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THIS DOCUMENT PREPARED BY:
For Recording & Return
Diego Island, LLC
4315 Pablo Oaks Court, Suite 1
Jacksonville, FL 32224

Public Records of
St. Johns County, FL
Clerk# 03-007776
O.R. 1892 PG 273
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**DECLARATION OF
COVENANTS & RESTRICTIONS FOR
DIEGO ISLAND**

THIS DECLARATOIN is made this 4th day of February, 2003, by DIEGO ISLAND, LLC, a Florida limited liability corporation (hereinafter referred to as "Declarant"), which declares that the real property described in Exhibit "A" attached hereto and made party hereof (the "Property"), which is owned by the Declarant, shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall be deemed to be covenants running with the title to the Property and shall be binding upon the Declarant and all parties having or acquiring any right, title or interest in the Property or any part thereof.

**ARTICLE I
MUTUALITY OF BENEFIT & OBLIATION**

Section 1.1 Mutuality. The covenants, restrictions and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns.

Section 1.2 Benefits & Burdens. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

**ARTICLE II
DEFINITIONS**

Section 2.1 ARB. Architectural Review Board of the Association.

Section 2.2 Association. The Diego Island Homeowners Association, Inc., a Florida corporation not-for-profit.

Section 2.3 Association Managed Area. The real property identified on the Plat which is subject to the easement for the drainage retention areas and identified as "Lake/Stormwater Management Facility".

Section 2.4 Board. The Board of Directors of the Association.

Section 2.5 Declarant. Refers to Diego Island, LLC, a Florida limited liability corporation, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot or Parcel from the Declarant for the purpose of the development.

Section 2.6 Lot. Any platted Lot or any other parcel of real property located within the Property, on which one or more residential dwellings have been or could be constructed with the exceptions of the parcels identified as "Tract A" on the recorded subdivision plat.

Section 2.7 Open Space. Identified as "Tract B" on the recorded subdivision plat.

Section 2.8 Owner. The recorded property Owners, whether one or more persons or entities, of a fee simple title to any Lot or Parcel which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.9 Parcel. Unplatted tracts of land located within the boundaries of the Property.

Section 2.10 Plat. The recorded subdivision map in the public records of St. Johns County (Bk #45, Pages 58-61).

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Section 2.11 Property. The real property described on the attached Exhibit "A" and such additions and deletions thereto as may be made hereafter be brought within the jurisdiction of the Association.

Section 2.12 Upland Buffer/Wetland Preservation Area. All real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. Upland Buffer/Wetland Preservation Area to be owned by the Association, free and clear of all encumbrances at the time of the conveyance of the first lot or parcel and described as "Tract A" on the plat.

Section 2.13 SJRWMD. St. Johns River Water Management District.

Section 2.14 Surface Water or Stormwater Management System or Lake Stormwater Management Facility. A system which is designed and constructed or implemented within the Property to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40 or 40C-42, F.A.C. (Florida Administrative Code), or regulations of similar import.

Section 2.15 Wetlands. Portion of the Property designated on the Plat and Site Plan as wetlands which are so designated by the Florida Department of Environmental Protection, the St. Johns River Water Management District ("SJRWMD") and the U.S. Army Corps of Engineers. No development, construction, dredging, filling, or disturbance in, on or over the designated wetlands of any kind is permitted without permits being obtained from the aforementioned jurisdictional agencies.

ARTICLE III OPEN SPACE & COMMON ROAD

Tract "A" described on the Plat is provided for the enjoyment and use of all Lot Owners whereas Declarant shall maintain said tract prior to the conveyance of the same to the Association. The Association shall assume all of Declarant's maintenance obligations under any zoning ordinance affecting the Property or any permit or agreement with any governmental agency concerning any use, enjoyment or development of the Property.

Common Road, a part of the Common Property, will be conveyed by the Declarant to the Association free and clear of all liens and encumbrances, except taxes and except Declarant's reserved right to install, repair, restore and maintain all utility installations, street lighting, signage and entrance gates including cable television. Each Owner of a Lot, his/her successors and assigns, mortgagees, domestic help, delivery, pickup, fire protection services, police and other authorities of the law, United States Postal Service carriers, representatives of utilities serving the Property, and such other persons as the Declarant and/or the Association shall designate, are hereby granted a perpetual non-exclusive easement for ingress and egress over the Common Road.

