

July 5, 1994

Prepared by and return to  
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DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS  
AND RESTRICTIONS FOR  
MARSH COVE II

THIS DECLARATION is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 1994, by  
MARSH COVE, LTD. II, a Florida limited partnership, whose address is 9551 Baymeadows Road,  
Suite 4, Jacksonville, Florida 32256 ("Developer").

ARTICLE I

INTRODUCTION AND DEFINITIONS

Developer is the owner of the real property located in St. Johns County, Florida which has been surveyed and platted as MARSH COVE II, according to plat thereof recorded in Map Book 27, pages 57 - 59, of the public records of St. Johns County, Florida ("Property"). Developer hereby restricts the use of the Property and declares that the Property and all portions thereof (except to the extent specifically exempted herein) and all additions made in accordance with this Declaration, shall be held, occupied, sold and transferred subject to the easements, restrictions, conditions and covenants of this Declaration, which Developer is imposing for the benefit of all owners of the Property or portions thereof for the purpose of preserving the value and maintaining the desirability of the Property and which shall run with the title to the Property and shall be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

Unless the context expressly requires otherwise, the words defined below whenever used in this Declaration and in the Legal Documents shall have the following meanings:

1.1 "A.R.C." means the Architectural Review Committee of the Association as set forth in Article VIII hereof.

1.2 "Architectural Criteria" means the Regulations from time to time adopted by the A.R.C. and approved by the Board of Directors pertaining to construction standards for improvements constructed within the Property, as set forth in Article VIII hereof.

1.3 "Association" means the Marsh Cove II Owners Association, Inc., a corporation not for profit organized pursuant to Chapter 617, Florida Statutes, its successors and assigns.

Recorded in Public Records, St. Johns County, FL 07-08-94  
Clerk # 9660 07/11/94 PG 1423 02:19PM  
Recording Fee \$30.00 Charge 16.50

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1.4 "Board" or "Board of Directors" means the Association's Board of Directors.

1.5 "Common Areas" means all real property, intended for use by all Owners which may be owned by the Association or designated by Developer for ownership by the Association for the common use and enjoyment of all Owners, together with all improvements, fixtures, and tangible personal property now or hereafter situated thereon and all appurtenant easements. The Common Areas initially will include the private streets within the Property including Marsh Cove Lane and Shelly's Cove as shown on the Plat and Tract A of the Plat, which will be used as a detention pond for stormwater runoff, the sign easement, landscaping installed by the Association, and traffic control signs, and may include such other property as may from time to time be designated by Developer.

1.6 "County" means St. Johns County, Florida.

1.7 "Developer" means Marsh Cove, Ltd. II, a Florida limited partnership whose address is 9551 Baymeadows Road, Suite 4, Jacksonville, Florida 32256, and its successors and assigns that have received a written assignment of all or a part of the rights, privileges and obligations of Developer hereunder. Reference in this Declaration to Marsh Cove, Ltd. II, as Developer under this Declaration is not intended and shall not be construed to impose upon Marsh Cove, Ltd. II, any obligations, legal or otherwise, for the acts or omissions of third parties who purchase Lots within the Property from Marsh Cove, Ltd. II, and develop and resell the same. Developer may also be an Owner for so long as Developer shall be the record Owner of any Lot. Developer may assign all or a part of such rights in connection with appropriate portions of the Property. In the event of such a partial assignment, the assignee shall not be deemed to be the Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a nonexclusive basis. In addition, in the event that any person or entity obtains title to all of the Property owned by Developer as a result of foreclosure or deed in lieu thereof, such person or entity may elect to become the Developer by written election recorded in the public records of the County, and regardless of the exercise of such election, such person or entity may appoint the Developer or assign any rights of Developer to any other party which acquires title to all or any part of the Property by written appointment recorded in the public records of the County. In any event, a subsequent Developer shall not be liable for any actions or defaults of, or obligations incurred by, any prior Developer, except as the same may be expressly assumed by the subsequent Developer.

1.8 "Law" means any statute, ordinance, rule, regulation, or order adopted or enforced by the United States of America, or any agency, officer, or instrumentality thereof, or by the State of Florida, or any agency, officer, municipality, or political subdivision thereof, from time to time applicable to the Property or to any and all activities on or about the Property.

1.9 "Legal Documents" collectively means this Declaration of Covenants, Conditions, Easements and Restrictions for Marsh Cove II and any supplemental declarations made in accordance herewith, as amended from time to time, the Association's Articles of Incorporation (the "Articles") and the Association's Bylaws (the "Bylaws"), as the same may be amended from time to time.

1.10 "Lakefront Lots" means all Lots containing within the Lot lines a portion of a lake or pond within the Property, or having frontage on or common boundaries with, a lake or pond.

1.11 "Lot" means any plot of land shown on the Plat or any subsequently recorded subdivision plat of the Property, which is intended as a site for a Unit and references to "Lot" shall include any Unit

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or other improvements thereon, unless specifically set forth to the contrary. In the event that Developer conveys a Lot together with all or part of an adjacent Lot (such combination of Lots being hereafter referred to as a "Reconfigured Lot") to one Owner who constructs only one single family dwelling Unit thereon, such Reconfigured Lot shall be deemed to be a Lot subject to one Assessment and entitled to one vote, and except as specifically set forth herein, all references to Lots shall include Reconfigured Lots. Provided, however, if such a Reconfigured Lot is subsequently developed with an additional Unit, it shall be deemed to constitute two Lots, shall be entitled to two votes, and shall be liable for payment of two Assessments.

1.12 "Mortgage" means any mortgage, deed of trust, or other instrument validly transferring any interest in any Lot, or creating a lien upon any Lot, in either case as security for performance of an obligation. The term "Mortgage" does not include judgments, involuntary liens, or liens arising by operation of Law. "First Mortgage" means any Mortgage constituting a lien prior in dignity to all other Mortgages encumbering the same property.

1.13 "Mortgagee" means the Person(s) named as the obligee under any Mortgage, or the successor in interest to any such Person, including the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Authority and similar guarantors or insurers of First Mortgages and may include Developer, if it holds a mortgage on the Property.

1.14 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot, including contract sellers, but excluding contract buyers and any Person holding such fee simple title merely as security for the performance of an obligation. Developer is an Owner as to each Lot owned by Developer.

1.15 "Person" means any natural person or an "legal entity having legal capacity.

1.16 "Plat" means that subdivision plat of Marsh Cove II recorded in Map Book 27, pages 57-59 of the public records of St. Johns County, Florida and the recorded plat of any lands made subject to the provisions of this Declaration pursuant to the provisions hereof, and any amendments to any of the foregoing.

1.17 "Property" means the lands in St. Johns County, Florida, described in the Plat, together with all other lands that hereafter may be made subject to the provisions of this Declaration in the manner provided herein.

1.18 "Regulations" means any rules and regulations regarding the use of the Property duly adopted by the Association in accordance with the Legal Documents, including the Architectural Criteria.

1.19 "Surface Water Management System" means a system which is designed and constructed or implemented 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, Florida Administrative Code.

1.20 "The Work" means the initial development of all or any portion of the Property as a residential community by the construction and installation of streets, utility systems, community facilities,

buildings, and other improvements, and the sale, lease, or other disposition of the Property in parcels, but does not include the construction of individual Units by Persons other than Developer or designees of Developer. This term is to be broadly construed to include any and all activities, uses, structures, and improvements necessary, convenient, or desirable to accomplish such construction and disposition.

1.21 "Unit" means a single family dwelling located on a Lot.

1.22 "Zero-Lot Line Lot" means a Lot on which under applicable zoning ordinances, a Unit may be constructed without a required side yard on one side line.

## ARTICLE II

### PROPERTY RIGHTS AND EASEMENTS

2.1 Title to Common Areas and Owner's Easements of Enjoyment. Developer will convey or cause to be conveyed to the Association the title to the Common Areas, at such time as in its sole discretion it deems appropriate, but not more than one year following substantial completion of construction of the improvements located thereon or at the time the United States Department of Housing and Urban Development ("HUD") insures any First Mortgage on a Unit, whichever shall first occur. The conveyance shall be subject to taxes for the year of conveyance, restrictions, conditions, and limitations of record, and easements for drainage and public utilities. Every Owner and his lessees have a nonexclusive right and easement of enjoyment in and to the Common Areas that is appurtenant to, and passes with, the title to every Lot, subject to the easements and other property rights granted in this Article and to the following:

(a) Dedication-Mortgage. The Association's right to mortgage or convey the Common Areas must be approved by at least two-thirds (2/3) of each class of members at a meeting duly convened for such purpose, and shall be evidenced by a recorded certificate of the Association executed by the Association with the formalities from time to time required for a deed under the laws of the State of Florida. Further, such conveyance or mortgage shall be subject to any easement for ingress or egress previously granted to an Owner or required by an Owner for access to a Unit.

(b) Regulations. The Association's right to adopt, alter, amend, rescind, and enforce reasonable Regulations governing the use of the Common Area, as provided herein.

(c) Legal Documents. The provisions of the Legal Documents and all matters shown on any plat of all or part of the property.

(d) Easements. The right of Developer and, following the conveyance of the Common Areas to the Association, the Board of Directors of the Association to grant easements, dedicate lands or convey interests for utilities or drainage across all or any part of the Common Areas.

(e) Requirements of Law. The provisions of applicable Laws and all construction, water quality, environmental protection and other permits issued in connection with the development of the Property.

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(f) General. Real estate taxes and special assessments levied by governmental authorities having jurisdiction over the Common Areas and restrictions, limitations, easements of record.

The foregoing easement is limited to using the Common Areas for their intended purposes in a reasonable manner, and with respect to any particular use or activity, it is limited to those portions of the Common Areas from time to time improved or otherwise suitable for such use or activity.

2.2 Private Street Easements and Regulations. Developer hereby reserves to itself and its successors and assigns, and grants to the Owners, the lawful occupants of any Unit, the Association, and the family members, employees, guests, invitees and licensees of any of the foregoing, lawful delivery and pickup personnel, emergency medical and fire protection personnel, police and other authorities of the law, mail and parcel carriers, representatives of utilities authorized to serve the Property, Mortgagees of any part thereof, and such other Persons as Developer may from time to time designate, the non-exclusive, perpetual right of ingress and egress to, from, in, and across the streets and roadways shown on the Plat, subject to the right of Developer, its successors, assigns, authorized agents or designees, to install, erect, construct and maintain electric, water, sewer and other utility and drainage lines and facilities in such roadways.

Developer reserves to itself, and following the termination of the Class B membership, to the Association, (a) the absolute and unrestricted right, but not the obligation, to limit, restrict or deny the ingress of any Person, except Owners and their Mortgagees, who, in the sole determination of Developer or the Association, does not belong or have business on the Property or who may create or participate in a disturbance or nuisance on any part of the Property or is otherwise undesirable, through use of a controlled or guarded entranceway or through such other means and upon such terms and conditions as Developer or the Association may reasonably determine, (b) the right to control and regulate all types of vehicular traffic and parking on all or any part of such roadways, (c) the right to require the removal of any shrub, bush, fence, wall, tree or other item of any sort which might, in the sole opinion of Developer or the Association impair or obstruct a motorist's vision on any of the roadways, (d) the right to enforce claims against any Owner responsible for damages to any roadways, and (e) the right to assign in whole or in part the rights reserved herein to any Person, including without limitation, the Association. In connection with the foregoing reserved rights, such rights shall be permissive and neither Developer, nor the Association shall have any obligation to exercise such rights. Following conveyance of the roadways to the Association as Common Areas, the Association shall have the right to exercise the privileges herein reserved to Developer subject to the easements reserved to Developer.

2.3 General Easements. In addition to any easements shown on the Plat, all Lots are subject to the following perpetual easements. Developer reserves the right to convey, assign, or release any of these easements when it deems necessary or convenient.

(a) An easement to Developer or its assigns five (5) feet wide along and parallel to each side and rear Lot line to construct, install, maintain, operate and repair wires, cables, pipes, conduits and other utility facilities or equipment to provide water, sewer, telephone, electric, cable television or other utility, information or communication systems to the Lots and Units; provided however, as to any Lot which is constructed as a Zero-Lot Line Lot, the foregoing easement shall not apply to the side Lot line next to which the Unit is intended to be constructed without a side yard.

(b) An easement for the drainage of ground and surface waters in the manner established by Developer as part of the Work. In addition to the easements shown on the Plat, each Lot shall be subject to perpetual drainage easements along each side and rear lot lines in the amount of five (5) feet for the installation, maintenance, and use of drainage ditches, pipes or other drainage facilities, provided however, as to any Lot which is constructed as a Zero-Lot Line Lot, the foregoing easement shall not apply to the side Lot line next to which the Unit is intended to be constructed without a side yard. Developer also reserves for itself and for the Association and their designees an easement and right over all portions of a Lot (except where the Unit has been constructed) to maintain, correct, and improve drainage of surface water in order to maintain reasonable standards of appearance. The foregoing expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, remove fences or walls, take up pavement or to take any other similar action reasonably necessary for such purposes. Following any such maintenance, correction or improvement, Developer or the Association, as applicable, shall restore the surface of affected property to its original condition as nearly as practicable, provided however, Developer or the Association shall not be required to replace or repair fences, walls, structures, landscaping or other improvements that were located within easement areas designated by the Declaration or the Plat. Developer or the Association shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of Developer or the Association an emergency exists which precludes such notice. All rights granted hereunder may be exercised at the sole option of Developer, or the Association, and shall not be construed to obligate Developer or the Association to take any affirmative action in connection therewith.

