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**Prepared By and To Be Returned To:**
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# THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PORTICO

**THIS THIRD AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PORTICO** ("Third Amendment") is made by WCI Communities, LLC, a Delaware limited liability company authorized to do business in Florida ("WCI").

**W I T N E S S E T H:**

**WHEREAS**, the Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Portico was recorded on June 8, 2017, in Official Records Instrument No. 2017000125248, public records of Lee County, Florida, as amended and supplemented from time to time (collectively, "Master Declaration"); and

**WHEREAS,** WCI is the Declarant under the Master Declaration; and

**WHEREAS**, WCI, as Declarant, now desires to amend the Master Declaration in accordance with the provisions of Section 22.1.1 thereof, as more specifically described hereinafter; and

**NOW, THEREFORE**, WCI, as Declarant, hereby states as follows (CODING: where applicable, double-underlined text has been added and ~~strikeout text~~ has been deleted):

1. The foregoing recitals are true and correct and are deemed incorporated herein as if fully stated hereinafter.

2. All defined terms herein shall have the meaning set forth in the Master Declaration, unless specifically defined in this Third Amendment.

3. Section 6.7.7 of the Master Declaration is hereby amended to read as follows:

6.7.7 Gas or Electric Golf Carts; Low Speed Vehicles.

(a) No private golf carts (gas or electric) as defined under Section 320.01(22), F.S. ~~or any other cart-like vehicle~~ (collectively, "Golf Carts") shall be permitted in the Community, save and except for Golf Carts (a) which are used by Declarant in the course of its sale and development of the Community (in which case such Golf Carts shall be permitted upon the roadways and Common Properties of the Community), or (b) which are used by the Master Association or the CDD in the fulfillment of its duties in and for all or part of the Community (in which case such Golf Carts shall be permitted upon the roadways and Common Properties of the Community). Each Owner, by virtue of taking title to a Lot, Unit or Parcel, hereby acknowledges and agrees, and shall be deemed to have acknowledged and agreed, that private Golf Carts are not permitted on or within a Lot, Unit or Parcel and that Golf Carts shall only be permitted in the limited fashion prescribed by this Section

6.7.7(a). No amendment or modification to this Section 6.7.7(a) shall be effective without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

(b) Separate and apart from subsection (a) above, "Low Speed Vehicles" (as defined in Section 320.01(41), F.S.) shall be permitted within the Community, provided that (1) the Florida Department of Transportation has not made a determination that the use of Low Speed Vehicles on and within the roadways of the Community is prohibited based upon the interests of safety, (2) the owner and/or operator of such Low Speed Vehicle complies with all governmental requirements, including, but not limited to, the requirements of Section 316.2122, F.S., (3) the Low Speed Vehicle is only utilized on roadways intended for use by automobiles, and shall not be utilized on any other portion of the Common Property, including, but not limited to, sidewalks, pathways and grass areas, (4) the Low Speed Vehicle shall be kept on a Lot, Unit or Parcel at all times fully enclosed within a private parking garage with the garage door shut at all times except for periods of ingress and egress, (5) the owner or operator of a Low Speed Vehicle shall register such vehicle with the Master Association in accordance with applicable rules and regulations promulgated by the Master Association, and (6) the owner or operator of a Low Speed Vehicle shall comply with any additional applicable rules and regulations promulgated by the Master Association.

4. Section 6.33 of the Master Declaration is hereby deleted in its entirety and is replaced with the following:

6.33 Fences and Walls.

6.33.1 Perimeter (boundary) Lot fencing, or fencing around the boundary of a Lot or Parcel, shall be permitted, but only in accordance with the following:

6.33.1.1 any and all such fencing shall be in accordance with the ARC Guidelines and as specifically permitted in writing by the ARC, and shall be specifically approved in writing by the ARC prior to commencement of construction, installation or renovation of such fencing;

6.33.1.2 notwithstanding any provision in the ARC Guidelines to the contrary, fences shall only be permitted to be a maximum of seventy-two (72) inches in height measured from grade, and shall be required to be either bronze or black aluminum rail with entrance gates as required by the ARC pursuant to the approval process:

6.33.2. By the construction of such fencing, the Owner of the applicable Lot (a "Fenced Lot") shall be deemed to have granted a perpetual, non-exclusive easement over, across, under and through such Fenced Lot to the Master Association to permit the Master Association and its employees and contractors to undertake and perform its grass and landscaping maintenance responsibilities pursuant to Section 3.2 hereof;

6.33.3 Any Fenced Lot Landscaping Assessments shall be levied in accordance with Exhibit "E" to this Declaration, and if so levied, shall be in connection with the additional costs and expenses associated with the Master Association's maintenance obligations involving or pertaining to the Fenced Lots.