The Declarant and the Association shall have the unrestricted and absolute right to deny ingress to any person, who in the option of the Declarant or the Association, may create or participate in a disturbance or nuisance on any part of the Property, provided that the Declarant or Association shall not deny an Owner or Mortgagee the right of ingress or egress to any portion of the Property owned by such Owner or Mortgagee in favor of such Mortgagee.

ARTICLE IV PROPERTY RIGHTS

Section 4.1 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Open Space which shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to dedicate or transfer all or any part of the Open Space to any public agency, authority or public or private utility for such purposes and subject to such conditions as may be agreed to by the members.

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Section 4.2 Utility and Drainage Easements. Certain easements shown on the Plat are for drainage and utilities, including cable television. The Declarant, for itself and its successors and assigns, shall have the right and privilege over, on and under said easements to erect, maintain and use electric, telephone and television wire, cables, conduits, water mains, draining lines, drainage ditches and drainage retention areas, sewer lines and other suitable equipment for drainage and sewage disposal purposes and for the installation, maintenance, transmission and use of electricity, gas, telephone, television, lighting, heating, water, drainage, sewage and other conveniences for utilities. The Declarant shall have the unrestricted and sole right and power of alienating and releasing the privileges and easements referred to in this paragraph. The Owners of the Lots subject to the privileges, rights and easements referred to in this paragraph, and as shown on the Plat, shall acquire no right, title or interest in and to any wires, cables, conduits, pipes, mains, lines or other equipment or facilities placed on, over and under the easements. No structure, pavement or other improvement shall be erected on any part of any easement by the Owner of any Lot and in the event any structure or other improvement is placed on any easement, it shall be removed upon request of the Declarant, or the Association, and its successors or assigns, at the cost of the Owner of said Lot or Parcel. Declarant reserves as easement for ingress and egress for itself, its agents, employees, successors, assigns and the Association for maintenance and repair of the retention area as defined in Section 4.5 herein.

Section 4.3 Easements for Lake/Stormwater Management Facility. The Declarant hereby reserves a drainage easement ("Drainage Easement") for itself, its agents, employees, successors and assigns, and for the Association on, in and over that portion of the Property designated as the Lake/Stormwater Management Facility on the Plat and Site Plan, and which encumber a certain Lot as shown on the Plat which Stormwater Management Facility Area(s) are included with the properties previously defined as the Association Managed Area. The Lake/Stormwater Management Facility areas are a part of the surface water and stormwater management system for Diego Island, and in connection therewith, the following shall apply:

a. Use of Property. The Associations shall be responsible for the maintenance, operation and repair of the Lake/Stormwater Management Facility. Maintenance of the Lake/Stormwater Management Facility shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the SJRWMD. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the Lake/Stormwater Management Facility shall be as permitted, or if modified, as approved by the SJRWMD and St. Johns County, Florida.

The Association shall also be responsible for the protection, maintenance and repair of "Tract A" and the Common Road contained therein and for the adoption of rules and regulations to ensure the natural areas are properly managed and that the Common Road is used in a safe manner. No Owner or guest may obstruct the normal use of the Common Road and no Owner may allow hedges, bushes, fences or any other thing to obstruct the vision of a motorist.

b. Amendment. Any amendment to the Covenants and Restrictions which alter the Lake/Stormwater Management Facility responsibility, beyond maintenance in its original condition, must have the prior approval of the SJRWMD and St. Johns County, Florida.

c. Enforcement. The SJRWMD shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this declaration which relate to the maintenance, operation and repair of the Lake/Stormwater Management Facility.