(c) As to any Lots constructed as Zero-Lot Line Lots, there are reciprocal, appurtenant, and perpetual easements between adjacent Lots, for (i) the maintenance, repair, and reconstruction of any roofs, exterior walls or other portions of the Unit for the benefit of those Persons, including the Association, responsible for or permitted to perform such maintenance, repair and reconstruction; (ii) lateral and subjacent support; (iii) overhanging roofs, eaves, and trees, if any, installed by Developer as part of the Work, and their replacements; and (iv) encroachments caused by the unwillful placement, settling, or shifting of any improvements constructed, reconstructed, or altered thereon in accordance with the provisions of this Declaration. To the extent not inconsistent with this Declaration, the general rules of Law apply to the foregoing easements. The extent of such easements for maintenance, drainage, support, and overhangs is that reasonably necessary to effectuate their respective purposes, and easements for encroachments extend to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. There is no easement for overhangs or encroachments caused by the willful or intentional misconduct of an Owner or the Association.

2.4 Plat Easements. Reference is made to the utilities, drainage, ingress and egress, non-access, and other easements shown on the Plat. Developer shall have the unrestricted right without the approval or joinder of any other Person to designate the use and to alienate, release or otherwise assign the easements shown on the Plat unless such easements have been previously conveyed or dedicated. The easements may be used to construct, maintain and operate drainage ditches, drainage pipes and other suitable installations for drainage, or lines, pipes or other facilities for electricity, gas, telephone, water, sewer and other utilities, whether or not the easements are shown on the Plat to be for drainage, utilities, or other purposes. The Owners of the Lots subject to easements shown on the Plat shall acquire no right, title or interest in any of the cables, conduits, pipes, mains, lines, or other

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equipment or facilities placed on, over or under the easement area. The Owner of a Lot subject to any easement shall not construct any improvements on the easement areas, nor alter the flow of drainage, nor landscape such areas with hedges, trees or other landscape items that might interfere with the exercise of the easement rights. If any Owner constructs any improvements on such easement areas or landscapes such areas as aforesaid, the Owner of the Lot shall remove the improvements or landscape items upon written request of Developer, the Association or the grantee of the easement. Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way on any Lots owned by Developer. In addition, Developer hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as Developer shall own any portion of the Property. The easements granted by Developer shall not materially adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Areas.

2.5 Entrance Sign Easement. Lot 36 is subject to an exclusive easement for the location, installation, maintenance and repair of entrance signs identifying the name of the subdivision over that portion of said Lot identified as "sign easement" on the Plat. The foregoing easement runs to the benefit of Developer and the Association and is limited to the area necessary or convenient for the location of the signs and such additional area as is reasonably necessary to provide access to the sign and to maintain and repair the sign, adjacent landscaping and utilities.

2.6 All Rights and Easements Appurtenant. The benefit of all rights and easements granted by this Article constitute a permanent appurtenance to, and pass with, the title to every Lot enjoying such benefit. Whenever any such right or easement is described as nonexclusive by this Article its benefit nevertheless is exclusive to all Lots granted such benefit by this Article, unless this Article expressly grants such benefit to additional Persons. In no event does the benefit of any such easement extend to the general public. Any Owner may delegate his right of enjoyment and other rights in the Common Areas to any Persons from time to time lawfully occupying such Owner's Unit. Any delegation is subject to the Association's Regulations.

2.7 Ownership Rights Limited to Those Enumerated. No transfer of title to any Lot passes any rights in and to the Common Areas, except as expressly enumerated in this Declaration. No provision in any deed or other instrument of conveyance of any interest in any Lot shall be construed as passing any such right, title, and interest except as expressly provided in this Declaration.

2.8 Platting and Subdivision Restrictions. Developer may from time to time, plat or replat all or any part of the Property owned by Developer, and may widen or extend any right-of-way shown on the Plat or convert a Lot to use as a right-of-way, provided that Developer owns the lands where such changes occur. Provided that no parcel of land shall be used for the construction of a Unit which parcel does not contain at least 2,625 square feet of land. Developer may also establish covenants and restrictions and amendments thereto with respect to any such portion of the Property. No Lot on which a Unit has been constructed shall be further subdivided or separated into smaller Lots.

### ARTICLE III

#### USE RESTRICTIONS

3.1 Residential Use. Each Lot shall be used for single family residential purposes only, and each Unit constructed on a Lot shall be used only as one private dwelling and not as a boarding house or commercial living facility. Each Unit shall be occupied only by the Owner or lessee of a Unit.

members of their family, their domestic help and non-paying social guests. Subject to any applicable zoning regulations, no trade, business, or profession of any kind may be conducted in, on, or from any Lot, subject to the rights herein reserved to Developer to complete the Work or builders to complete the construction of the Units and further subject to the right of Owners to operate a "home office" within a Unit provided that the nature of the work shall not require the presence of employees, clients, customers or other third parties. Provided, however, the letting, renting, or leasing of an entire Unit for non-transient residential purposes in accordance with other restrictions of this Declaration shall not constitute a trade or business. Further provided, an occupant of a Unit who maintains a personal or professional library, keeps personal or professional books or accounts, conducts personal business (provided that such use does not involve customers, clients, employees, licensees, or invitees regularly visiting the Unit), or makes professional telephone calls or correspondence in or from a Unit is engaging in a residential use and shall not be deemed to be in violation of this section by reason thereof.

3.2 Construction Standards. Lots may only be improved by the construction thereon of a Unit in accordance with plans and specifications for such Unit approved in writing by the A.R.C. in accordance with the procedures described in Article VIII hereof. All exterior materials and appearances must be approved by the A.R.C. Exterior walls of exposed concrete block shall not be permitted. Units shall have a minimum square footage of one thousand five hundred and forty (1,540) square feet of living area, excluding garages, porches and patios.

3.3 Other Structures. Without the prior written approval of the A.R.C., no tents, sheds, trailers, tanks, storage buildings, clothes lines, arbors, gazebos, swimming pools, or structures of any type, whether similar or dissimilar to those herein enumerated and whether intended to be temporary or permanent, may be erected on a Lot, except that children's play structures may be located in the rear yard of the Lot without A.R.C. approval. No trailer, basement, garage, or any outbuilding of any kind shall be at any time used as a residence either temporarily or permanently. No detached outbuildings shall be erected or permitted to remain on any Lot prior to the start of construction of a permanent residence thereon.

3.4 Landscaping. In connection with the construction of improvements on any vacant Lot, complete landscaping plans must be submitted and approved with the plans and specifications for construction of the Unit in accordance with the procedures described in Article VIII hereof. No living trees measuring ten (10) inches or more in diameter at a point two (2) feet above the ground may be removed without the written approval of the A.R.C. unless located within five (5) feet of an approved building site for a Unit or within the area of an approved driveway. Any Person removing trees in violation of this covenant shall pay to Developer (or the Association following transfer of control of the Board of Directors from Developer) a stipulated liquidated damage sum of \$30.00 per inch of diameter measured as stated above for each tree, up to a maximum liquidated damage sum of \$15,000 for any Lot. No artificial grass, plants or other artificial vegetation shall be maintained on any Lot. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain on any Lot. The lake banks of all Lakefront Lots must be sodded.

3.5 Fences. No fences, walls or other similar structures shall be permitted without the prior written approval of the A.R.C. The A.R.C. shall not approve any fences, walls or hedges that obstruct views of ponds or lakes from Lakefront Lots. No chain link, barbed wire or other forms of wire fences are permitted unless approved by the A.R.C. The A.R.C. may require landscaping to be installed in connection with any fence installation. Decorative wrought iron or other metal fences when used to surround pools may be approved by the A.R.C.



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3.6 Minimum Unit Area and Lot Size. Each Unit constructed upon the Property must contain and least One Thousand Five Hundred and Forty (1540) square feet of heated and air conditioned floor area. The minimum Lot Size shall be Two Thousand Six Hundred and Twenty Five (2625) Square feet.

3.7 Setback Lines. Setback lines and side yards shall meet the numerous requirements of local government authorities. To assure that location of Units will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each Unit and that the structures will be located with regard to the topography of each Lot, the A.R.C. shall have the right to control absolutely and to solely decide the precise site and location of any Unit or other structure upon all Lots, subject to compliance with zoning regulations. Developer reserves the right to establish specific setback lines applicable to any unsold Lots in the Property by limitations shown on the Plat or by recorded document. Without limiting the foregoing, the Units shall be constructed so that there is a minimum of at least six and one-half (6 1/2') feet between Units and shall be a minimum of fifteen feet (15') from the edge of street pavement to the Unit. There shall be a minimum rear set back of five feet (5') as measured from the wall of the Unit to the Lot line.

3.8 Parking Restrictions and Garages.

(a) Parking. No vehicle, boat, or trailer may be parked, stored, or repaired, anywhere within the Property except that functional passenger automobiles, vans, motorcycles, and trucks of one-half ton capacity or less (collectively, "Permitted Vehicles") may be parked in those areas described in this paragraph. Boats, trailers and other vehicles that are not Permitted Vehicles may be regularly parked only in the garage of a Unit. Permitted Vehicles may be parked only within a garage of a Unit or in the driveway. No parking places may be constructed on any Lot, except as constructed in accordance with approved plans and specifications. Commercial vehicles or any Permitted Vehicles with advertising thereon shall not be parked within public view on a regular basis. No part of the Common Areas or of the public right-of-ways shall be regularly used for parking, unless the Association adopts Regulations permitting such parking. The Association may establish additional Regulations with respect to parking and the Association may enforce all such restrictions in any lawful manner, including the imposition of reasonable, uniform fines for willful or repeated violations. Nothing in this paragraph prohibits the emergency repair or servicing of Permitted Vehicles, so long as such repair or servicing is completed within forty-eight (48) hours, or the occasional parking of vehicles by delivery personnel or guests of Owners in a manner not complying with this paragraph.

(b) Garages. Garage doors shall be kept closed except when automobiles and entering or leaving the garage. No garage shall be permanently enclosed or converted to another use without the written approval of the A.R.C. No carports shall be permitted.

(c) Driveways. All improved Lots shall have a paved driveway at least sixteen (16) feet wide, but not less than door-to-door width, at the entrance to the garage, constructed of a material approved by the A.R.C. as part of the plans and specifications.

3.9 Alterations, Modifications and Maintenance of Exteriors. An Owner may not cause or permit any alteration, modification, renovation or reconstruction to be made to the structural components, roof, or exterior of his Unit including driveways and parking areas, nor make any additions to the exterior of his Unit, including the installation of window air conditioners, without the prior written

approval of the A.R.C., except that an Owner shall maintain, repair and replace the exterior of his Unit and Lot with materials of the same style, color and of equal or greater quality as originally constructed in accordance with approved plans and specifications.

3.10 Antenna Systems. No television or radio antennas, aeriads, satellite dishes, or similar equipment shall be erected, constructed, or maintained on the exterior of any Unit or Lot unless the location, size and design thereof have been approved by the A.R.C. In general the A.R.C. shall not approve any such items unless the proposed antenna system for the Unit can be completely hidden from view from the street and adjacent Lots.

3.11 Energy Conservation Devices. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearance of such devices will be closely scrutinized and controlled by the A.R.C. to assure consistency with the aesthetic standards of the Property.

3.12 Occupancy and Leasing Regulations. Entire Units may be rented provided the occupancy is only by the lessee and the members of their family, servants and nonpaying social guests. The Owner will be jointly and severally liable with the tenant to the Association for any amount which is required by the Association to repair any damage resulting from acts or omissions of tenants (as determined in the sole discretion of the Association) or to pay any claim for injury or damage to property caused by the negligence of the tenant. Special assessments may be levied against the Lot for such amounts. No rooms may be rented and no transients may be accommodated in a Unit.

3.13 Animals. No animals, livestock, or poultry shall be raised, bred, or kept anywhere within the Property, except that a maximum of two common household pets, such as caged birds, dogs or cats, may be kept by the occupants of each Unit subject to the Association's Regulations, provided such pets are not kept, bred or maintained for any commercial purpose and provided further that such pets are neither dangerous nor a nuisance to the residents of the Property. All pets must be held or kept leashed or otherwise appropriately restrained at all times they are on the Common Areas, and all owners of pets shall be held strictly responsible to immediately collect and properly dispose of the wastes and litter of their pets. The Association reserves the right to designate specific areas within the Common Areas where pets may be walked on leashes by their owners. The Association further reserves the right to demand that an Owner permanently remove from the Property all pets which create disturbances or annoyances that constitute nuisances, in the sole determination of the Board of Directors. The decision of the Board of Directors in such matters is conclusive and shall be enforced by the Association.

3.14 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 and 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 manufacturers' directions and applicable safety laws and codes, and shall be stored in containers specifically designed for such purposes. All above ground tanks, cylinders, or containers for the storage of any fuel must be approved by the A.R.C. and shall be screened from view from adjacent Lots and any street.

3.15 Garbage and Trash Receptacles. All garbage and trash containers must be approved by the A.R.C. and shall be screened from view from adjacent Lots and any street. Except for regular collection and disposal, no rubbish, trash, garbage, or other waste material or accumulations shall be kept, stored, or permitted anywhere within the Property, except inside the Unit, or in refuse containers

concealed from view, and in accordance with the Association's Regulations. No fires for burning of trash, leaves, clippings, or other debris shall be permitted on any part of the Property, including street rights-of-way.

