

**Prepared by, Record and Return to:**  
Lawrence B. Pitt, Esq.  
Eagle Creek Development Corporation  
c/o Emerson International, Inc.  
370 CenterPointe Circle, Suite 1136  
Altamonte Springs, FL 32701

[Cross-Reference to  
**ORB 7254, Page 4027,**  
**Doc #20040009798]**

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**THIRTY-EIGHTH SUPPLEMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS FOR EAGLE CREEK**

**THIS THIRTY-EIGHTH SUPPLEMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS FOR EAGLE CREEK** (this  
“**Supplement**”) is made effective as of the 30th day of January, 2021 [REDACTED] by **EAGLE  
CREEK DEVELOPMENT CORPORATION**, a Florida corporation, having an address of 370  
CenterPointe Circle, Suite 1136, Altamonte Springs, Florida 32701 (“**Declarant**”).

**WITNESSETH:**

**WHEREAS**, Declarant recorded that certain Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek on January 7, 2004 in Official Records Book (“**ORB**”) 7254, Page 4027, as the same was supplemented and amended by the following: First Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded November 17, 2004 in ORB 7705, Page 1201; Second Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded May 19, 2005 in ORB 7976, Page 4596; Second Supplement to Declaration of Covenants, Conditions, Easements and Restrictions recorded October 13, 2006 in ORB 8914, Page 2921; First Amendment to Second Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded October 11, 2007 in ORB 9467, Page 4164; Certificate of Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded July 17, 2009 in ORB 9903, Page 8161; Third Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded January 8, 2010 in ORB 9985, Page 4095; Fourth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded May 14, 2010 in ORB 10044, Page 4403; Fifth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded October 12, 2011 in ORB 10280, Page 841; Fifth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded April 2, 2012 in ORB 10355, Page 2814; Sixth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded on May 3, 2012 in ORB 10370, Page 6648; Sixth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded October 3, 2012 in ORB 10451, Page 3943; Seventh Supplement to Declaration of Covenants, Conditions, Easements and

Restrictions for Eagle Creek recorded November 16, 2012 in ORB 10475, Page 5310; Eighth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded January 28, 2013 in ORB 10512, Page 2525; Ninth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded June 20, 2013 in ORB 10588, Page 8270; Tenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded September 24, 2013 in ORB 10639, Page 788; Eleventh Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded December 11, 2013 in ORB 10675, Page 7459; Release from Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded December 20, 2013 in ORB 10679, Page 8737; Twelfth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded January 23, 2014 in ORB 10692, Page 8208; Corrective Release from Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded January 31, 2014 in ORB 10696, Page 6842; Thirteenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded April 22, 2014 in ORB 10733, Page 5124; Fourteenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded April 22, 2014 in ORB 10733, Page 5121; Fifteenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded July 7, 2014 in ORB 10769, Page 2242; Amendment to Twelfth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded July 28, 2014 in ORB 10780, Page 5278; Sixteenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded December 2, 2014 in ORB 10842, Page 7222; Seventeenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded August 14, 2015 in ORB 10968, Page 221; Eighteenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded September 15, 2015 in ORB 10983, Page 5048; Nineteenth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded September 23, 2015 in ORB 10987, Page 0398; Twentieth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded October 20, 2015 in ORB 11000, Page 4790; and Twenty-First Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded October 23, 2015 in ORB 11002, Page 6965; Twenty-Second Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded November 2, 2015 in ORB 11006, Page 5608; Twenty-Third Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded February 16, 2016 as Document Number 20160079131; Twenty-Fourth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded August 10, 2016 as Document Number 20160412076; Twenty-Fifth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded August 17, 2016 as Document Number 20160429784; Twenty-Sixth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded December 21, 2016 as Document Number 20160661062; Twenty-Seventy Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded February 24, 2017 as Document Number 20170104391; Twenty-Eight Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded February 10, 2017 as Document Number 20170079606; Twenty-Ninth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded May 3, 2017 as Document Number 20170246961; Thirtieth Supplement and Amendment to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded August 2, 2017 as Document Number 20170427410; Thirty-

First Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded August 18, 2017 as Document Number 20170460759; Thirty-Second Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded November 6, 2017 as Document Number 20170604394; Thirty-Third Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded July 23, 2018 as Document Number 20180434124; Thirty-Fourth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded March 22, 2019, as Document Number 20190173878; Thirty-Fifth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded August 16, 2019 as Document Number 20190509760; Thirty-Sixth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded October 24, 2019 as Document Number 20190667342; and Thirty-Seventh Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek recorded June 23, 2020 as Document Number 20200344251, all of the Public Records of Orange County, Florida (collectively referred to herein as the “**Declaration**”, except that the first-recorded and original declaration shall be referred to herein as the “**Original Declaration**”); and

**WHEREAS**, the Declaration sets forth certain covenants, conditions, easements and restrictions affecting the Property and provides for certain membership, property rights, obligations and other matters affecting the Property and its Owners; and

**WHEREAS**, Article II, Section 2, of the Declaration provides that Declarant reserves for itself the absolute and unconditional right, without notice to or approval of any party or person, to impose the Declaration upon any real property located within Eagle Creek and to withdraw from the provisions of the Declaration any of the Property which continues to be owned by Declarant, or, if not owned by Declarant, then with the consent of the Owner; and

**WHEREAS**, the Declaration provides that until the Turnover meeting occurs, Declarant reserves for itself the absolute and unconditional right to alter, modify, change, revoke, rescind, or cancel any or all of the Declaration or the restrictive covenants contained in the Declaration, provided that such alteration, modification, change, revocation, rescission or cancellation does not materially and adversely interfere with an Owner’s then permitted use of its Parcel; and

**WHEREAS**, Turnover and the Turnover meeting have not occurred; and

**WHEREAS**, Declarant desires to subject the real property described in Exhibit “A” attached hereto and made a part hereof by this reference (the “**Designated Property**”) to the effect and coverage of the Declaration and to the jurisdiction of the Association, which Designated Property is located within Eagle Creek; and

**WHEREAS**, Declarant desires to subject the real property described in Exhibit “B” attached hereto and made a part hereof by this reference (the “**Designated Common Property**”) to the effect and coverage of the Declaration and the jurisdiction of the Association, which Designated Common Property is located within Eagle Creek; and

**NOW THEREFORE**, the Declaration is hereby amended, modified and supplemented, and Declarant hereby declares, as follows:

1. Recitals. The recitals stated above are true and correct and are incorporated herein by this reference.

2. Definitions.

2.1. The definitions set forth in the Declaration are incorporated herein and made a part hereof by this reference.

2.2. Capitalized terms used in this Supplement, unless otherwise defined in this Supplement, shall have the meanings ascribed to them in the Declaration.

2.3. The real property comprising the Designated Common Property described in Exhibit "B" attached hereto, together with any easements dedicated to the Association on any plat, including, but not limited to, the Plat referenced in Exhibit "A" attached hereto, shall hereafter be included in the definition of "**Common Property**" in the Declaration.

2.4. The definition of "**Common Streets and Roads**" in the Declaration shall hereafter include Tract A described in Exhibit "B" attached hereto.

2.5. Each of the subdivided lots described in Exhibit "A" attached hereto shall hereafter be a "**Lot**" as such term is defined in the Declaration.

2.6. Each of the subdivided lots described in Exhibit "A" attached hereto shall hereafter be a "**Parcel**" as such term is defined in the Declaration.

2.7. The definition of "**Property**" in the Declaration is hereby amended to include the Designated Property.

2.8. Each of the subdivided lots described in Exhibit "A" attached hereto shall be a "**Residential Lot**" as such term is defined in the Declaration.

3. Annexation of Designated Common Property. The Designated Common Property shall be subject to the provisions of the Declaration, as supplemented, amended and/or restated from time to time. The Designated Common Property shall hereafter be sold, transferred, used, conveyed, occupied and mortgaged or otherwise encumbered in accordance with the provisions of the Declaration, as supplemented, amended and/or restated from time to time, which shall run with title to the Designated Common Property and shall be binding upon all persons having any right, title or any interest therein, their respective heirs, legal representatives, successors, successors-in-title and assigns. The provisions of this Supplement shall be binding upon the Association in accordance with the terms of the Declaration.