The Lot encumbered by the Lake/Stormwater Management Facility Drainage Easement ("Burdened Lot") shall remain responsible for the property taxes applicable to the entire Lot. The Declarant further reserves and easement for itself, its successor and assigns, and for the Association, for reasonable ingress and egress onto the Burdened Lot encumbered by the Drainage Easement for necessary maintenance and repair of the Lake/Stormwater Management Facility. The Association shall hold harmless and indemnify the Owners of the Burdened Lot for any claim or cause of action brought against an Owner of a Burdened Lot for personal or property injuries suffered in connection with or arising

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out of the Drainage Easement, including attorney fees and costs. The Association shall be required to maintain liability insurance for the Lake/Stormwater Management Facility in amounts sufficient to ensure against reasonably foreseeable risks.

Section 4.4 Lot Swale Maintenance. The Declarant has constructed a Drainage Swale upon each Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such lot from time to time. Each Lot Owner, including builders, shall be responsible for the maintenance, operation and repair of the swales on the Lots. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capability as permitted by the SJRWMD. Filling, excavating, construction of fences or other otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to any Drainage Swale, whether caused by natural or human induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Owner(s) of the Lot(s) upon which the Drainage Swale is located.

Section 4.5 Vegetative Natural Buffer. There is a permanent vegetative buffer (the "Buffer") fifty feet (50') wide over that portion of the property shown on the Plat as "Upland Buffers". This Buffer extends across Lots 1 to 8. The Buffer is part of the Surface Water Management System permitted by SJRWMD. The purpose of this Buffer is to detain and treat storm water prior to drainage off-site; therefore, the area must be maintained in a natural state. Filling and placement of impervious surfaces (other than fence posts) are prohibited within the Buffer.

ARTICLE V MEMBERSHIP & VOTING RIGHTS

Section 5.1 Every Owner of a Lot or Parcel which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot or Parcel which is subject to assessment.

Section 5.2 The Association shall have two (2) classes of voting membership, as follows:

Class A. Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot or Parcel owned. When more than one person holds an interest in any Lot or Parcel, all such persons shall be members. The vote for such Lot or Parcel shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Member shall be the Declarant, its successor or assigns, and Declarant shall be entitled to three (3) votes for each Lot or Parcel owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

- a. When the total votes outstanding in the Class A memberships equal the total votes outstanding in the Class B membership; or
- b. on December 31, 2006.

ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien & Personal Obligation of Assessment. The Declarant, for each Lot or Parcel owned within the Property, hereby covenants, and each Owner of any Lot or Parcel by acceptance of a deed for a Lot or Parcel, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessment for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at

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the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 6.2 Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Property and for all expenses required for the reasonable improvement and maintenance of the Upland Buffer/Wetlands Preservation Areas, Lake/Stormwater Management Facility, entrance facility and landscape including payment of ad valorem taxes assessed Parcels owned by the Association and the Upland Buffer/Wetland Preservation Areas.

Section 6.3 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot or Parcel to an Owner, the maximum annual assessment shall be Two Thousand Dollars (\$2000.00) per Lot or Parcel.

- a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot or Parcel to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or at a meeting duly called for that purpose.
- c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 6.4 Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment, amortized over a period of not more than five (5) years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Upland Buffer Areas, including fixtures and personal property related thereto, provide that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for that purpose.

Section 6.5 Borrowed Funds. The Association may borrow funds for the purposes herein and repay funds, together with interest thereon, borrowed by the Association and used for purposes referred to herein.

Section 6.6 Notice & Quorum for any Action Authority Under Sections 6.3 & 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 6.3 or 6.4 shall be sent to all members not fewer than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast the majority of all the votes of each class of membership shall constitute a quorum.

Section 6.7 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots or Parcels and may be collected on an annual basis.

Section 6.8 Date of Commencement of Annual Assessments/Due Dates. The annual assessments provided for herein shall commence as to the all Lot or Parcels on the day of the conveyance of the first Lot or Parcel to be sold by Declarant to a third party. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot or Parcel at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon

demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Any provision of this Declaration to the contrary, notwithstanding Lots or Parcels owned by and held for sale by the Declarant or by Builders for construction of a house for sale, shall not be subject to annual or special assessments. It is understood and agreed that until such time as Declarant shall have sold and conveyed all Lots or Parcels to be developed in Diego Island, that Declarant shall bear a portion of the expenses necessary for provision of the services described in Section 6.2, of this Declaration to the extent that said services are provided for the benefit of unsold Lots or Parcels owned by the Declarant.