3.16 Sewage Disposal and Water Service. St. Johns Service Company, its successors and assigns ("Utility Company") has the sole and exclusive right to provide all water and sewage facilities and service to the Property. No well of any kind shall be dug or drilled on any one of the Lots or on the Property to provide water for use within the Units, and no potable water shall be used within said structures except potable water which is obtained from Utility Company. Nothing herein shall be construed as preventing the digging of a well to be used exclusively for use in the yard or garden on any Lot or to be used exclusively for air conditioning. All sewage from any building must be disposed of through the sewage lines and disposal plant owned or controlled by Utility Company. No water from air conditioning systems, ice machines, swimming pools or any other form of condensate water shall be disposed of through the lines of the sewer system. Utility Company has a nonexclusive, perpetual easement and right in and to, over and under Property for the purpose of installation and or repair of water and sewage facilities. No water from air conditioning systems or swimming pools shall be discharged into the wetlands, canals or lakes.

3.17 Utility Connections. Building connections for all utilities, including, without limitation, water, electricity, telephone, and cable television, shall be run underground from the connecting points to the Unit in a manner acceptable to the governing utility authority.

3.18 Signs and Mailboxes. No sign of any kind shall be displayed to public view within the Property except customary address signs approved by the A.R.C., and an approved lawn sign of not more than four (4) square feet in size advertising a Lot for sale or rent. All signs permitted by this subsection are subject to the A.R.C.'s Regulations. The size, design and color of all mailboxes and the supporting structures must be approved by the A.R.C. and must comply with Postal Service regulations.

3.19 Game and Play Structures. All basketball backboards, tennis courts, and play structures shall be located at the rear of each Unit or on the inside portion of corner Lots within the setback lines, provided however, any basketball backboards shall be located so as to minimize noise to adjoining Units. No platform, doghouse, tennis court, playhouse, or play fort shall be constructed on any part of a Lot located in front of the rear line of the Unit, and any such structure shall have prior approval of the A.R.C.

3.20 Outdoor Drying of Laundry. Outdoor drying of laundry or other items must be done in areas that are completely screened from view from adjacent Lots and any street. All clothes lines or drying racks must be approved in writing by the A.R.C. No rugs, drapes, or other items shall be hung from any portion of the exterior of any Unit.

3.21 Window Coverings and Air Conditioners. Without the prior written approval of the A.R.C., no aluminum foil, tinted glass or other reflective material shall be installed or maintained on any windows of a Unit. No window air conditioning units shall be permitted. All exterior components of air conditioning units shall be screened from view from the street and other Lots by approved fences, walls or shrubbery, which shall be installed to minimize noise from the air conditioning unit.

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### 3.22 Wetlands.

(a) General. Only Developer or the Association shall have the right to pump or otherwise remove any water from any lake, stream, pond, lagoon, marsh or other wetlands situated in whole or in part upon the Property for the purpose of irrigation or other use notwithstanding that all or a portion of such wetlands may be located within a Lot. Subject to drainage easements to governmental authorities, the Association shall have the sole and absolute right to control the water level and quality of such lakes and wetlands and to control the growth and eradication of plants, animals, fish and fungi in any such lakes and wetlands. The height, grade and contour of any lake or pond embankment shall not be changed without the prior written consent of the Association. No docks, moorings, pilings, bulkheads or other structures shall be constructed on such embankments, unless and until same shall have been approved by the A.R.C.

(b) Recreational Use. Notwithstanding that all or portions of any lake may be located within a Lot, no swimming, bathing, fishing, boating, or similar activity is permitted in any lake or wetland on the Property.

(c) Governmental Permits. Reference is made to the St. Johns River Water Management District ("SJRWMD") Permit No. 42-109-0632-M and subsequent surface water management permits issued by SJRWMD for the Property. No construction of improvements and no dredging or filling activities are permitted waterward of the wetlands limit lines as shown on the plat and plans submitted to SJRWMD in connection with said permit, as amended and supplemented, (copies of which are on file in the offices of the St. Johns River Water Management District) except as allowed by said permit and as may be allowed by future permits. Owners shall comply with and perform all conditions or requirements set forth in such permits which are applicable to their Lot, and shall not alter or reconstruct any portion of the Work constructed by Developer in accordance with such permits. The foregoing provisions may be enforced by the SJRWMD and may not be amended without the approval of the SJRWMD.

3.23 General Prohibitions and Indemnity. No activity is permitted, nor shall any object or substance be kept, stored, or emitted within the Property in violation of Law. No noxious, destructive, or offensive activity is permitted within the Property, nor shall anything be done within the Property that may constitute a nuisance to any other Person lawfully occupying any Lot. Each Owner shall defend, indemnify, and hold the Association and other Owners harmless against all loss from damage or waste caused by such Owner, or by any occupant of such Owner's Lot. Notwithstanding the foregoing, or any other provision of the Declaration to the contrary, an Owner's liability to the Association for unintentional acts or omissions is limited to the available proceeds of any and all insurance maintained by such Owner or the Association if, at the time of such act or omission, such Owner or the Association has insurance in force. Collection of such proceeds is at the Association's risk. To the extent from time to time available, the Association's insurance must provide for waiver of subrogation by the Association's insurer against any Owner because of any unintentional act or omission for which such Owner is responsible under this paragraph. Notwithstanding anything contained herein to the contrary, the A.R.C. and Developer shall merely have the right, but not the obligation, to exercise architectural control, and shall not be liable to any Owner, its successors, assigns, personal representatives, or heirs, due to the exercise or non-exercise of such control or the approval or disapproval of any Work. Furthermore, the approval of any plans and specifications or any Work shall not be deemed to be a determination or warranty that such plans and specifications or Work are complete, do not contain defects, or in fact meet any standards, guidelines, or criteria of the A.R.C. or Developer, or are in fact architecturally or aesthetically

appropriate, or comply with any applicable governmental requirements, and neither the A.R.C., the Association, nor Developer shall be liable for any defect or deficiency in such plans and specifications or Work, or any injury to persons or property resulting therefrom.

3.24 Casualty Damage. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, and unless the Owner elects not to reconstruct, the Owner shall repair or rebuild such damaged or destroyed improvements in a good and workmanlike manner, within a reasonable time not to exceed one year and in accordance with the provision of this Declaration. The improvements shall be reconstructed in accordance with the original approved plans and specifications including color scheme, placement on Lot and materials, unless the Owner wishes to modify the Unit, in which case the Owner must comply with the provisions of Article VIII hereof, and other applicable provisions of the Declaration. In all cases, all debris must be removed and the Lot restored to an orderly condition as soon as possible, but not to exceed sixty (60) days after such damage or destruction.

#### ARTICLE IV

#### ASSOCIATION

4.1 Membership. Every Owner of a Lot is a member of the Association and is entitled to one membership for each Lot owned. Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title to that Lot whereupon the membership of the previous Owner automatically terminates. No Person other than an Owner may be a member of the Association, and a membership in the Association may not be transferred or encumbered except by the transfer of title to a Lot; provided however, the foregoing does not prohibit the assignment of membership and voting rights by an Owner who is a contract seller to his vendee in possession.

4.2 Classification. The Association has two classes of voting membership:

(a) Class A. So long as there is Class B membership, the Class A members shall be all Owners except Developer. Class A members are entitled to one (1) vote for each Lot owned. Provided, however, for so long as a Reconfigured Lot contains only one single family dwelling Unit, the Owner thereof shall have only one vote in Association matters.

(b) Class B. The Class B member shall be Developer, who is entitled to votes equalling the number of Class A votes plus one. The Class B membership will cease and be converted to Class A membership upon the first to occur of the following events: (i) when Developer no longer owns any Lots which are subject to this Declaration; or (ii) seven (7) years from the recording date of this Declaration; or (iii) the date set forth in a written notice to the Association from Developer electing to terminate the Class B membership.

4.3 Co-Ownership. If more than one Person holds the record title to any Lot, all such Persons are members but only one vote may be cast with respect to such Lot, and no fractional votes are permitted. Each co-Owner must file the name of the voting co-Owner with the secretary of the Association to be entitled to vote at any meeting, unless such co-Owners have filed a general voting authority with the secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held by husband and wife, either co-Owner is entitled to cast the vote for such Lot unless and until a written voting authority is filed with the Association designating a voting co-Owner. If title is held by a corporation, the secretary of the corporation shall file with the Association a certificate

designating the authorized voting representative of the corporation, which shall be effective until rescinded by the corporation.

4.4 Inspection of Records. All books, records, and papers of the Association will be open to inspection and copying during reasonable business hours by any Owner and by Developer, so long as Developer is a member of the Association. Such right of inspection may be exercised personally or by one or more representatives. Upon request, the Association also will furnish to any such Person copies (certified, if requested) of any of its books, records, and other papers, although the Association may make a reasonable, uniform charge for such copies and certification. The Declaration, Articles, and Bylaws must be available for inspection by any Owner or Developer at the Association's principal office, where copies also may be purchased at a charge to cover reproduction costs.

4.5 Extraordinary Action. The Association's Articles of Incorporation provide that certain actions of the Association as described in the Articles require the approval of a super-majority of the members. In addition, any such action shall require the written approval of Developer for so long as the Class B membership exists.

4.6 Amplification. The provisions of this Article are amplified by the Association's Articles and Bylaws, but no such amplification shall alter or amend substantially any of the rights or obligations of the Owners set forth in this Article. Developer intends that the provisions of this Declaration and the Articles and Bylaws be interpreted and enforced to avoid inconsistencies or conflicting results. If any such conflict necessarily results, however, Developer intends that the provisions of this Declaration control anything in the Articles or Bylaws to the contrary.

#### 4.7 Mergers.

(a) By Developer. Developer shall have the right, but not the obligation, for so long as the Class B membership exists, from time to time, within its sole discretion, to merge or consolidate this Association with any other property owners association, subject only to the right of approval of governmental entities set forth in Paragraph 12.5.

(b) By Association. Upon termination of the Class B membership, with written consent or a vote of two-thirds (2/3) of the Class A members, the Association may merge or consolidate with any other property owners association.

(c) Effect. Upon a merger or consolidation of the Association with another property owners association, the Association's Common Areas, property, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or alternatively, the property, rights and obligations of the other property owners association may, by operation of law, be added to the Common Areas, property, rights, and obligations of the Association, as a surviving corporation pursuant to a merger. To the greatest extent practicable, the surviving or consolidated property owners association shall administer the covenants, conditions, easements, and restrictions established by this Declaration within the Property together with any surviving covenants and restrictions established upon any other properties as one scheme, but with such differences in the method or level of Assessments to be levied upon the Property and the other properties as may be appropriate, taking into account the different nature or amount of services to be rendered to the owners thereof by the surviving or consolidated association. No such merger or consolidation, however, shall effect any revocation of, change, or addition to the

covenants, conditions, restrictions and easements established by this Declaration, except as expressly adopted in accordance with the terms hereof.

4.8 Dissolution. The Association may be dissolved with the written consent of two-thirds (2/3) of the Class A members and the Class B member, if any.

## ARTICLE V

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

#### 5.1 The Common Areas

(a) General. Subject to the rights of Developer and the Owners, as set forth in this Declaration, the Association has exclusive management and control of the Common Areas, and all of its improvements, equipment, and other related personal property. The Association shall keep the foregoing in a clean, attractive, sanitary, and serviceable condition, and in good order and repair. The Association's duties with respect to the Common Areas and the Surface Water Management System shall commence upon substantial completion of each facility and include the management, operation, maintenance, repair, servicing, replacement, and renewal of all improvements, equipment, and tangible personal property installed by Developer as part of the Work, and any replacements or additions thereto made in accordance with the provisions of the Legal Documents.

(b) Insurance. The Association shall keep the improvements located on the Common Areas, including fixtures and personal property of the Association insured to the maximum insurable replacement value, as determined by the Board of Directors. The insurance shall provide coverage against loss or damage by fire or other hazards covered by a standard extended coverage endorsement and such other risks as from time to time are customarily covered with respect to improvements similar in construction, location and use as the improvements on the Common Areas, including vandalism and malicious mischief, and flood and water damage, if the Common Areas are at any time located in a federally designated flood area and, flood insurance is available under the National Flood Insurance Program. No casualty insurance shall be required for the streets, sidewalks and easements within the Common Areas. The Association shall carry public liability insurance in amounts and with coverage as determined by the Board of Directors, but not less than \$1,000,000.00 for bodily injury and property damage for any single occurrence. To the extent from time to time available, the Association's insurance must provide for waiver of subrogation by the Association's insurer against any Owner because of unintentional acts or omissions.

5.2 Unit Exterior and Lot Maintenance. If an Owner of any Lot shall fail to maintain, repair, or restore the exterior of his Lot or Unit, and the shoreline of the Lake adjacent to or within his Lot (if his Lot is a Lakefront Lot), in the manner required by the Legal Documents within ten (10) days following notice by the Association specifying the maintenance or repair item, then the Association, after approval by not less than seventy five percent (75%) of the members of the Board of Directors, shall have the right but not the obligation, through its agents and employees, to enter upon the Lot and to perform such repair, maintenance, or restoration. Any such entry shall not be deemed to be a trespass and shall be authorized hereunder. The cost of such exterior maintenance shall be assessed to the Owner of the Lot and shall become due and payable in all respects, together with interest and fees and costs of

collection, as provided for other assessments of the Association. Additionally, the Association shall have a lien for all unpaid costs and interest against the Lot, and such costs and interest shall be the personal obligation of the Person who owned the Lot at the time the notice was given by the Association, in the same manner as herein provided for other assessments of the Association.

