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SAINT LUCIE COUNTY DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT (“**Conservation Easement**”) is given this ___ day of ___, 20___, by XXX (“**Grantor**”) whose mailing address is XXX to St. Lucie County, a political subdivision of the State of Florida (“**Grantee**”) having an address of 2300 Virginia Avenue, Fort Pierce, FL 34982. As used herein, the term “Grantor” shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the “Conservation Area” (as hereinafter defined) and the term “Grantee” shall include any successor or assignee of Grantee.

WITNESSETH:

WHEREAS, the Grantor is the owner of certain lands situated in St. Lucie County, Florida, and more specifically described in Exhibit “A” attached hereto and incorporated herein by this reference (“**Property**”); and

WHEREAS, the Grantor is proposing the development of a XXX (“**Project**”) on the Property, which is subject to the regulatory jurisdiction of the St. Lucie County Board of County Commissioners (“**County**”); and

WHEREAS, the Property will be further subject to the Declaration of Covenants, Conditions and Restrictions of XXX to be recorded in the Official Public Records of St. Lucie County, Florida (“**Declaration**”); and

WHEREAS, the County approved the Major Site Plan for the Project pursuant to Resolution NoXXX (“**Resolution**”); and

WHEREAS, the Resolution requires that XXX (“**Association**”) maintain, in perpetuity, that portion of the Property designated as preserve area (“**Conservation Area**”) as more particularly described in Exhibit “B” attached hereto and incorporated herein by this reference; and

WHEREAS, the Declaration provides that the maintenance of the Conservation Area is the perpetual obligation of the Association; and

WHEREAS, the Resolution further requires that the Conservation Area be maintained in accordance with that certain Preserve Area Management and Monitoring Plan (“**Management Plan**”), recorded separately at OR Book XXX, Page XXX; and

WHEREAS, the Grantor is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes, over the Conservation Area.

NOW, THEREFORE, Grantor hereby grants, creates, and establishes a perpetual Conservation Easement for and in favor of the Grantee upon the Conservation Area which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. **Recitals.** The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. **Purpose.** It is the purpose of this Conservation Easement to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants or wildlife. Those wetland and/or upland areas included in this Conservation Easement shall be maintained in the conditions required by the Management Plan.

To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. To enter upon the Conservation Area at reasonable times with any necessary equipment or vehicles to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Property by Grantor and/or the future residents of the Property at the time of such entry; and

b. To enjoin any activity on or use of the Conservation Area that is inconsistent with this Conservation Easement and to enforce the restoration of such areas or features of the Conservation Area that may be damaged by any inconsistent activity or use; and

c. To enter upon the property of the Grantor to connect the Conservation Area to a bona fide system of trails, greenways or other non-vehicular system.

3. **Prohibited Uses.** Except for exotic vegetation removal, replanting with appropriate native vegetation, vine control, removal of trash and debris or other maintenance and monitoring activities described herein that are permitted or required by the Resolution or the Management Plan, the following activities are prohibited in or on the Conservation Area:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic or nuisance vegetation in accordance with the Management Plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural or enhanced condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing.

4. **Grantor's Reserved Rights.** Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Conservation Area that are not prohibited herein and which are not inconsistent with any County rule, criteria, permit and the intent and purposes of this Conservation Easement.

5. **No Dedication.** No right of access by the general public to any portion of the Property or the Conservation Area is conveyed by this Conservation Easement, except as provided in Paragraph 2(c), above.

6. **Grantee's Liability.** Grantee shall not be responsible for any costs or liabilities related to the operation, upkeep or maintenance of the Conservation Area.

7. **Acts Beyond Grantor's Control.** Nothing contained in this instrument shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in any portion of the Property other than Conservation Areas that result from natural causes beyond Grantor's control, and not initiated by the Grantor, including but not limited to fire, flood, storm and earth movement. Should any Conservation Area be injured or changed from natural causes, including but not limited to fire, flood, storm and earth movement, the Grantor shall be provided notice and a reasonable opportunity to restore the affected Conservation Area to a condition that satisfies the Management Plan requirements prior to the Grantee bringing any action for noncompliance with the Resolution or the Management Plan.