Section 6.9 Effect of Non-payment of Assessments/Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Association owned Property or abandonment of Owner's Lot or Parcel.

Section 6.10 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Parcel shall not affect the assessment of lien. However, the sale or transfer of any Lot or Parcel pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relive such Lot or Parcel from liability for any assessments thereafter becoming due or from the lien thereof. Mortgage holders shall not be required to escrow any annual or special assessments for the benefit of the Association. An Owner's failure to pay assessments when due shall not, in the absence of another document stating otherwise, constitute a default under the terms of an insured mortgage.

**ARTICLE VII
ARCHITECTURAL CONTROL**

Section 7.1 Single-Family Residence Only. Except as herein and otherwise provided, no structure shall be erected, altered or permitted to remain on any Lot or building plot on said land other than one (1) single-family residence. Within the approval of the Declarant and St. Johns County, Florida, the height of the main residence on each Lot or Parcel shall be not more than thirty-five feet (35') above the lowest furnished floor slab elevation for a Lot shown on the St. Johns County approved engineering drawings for Diego Island. No building situated on any Lot or Parcel shall be used for business, commercial, amusement, charitable or manufacturing purposes.

Section 7.2 Building Plot. Building Plot shall refer to all or parts of platted Lot(s) of Parcel(s) and may consist of one or more contiguous platted Lots or Parcels; all or part of one platted Lot or Parcel; all of one platted Lot or Parcel and part of a contiguous platted Lot or Parcel; or any other combination of contiguous parts of platted Lots or Parcels which will form an integral unit of land suitable for use as a residential building site; provided however that no Building Plot shall have an area less than the smallest Lot shown on the Plat.

Section 7.3 Minimum Square Footage for Any Principle Residence. No principle residence shall be erected or allowed to remain on any Lot or Parcel unless the square footage of heated living area thereof, exclusive of porches, garages and storage rooms, shall equal or exceed two thousand five hundred feet (2,500 ft.).

Section 7.4 Setback for All Structures. No building shall be located on any Lot or Parcel nearer than twenty-five feet (25') to the front lot line more nearer than ten feet (10') to any side street nor nearer than fifty feet (50') to the rear wetlands line. The Declarant, the Architectural Review Board, or the Association shall have the right to release Lots from minor violations of these setback restrictions provided the violations are deemed acceptable by St. Johns County Building and Zoning Department. The principle residence shall not cover more than twenty-five percent (25%) of a platted Lot.

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Section 7.5 Completion of Construction. The construction of a single-family residence on a Lot must be completed within 365 days from the date that the footings are poured for the single-family residence. For the purposes of this paragraph, the term "completed" shall be defined to be the date that a Certificate of Occupancy is issued by the St. Johns County Building and Zoning Department.

Section 7.6 Other Structures. The following buildings, structures and objects may be erected and maintained on the Lot or Parcel only if the same are located wholly within the yard and rear of the main dwelling, and at least seventy-five feet (75') from the front lot line, and at least fifty feet (50') from any designated wetlands line and at least ten feet (10') from the side lot line: pens, yards and houses for pets; above ground storage of construction materials; wood, coal, oil and other fuels; tool sheds and workshops; garbage and trash cans; greenhouse; children's playhouses; barbecue pits; swimming pools or installation in connection therewith, or any other structure or objects of any unsightly nature of appearance. Each such object shall be screened by a wall or fence sufficiently landscaped using materials and with height and design and in such a manner that such objects shall be obstructed from view from the outside of the Lot.

Section 7.7 Clotheslines. No clothesline or other clothes-drying facility shall be permitted where it would be visible from any Common Road or any other Lot.

Section 7.8 Window Air Conditioners. No window air conditioning unit shall be installed in any of the residences without the prior approval of the ARB.

Section 7.9 Hazardous Materials. No hazardous or toxic materials or pollutants shall be maintained, stored, discharged, released or disposed of in or under the Property except in strict compliance with applicable statutes, rules and regulations. Fuel or gas storage tanks or other flammable, combustible or explosive fluids, materials or substances for ordinary household use may be stored or used in the Property only in strict compliance with manufacturer's directions and applicable safety laws and codes, and shall be stored in containers specifically designed for such purposes.