4. Utility Easements. Article VIII, Section 2 of the Declaration is hereby amended by adding the following at the end thereof:

"Notwithstanding anything contained in this Declaration to the contrary, no above-ground improvements may be placed within any utility easement created by virtue

of the recordation of any Plat until and unless such above-ground improvements have first been approved in writing: (i) by Declarant, for so long as Declarant owns any property subject to this Declaration, with such right and control of Declarant to be exercised in a manner and pursuant to the same procedures as is hereinafter provided in Article X for the ARB with respect to Architectural and Landscape Control, or such other means as may be elected by Declarant from time to time; and (ii) after Declarant no longer owns any property subject to this Declaration, by the Association acting through the ARB pursuant to the procedures provided in Article X hereof. The installation, maintenance, repair, alteration or replacement of utility facilities within any utility easement created by virtue of the recordation of any Plat shall not interfere with previously installed lines, conduits, swales, landscaping, irrigation or other improvements and facilities unless such interference is otherwise approved by Declarant or the Association as provided above. Any damage caused to existing improvements, land or landscaping during the installation, construction, maintenance, repair, altering or replacement of utility facilities within any such utility easement shall be promptly repaired by the installer thereof, at its own cost and expense.”

(Please note that underlined text is inserted, ~~text stricken through~~ is deleted)

5. Exhibit D. Exhibit “D” to the Original Declaration as amended in the Thirty-Sixth Supplement to Declaration of Covenants, Conditions, Easements and Restrictions for Eagle Creek, is hereby deleted and the attached “**Exhibit “D”**” is substituted therefor and is referred to herein, as amended from time to time as, the “**Master Plan**”. The Master Plan shall serve as the Declarant’s written designations of Villages to date within the Eagle Creek community pursuant to Article VI, Section 5.A., of the Declaration.

6. Interpretation. If any provision, covenant, condition, restriction or obligation set forth in this Supplement is capable of two (2) interpretations, one (1) of which would render the provision, covenant, condition, restriction or obligation void and the other of which would render the provision, condition, restriction or obligation valid, then the provision, covenant, condition, restriction or obligation shall have the meaning which shall render it valid.

7. Severability. If any provision of this Supplement or its application to any person, entity or circumstance is invalid or unenforceable to any extent, such provision shall be deemed automatically adjusted to conform to the requirements for validity as declared at such time, and, as so adjusted, shall be deemed a provision of this Agreement as though originally included herein. If the provision invalidated is of such a nature that it cannot be adjusted, the remainder of this Supplement, and the applicability of such provision to other persons, entities or circumstances shall be valid and enforceable to the fullest extent permitted by law and shall be deemed to be separate from such invalid or unenforceable provisions and shall continue in full force and effect.

8. Reaffirmation. Except as expressly modified by this Supplement, all terms and provisions of the Declaration are hereby ratified, confirmed and remain unchanged and in full force and effect.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK-  
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, Declarant has caused this Supplement to be executed effective as of the day and year first above written.

WITNESSES:

DECLARANT:

Eileen E McLenahan  
Print Name: Eileen E McLenahan

EAGLE CREEK DEVELOPMENT CORPORATION, a Florida corporation

Meredith Gibson Zornek  
Print Name: Meredith Gibson Zornek

By: [Signature]  
Name: LAWRENCE B. PITT  
Title: VP & General Counsel

STATE OF FLORIDA  
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 12<sup>th</sup> day of JANUARY 2020, by Lawrence B. Pitt, Vice President and General Counsel of Eagle Creek Development Corporation, a Florida corporation, on behalf of the corporation and that he acknowledged executing the same freely and voluntarily under authority duly vested in him by said corporation. He is personally known to me.

[Signature]  
Notary Public

(Notary Seal)



\_\_\_\_\_  
Name typed, printed or stamped

My Commission Expires: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF DESIGNATED PROPERTY**

Lots 1 through 170, inclusive, **Eagle Creek Village I**, according to the Plat thereof as recorded in Plat Book 104, Pages 131 through 146, inclusive, of the Public Records of Orange County, Florida (the "**Plat**")

**EXHIBIT "B"**

**LEGAL DESCRIPTION OF DESIGNATED COMMON PROPERTY**

Tracts A, OS-1, OS-2, SW-2, P-1, P-2, P-3, C-1, C-2 and C-3, **Eagle Creek Village I**, according to the Plat thereof as recorded in Plat Book 104, Pages 131 through 146, inclusive, of the Public Records of Orange County, Florida, together with any easements that will be owned by the Association as set forth on such Plat



**EXHIBIT "C"**

**(Reserved)**

**EXHIBIT "D"**

**EAGLE CREEK MASTER PLAN**

# Exhibit "D"

## Eagle Creek Master Plan