8. **Property Taxes.** Grantor shall keep the payment of taxes and assessments on the Conservation Area current and shall not allow any lien on the Conservation Area superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by the Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event the Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Conservation Area which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Conservation Area in the manner provided for mortgages on real property.

9. **Enforcement by Grantee.** Enforcement of the terms, provisions and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor or the Association, shall not be deemed or construed to be a waiver of Grantee's rights hereunder.

10. **Enforcement by Association.** The Association shall take private enforcement action against any member of the Association who violates the rules relating to the use and maintenance of the Conservation Area as set forth in the Management Plan.

11. **Maintenance Obligations of Association.** The Association shall maintain in perpetuity, the Conservation Area in accordance with the Management Plan. Such maintenance shall include, but is not limited to, exotic vegetation removal, replanting with appropriate native

vegetation, vine control, and removal of trash and debris. The maintenance schedule should be so as to keep the Conservation Area ecologically functional and high quality, as well as a minimum 90% free of exotic vegetation.

12. **Assignment.** Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

13. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

14. **Terms and Restrictions.** Grantor shall insert the terms and restrictions of this Conservation Easement in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Property.

15. **Written Notice.** All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

16. **Modifications.** This Conservation Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in St. Lucie County.

17. **Extinguishment.** If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange or voluntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Florida law at the time, in accordance with paragraph 18. Grantor believes that any changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement. In addition, the inability of Grantor to conduct or implement any or all of the uses allowed under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

18. **Proceeds.** This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph 17, the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. For the purposes of

this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of said Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; and all mortgages and liens have been subordinated to this Conservation Easement; and that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends the title to the Conservation Easement hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, XXX, has hereunto set its authorized hand this ____ day of ____, 20__.

Signed, sealed and delivered
in our presence as witnesses:

XXX

By: _____
Print Name:

By: _____
Print Name:

STATE OF FLORIDA)
) ss.:
COUNTY OF ST LUCIE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2007, by _____, as _____ of XXX, on its behalf, who is personally known to me, or who has produced _____ as identification.

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of Florida
My commission expires: _____

MORTGAGEE JOINDER, CONSENT AND SUBORDINATION

For Ten Dollars (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, XXX (“Mortgagee”), the owner and holder of an Amended and Restated Commercial Mortgage recorded XXX, in the original principal amount of \$XXX given by XXX encumbering the real property described on Exhibit “A” attached hereto (“Property”), which is recorded in Official Records Book XXXX, at Page XXX, (together with that certain Assignment of Rents and Leases recorded in Official Records Book XXX, at Page XXX and that certain Amendment to UCC-1 Financing Statement recorded in Official Records Book XXX, at Page XXX), all of the Public Records of St. Lucie County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the “Mortgage”), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement, executed by XXX, in favor of St. Lucie County applicable to the Property (“Easement”), as said Easement may be modified, amended and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Easement.

IN WITNESS WHEREOF, this Mortgagee Joinder, Consent and Subordination is made this ____ day of _____, 20__.

Mortgagee:

XXX

By: _____

Print Name: _____

Title: _____

WITNESSES:

By: _____

Print Name: _____

By: _____

Print Name: _____

STATE OF FLORIDA)
) ss.:
COUNTY OF ST LUCIE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of _____, on its behalf, who is personally known to me, or who has produced _____ as identification.

[NOTARIAL SEAL]

Notary: _____
Print Name: _____
Notary Public, State of Florida
My commission expires: _____

EXHIBIT "A"

[DESCRIPTION OF PROPERTY]

EXHIBIT "B"

[DESCRIPTION OF CONSERVATION AREA]

EXHIBIT “C”

MANAGEMENT PLAN

SKETCH