**5.3 Surface Water Management System.** Except as otherwise provided herein or in the permits hereinafter described, the Association shall maintain all lakes, drainage easements, and control structures comprising the Surface Water Management System constructed by Developer and shall preserve and protect littoral zones below the ordinary high water line and all designated conservation areas within the Property (notwithstanding that all or a portion of such Surface Water Management System and conservation areas may be located on lands owned by Developer or other Owners) in accordance with all permit requirements and conditions contained in dredge and fill and stormwater permits issued for the Property by the United States Army Corps of Engineers, Florida Department of Environmental Protection or St. Johns River Water Management District, and in compliance with all statutes, rules, regulations and requirements pertaining to stormwater management, drainage and water quality promulgated by the St. Johns River Water Management District, the Florida Department of Environmental Protection, and all other local, state and federal authorities having jurisdiction. The provisions of this paragraph do not supersede the obligations of lake parcel Owners to maintain the lake shoreline and littoral areas landward of the ordinary high water line, as set forth herein. If the Association is dissolved, the property consisting of the Surface Water Management System that is located on the Common Areas shall be conveyed to an appropriate agency of local government, and those portions of Lots on which are located parts of the Surface Water Management System shall be subject to easements to such agency of local government to operate and maintain the Surface Water Management System. If the conveyance is not accepted by the local government agency, then the Surface Water Management System must be conveyed to a non-profit corporation similar to the Association. Any modification of the Surface Water Management System that would adversely affect the system must have the prior approval of the St. Johns River Water Management District.

**5.4 Liability.** Neither Developer, the Association, nor the Master Association shall have any liability whatsoever to Owners, guests, tenants, or invitees in connection with the Lakes and each Owner, for itself and its guests, tenants or invitees, hereby releases Developer, the Association and the Master Association from any liability in connection therewith.

NEITHER DEVELOPER, THE ASSOCIATION, THE MASTER ASSOCIATION NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, MARSH AREA, STREAM OR OTHER WATER BODY WITHIN OR ADJACENT TO THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI GOVERNMENTAL AGENCY OR ENTITY AS REFERENCED HEREIN. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID AREAS 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 AND OTHER WILD LIFE MAY INHABIT OR ENTER INTO WATER BODIES WITH OR ADJACENT TO 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 WITHIN 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 EXISTENCE, DESIGN, CONSTRUCTION OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES OR LAKE BOTTOMS.

5.5 Landscaping and Signage. The Association shall maintain all Property Identification signs and landscaping and grassed areas installed by Developer as part of the Work located in private or public rights-of-way or on utility sites or adjacent to parcels within the Property, except portions to be maintained by Owners hereunder.

Provided however, neither the Association nor Developer shall be deemed a guarantor of any landscaping materials, including sod, which is installed by Developer and the Association. Any replacement of such landscaping material or sod shall be undertaken at such times and in such manner as the Board deems reasonable and shall be a part of the Annual Maintenance Assessment.

5.6 Services. The Association may obtain and pay for the services of any Person to manage its affairs to the extent it deems advisable and may contract for such other personnel as the Association determines are necessary, convenient, or desirable for the proper operation of the Property or the performance of the Association's responsibilities hereunder, whether such personnel are furnished or employed directly by the Association or by any Person with whom it contracts.

5.7 Regulations. The Association is empowered from time to time to adopt, alter, amend, rescind, and enforce reasonable rules and regulations governing the use of the Property ("Regulations") so long as such Regulations are consistent with the rights and duties established by the Legal Documents. The validity of the Association's Regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property as a residential community. The Regulations initially shall be promulgated by the Board of Directors and may be amended by a majority vote of the Board of Directors, or may be amended or rescinded by a majority of both classes of membership present and voting at any regular or special meeting convened for such purpose. No regulation, decision, amendment or other action that reasonably may have the effect of waiving, lessening, or otherwise interfering with the scope or enforcement of any restriction imposed on the Property by this Declaration will be valid without the written approval of Developer. No Owner or other Person occupying any Lot, or any invitee, shall violate the Association's Regulations for the use of the Property and at all times shall do all things reasonably necessary to comply with the Regulations. Wherever any provisions of this Declaration prohibit any activity, condition, or structure within the Property except as permitted by the Association's Regulations, such restriction or prohibition is self executing unless and until the Association issues Regulations expressly permitting the same. The Association's procedures for enforcing its rules and regulations at all times shall provide the affected

Owner with reasonable prior notice and opportunity to be heard, in person or through representatives of the Owner's choosing.

5.8 Implied Rights. The Association may exercise any right, power, or privilege given to it expressly by the Legal Documents and every other right, power, or privilege so granted or reasonably necessary, convenient, or desirable to effectuate the exercise of any right, power, or privilege so granted.

5.9 Access by Association. The Association has a right of entry on to each Lot to the extent reasonably necessary to exercise any right granted or to discharge any duty imposed by the Legal Documents, or for any other purpose reasonably related to the Association's performance of any duty imposed, or exercise of any right granted, by the Legal Documents. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable time and upon reasonable notice whenever circumstances permit, except in the event of an emergency and only then to the extent necessary to prevent personal injury or property damage. No Owner shall withhold consent arbitrarily to entry by the Association for the purpose of discharging any duty or right if such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. The Association's right of entry may be exercised by its agents, employees, contractors, and managers.

5.10 Reserves. Board of Directors is authorized but not obligated to establish and maintain an adequate reserve fund for the repair and replacement of improvements and personal property that the Association is obligated to maintain under the provisions of this Declaration in such amounts and at such times as the Board, in its sole discretion, deems necessary or convenient. Reserves, as determined from time to time by the Board of Directors, shall be funded from the annual maintenance assessment described in Article VI hereof.

## ARTICLE VI

### COVENANTS FOR ASSESSMENTS

6.1 Assessments Established. For each Lot within the Property, Developer covenants, and each Owner by acceptance of a deed or other conveyance of record title to a Lot, whether or not it is so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association:

- (a) An annual maintenance assessment, as defined in paragraph 6.2; and
- (b) Special assessments, as defined in paragraph 6.3; and
- (c) Special assessments for property taxes levied and assessed against the Common Areas, as defined in paragraph 6.4; and
- (d) Specific assessments against a particular Lot that are established pursuant to any provisions of the Legal Documents, as provided in paragraph 6.5; and
- (e) All excise taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this Article.

6.2 Annual Maintenance Assessments.

(a) General. The annual maintenance assessments levied by the Association shall be used for the operation, management, maintenance, repair, renewal and replacement of the Common Areas, the payment of taxes and insurance, maintenance of the Surface Water Management System and for the performance of the Association's duties under the Legal Documents. Owners shall also pay as a part of the Annual Assessment a pro-rata share of the maintenance of the recreational facilities located on the adjacent property commonly referred to as Marsh Cove I in accordance with the provisions of the Easement, Use and Maintenance Agreement recorded in Official Records Book 647, page 1117 and amended in First Amendment to Easement, Use and Maintenance Agreement recorded in Official Records Book 673, page 565 both in the public records of St. Johns County, Florida. The annual assessment shall be used to fund all general activities and expenses of the Association incurred in the administration of the powers and duties granted under the Legal Documents and pursuant to Law including the maintenance of adequate reserve accounts.

(b) Amount.

i. Until January 1 of the year immediately following the recording of this Declaration, the maximum annual maintenance assessment shall be Two Hundred Dollars (\$200.00) for each fully assessable Lot. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

ii. Commencing with the fiscal year beginning January 1 of the year immediately following the conveyance of the first Lot by Developer to an Owner other than Developer and each year thereafter, the Board of Directors, at its annual meeting next preceding such date, and each respective January 1 thereafter, shall set the amount of the maximum annual maintenance assessment for the following year for each Lot, provided that the maximum annual maintenance assessment may not be increased more than five percent (5%) above the maximum annual maintenance assessment for the previous year unless approved by two-thirds (2/3) of each class of those members present in person or by proxy and voting at a meeting duly convened as provided hereunder. A quorum of sixty percent (60%) of the Association's membership shall be required at such meeting. If that quorum requirement is not met, a second meeting may be called at which the quorum shall be thirty percent (30%) of the membership. The amount of the annual maintenance assessment shall be fixed by the Board of Directors for each fiscal year and shall be payable in one or more installments as determined by the Board of Directors, without interest so long as not more than thirty (30) days delinquent. Written notice of such assessment shall be given to every Owner, but the failure to give such notice will not invalidate an otherwise proper assessment. In the absence of Board action the annual maintenance assessment then in effect will continue for the next fiscal year.

iii. Commencement of Annual Assessment. The annual assessment begins as to all Lots within the Property on the first day of the month following the conveyance of such Lot to an Owner who intends to occupy the Unit located therein. The first annual assessment against any Lot shall be prorated according to the number of months then remaining in the fiscal year.

6.3 Special Assessments. The Association may levy special assessments payable in one or more installments applicable to that year only for the purpose of defraying, in whole or in part, any

expense that is not reasonably expected to be incurred on a regular basis, including the expense of performing for any delinquent Owner the obligations of such Owner as provided in Paragraph 5.2 hereof, or the cost of any purchase of additional real property for the use and benefit of Owners, or construction, reconstruction, renewal, repair, or replacement of a capital improvement upon the Common Areas; provided that such assessment is approved by two-thirds (2/3) of each class of those members present in person or by proxy and voting at a meeting duly convened for such purpose.

6.4 Property Taxes. The Association shall timely pay all ad valorem real estate taxes, special assessments and other taxes, if any, levied on the Common Areas, and shall assess each Owner for the cost thereof as provided in paragraph 6.1 hereof. The amount of the assessment shall be determined by dividing the amount of such taxes by the number of Lots within the Property. At the Board's discretion, such assessment may be payable in a lump sum within thirty (30) days after notice or all or any portion thereof may be assessed as a part of the annual maintenance assessment described above. Each year the Board shall determine, within forty-five (45) days after receiving notice of the amount of taxes due, whether such assessment shall be levied, and its amount.

6.5 Specific Assessments. Any indebtedness of an Owner to the Association arising under any provision of the Legal Documents, including any indemnity, or by contract express or implied, or because of any act or omission of the Owner or any occupant of such Owner's Lot, or arising by reason of any Owner's failure to properly maintain those portions of the exterior of his Lot and Unit as herein provided, also may be assessed by the Association against the Owner's Lot. Such obligation is a part of the lien rights of the Association.

6.6 Uniformity of Assessments. The annual maintenance assessment and any special assessments for the Common Areas must be uniform throughout the Property, except that the annual maintenance assessment against any Lot owned by Developer or a builder which owns the Lot for the purpose of construction of a Unit ("Builder") and which is not being occupied as a residence may be reduced or waived by the Board of Directors; provided that Developer shall have agreed to fund the deficits, if any, between the aggregate amount assessed against Class A and Class B members and the total expenses of the Association actually incurred during the applicable period. Developer shall be obligated to fund such deficits only as they are actually incurred by the Association. Developer shall cease to pay any portion of the deficit of the annual operating expenses of the Association under the provisions of this paragraph when Developer is no longer entitled to Class B membership, or at such earlier time as Developer shall elect by written notice to the Association. Upon termination of the Class B Membership or election by the Developer to no longer fund any deficits, Developer shall pay an annual maintenance assessment amount attributable to any Lots then owned by Developer and which are not being occupied as a residence at twenty-five percent (25%) the rate assessed against Lots owned by Owners other than Developer or a Builder. This provision is not and shall not be construed as a guaranty or representation as to the level of assessment imposed under the provisions of this Article. Upon transfer of title of a Developer owned Lot other than for purposes of completing the Work or for the purpose of constructing a Unit, such Lot shall be assessed in the applicable amount established against Lots owned by the Class A members of the Association, prorated as of, and commencing on the date of transfer of title.

6.7 Certificate of Payment. The Association shall furnish to any interested Person a certificate signed by an officer of the Association setting forth whether assessments against a specific Lot have been paid and, if not, its unpaid balance. To defray its costs, the Association may impose a reasonable, uniform charge for issuing such certificates. A properly executed certificate of the

Association as to the status of assessments on a Lot is binding on the Association as of the date of issuance.

6.8 Lien for Assessments. All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, constitute a lien on such Lot in favor of the Association. The Association may perfect such lien by recording a claim of lien signed by an officer of the Association against any Lot when any assessment is delinquent. Each such assessment, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, also is the personal obligation of the Person who was the Owner of such Lot when the assessment fell due. The personal obligation for delinquent assessments does not pass to an Owner's successors in title, however, unless assumed expressly in writing.

6.9 Remedies of the Association.

(a) Personal Obligation. Any assessment not paid within 30 days after its due date bears interest from the due date, at the rate established from time to time by the Board of Directors, not to exceed the maximum lawful rate from time to time permitted under the laws of the State of Florida, nor to be less than ten percent (10%) per annum. The Association may bring an action at law against any Owner personally obligated to pay such assessment, or foreclose its lien against the Lot. No Owner may waive or otherwise escape liability for the Association's assessments by nonuse of the Common Areas or by abandonment of such Owner's Lot, or for any other reason except as determined by a court of competent jurisdiction. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the Association's lien, or its priority.

(b) Foreclosure. The Association's lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees, and any assessments against the Lot that become due during the period of foreclosure. All such costs and expenses and assessments are secured by the lien foreclosed. The Association has the right to bid at the legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding or conveyance in lieu of foreclosure, and thereafter to hold, convey, lease, encumber, and otherwise deal with such Lot as an Owner, but for purposes of resale only.