6.33.3.1 each Owner of a Fenced Lot shall at all times keep their Fenced Lot clear of all debris, objects and property of such Owner, including specifically, without limitation, toys and lawn furniture so as to permit, and therefore not interfere with, the Master Association's performance of its grass and landscaping maintenance responsibilities pursuant to Section 3.2 hereof, and neither the Board nor the Master Association shall have any responsibility for any damage to any property of any Owner which is damaged or destroyed as a result of any Owner's failure to comply with the requirements of this Section 6.33;

6.33.3.2 in the event that an Owner fails to provide the Master Association and its employees and contractors access to the enclosed area of a Fenced Lot so as to deny maintenance of the Lot pursuant to Section 3.2 hereof, the Owner shall be solely responsible for maintenance of such enclosed area within the Fenced Lot for the period of time that the Owner denies access, but in all aspects and events the Owner shall remain liable for any Fenced Lot Landscaping Assessments regardless of whether or not the Master Association provides maintenance services to the Fenced Lot; and

6.33.3.3 by the construction of such fencing, each Owner of a Fenced Lot shall:

6.33.3.3.1 be deemed to have waived any and all claims against the Board and the Master Association for any loss, destruction and/or damage or injury which may arise from any entry upon a Fenced Lot for the purpose of performing the Master Association's grass and landscaping maintenance responsibilities pursuant to Section 3.2 hereof; and

6.33.3.3.2 agree to indemnify and hold the Board and the Master Association harmless from and against any and all losses, costs, damages, or liabilities whatsoever (including, without limitation, reasonable attorneys' fees and costs) resulting directly or indirectly from such entry and the performance of such grass and landscaping maintenance responsibilities with regard to any Fenced Lot.

6.33.4 Any other fences and walls are only permitted in accordance with the ARC Guidelines, and no fence of any type or nature shall be constructed without the prior written approval of the ARC; provided, however, that any other fence or wall constructed by Declarant in conjunction with the development and construction of improvements on a Lot, Unit or Parcel shall be exempt from any requirement for obtaining ARC approval.

6.33.5 The ARC may, but shall not be required to, impose landscaping requirements in conjunction with approval of a wall or fence application in accordance with the ARC Guidelines for Supplemental Landscaping.

6.33.6 Declarant, in the course of creating the ARC Guidelines, shall be entitled to place restrictions on the installation of walls and fences on certain Lots based upon the Lot size and dimension.

6.33.7 The provisions of this Section 6.33 shall specifically not be amended without the prior written consent of Declarant for so long as Declarant owns any portion of the Property.

6.33.8 Invisible fences are permitted only in the rear and/or side yards. Invisible fences are permitted in a front yard only with the prior written approval of the ARC.

5. Exhibit "E" to the Master Declaration is hereby amended to include the concept of Fenced Lot Landscaping Assessments, as contained in Exhibit "E" attached to this Third Amendment and made a part hereof. Hereinafter, any and all references to Exhibit "E" to the Declaration shall mean and refer to Exhibit "E" to this Third Amendment.

6. The Master Declaration, as amended by this Third Amendment, is and remains valid and in full force and effect.

7. In the event of a conflict between the provisions of this Third Amendment and the provisions of the Master Declaration prior to the effective date hereof, the provisions of this Third Amendment shall control.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, WCI, as Declarant, has caused this Third Amendment to be executed by its authorized officer and affixed its corporate seal as of this 29 day of May, 2018.

**WITNESSES:**

WCI Communities, LLC, a Delaware limited liability company authorized to do business in Florida

Signature: Amy Hofstheidi
Printed Name: Amy Hofstheidi

By: _____
Darin McMurray, Vice President

Signature: Theodore Penti
Printed Name: Theodore Penti

SEAL

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 29th day of May, 2018, by Darin McMurray, as Vice President of WCI Communities, LLC, a Delaware limited liability company authorized to do business in Florida. He ☒ is personally known to me or ☐ has produced _____ _____ as identification.

My Commission Expires: 2/13/2021

David Caldwell
(Signature)

Name: DAVID CALDWELL
(Legibly Printed)
Notary Public, State of Florida

GG051576
(Commission Number, if any)

DAVID CALDWELL
MY COMMISSION # GG 051576
EXPIRES: February 13, 2021
Bonded Thru Notary Public Underwriters

## Exhibit E
## Types of Assessments and Basis for Calculation

NOTE: All defined terms contained in this exhibit shall have the meaning set forth in the Master Declaration to which this exhibit is attached.

Types of Assessments. The Master Association shall have the power to levy the following types of Assessments and in the following manner:

1. General Assessments. The "General Assessments" shall be levied against all portions of the Property subject to the Master Declaration to raise funds necessary to pay expenses that apply to all of the Owners thereof in whole or in part. The General Assessment shall be levied based upon the Annual Budget. The General Assessment shall pertain to the general Common Expenses, including, but not limited to, the costs associated with maintenance and repair (including reserves for capital improvements and deferred maintenance, if and to the extent determined appropriate by the Board in its sole discretion) of the Common Property (including specifically all Master Association private roadways, which will be deemed to include all paved surfaces as well as bricks, pavers and other decorative features located at the entrance to the Community, whether or not within the Property, and other roadways maintained by the Master Association), the Community Entry Features, landscape areas located in the vicinity of the entrance to the Community (whether or not physically contained within the boundaries of the Community), and general, office, administration and management costs of operation of the Master Association (such as, but not limited to, accounting and legal fees, office supplies, telephone services, management services, payment of salaries and benefits, employment and labor costs, worker's compensation insurance, registration and filing fees, and casualty and other insurance costs).

