to determine if reserves are included in the Budget, the amount budgeted therefor and if Assessments include amounts for reserves.**

**Reserve funds, if collected, shall be held in a separate account or accounts from the operating and other funds of the Club.**

**The reserve funds may be expended only for major maintenance, repair, or replacement of those assets covered by the reserve budget pursuant to which they were collected. Subject to such limitation, the Board may adopt resolutions regarding the expenditure of any reserve funds including, without limitation, policies designating the nature of assets for which reserve funds may be expended. Neither the Club membership nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent until the Turnover Date.**

**Notwithstanding anything contained in this Section 10, or as may be otherwise set forth in this Declaration, any reserve funds so collected and/or paid pursuant hereto are not created or established in accordance with Section 720.303(6)(d) of the HOA ACT.**

(words ~~struck through~~ are deleted; words **bolded and double-underlined** are added)

7. This Eighth Amendment shall become effective upon recording amongst the Public Records of Manatee County, Florida.

8. Except as modified hereby, the Declaration shall remain in full force and effect in accordance with the terms thereof.

**IN WITNESS WHEREOF**, Declarant has executed this Eighth Amendment as of the day and year first above written.

Witnesses:

TAYLOR MORRISON OF FLORIDA, INC.,  
a Florida corporation

[Signature]  
Signature

Jan Wollard  
Printed Name

[Signature]  
Signature

Becky E Hopkins  
Printed Name

By: [Signature]  
Printed Name: Timothy Martin  
Title: Vice President

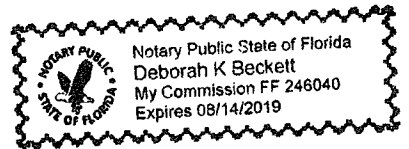
STATE OF FLORIDA                    )  
  ) SS  
COUNTY OF SARASOTA            )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Timothy Martin, as Vice President of TAYLOR MORRISON OF FLORIDA, INC., a Florida corporation, freely and voluntarily under authority duly vested in him by said corporation, who is personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 29 day of January, 2019.

[Signature]  
Notary Public, State of Florida at Large

My Commission Expires:



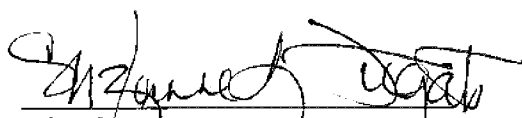
**MORTGAGEE'S JOINDER AND CONSENT**

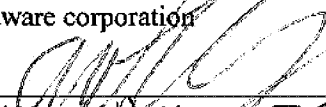
The undersigned, SMR NORTH 70, LLC, a Florida limited liability company ("Mortgagee") the owner and holder of that certain Mortgage and Security Agreement given by TAYLOR MORRISON OF FLORIDA, INC., a Florida corporation ("Mortgagor"), dated August 5, 2011, and recorded August 8, 2011, in Official Records Book 2388, Page 2230, and that certain Mortgage and Security Agreement dated December 20, 2012, and recorded December 20, 2012, in Official Records Book 2450, Page 3389, both of the Public Records of Manatee County, Florida, which encumbers the "Property" as defined in the foregoing Eighth Amendment to Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Esplanade (the "Eighth Amendment"). Mortgagee does hereby join in and consent to the recording of the Eighth Amendment to which this joinder and consent is attached.

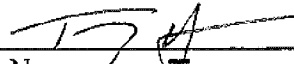
Signed, sealed and delivered in the presence of:

MORTGAGEE:

SMR NORTH 70, LLC, a Florida limited liability company, by its Sole Member, SCHROEDER-MANATEE RANCH, INC. a Delaware corporation

  
Print Name: Suzanne L. Fugate

By:   
Printed Name: Anthony J. Chiofalo  
Title: Vice President

  
Print Name: Tamara Harris

[CORPORATE SEAL]

STATE OF FLORIDA     )  
  ) SS  
COUNTY OF MANATEE    )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Anthony J. Chiofalo, as Vice President of SCHROEDER-MANATEE RANCH, INC., a Delaware corporation, as the Sole Member of SMR NORTH 70, LLC, a Florida limited liability company, freely and voluntarily under authority duly vested in them by said corporation, who is personally known to me or produced as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 6<sup>th</sup> day of FEBRUARY, 2019.

  
Notary Public, State of Florida at Large

My Commission Expires:



**Kathleen J. Horn**