(c) Failure to Pay. Failure to pay Assessments shall not constitute a default in any Mortgage unless provided in such Mortgage.

6.10 Homesteads. By acceptance of a deed or other conveyance of title to any Lot, the Owner of each Lot is deemed to acknowledge that the assessments established by this Article are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any such homestead.

6.11 Subordination of Lien. The lien for the assessments provided in this Article is subordinate to the lien of any First Mortgage, unless the Association's lien was recorded prior to the recording of the Mortgage. Sale or transfer of any Lot does not affect the assessment lien, except that the sale or transfer pursuant to a First Mortgage foreclosure or any proceeding or conveyance in lieu thereof, extinguishes the assessment lien as to payment that became due before such sale or transfer.

unless such assessment was secured by a claim of lien for assessments that is recorded prior to recording of said First Mortgage. Any assessment extinguished by the foreclosure of a First Mortgage or conveyance in lieu thereof, shall be deemed to be an expense of the Association collectible from all Owners (including the foreclosing First Mortgagee) in accordance with the Association's normal assessment procedures. No such sale or transfer relieves such Lot from liability for assessments thereafter becoming due, or from the Association's lien. Nothing herein shall be construed to impose on the First Mortgagee any duty to collect assessments.

## ARTICLE VII

### OBLIGATIONS OF OWNERS

7.1 Maintenance. Each Owner, at his expense, shall maintain in a good order and repair and keep in an attractive condition all portions of his Lot, and the Unit located thereon, including without limitation the roof, gutters, downspouts, exterior building surfaces, all portions of privacy fences within the Lot, all glass surfaces and screening, doors, electric and plumbing equipment, air conditioner and heating units, driveways and any other equipment, structures, improvements, additions, or attachments located on the Lot. Each Owner of a Lot on which a Unit has been constructed shall maintain the lawn and other landscaped portions of his Lot and that portion of private or public right-of-ways and Common Areas, if any, located between his Lot line and the paved portion of the street in a neat and attractive condition. Landscape maintenance shall include regular lawn mowing, fertilizing, irrigation and edging. All Lakefront Lot Owners shall keep the shoreline of the lake abutting or within their Lot free from all litter and debris, and shall place and maintain sod to the shoreline. Vacant Lots must be kept free of litter, debris and nuisances, and must be mowed not less frequently than every six (6) months. The foregoing obligations include any maintenance, repair, or replacement required by the occurrence of any fire, wind, vandalism, theft, or other casualty. All maintenance and repair shall be performed by each Owner at regular intervals as shall be necessary to keep his Lot in an attractive condition. Each Owner shall promptly perform any maintenance or repair requested by the Association and shall be liable for all direct loss or damage sustained by other Owners or the Association caused by reason of his failure to promptly perform such maintenance and repair following written notice to such Owner specifying the items of maintenance or repair. Owners shall use only materials approved by the A.R.C. when performing exterior repair and maintenance. Failure to properly maintain a Lot or Unit shall permit the Association to perform such maintenance as provided in Paragraph 5.2 hereof, and to levy assessments to recover the cost thereof. No Owner shall be absolutely liable for damage to the Common Area or other Lots but shall be liable for damage caused by such Owner's negligence or misconduct.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

8.1 Architectural Review Committee. Developer shall initially appoint a standing committee identified as the Architectural Review Committee, (the "A.R.C.") composed of three or more persons who need not be Owners. Approval of all initial improvements to construct a Unit shall be vested in the A.R.C. appointed by Developer, irrespective of whether Developer is a Class B Member or controls the Association. The A.R.C. may retain the services of an architect or landscape architect (the "Professional Advisor") to assist the A.R.C. in the performance of its duties under the Legal Documents. Upon the completion of all initial improvements on the Lots, the A.R.C. shall be appointed by the Board and, in the absence of specific action appointing members of the A.R.C., the Board of Directors shall be the

committee members. Any references in the Legal Documents to architectural approval by the Association shall be deemed to require the approval of the A.R.C. No member of the A.R.C. shall be entitled to compensation for services performed, except that any Professional Adviser, if any, shall be paid a uniform reasonable fee approved by the Board of Directors of the Association, plus any actual expenses incurred in the performance of their duties. The fee and an estimation of expenses as determined by the A.R.C. shall be paid by the applicant for approval at the time the application is submitted as hereinafter provided.

8.2 A.R.C. Authority. Unless Developer is designated by this Declaration to regulate a particular item, the A.R.C. has full authority to regulate the use and appearance of the exterior of the Property to: (a) assure harmony of external design and location in relation to surrounding buildings and topography; (b) protect and conserve the value and desirability of the Property as a residential community; (c) maintain, to the extent reasonably practical, the exterior design, appearance and landscaping of the improvements located on the Property in substantially the same appearance and condition as existed at the completion of construction of the approved Units, subject to normal wear and tear that cannot be avoided by normal maintenance; and (d) maintain compatibility of external appearance among the improvements located on the Property. The power to regulate includes the power to prohibit and require the removal (when constructed without A.R.C. approval), of those exterior appearances, uses or activities inconsistent with the provisions of this Declaration, or contrary to the best interests of other Owners in maintaining the value and desirability of the Property as a residential community. The A.R.C. may adopt, rescind, and amend reasonable rules and regulations (the "Architectural Criteria") in connection with the foregoing; provided, however, such rules and regulations: (i) shall be consistent with the provisions of this Declaration; and (ii) if the Board of Directors has not constituted itself as the A.R.C., shall have been approved by the Board of Directors before taking effect. Violations of the A.R.C.'s rules and regulations shall be enforced by the Board of Directors in the name of the Association.

8.3 A.R.C. Approval. Except for all construction relating to the Work and items installed by Developer as part of the Work, the A.R.C.'s prior approval is required for any and all construction, changes (including color changes), alterations, additions, reconstruction, or improvements of any nature whatsoever on any Lot or to the exterior of a Unit within the Property. References in this Declaration to the necessity of A.R.C. approval shall not be construed to require the A.R.C. approve any such proposed improvement. The A.R.C. may, in its sole discretion, determine not to permit any such improvement. The Board of Directors of the Association shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction, the decisions of the A.R.C.

8.4 Applications. All applications required to be submitted to the A.R.C. must be accompanied by two (2) detailed and complete sets of plans and specifications, including a survey of the Lot, site plan, exterior elevations of structures, landscaping plan, floor plan, and samples of exterior finishes and colors, all of which shall be in such detail and shall contain such items as the A.R.C. shall reasonably require in accordance with the Architectural Criteria. If the A.R.C. does not approve or disapprove any application within fifteen (15) days after receipt, the A.R.C.'s approval will be deemed given as to all Persons without knowledge of any violation of the Legal Documents. In all other events, the A.R.C.'s approval must be in writing.

8.5 Inspection. The A.R.C. or its designate shall have the right to inspect the construction to assure compliance with the approved plans and specifications and may issue a certificate of compliance if the improvements substantially comply with the approved plans and specifications and any

non-compliance does not materially violate the provisions of this Declaration or the Architectural Criteria. If the A.R.C. refuses or is unable to issue a certificate of compliance, then it shall report to the Board of Directors specifying the matters of non-compliance. The Board of Directors shall consider the matters of non-compliance and shall afford the affected Owner or his representative an opportunity to be heard regarding such matters following reasonable notice of the meeting at which these matters will be considered. The Board of Directors shall thereafter issue a directive excusing the non-compliance or requiring the Owner to correct the non-compliant items.

8.6 Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Developer or the Association neither Developer, the A.R.C. members, the Board of Directors, the Professional Advisor nor the Association shall be liable to an Owner or to any other Person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other Person and arising out of or in any way related to the subject matter of any such reviews, inspections, consents or required approvals, whether given, granted or withheld.

## ARTICLE IX

### MASTER DECLARATION AND MASTER ASSOCIATION

9.1 Master Association. The Ponte Vedra Lakes Owners Association, Inc. ("Master Association") includes as its members all Owners of Residential Dwelling Units, which are subject to the Ponte Vedra Lakes Declaration of Covenants, Conditions and Restrictions recorded in Official Records Book 618, page 723 of the public records of St. Johns County, Florida ("Master Declaration"). The Property is subject to the Master Declaration and Owners of Lots are members of the Master Association. The Master Association through its Board of Directors has certain rights, powers and duties in connection with the maintenance and operation of Common Area owned by it which serve the Owners of Marsh Cove II, as well as certain other adjacent condominiums and projects, all as more fully set forth in the Master Declaration and the Articles and bylaws of the Master Association.

9.2 Master Association Assessments. The Master Association has the right to assess each Lot for an assessment for expenses incurred or to be incurred by the Master Association in fulfillment of its maintenance, operation and management responsibilities which may include, without limitation, the maintenance, upkeep, repair, restoration or insuring of the roadways and recreational facilities constituting Common Area pursuant to the Master Declaration, and for the payment of any other services or duties of the Association as it deems necessary or convenient for the benefit of Owners within the Ponte Vedra Lakes Community.

The establishment, enforcement and collection of such assessments is more fully set forth in the Master Declaration and Bylaws of the Master Association. The Master Association is entitled to collect the assessments through the Association and the Master Association has a lien right in the individual Lots to enforce collection of the assessments, which may also be enforced as the personal obligation of each Owner.



O.R. 1062 PG 1447

ARTICLE X  
INSURANCE

10.1 Types of Coverage.

(a) Insurance of Common Area. The Board of Directors shall obtain liability insurance on the Common Roads and, if additional Common Area with significant insurable improvements are added to the Property, the Board of Directors may obtain casualty insurance and increase the amounts of liability insurance, all as is consistent with prudent business judgment, including the following:

- i. Fire insurance on the Common Area and any improvements constructed thereon, with extended coverage, vandalism, malicious mischief and windstorm endorsements in an amount not less than that necessary to comply with the coinsurance percentage stipulated in the policy, and in any event not less than 80% of the insurable value (based upon replacement cost) of the improvements constructed on the Common Area; and
- ii. Public liability insurance in such limits as the Board of Directors may from time to time determine, insuring against any liability arising out of, or incident to, the ownership and use of the Common Area or adjoining the Property. Such insurance shall be issued on a comprehensive liability basis and shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association, the Board of Directors or other Owners. The Board of Directors shall review such limits once each year.

(b) Insurance of the Lots. It shall be the responsibility of each Owner to obtain, at his own expense, liability insurance with respect to the ownership and use of his Lot, including his Unit, and the Association shall not be responsible for obtaining such insurance or have any liability whatsoever in connection therewith. Each Owner shall also obtain and maintain fire insurance and insurance against the perils customarily covered by an extended coverage endorsement in an amount equal to not less than the full replacement cost of the Unit and shall submit evidence of such insurance coverage together with evidence of payment of the most recent premium therefor to the Association.

(c) Director and Officer Liability Insurance. The Board of Directors may obtain as a matter of common expense, payable from the Annual General Assessments, liability insurance against personal loss for actions taken by members of the Board and officers of the Association in the performance of their duties. Such insurance shall be of the type and amount determined by the Board of Directors, in its discretion.

(d) Other Coverage. The Board of Directors shall obtain and maintain worker's compensation insurance, if and to the extent necessary to meet the requirements of law, and such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Owners. The Board of Directors may from time to time increase or decrease the types and amounts of insurance coverage as may be necessary or convenient to comply with requirements of Mortgagees or based upon the cost and availability of such coverage.

10.2 Repair and Reconstruction After Fire or Other Casualty.

(a) Common Area. In the event of damage to or destruction of all or any the improvements on the Common Area as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration of such improvements substantially in accordance with the plans and specifications under which the improvements were originally constructed, or any modification thereof approved by the Board and the ARB. The Board of Directors shall proceed towards reconstruction of such improvements as quickly as practicable under the circumstances and shall obtain funds for such reconstruction from the insurance proceeds and any Special Assessments that may be necessary after exhaustion of reserves for the repair and replacement of such improvements.

(b) Units. Any Owner whose Unit is destroyed or damaged by fire or other casualty shall immediately proceed to rebuild and restore his Unit to the conditions existing immediately prior to such damage or destruction, unless other plans are approved in accordance with the provisions of Article VIII above. Provided however, in the event that the damage is so extensive that Owner determines not to reconstruct the Unit, then in such event, the Owner may remove all remaining improvements and debris and sod the Lot. All obligations for landscaping shall remain in place.

ARTICLE XI

ASSOCIATION LIABILITY

11.1 Disclaimer of Liability. Notwithstanding anything contained herein, in Articles, or Bylaws of the Association, or any other document governing or binding the Association (jointly referred to herein as "Association Documents"), neither Developer nor the Association shall be liable or responsible for in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Property, including, without limitation, Owners, residents, their families, guests, invitees, agents, servants, contractors or subcontractors, nor for any property of such persons.

11.2 Specific Provisions. Without limiting the generality of the foregoing:

(a) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern and regulate the use of the Property have been written and are to be interpreted and enforced for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof.

(b) Neither Developer nor the Association is empowered, nor have they have been created to act as an entity which enforces or insures compliance with the laws of the United States of America, State of Florida, County of St. Johns or any other jurisdiction or prevents tortious or criminal activities.

(c) The provision of the Association Documents setting forth the uses of Assessments which may relate to health, safety, welfare shall be attributed and implied only as limitations on the usage of such funds and not as creating an obligation of the Association or Developer to protect the health, safety or welfare of any persons.