In order to collect the general Common Expenses contained in the Annual Budget, General Assessments shall be levied against the Lots, Units and Parcels on a pro rata basis. General Assessments shall be assessed on an annual basis and payable in quarterly installments or in such other manner and time frame as determined by the Board in its sole discretion and from time to time. Each Owner, by virtue of taking title to a Lot, Unit or Parcel, acknowledges and agrees, and shall be deemed to have acknowledged and agreed, that certain general costs of the Master Association may not wholly pertain to all portions of the Property but that it would be virtually impossible to calculate the apportioned share among the various Assessment classifications, and as such these costs shall be borne as part of the General Assessments.

All expenses to be covered by the General Assessments shall be allocated in the following manner: (i) the Amenities Owner shall pay $2,000.00 as a General Assessment, which shall be due and payable within 30 days of commencement of the fiscal year (which shall be the sole amount to be paid by the Amenities Owner under the Declaration; such amount shall be increased by an amount not to exceed 3% above the prior fiscal year's amount, and any other change to the amounts to be paid by the Amenities Owner shall not be effective without the prior written consent of the Amenities Owner), and (ii) the collective Owners of the Lots, Units and Parcels shall pay all expenses to be covered by the General Assessments which exceed the $2,000.00 payment by the Amenities Owner (each Lot, Unit or Parcel shall be equally assessed, as the General Assessment, a pro rata share of such amounts, which shall be assessed on an annual basis and payable in quarterly installments or in the manner and time frame determined by the Board in its sole discretion).

2. Neighborhood Assessments. The "Neighborhood Assessments" shall be levied against the Lots in a Neighborhood subject to the Master Declaration to raise funds necessary to pay expenses that apply equally to all of the Owners of the Lots, Units and Parcels contained within such Neighborhood. By way of example, and without limitation, such expenses would include the costs associated with maintenance and repair (including reserves for capital improvements and deferred maintenance, if and to the extent determined appropriate by the Board in its sole discretion) of one or more portions of the Common Property that specifically pertain to such Lots, Units or Parcels. Such areas may include, but shall not necessarily be limited to, (a) signage and other beautification features designating or otherwise specifically benefiting a Neighborhood, (b) landscaping installations beyond base landscaping, and (c) the Boundary Walls; provided, however, that in any and all circumstances, the Board shall have all right,

power and authority to determine what areas are in fact particular to a Neighborhood and for which a Neighborhood Assessment should be levied. All Neighborhood Assessments shall be assessed on an annual basis and payable in quarterly installments or in such other manner and time frame as determined by the Board in its sole discretion and from time to time. Each Owner, by virtue of taking title to a Lot, Unit or Parcel, acknowledges and agrees, and shall be deemed to have acknowledged and agreed, that there may be specific costs of the Master Association that should be allocated to a Neighborhood, that such costs should be borne as part of the Neighborhood Assessments, and that the Board has all right, power and authority, from time to time, to determine which Lots, Units or Parcels constitute a Neighborhood for purpose of levying Neighborhood Assessments.

3. Special Assessments. In addition to the General Assessments and the Neighborhood Assessments, the Master Association may levy against each Owner, in accordance with the allocation procedures set forth in this Exhibit and the Master Declaration, in any fiscal year a special assessment ("Special Assessment") applicable to that year for capital improvements, extraordinary maintenance, repairs, or for the purpose of defraying, in whole or in part, known expenses which exceeded, or when mature will exceed, the costs and expenses pertaining to the particular Annual Budget items for which the General Assessments or the Neighborhood Assessments were levied. Prior to Transfer of Control, Special Assessments may only be levied if a majority of the Owners other than Declarant has approved the Special Assessment by a majority vote at a duly called special meeting of the Master Association's membership at which a quorum is present.

4. Specific Assessments. All accrued liquidated indebtedness of any Owner arising under any provision of the Master Declaration may be levied by the Master Association as a specific assessment ("Specific Assessment") against such Owner after such Owner fails to pay such indebtedness when due and such default continues for 30 days after written notice; provided, however, that no Specific Assessment shall be levied in connection with a fine of less than $1,000 levied by the Master Association pursuant to the Act. By way of example, a Specific Assessment may be levied against an Owner where the Master Association has performed maintenance as a result of failure of an Owner to do so. In addition, a Specific Assessment shall also be levied for charges directly attributable to a particular Owner.

5. Fenced Lot Landscaping Assessments. "Fenced Lot Landscaping Assessments" may be levied against each Fenced Lot, if so determined by the Board in its sole and reasonable discretion from time to time, on an annual, quarterly or monthly basis (as the Board may determine) to pay additional expenses incurred by the Master Association in connection with the Master Association's performance of its grass and landscaping responsibilities under Section 3.2 of the Master Declaration within the applicable Fenced Lot. For purposes of clarity, the Master Association shall have no obligation to levy Fenced Lot Landscaping Assessments against Fenced Lots, even if there are certain costs and expenses which could be determined to be solely pertaining to Fenced Lots.