Section 7.10 Garages. All garages must have either a single overhead door with a minimum door width of sixteen feet (16') for a two-car garage; or two (2) sixteen feet (16') doors for a four-car garage; or two (2), three (3) or four (4) individual doors, each a minimum of ten feet (10') in width (or eight feet (8') with a two feet (2') separation). No carports will be permitted unless approved by the ARB Declarant. All garages shall be side entry or courtyard where possible or unless otherwise approved by the ARB.

Section 7.11 Driveways. All improved Lots or Parcels shall have a concrete driveway. In addition, the driveways must be constructed so that the driveway will not impede the flow of surface water drainage in the manner established by the Declarant. Driveway locations and elevations must be approved by the Declarant.

Section 7.12 Window Coverings. Reflective window coverings and heat mats are expressly prohibited and only neutral, solid colored window coverings shall be permitted on any residence. The Declarant or ARB may prohibit window treatments which are not reasonable compatible with the aesthetic standards of the Property.

Section 7.13 Re-subdividing or re-platting. Declarant reserves the right to re-subdivide or re-plat any Lot or Lots shown on the Plat, including right-of-way for road purposes and easements, provided that no residence shall be erected upon, or any resident allowed to occupy, any re-platted or re-subdivided Lot or fractional part or parts thereof, having an area less than the smallest Lot shown on the Plat immediately prior to the re-platting or re-subdividing, and the restrictions herein contained shall apply to each Lot as re-platted or re-subdivided except any Lot or Lots re-subdivided for road purposes or easements.

Section 7.14 Fences. Hedges, fences or walls may not be built or maintained on any portion of any Lot or Parcel except on the rear or interior side lot line, and no closer on the front of the Lot than the back line of the main residence unless approved by Declarant. No fence or wall shall be erected nor hedge maintained higher than six feet (6') from the normal surface of the ground or no higher than four feet (4')

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from the normal ground within seventy-five feet (75') of the wetlands line. Notwithstanding anything to the contrary herein, there shall be no chain-link fence allowed. No fence or wall shall be erected until the quality, style, color and design shall have been first approved by the Declarant or its duly appointed representative. No fence shall be erected with obstructs the marsh views of an adjacent Lot.

Section 7.15 Landscaping. The front, side and rear yards of all Lots shall be fully sodded and each Lot or Parcel shall contain at least six (6) trees that are at least two inches (2") in diameter two feet (2') above the ground. In addition, each Lot shall contain at least forty (40) five (5) gallon shrubs. These landscaping requirements do not superseded any more restrictive requirements of St. Johns County, Florida. It is the intent of the Declarant and the ARB that each Lot be landscaped so as to preserve as much natural vegetation as possible and each Lot Owner must have a landscape plan approved by the ARB prior to building or altering the natural vegetation on any Lot. In particular, the removal of trees is expressly prohibited without the written consent of the ARB. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by Declarant or the ARB.

Section 7.16 All Structures to be Approved by the Declarant. For the purpose of further ensuring the development of the Property as a residential area of high quality and standards, and in order that all improvements on each Lot or Parcel shall present an attractive and pleasing appearance, the Declarant reserves the exclusive power and discretion to control and approve all of the buildings, structures and other improvements on each Lot in the manner and to the extent set forth herein. No residence or other building and no building, fence, wall, shed, septic tank, drain field, driveway, swimming pool or other structure or improvements regardless of size or purpose, whether attached to or detached from the main residence shall be commenced, placed, erected or allowed to remain on any Lot, nor shall any additions to or exterior change or alteration thereto be made, unless and until building plans and specifications showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes, location and orientation on the Lot and approximate square footage, tree removal plan, construction schedule and such other information as the Declarant shall require, including, if so required, plans for the grading and landscaping of the Lot, showing any changes proposed to be made in the elevation or surface contours of the land, have been submitted to and approved by the Declarant in writing. The Declarant shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and lot grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons connected with Declarant's development plans for the land or contiguous lands. In passing upon such building plans and specifications and lot grading and landscaping plans, the Declarant may consider the suitability, desirability and quality of the proposed construction and the materials. In the event Declarant fails to approve or disapprove the plans and specifications required under the terms of this paragraph within thirty (30) days after they have been submitted to Declarant in writing, such approval shall not be required, and the Owner shall be deemed to have complied with the provisions of this paragraph. The Declarant may assign the rights granted to a three person ARB which will be appointed by the Declarant or the Association.