11.3 Owner Covenant. Each Owner, his heirs, successors and assigns (by virtue of his acceptance of title of his Lot) and each other person or entity having an interest in, or a lien upon or making use of, any portion of the Property (by virtue of accepting such interest or lien or making use thereof) shall be bound by this Article and shall be deemed to automatically waived any and all rights, claims, demands, causes of action against the Association or Developer arising from or connected with any manner for which the liability of the Association or Developer has been described in this Article.

## ARTICLE XII

### GENERAL PROVISIONS

#### 12.1 Enforcement.

(a) Rights of Developer and Association. Developer reserves the right, but not the obligation, for Developer or the Association, following ten (10) days written notice to the Owner of the Lot specifying a violation of the Legal Documents, to enter upon any Lot to correct any violation of the Legal Documents or to take such other action at the expense of the Owner as Developer or the Association deems necessary to enforce this Declaration. The Owner of the Lot shall pay Developer or the Association on demand the actual cost of such enforcement plus twenty (20%) percent. In the event that such charges are not paid on demand, the charges shall bear interest at the maximum legal rate of interest from the date of demand. Developer or the Association may, at its option, bring action at law against the Owner personally obligated to pay the same, or upon giving the Owner ten (10) days written notice of an intention to file a claim of lien against a Lot, may file and foreclose such lien. In addition, the St. Johns River Water Management District shall have the right to enforce any provisions relating to the Surface Water Management System.

(b) Legal Proceedings. Developer, the Association, or any Owner has the right to enforce by any appropriate proceeding all restrictions, covenants, and easements now or hereafter imposed by, or pursuant to, the provisions of the Legal Documents. If the Association or Developer is the prevailing party in any litigation involving the Legal Documents or any of the Association's Regulations, or if any Owner obtains the enforcement of any provision of the Legal Documents against any Owner, other than Developer or the Association, then such party may recover all costs and expenses, including reasonable attorneys' fees incurred before or at trial, on appeal, in bankruptcy or in post judgment collection matters from such nonprevailing Owner. In no event may such costs and expenses be recovered against the Association or Developer, unless otherwise provided by law. If the Association is the prevailing party against any Owner, such costs and expenses, including reasonable attorneys' fees, may be assessed against the Owner's Lot, as provided in the Article entitled "Covenant for Assessments". If any Owner or class of Owners is a prevailing party against any other Owner or class of Owners, such Owner or Owners may be reimbursed by the Association for all or any part of the costs and expenses incurred, including reasonable attorneys' fees, in the discretion of the Board of Directors.

12.2 No Waiver. Failure by Developer, the Association or by any Owner to enforce any covenant, restriction or Regulation will not constitute a waiver of the right to do so at any time, nor shall such failure to enforce create any liability for Developer or the Association to any Owner or any other Person.

12.3 Term and Renewal. The provisions of this Declaration shall run with and bind the Property, and all other lands which it may hereafter be extended as provided herein, and shall be binding on all Persons having right, title, or interest therein, their respective heirs, successors, and assigns and shall inure to the benefit of and be enforceable by Developer, the Association or any Owner, their respective heirs, successors, and assigns, for a period of 40 years from the date this Declaration is recorded, whereupon these provisions shall be extended automatically for successive renewal periods of ten years each, unless Owners of sixty-seven percent (67%) of the Lots subject to the Declaration elect not to reimpose them as evidenced by an instrument executed by such Owners and recorded during the six months immediately preceding the beginning of any renewal period.

#### 12.4 Amendment.

(a) Developer. Developer reserves and shall have the sole right without the joinder or consent of any Owner, the Association, the holder of any mortgage, lien or other encumbrance affecting the Property, or any other Person: (i) to amend this Declaration to comply with any requirements of a governmental agency responsible for the development of the Property, Institutional First Mortgagee, or other Person (including the Federal National Mortgage Association, Veterans Administration, or the Federal Housing Authority) willing to make, insure, guaranty, or purchase mortgage loans secured by a Lot; or (ii) to amend this Declaration or the other Legal Documents to cure any ambiguity or error or any inconsistency between these provisions and the other Legal Documents or the Plat; or (iii) to comply with requirements of a governmental entity imposed pursuant to Law; or (iv) as may be necessary to cure any ambiguity or otherwise to protect the value and desirability of land subject to this Declaration.

(b) Owners. Subject to specific provisions of this Declaration which shall supersede the provisions of this paragraph, this Declaration may be amended by the Association with the formalities from time to time required of a deed under the laws of the State of Florida and signed by not less than Owners of sixty-seven percent (67%) of the Lots subject to this Declaration. No amendment shall be effective until recorded but the Association's proper execution shall entitle it to public record, notwithstanding the informal execution by the requisite percentage of Owners.

(c) Approval. Any amendment which alters the Surface Water Management System, beyond maintenance in its original condition, including the water management portions of the Common Area, must have prior approval of the St. Johns River Water Management District.

12.5 Other Approvals. All of the following actions require the prior approval of Developer (for so long as there is a Class B membership) and the approval of the Federal Housing Authority, the Veterans Administration, or the United States Department of Housing and Urban Development if: there is a mortgage insured by FHA, VA or HUD on a Unit: (a) amendment of this Declaration, except as expressly provided in Paragraph 10.4; (b) the conveyance or encumbering of all or any portion of the Common Areas except as expressly permitted in Paragraph 2.1; (c) the merger, consolidation, or dissolution of the Association; and (d) the annexation of additional lands or the extension of the provisions of this Declaration to other lands.

12.6 Reservation of Right to Release Restrictions. Subject to applicable zoning regulations, in each instance where a structure has been erected, or the construction thereof is substantially advanced, in such a manner that some portion of the structure encroaches upon any setback or easement area or the Common Area, Developer reserves for itself the right to release the Lot from the encroachment and to

grant an exception to permit the encroachment by the structure over the setback or easement area or the Common Areas without the consent or joinder of any Person irrespective of who owns the affected lands, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the value of adjacent Lots and the overall appearance of the Property. Upon granting of an exception to an Owner, the exception granted shall be binding upon all subsequent Owners of the affected Lots.

12.7 Rights of First Mortgagees. Any First Mortgagee and insurers or guarantors of First Mortgages have the following rights:

(a) Inspection. During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect current copies of the Legal Documents and Regulations and the books, records, and financial statements of the Association; and

(b) Financial Statements. Upon written request to the Secretary of the Association, to receive copies of the annual financial statements for the immediately preceding fiscal year of the Association, provided, however, the Association may make a reasonable, uniform charge to defray its cost incurred in providing such copies; and

(c) Meetings. To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting, but in no event entitled to vote thereon.

(d) Notices. By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable, uniform annual fee that the Association from time to time may establish for the purpose of defraying its costs, any First Mortgagee, insurer, or guarantor of a First Mortgage shall be entitled to receive any notice that is required to be given to the Class A members of this Association under any provision of the Legal Documents. Additionally, any such First Mortgagee, insurer, or guarantor of a First Mortgage giving written notice to the Association shall be entitled to written notice of: (i) any condemnation or casualty loss affecting a material portion of the Property or any Lot encumbered by its First Mortgage; (ii) any 60 day delinquency in the payment of assessments or charges owed by the Owner of any Lot encumbered by its First Mortgage; (iii) lapse, cancellation or material modification of any insurance coverage or fidelity bond maintained by the Association; and (iv) any proposed action requiring the consent of a specified percentage of mortgage holders.

(e) Collection of Assessments. No Mortgagee shall be required to collect Assessments in connection with its mortgage.

12.8 Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration shall be interpreted, or enforced to prevent Developer, or its contractors, subcontractors, agents, employees, successors or assigns from doing or performing on all or any part of the Property owned or controlled by Developer whatever it or they determine to be necessary, convenient, or desirable to complete the Work or the construction of Units. The foregoing includes the right for Developer and any Person designated by Developer in writing to construct and use signs, construction trailers, or buildings, model units, design centers, and offices for sales and resales of Lots.

12.9 Assignment. Developer may assign to any Person, including Persons engaged in the business of constructing improvements on Lots for resale purposes, all or some of the rights, privileges and exemptions granted herein to Developer 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 Developer.

12.10 Severability. Invalidity of any provision of the Legal Documents by judgment or court order will not affect any other provision, all of which will retain in full force and effect; provided, however, any court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in the Legal Documents when necessary to avoid a finding of invalidity while effectuating Developer's intent of providing a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Property.

12.11 Notices. Any notice required to be sent to any Owner, or Developer under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as the Owner on the records of the Association at the time of such mailing. Notices to the Association shall be sent in the manner described above to the registered office of the Association.

12.12 Interpretation. Unless the context expressly requires otherwise, the use of the singular includes the plural and vice versa; the use of one gender includes all genders; the use of the terms "including" or "include" is without limitation; and the use of the terms "will", "must", and "should" have the same effect as the use of the term "shall". Wherever any time period is measured in days, if any such time period expires on a Saturday, Sunday, or legal holiday, it shall be extended to the next succeeding calendar day that is not a Saturday, Sunday, or legal holiday. The terms "Lot" and "Property" mean all or any portion applicable to the context and include any and all improvements, fixtures, trees, vegetation and other property from time to time situated thereon, and the benefit of all appurtenant easements. This Declaration shall be construed liberally in favor of the party seeking to enforce its provisions to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development and enjoyment thereof. Headings and other textual divisions are for indexing purposes only and are not to be used to interpret, construe, apply, or enforce any substantive provisions. The provisions of this subparagraph apply to the interpretation, construction, application, and enforcement of all the Legal Documents.

12.13 Extension. The terms and conditions of this Declaration may be extended to lands which from time to time may be incorporated as a part of this community by the recording of a Supplemental Declaration executed by Developer and the fee simply owner of the lands being subjected hereto. Such annexation shall become effective upon the recording of the Supplemental Declaration and all lands described herein shall be held, sold, conveyed, encumbered and transferred in the same manner as if originally described herein.

O.R. 1062 PG 1452

IN WITNESS WHEREOF, Developer has executed this Declaration the date first stated above.

Signed, sealed and delivered  
in the presence of:

MARSH COVE, LTD II

By: PLANTATION DEVELOPERS, INC.  
General Partner

Barbara S. Walker  
Print Name: BARBARA S. WALKER

Terry Blount  
Print Name: Terry Blount

By: E. Chester Stokes, Jr.  
E. Chester Stokes, Jr., President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of July, 1994 by  
E. Chester Stokes, Jr., President of Plantation Developers, Inc., General Partner of Marsh Cove, Ltd II,  
a Florida limited partnership, on behalf of the partnership, who is personally known to me and did not  
take an oath.

Barbara S. Walker  
Print Name: BARBARA S. WALKER  
Notary Public, State of  
At Large  
My commission Expires:



OFFICIAL SEAL  
BARBARA S. WALKER  
My Commission Expires  
Sept. 17, 1994  
Comm. No. CC 188231

D.R. 1062 PG 1454

CONSENT AND JOINDER

PONTE VEDRA NATIONAL BANK ("Mortgagee") is the holder of that certain Mortgage and Security Agreement dated May 10, 1994, recorded in the Official Records of Duval County, Florida, in Official Records Volume 1054, page 860 ("Mortgage"). Mortgagee hereby consents to the execution, delivery and recording of the Declaration of Covenants, Conditions, Easements and Restrictions for Marsh Cove II ("Declaration"), to which this Consent and Joinder is attached and agrees that Mortgagee's interest under the Mortgage shall be subject and subordinate to the terms and conditions of the Declaration; provided, however, nothing contained herein shall subordinate or release Mortgagee's interest under the Mortgage except as set forth herein.

IN WITNESS WHEREOF, the Mortgagee has executed the Consent and Joinder this 14th day of June, 1994.

Signed, sealed and delivered  
in the presence of:

PONTE VEDRA NATIONAL BANK

Tennie G. Corriveau  
Print Name Tennie G. Corriveau

BY:

Guy N. Nix Jr.  
Print Name GUY N NIX JR  
Its \_\_\_\_\_ President

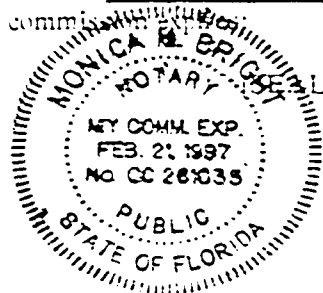
Jennifer Davis  
Print Name Jennifer Davis

STATE OF FLORIDA  
COUNTY OF

This instrument was acknowledged before me this 7<sup>th</sup> day of July, 1994, by Guy N Nix Jr, \_\_\_\_\_ President of Ponte Vedra National Bank, a \_\_\_\_\_ banking association, on behalf of the association. He is personally known to me and did not take an oath.

Monica M. Bright  
Notary Public, State of Florida

Print Name MONICA M BRIGHT  
My commission expires \_\_\_\_\_



JAX-84794.6



In Steward  
(13)  
2000

Public Records of  
St. Johns County, FL  
Clerk# 00-017418  
O.R. 1491 PG 598  
01:49PM 04/26/2000  
REC \$525.00 SUR \$66.00

THIS DOCUMENT PREPARED  
BY AND RETURN TO:

THOMAS M. JENKS, ESQUIRE  
PAPPAS METCALF JENKS MILLER & REINSCH, P.A.  
200 WEST FORSYTH STREET, SUITE 1400  
JACKSONVILLE, FLORIDA 32202 4327

**DECLARATION OF CONDOMINIUM  
FOR  
MARSH COVE CONDOMINIUM**

59/00

(13)

00050971.WPD.3

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DECLARATION OF CONDOMINIUM  
FOR  
MARSH COVE CONDOMINIUM

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Exhibits

- A Legal Description of Land Submitted to Condominium Form of Ownership
- B Percentage of Undivided Interest in Common Elements and Common Expense
- C Plot Plan and Survey
- D Floor Plan
- E Articles of Incorporation of Marsh Cove at Ponte Vedra Condominium Association, Inc.
- F Bylaws of Marsh Cove at Ponte Vedra Condominium Association, Inc.

