

Prepared by :
Tyrone T. Bongard, Esq.
Gunster, Yoakley & Stewart, P.A.
Phillips Point
777 South Flagler Drive, Suite 500
West Palm Beach, Florida 33401


INSTR # 2053161
OR BK 02294 PG 1415
Pgs 1415 - 1417 (3pgs)
RECORDED 11/30/2007 03:50:46 PM
MARSHA EWING
CLERK OF MARTIN COUNTY FLORIDA
RECORDED BY S Phoenix

**FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR TUSCAWILLA**

This First Amendment to Declaration of Covenants, Conditions and Restrictions for Tuscawilla ("**Amendment**") is made by KC Canopy Creek LLC, a Delaware limited liability company ("**Declarant**") as of the 26th day of November, 2007.

WITNESSETH:

WHEREAS, EF Minus S, LLC, a Florida limited liability company ("**Original Declarant**"), recorded that certain Declaration of Covenants, Conditions and Restrictions for Tuscawilla ("**Declaration**"), on October 12, 2006, in Official Records Book 2187, Page 2722, of the Public Records of Martin County, Florida;

WHEREAS, Declarant is the successor by merger with Original Declarant, and Declarant has been assigned and has assumed all of Original Declarant's rights and responsibilities as "Declarant" under the Declaration; and

WHEREAS, Declarant, pursuant to Declarant's right to amend the Declaration in Section 14.7 of the Declaration, desires to amend the Declaration.

NOW, THEREFORE, in consideration of the foregoing, Declarant hereby amends the Declaration as set forth below.

1. **Recitals; Defined Terms.** The foregoing recitals are true and correct and are incorporated herein by this reference. Unless otherwise defined herein, all initially capitalized terms shall have the meanings set forth in the Declaration.

2. **Amendment.** The Declaration is hereby amended as follows: All references to "Tuscawilla" in the Declaration, including the title thereof, shall be deleted and replaced with "Canopy Creek," except for Section 1.1.35, Exhibit "A", and any reference to Tuscawilla Acquisition Subsidiary, LLC.

3. **Amendment.** Section 1.1.33 of the Declaration is hereby deleted and replaced with the following:

"Declarant" shall mean and refer to KC Canopy Creek LLC, a Delaware limited liability company, or any such corporation, partnership, limited liability company or other entity which is specifically assigned the rights of the "Declarant" under this Declaration."

Return To:

Gunster, Yoakley & Stewart, P.A.
800 S.E. Monterey Commons Boulevard
Suite 200
Stuart, Florida 34996
CH Box # 40 VWR

WPB 903299.2

4. **Natural Gas Agreement.** The Declaration is hereby amended by adding thereto a new **Section 12.5**, as follows:

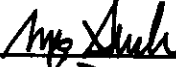
"12.5 **Natural Gas Agreement; Gas Appliances.** The Property is subject to that certain Developer Agreement by and between Declarant and Florida Public Utilities Company, a Florida corporation ("**Natural Gas Company**"), as may be subsequently amended (the "**Natural Gas Agreement**"), which Natural Gas Agreement gives Natural Gas Company the exclusive right to provide propane gas and/or natural gas within the Property. Pursuant to the Natural Gas Agreement, each Unit must have installed therein (i) a conventional gas water heater of not less than 75 gallons or a large gas tankless water heater, (ii) a gas range or cooktop, and (iii) a gas clothes dryer. Each Unit Owner must also establish an account with Gas Company, its successors or assigns, for supply of gas consumed within the Unit. The Gas Distribution System and External Piping (as such terms are defined in the Natural Gas Agreement) within the Property shall remain the exclusive property of Gas Company, and shall be maintained by Gas Company at its sole cost and expense. The Internal Piping (as such term is defined in the Natural Gas Agreement) shall be the exclusive property of the Owner of the applicable Unit, and such Internal Piping shall be maintained by such Unit Owner at its sole cost and expense. Further, except as otherwise provided by applicable law, the Association must establish a gas account with Gas Company and shall be solely liable for payment for any gas used at any location within the Property that the Association owns or for which it is responsible. Pursuant to the Natural Gas Agreement, propane gas may initially used within the Property but may be switched to natural gas as determined by Natural Gas Company pursuant to the Natural Gas Agreement."

5. **No Other Changes.** Except as expressly modified herein, all other provisions of the Declaration are hereby ratified and confirmed and shall remain in full force and effect.

6. **Effective Date.** This Amendment shall become effective upon its recording in the Public Records of Martin County, Florida.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed by its duly authorized officer in its name the day and year first above written.

Signed, sealed and delivered
in the presence of:


Name: Doug Beck

Name: Michael Wilber

KC Canopy Creek LLC, a
a Delaware limited liability company

By: Kolter Homes Division LLC, a
Delaware limited liability company,
Sole Member

By: 
Print Name: Joseph Pease
Title: Vice President

STATE OF FLORIDA
COUNTY OF St. Lucie

The foregoing instrument was acknowledged before me this 26th day of November, 2007, by Joseph Pease, the Vice President of Kolter Homes Division LLC, a Delaware limited liability company, which is sole member of KC Canopy Creek LLC, a Delaware limited liability company, on behalf of said entity. The above-named individual is personally known to me.



(Notarial Seal)

Linda Mantilla
Print Name: Linda Mantilla
NOTARY PUBLIC - STATE OF FLORIDA
Commission Number: DD 364766
My commission expires: October 20, 2008