Section 7.17 No Parking of Vehicles. No wheeled vehicles of any kind, boats or other offensive objects may be kept or parked between the roadways and the residences. They may be kept if enclosed completely with a garage or docked at the Owner's Lot. Lot or Parcel Owners' private automobiles bearing no commercial signs may be parked in the driveway on the Building Plot from the commencement of the use thereof in the morning to the cessation of use thereof in the evening and other should be garaged. Private automobiles of guests may be parked in such driveways and other vehicles may be parked in such driveways during the times necessary for pick-up and delivery service and solely for the purpose of such service. No wheeled vehicle or boat shall be kept or parked in the front, side or rear yard. Boats may be kept in rear yards with screening fence and landscaping and shall not block any marsh views of adjacent lots. No trailers or recreational vehicles shall be maintained or kept on any Lot or Parcel.

Section 7.18 No Sheds, Shacks or Trailers. No sheds, shacks, trailers, tents, mobile homes or other temporary or moveable buildings or structures of any kinds shall be erected or permitted to remain on any Lot or Parcel, except the Declarant or authorized building contractor shall have the right to place a

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temporary trailer on any Lot or Parcel for the purpose of operating an office. The use of adequate sanitary toilet facilities for workmen during the course of construction of the main residence and other buildings is permitted hereunder. Likewise, any contractor or sales person may maintain a model home on any Lot or Parcel for the sale of houses being built within Diego Island.

Section 7.19 Size of Sign. No sign of any character shall be displayed or placed upon any Lot or Parcel except "For Rent" or "For Sale" signs. Signs may refer only to the particular premises on which they are displayed and shall be of materials, size, height and design specified by the Declarant. The Declarant may enter upon any Building Plot and summarily remove any signs that do not meet the provisions of this section.

Section 7.20 Commercial Signs. Nothing contained in these Covenants and Restrictions shall prevent the Declarant or any person designated by the Declarant from erecting or maintaining such commercial and display signs and such temporary dwellings, model houses and other structures as the Declarant may deem advisable for development purposes.

Section 7.21 Aerials & Antennas. No radio or television aerial or antenna, nor any other exterior electronic or electrical equipment or devices of any kind, including, but not limited to television disks and other electronic signal receiving devices, shall be installed or maintained on the exterior of any structure located on a Lot or on any portion of any Lot or Parcel occupied by a building or other structure, except small (18" or less) satellite dishes may be installed provided they are located at the rear of the house and screened from view.

Section 7.22 Lighting. No external lighting shall be installed within the prior approval of the Declarant or the ARB. No lighting will be permitted which alters the residential character of the Property. Any lighting of a pool or other outdoor recreation area must be designed to buffer the surrounding residences from the lighting. Tennis court lighting is specifically prohibited.

Section 7.23 Utility Connections. Building connections for all utilities, including but not limited to, water, electricity, telephone and television shall be run underground from the connecting points to the residence in such a manner to be acceptable to the governing utility authority.

Section 7.24 Mailboxes. A mailbox cluster will be installed by the Declarant outside the entry gate to the subdivision. Each Owner will be assigned one box. The erection of any other mailbox is prohibited.

Section 7.25 Pets, Livestock & Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets in reasonable numbers may be kept provided they are not kept, bred or maintained for any commercial use and do not create safety, health or nuisance problems.

Section 7.26 No Offensive Activities. No illegal, noxious or offensive activity shall be permitted on any part of the Property, nor shall anything be permitted or done thereon which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material, or other refuse shall be deposited or allowed to accumulate or remain on any part of the Property or upon any land or lands contiguous thereto. No fires for burning of trash, leaves, clippings or other debris or refuse shall be permitted on any part of the Property or right-of-ways.