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V

**DECLARATION OF CONDOMINIUM  
FOR  
MARSH COVE CONDOMINIUM**

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THIS DECLARATION OF CONDOMINIUM FOR MARSH COVE CONDOMINIUM is made this \_\_\_\_\_ day of \_\_\_\_\_, by **SOUTHEASTERN INVESTMENT PARTNERS ONE, LLC**, a Florida limited liability company ("Developer"), the owner of fee simple title to the land described in Article III hereof. The term "Developer" shall mean and refer to the entity executing this Declaration, its successor, grantees, assigns, nominees and designees. In the event the holder of any mortgage executed by Developer obtains title to all or any portion of the Condominium Property by foreclosure or deed in lieu thereof, such mortgagee shall become the Developer only if it so elects, by written notice to the Board of Directors of the Association described by Article VIII hereof, but in any event such mortgagee may assign its rights as the Developer to any third party who acquires title to all or a portion of the Condominium Property from the mortgagee. In any event, any subsequent Developer shall not be liable for any defaults or obligations incurred by any prior Developer, except as same are expressly assumed by the subsequent Developer.

**I. SUBMISSION TO CONDOMINIUM OWNERSHIP.**

Developer hereby submits to the condominium form of ownership and use, the land described in Article III hereof, the improvements now and hereafter situated thereon and the easements and rights appurtenant thereto ("Condominium" or "Condominium Property") pursuant to Chapter 718, Florida Statutes, as amended, to the date hereof ("Condominium Act").

**II. NAME AND ADDRESS.**

The name by which this condominium is to be identified is **MARSH COVE CONDOMINIUM**. The street address is 1220 Marsh Cove Lane, Ponte Vedra Beach, Florida, 32082.

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III. THE LAND.

The land submitted to condominium ("Land") is situated in St. Johns County, Florida, and is described by Exhibit "A" attached hereto and made a part hereof and consists of a parcel of real property upon which are and will be situated residential improvements which are submitted hereby to condominium ownership. A survey of the Land is attached hereto and made a part hereof as part of Exhibit "C".

IV. DESCRIPTION OF CONDOMINIUM PROPERTY.

A graphic description of the buildings in which Units are located, including an identification of each Unit (as defined in the Condominium Act and herein) by number is attached hereto and made a part hereof as Exhibit "D". A survey of the Land and plat of improvements located upon the Land is attached hereto and made a part hereof as Exhibit "C". The Condominium Property consists of fifteen (15) buildings, containing eighty-six (86) Units and Common Elements, as those terms are herein defined.

V. DEFINITION OF UNITS AND COMMON ELEMENTS.

The Condominium will consist of "Units" and "Common Elements" as those terms are herein defined.

A. Units. The term "Units" as used herein shall mean and comprise the separate residential dwellings in the Condominium which are located and individually described in Exhibits "C" and "D" hereto excluding, however:

1. all spaces and improvements lying beneath the undercoated and/or unfinished inner surfaces of the perimeter walls and floors and above the lowest horizontal plane of the upper structural elements of each Unit;

2. all spaces and improvements lying beneath the undecorated and/or unfinished inner surface of all interior columns, bearing walls and/or bearing partitions; and

3. all glass and other transparent and/or translucent material, insect screens and screening in windows and doors and the



material covering other openings in the exterior walls of Units shall be construed to be within the boundaries or limits and part of the Unit exclusively served by such windows, doors and other openings. All heating and circulating equipment and associated ducts, wiring, thermostats, conduits and related fixtures that exclusively serve a Unit shall be considered to be a part of such Unit.

4. all porches (screened or unscreened), patios, terraces and balcony areas and other fixtures and equipment, if any, attached, affixed or contiguous to the exterior of and serving a Unit.

B. Common Elements. The term "Common Elements" as used herein shall mean and comprise all of the real property and improvements of the Condominium except the Units including, without limitation:

1. Easements through Units for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of utility services, heating and cooling and/or ventilation to Units and Common Elements;

2. Easements of support in every portion of a Unit which contribute to the support of other Units and/or Common Elements;

3. Installations for the furnishing of utility services to more than one Unit or to the Common Elements, specifically excluding however, any utility main lines, force mains or collection lines and meters owned and maintained by the utility company servicing the Condominium Property;

4. The property and installations in connection therewith required for the furnishing of services to more than one Unit or to the Common Elements;

5. The riparian and/or littoral rights, appertaining to the Land, if any;

6. Fixtures owned or held for the common use, benefit and enjoyment of all Unit Owners;

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7. Walkways, covered entrances and verandas located within the Condominium Property; and

8. Automobile parking areas, driveways and paved areas located within the Condominium Property.

9. The pool, tennis court and clubhouse depicted on Exhibit C attached hereto.

VI. APPURTENANCES TO UNITS.

There shall be appurtenant, and pass with title to each Unit, the rights, shares and interests provided by the Condominium Act which shall be deemed to include, without limitation, the following:

A. An undivided share in the Common Elements and in the "Common Surplus" (as that term is elsewhere herein defined). The undivided share in the Common Elements and the Common Surplus of the Condominium appurtenant to each Unit is that proportion of the total set forth, as a percentage, in the schedule which is annexed hereto and made a part hereof as Exhibit "B".

B. An exclusive easement for the use of the air space occupied by the Unit as it exists at any particular time (as shown on Exhibit "D" hereto) and as it may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is permanently vacated from time to time.

C. Non-exclusive easements to be used and enjoyed in common with the owners of all Units in the Condominium, their guests and invitees, for use of the Common Elements, including, without limitation, easements for:

1. the furnishing and maintenance of utility services to all parts of the Condominium Property over, across, in and through the Land, buildings and other improvements, as the fixtures and equipment therefor now exist and/or may be modified or relocated; and

2. vehicular and pedestrian access over, across, upon, in and through the drives, entries, gates, walks, grounds and other portions, if any, of the Common Elements as are intended and/or provided for pedestrian and vehicular traffic through the Condominium and for access to public ways and the improvements, fixtures and equipment thereon.

D. An exclusive easement for the unintentional and non-negligent encroachment by any Unit upon any other Unit or Common Element, or vice versa, for any reason not caused by or resulting from the willful or negligent act of Developer or any Unit Owner(s) including, without limitation, encroachments caused by or resulting from the original construction of improvements, which exclusive easement shall exist at all times during the continuance of such encroachment, as an easement appurtenant to the encroaching Unit or other improvement, to the extent of such encroachment.

E. The right to membership in the Association with full voting rights appertaining thereto (as defined in Paragraph VIII) upon the terms and conditions set forth elsewhere herein.

F. Unit Owners and their guests, invitees and domestic help, and all delivery, pickup and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities authorized by Developer to serve the Condominium, holders of mortgage liens on the Condominium or any Unit and such other persons as Developer may from time to time designate shall have the non-exclusive and perpetual right of ingress and egress over and across the real property located within the Condominium intended for vehicular and pedestrian use (hereinafter referred to as "roadways") subject however, to the right of Developer to install, erect, construct and maintain utility lines and facilities in certain portions of the roadways and to erect security gates or other devices to limit access over certain portions of the roadways. Provided, however, notwithstanding the foregoing, Developer reserves and shall have the unrestricted and absolute right to deny ingress over the roadways to any person who, in the opinion of the Association or Developer, may create or participate in a disturbance or nuisance on any part of the Condominium or who, in the opinion of the

Association or Developer, may create or participate in a disturbance or nuisance on the Condominium.

Developer and the Association shall have the right, but not the obligation, from time to time to control and regulate all types of traffic on the roadways, including the right to prohibit use of the roadways by traffic or vehicles (including, without limitation, motorcycles, go-carts and skateboards) which in the sole opinion of the Association or Developer would or might result in damage to the roadways or pavement or other improvements thereon, or create a nuisance for the residents, and the right, but not the obligation, to control and prohibit parking on all or any part of the roadways. Developer and the Association shall have the right to establish security procedures for the protection of the property and residents to which access is provided over the roadways, including the right to restrict the rights of the general public to access over the roadways and to require compliance with security procedures by guests and invitees of the Unit Owners.

VII. COMMON EXPENSES AND COMMON SURPLUS.

As set forth in Article VIII of this Declaration, the Association will administer the operation and affairs of the Condominium.

The term "Common Expenses" as used herein shall mean all expenses for which the Unit Owners in the Condominium (except the Association) shall be liable to the Association. The term "Common Surplus" as used herein shall mean the excess of all receipts of the Association collected on behalf of the Condominium including, without limitation, assessments, rents, profits and revenues on account of the Common Elements of the Condominium, over the amount of the Common Expenses of the Condominium. All Unit Owners (except the Association) in the Condominium shall share the Common Expenses and shall own the Common Surplus in the proportions or percentages set forth in the schedule annexed hereto and made a part hereof as Exhibit "B".

VIII. THE ASSOCIATION.

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A. Operation of the Condominium. The entity responsible for the operation of the Condominium shall be MARSH COVE AT PONTE VEDRA CONDOMINIUM ASSOCIATION, INC. a Florida corporation not-for-profit ("Association") of which a copy of the Articles of Incorporation ("Articles") and Bylaws ("Bylaws") are annexed hereto and made a part hereof as Exhibits "E" and "F", respectively. Subject to the rights reserved to Developer herein and in the Condominium Act to administer and manage the Condominium initially, the Association shall administer and manage the Condominium provided, that the Association may delegate its maintenance, management and operational duties and obligations by contract to the extent permitted by the Condominium Act.

B. Power to Grant Easements. Developer hereby grants to the Association the power to grant easements over the Common Elements without the necessity of joinder of all Unit Owners. The Association's power to grant such easements shall be governed and exercised in accordance with the provisions of the Articles and Bylaws and shall not be exercised in a manner that materially and adversely affects the property rights of any Unit Owner.

IX. BYLAWS OF ASSOCIATION.

A copy of the Bylaws of the Association is annexed hereto and made a part hereof as Exhibit "F".

X. VOTING RIGHTS OF UNIT OWNERS.

The Unit Owner(s) shall become a member or members of the Association automatically upon and simultaneously with delivery of a deed of conveyance of fee title thereto from Developer or, in a conveyance by a grantee or a remote grantee of Developer, a deed which otherwise complies with the terms and conditions of this Declaration, the Articles of Incorporation and Bylaws of the Association. There shall be appurtenant and pass with title to each Unit one vote as a member of the Association ("Voting Interest") which may be exercised by the Unit Owner(s), or the duly constituted proxy of the Unit Owner(s) at all meetings of members and in connection with all matters upon which members of the Association are entitled to vote. The qualification of members of

and manner of admission to membership in the Association, the termination of such membership and voting by members shall be as provided for in the Articles of Incorporation and Bylaws of the Association.

XI. AMENDMENT OF DECLARATION.

Except for amendments which Developer is authorized and/or obligated elsewhere herein to make and except as may be elsewhere herein or in the Condominium Act otherwise specifically provided, this Declaration may be amended only in the following manner:

A. Notice. Notice of the subject matter of any proposed amendment to this Declaration shall be included in the notice of any meeting at which such proposed amendment is to be considered.

B. Proposal. Amendments to this Declaration may be proposed by the Board by resolution adopted by a majority vote of the Directors present at any regular or special meeting of the Board at which a quorum is present or, in the alternative, by a written instrument signed by a majority of the Board, or by the Owners of a majority of the Voting Interests, whether by vote of such Unit Owners as members of the Association at a special or regular meeting of the members or by written instrument signed by them.

C. Adoption. Any amendment to this Declaration so proposed by the Board or members of the Association shall be transmitted to the President of the Association or, in the absence of the President, to a Vice President or other acting chief executive officer, who shall thereupon call a special meeting of the Unit Owners to consider and vote upon such proposed amendment; provided, that a proposed amendment may be considered and voted upon at an annual meeting of the members of the Association if the next such meeting is to be held within the time hereafter limited and if notice of the proposed amendment shall be included in the notice of such meeting. The special or annual meeting, as the case may be, of the members shall be held no sooner than thirty (30) days nor later than sixty (60) days from the date of receipt by the Association of the proposed amendment. Notice of the meeting shall be in the form and shall be delivered and the meeting shall be called and held as provided for in the Bylaws of the Association; provided, that any member may, in writing signed by such member, waive notice of any

such meeting in the manner provided for in the Bylaws of the Association and such waiver, when delivered to the Secretary of the Association for filing in its records, whether before, during or after such meeting shall be construed to be the equivalent of giving notice to such member. The proposed amendment may be adopted, and shall become effective, by and upon the affirmative vote at such meeting of Unit Owners owning not less than sixty-six and two-thirds percent (66 2/3%) of the Voting Interests; provided, that any amendment so proposed may be adopted, without a formal meeting of the members, by an instrument executed and acknowledged with the formalities of a deed by members owning not less than sixty-six and two-thirds percent (66 2/3%) of all Voting Interests. Notwithstanding the foregoing provisions for adoption of amendments to this Declaration or any other provisions for amendment in the Condominium Act, no amendment shall:

1. materially change the configuration or size of any Unit, or materially modify any appurtenance to a Unit, unless the record owner thereof and all record owners of liens thereon shall join in the execution and acknowledgment of the amendment;

2. discriminate against any Unit Owner or against any Unit or building or class of buildings comprising part of the Condominium Property, unless the record owners of all affected Units shall join in the execution and acknowledgment of the amendment;

3. change the share of Common Elements appurtenant to any Unit or Units or the share of any Unit Owner in the Common Surplus, or increase the share of any Unit Owner(s) in the Common Expenses, unless the record owners of all Units and the record owners of all liens thereon shall join in the execution and acknowledgment of such amendment; and

4. materially and adversely affect the lien or priority of any previously recorded mortgage to an Institutional Lender, or materially and adversely affect the rights and remedies of Institutional Lenders holding mortgages on five or more Units.