Section 7.27 Drainage.

- a. No change in elevation of the land shall be made to any Lot or Parcel which will interfere with the surface water drainage system established by the Declarant or otherwise cause hardship to adjoining property.
- b. There shall be no drainage or artificial altering or change on the courses of the natural flow of water.

- c. Each Owner shall maintain the existing swales for proper drainage. Grades are to be established and maintained through construction, with no alterations thereto without Declarant's written approval. Upon completion of construction, disturbed swales or road shoulders shall be restored to their original grades and any damage that may have occurred to the under drain system, drainage pipes or structures or the retention areas shall be repaired.

Section 7.28 Docks. Private docks shall be allowed as permitted through the Association, the Florida Department of Environmental Protection, and/or SJRWMD. Said docks shall be constructed in strict accordance with specifications and requirements of the aforementioned Agencies and all docks must be maintained and kept in repair and no dock shall significantly obstruct the views of other Lot Owners. Docks shall be approved by the ARB prior to construction.

**ARTICLE VIII
BODIES OF WATER**

Disclaimers as to Water Bodies. Neither the developer, the Association, nor any of their successors, assigns, officers, directors, committee members, employees, management agents, contractors or sub-contractors (collectively the "Listed Parties") shall be liable or responsible for maintaining or assuring the water quality or level in any lake, pond, canal, creek, stream or other water body adjacent to or within the Property, except a such responsibility may be specifically imposed by an applicable governmental or quasigovernmental agency or authority. Further, all owners and users of any portion of the Property located adjacent to or having a view of any of the aforesaid water bodies shall be deemed, by virtue of their acceptance of the deed to or use of, such property, to have agreed to hold harmless the listed parties for any and all changes in the quality and level of the water in such bodies.

All persons are hereby notified that from time to time alligators, poisonous snakes, and other wildlife may inhabit or enter into water bodies and natural areas within the Property and may pose a threat to persons, pets and Property, but that the Listed Parties are under no duty to protect against, and do not in any manner warrant against, any death, injury or damage caused by such wildlife.

All persons are hereby notified that lake banks and slopes within certain areas of the Property may be steep and that depths near shore may drop off sharply. By acceptance of a deed to, or use of, any lot or other portion of the Property, all owners or users of such Property shall be deemed to have agreed to hold harmless the Listed Parties from any and all liability or damages arising from the design, construction or topography of any lake banks, slopes or lake bottoms located therein.

**ARTICLE IX
GENERAL PROVISIONS**

Section 9.1 Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9.2 Severability. Invalidation of any one of the these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 9.3 Amendment. The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded; after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than two-thirds (2/3) of each class of members. Any amendment must be recorded in the public records of St. Johns County, Florida.

Section 9.4 Annexation. Additional residential property or open areas may be annexed to the Property with the consent of two-thirds (2/3) of each class of members.

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Section 9.5 Assignment. Declarant may assign to any person all or some of the rights, privileges and exemptions granted herein to Declarant in connection with the ownership, use or development of a portion of the Property. Any such assignment shall be non-exclusive unless otherwise noted and shall be effective only for so long as such right, privilege or exemption would inure to the benefit of the Declarant.

IN WITNESS THEREOF, the undersigned Declarant has hereunto set its hand and seal this 4th day of FEBRUARY, 2003.

Signed, sealed & delivered
In the presence of:

[Signature]
Signature

Russell V. Zimmerman
Print Name

[Signature]
Signature

J. L. HARDIN
Print Name

DIEGO ISLAND, LLC
By: [Signature]
Print Name: JOHN C. KUNKEL

Its VICE PRESIDENT

STATE OF FLORIDA
COUNTY OF DUAL

The foregoing instrument was acknowledged before me this 4th day of FEBRUARY 2003, by JOHN C. KUNKEL as VICE PRESIDENT of Diego Island, LLC, who is personally known to me.

NOTARY PUBLIC

[Signature]
Signature



J. L. Hardin
MY COMMISSION # DD059465 EXPIRES
September 23, 2005
BONDED THRU TROY FAIN INSURANCE, INC.

EXHIBIT "A"

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DIEGO ISLAND

A parcel of land, being a part of the West one-quarter (1/4), of Section 2, Township 6 South, Range 29 East, St. Johns County, Florida, said parcel of land being more particularly described as follows:

For a POINT OF REFERENCE, Commence at a concrete monument marking the Northeast corner of the West one-quarter (1/4), of said Section 2; run thence South 00°17'40" West, along the East line of the West one-quarter (1/4), of said Section 2, a distance of 2,640.00 feet, to the POINT OF BEGINNING.

From the POINT OF BEGINNING thus described, continue thence South 00°17'40" West, along aforesaid East line of the West one-quarter (1/4) of Section 2, Township 6 South, Range 29 East, St. Johns County, Florida, a distance of 420.05 feet, to a point on the Mean High Water Line of the NORTH RIVER; run thence Southwesterly, along said Mean High Water Line of the NORTH RIVER, a distance of 1,000 feet, more or less, to a point on the Southerly prolongation of the Wetland Jurisdictional Line, as flagged by Environmental Resource Solutions, Inc.; run thence, North 41°33'19" West, along said Southerly prolongation, and then along the aforesaid Wetland Jurisdictional Line, a distance of 135.76 feet, to a point; run thence, along aforesaid Wetland Jurisdictional Line, the following twenty-two (22) Courses and Distances: Course No. 1: North 30°37'47" West, a distance of 55.13 feet, to a point; Course No. 2: North 01°27'34" West, a distance of 91.39 feet, to a point; Course No. 3: North 07°36'34" East, a distance of 59.48 feet, to a point; Course No. 4: North 03°47'11" West, a distance of 47.37 feet, to a point; Course No. 5: North 00°01'13" West, a distance of 17.91 feet, to a point; Course No. 6: North 20°31'18" West, a distance of 16.55 feet, to a point; Course No. 7: North 11°44'51" East, a distance of 48.36 feet, to a point; Course No. 8: North 05°26'32" West, a distance of 51.61 feet, to a point; Course No. 9: North 17°21'18" West, a distance of 47.74 feet, to a point; Course No. 10: North 16°28'46" West, a distance of 40.81 feet, to a point; Course No. 11: North 21°56'34" West, a distance of 29.86 feet, to a point; Course No. 12: North 22°38'42" West, a distance of 33.06 feet, to a point; Course No. 13: North 09°54'31" West, a distance of 41.48 feet, to a point; Course No. 14: North 16°15'45" East, a distance of 22.35 feet, to a point; Course No. 15: North 10°22'21" East, a distance of 56.36 feet, to a point; Course No. 16: North 22°07'25" East, a distance of 24.87 feet, to a point; Course No. 17: run thence North 10°16'47" West, a distance of 40.54 feet, to a point; Course No. 18: North 00°42'09" West, a distance of 45.96 feet, to a point; Course No. 19: North 13°01'07" West, a distance of 41.10 feet, to a point; Course No. 20: North 30°43'53" West, a distance of 40.30 feet, to a point; Course No. 21: North 31°10'05" East, a distance of 45.33 feet, to a point; Course No. 22: North 34°27'25" West, a distance of 47.35 feet, to a point; run thence North 45°41'13" West, departing from aforesaid Wetland Jurisdictional Line, a distance of 44.01 feet to a point; Thence run South 51°31'04"W, a distance of 46.26 feet to a point; Thence run North 38°28'56" West, a distance of 10.00 feet to a point on the Southerly Right of Way line of STOKES LANDING ROAD, (a 66 foot Public Road Right of Way, as per that instrument recorded in Official Records Book 227, page 429 of the Public Records of said St. Johns County, Florida); run thence North 51°31'04" East, along said Southerly Right of Way line of STOKES LANDING ROAD, a distance of 332.35 feet, to a point; Thence leaving last said right of way run North 80°44'39" East, a distance of 331.00 feet, to the POINT OF BEGINNING.

The lands thus described contains 512,661 square feet, or 11.77 Acres, more or less, in Area.