D. Form of Proposed Amendment. No provision of the Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the

Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of declaration. See provision.... for present text". Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

E. Effective Date and Recording Evidence of Amendment. As to members of the Association and persons having actual knowledge of the adoption of any amendment to this Declaration, such amendment shall be effective as of the date of adoption or otherwise as may be specified in the resolution or instrument creating the amendment. As to nonmembers of the Association without actual knowledge of an amendment to this Declaration, the same shall be effective at the time the affected person acquires actual knowledge thereof or at the time of filing the amendment in the public records of St. Johns County, Florida, whichever occurs first. The President of the Association or, in the absence of the President, a Vice President or other acting chief executive officer of the Association, shall execute and cause to be filed in the public records of St. Johns County, Florida, the original amendment to the Declaration, which shall include the recording data identifying this Declaration and which shall be executed in the form required for the execution of a deed. A true and correct copy of each such amendment shall be delivered, forthwith after adoption thereof, to the record owners of all Units by the President, Vice President or other acting chief executive officer of the Association, but delivery of such copies shall not be a condition precedent to the effectiveness of any such amendment.

F. Amendment to Correct Omission or Error in Condominium Documents. Notwithstanding any provision to the contrary set forth in this Article XI or elsewhere, in and of this Declaration, the Articles of Incorporation or Bylaws of the Association, the affirmative vote of the owners of not less than fifty-one percent (51%) of the Units in the Condominium shall be sufficient to adopt



an amendment to this Declaration for the purpose of correcting a defect, error or omission in or of this Declaration not materially and adversely affecting the rights of Unit Owners, lienors or mortgagees.

G. Amendment by Developer. Notwithstanding any provision to the contrary set forth in this Article XI or elsewhere in this Declaration or in the Articles of Incorporation or Bylaws of the Association, Developer may, without the consent or joinder of any other party, amend this Declaration (i) to add any surveyor's certificate(s) as described in Article IV and (ii) to amend any provision of this Declaration in a manner that will not materially and adversely affect the property rights of any Unit Owner other than Developer. Developer's right to amend this Declaration as provided in subsection (ii) of this paragraph G shall cease and be terminated at such time as Developer no longer owns any Unit in the Condominium.

H. Amendments Relating to Surface Water or Stormwater Management System. Notwithstanding any provision to the contrary set forth in this Article XI or elsewhere in this Declaration or in the Articles of Incorporation or Bylaws of the Association, any amendment to this Declaration which alters the Surface Water or Stormwater Management System, as such term is hereafter defined, beyond maintenance in its original condition, or which in any way affects the obligation of the Association to maintain the Surface Water or Stormwater Management System, must have the prior written approval of the St. Johns River Water Management District.

## XII. MAINTENANCE, REPAIRS AND REPLACEMENTS.

Responsibility for maintenance, repairs and replacements of the Condominium Property and property of Unit Owners located or situated within the Condominium shall be as follows:

A. Units. Each Unit and the fixtures, equipment and appliances comprising a part thereof, located therein or exclusively serving the same shall be maintained, kept in good repair and replaced by and at the expense of the Unit Owner(s) thereof. All maintenance, repairs and/or replacements for which Unit Owners are responsible and obligated to perform, which, if not performed or omitted, would affect other Units or Common Elements,

shall be performed promptly as the need arises. Notwithstanding the obligation of Unit Owners for maintenance, repair and replacement of and in Units, the proceeds of all insurance awards or payments under insurance carried by the Association for loss or damage to or within Units shall be applied against repairs and replacements to the extent that such award or payments exceed the deductible provisions of such insurance.

B. Common Elements. The Association shall be responsible for and shall assess against and collect from the Unit Owners, the costs of maintaining, repairing, replacing and keeping in clean and orderly condition all of the Common Elements. The Association shall, at the expense of the Unit Owners, repair any and all incidental damage to Units resulting from maintenance, repairs and/or replacements of or to the Common Elements. The Association's responsibility with respect to the Common Elements shall include, without limitation, the obligation to maintain, operate and repair the Surface Water or Stormwater Management System, as such term as hereafter defined, in accordance with all permit conditions, statutes, rules and regulations enforceable by any governmental authority having jurisdiction including, without limitation, the St. Johns River Water Management District, the Florida Department of Environmental Regulation and the United States Army Corp of Engineers. For purposes of this Declaration, the term Surface Water or Stormwater Management System shall mean and refer to a system which is designed and constructed or implemented 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, overdrainage, 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, Florida Administrative Code. Maintenance of the Surface Water or Stormwater Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the Surface Water or Stormwater Management System shall be as permitted, or if modified, as approved by the St. Johns River Water Management District. The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate

to maintenance, operation and repair of the Surface Water or Stormwater Management System.

XIII. INSURANCE.

Insurance shall be carried and kept in force at all times in accordance with the following provisions:

A. Duty and Authority to Obtain. The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Unit Owners and their mortgagees. A certificate evidencing a mortgagee endorsement shall be issued to the mortgagee of each Unit upon the request of such mortgagee. The Unit Owner(s) of each Unit may, at the expense of the Unit Owner(s), obtain insurance coverage against damage to and loss of the contents of the Unit, personal liability for injury to and death of persons and damage to and loss of personal property of others, and against additional living expenses, provided, that all such insurance purchased by Unit Owners may be obtained from the insurer from which the Association purchases coverage against the same risk, liability or peril, if the Association has such coverage; and, provided, that each policy of such insurance purchased by a Unit Owner shall, where such provision is available, provide that the insurer waives its right of subrogation as to any claim or claims against other Unit Owners, the Association, and their respective employees, agents, guests and invitees. In any event, any insurance policy purchased by an individual Unit Owner shall provide that coverage afforded by such policy is excess over the amount recoverable under any other policy covering the same property without rights of subrogation against the Association.

B. Required Coverage. The Association shall purchase and carry casualty insurance covering all of the buildings and other improvements of the Condominium including, without limitation, Units and Common Elements, in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Board; such insurance to include or afford protection against:

1. loss or damage by fire or other hazards covered by the standard extended coverage or other perils endorsements;

2. such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to buildings and other improvements similar, in construction, location and use, to the buildings and other improvements of the Condominium including, without limitation, vandalism, malicious mischief, windstorm, water damage and war risk insurance, if available;

3. public liability insurance, in such amounts, with such coverage and in such forms as shall be required by the Board to protect the Association and the Unit Owners of all Units, including, without limitation, hired automobile, non-owned automobile, off premises employee coverage, water damage and legal liability, with cross-liability endorsements to cover liability of all Unit Owners as a group to each Unit Owner and waiver of rights of subrogation;

4. workmen's compensation insurance to meet the requirements of law;

5. loss or damage by flood, to the extent, if any, required or necessitated by law, including, without limitation, the Flood Disaster Protection Act of 1973, or any similar law or regulation; and

6. fidelity bonds as may be required under the Condominium Act.

C. Optional Coverage. The Association may purchase and carry such other insurance coverage, other than title insurance, as the Board, in its sole discretion, may determine from time to time to be in the best interests of the Association and Unit Owners, or as an Institutional Lender may reasonably require while it holds a mortgage encumbering any Unit.

D. Premiums. Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums, and other incidental expenses incurred by the Association in administering and carrying out the provisions

of this Article, shall be assessed against and collected from Unit Owners as Common Expenses.

E. Assured. All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, its members and their mortgagees, as their interests may appear, shall provide that all proceeds covering casualty losses shall be paid to the Condominium Association or "Insurance Trustee" as hereinafter provided or to its successor as set forth herein, and the proceeds from insurance against any casualty loss shall be held for the use of the Association, the Unit Owners and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Unit Owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property.

F. Insurer. All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

G. Insurance Trustee. The Association shall have the right to designate the Insurance Trustee and all persons beneficially interested in such insurance coverage shall be bound by the Association's selection of the Insurance Trustee.

1. Qualifications, Rights and Duties. The Insurance Trustee shall be a bank with trust powers, doing business in the State of Florida, or if no such Insurance Trustee is designated, shall be the Board of Directors of the Association. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the

purposes herein stated, and for the benefit of the Association, Unit Owners and their respective mortgagees, to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder; such fees and costs to be assessed against and collected from Unit Owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Unit Owners and their mortgagees, as their respective interests may appear, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association, executed under oath and provided to the Insurance Trustee upon request to the Association; such certificate to certify the name or names of the Unit Owners, the mortgagee(s) thereof, and the respective percentages of any distribution which is to be made to the Unit Owner(s) and mortgagee(s), as their respective interests may appear. If and when insurance proceeds are paid to the Insurance Trustee for any casualty loss, the holder(s) of any mortgage or mortgages encumbering a Unit shall not have the right to determine or participate in the determination of repair or replacement of any loss or damage, and shall not have the right to elect to apply insurance proceeds to the reduction of indebtedness secured by such mortgage(s), unless the insurance proceeds represent a distribution to the Unit Owner(s) and the mortgagee(s) thereof, after such insurance proceeds have been first applied to repair, replacement or reconstruction of any loss or damage, or unless such casualty insurance proceeds are authorized to be distributed to the Unit Owner(s), and the mortgagee(s) thereof by reason of loss of or damage to personal property constituting a part of the Common Elements and as to which a determination is made not to repair, replace or restore such personal property.

H. Application of Insurance Proceeds. The proceeds of casualty insurance paid to the Insurance Trustee by an insurer for loss or damage to real and/or personal property upon which the Association carries insurance, shall be applied and paid as follows:

1. **Common Elements Only.** The proceeds paid to the Insurance Trustee for loss of or damage to real property or improvements constituting Common Elements only shall be applied to the repair, replacement or reconstruction of such loss or damage. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements, the excess shall be paid by the Insurance Trustee to the Unit Owners, and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each Unit in the Common Elements. If the insurance proceeds shall be insufficient to pay the cost of the repair, replacement or reconstruction of such Common Elements, the Association shall deposit with the Insurance Trustee, from any Association reserve fund which may have been established, the difference between the total cost of repairing, replacing or reconstructing such loss or damage to the Common Elements and the amount of the insurance proceeds. If no such Association reserve fund has been established, or if any such Association reserve fund has been established and is insufficient to pay to the Insurance Trustee such difference, the Association shall assess the amount of the difference against, and collect it from, all Unit Owners, as a Common Expense.

2. **Units and Common Elements.** The proceeds paid to the Insurance Trustee for loss of or damage to a building, constituting Common Elements and one or more Units thereof only, shall be first applied to the repair, replacement or reconstruction of Common Elements, then to the repair, replacement or reconstruction of any Unit or Units in such building which have been destroyed or damaged. If such insurance proceeds exceed the cost of the repair, replacement or reconstruction of such Common Elements and Units, the excess shall be paid by the Insurance Trustee to the owners of the damaged or destroyed Units and their respective mortgagees, as their interests may appear, in shares or proportions equal to the undivided interest appurtenant to each such Unit in the Common Elements. If the insurance proceeds shall be sufficient to pay for the repair, replacement or reconstruction of the Common Elements but shall be insufficient to pay the cost of the repair, replacement or reconstruction of the damaged or destroyed Unit or Units in such building, each Unit Owner shall be responsible for the portion of the deficiency attributable to his Unit and shall deposit such sum with the Insurance Trustee to be applied by the Insurance Trustee toward the total cost of repairing, replacing or

reconstructing all of such damaged or destroyed Common Elements and Units. If the insurance proceeds shall be insufficient to pay the cost of the repairs, replacements, or reconstruction of the Common Elements (to which the Insurance Trustee is required first to apply such proceeds before applying any part thereof to the repair, replacement or reconstruction of Units), the difference between the total cost of repairing, replacing or reconstructing the Common Elements and the amount of the insurance proceeds shall be assessed by the Association against, and collected from, all Unit Owners as a common expense and in such event, the cost of repairing, replacing or reconstructing the Unit or Units destroyed or damaged shall be the responsibility of the Owners of such damaged or destroyed Units, who shall each deposit with the Insurance Trustee the amount necessary to repair, replace or reconstruct their respective Units.

I. Deposits to Insurance Trustee After Damage. Within sixty (60) days after a loss of or damage to Condominium Property covered by casualty insurance, the Association shall obtain estimates of the cost of repairing, replacing or restoring the same, including the cost of professional fees and any construction bond which the Board may require. If, from such estimates, it shall appear that the insurance proceeds payable for such loss or damage will be insufficient to pay the total costs thereof, whether it is to be paid by one or more Unit Owners, the deficit shall be deposited with the Insurance Trustee not later than thirty (30) days from the day on which the Insurance Trustee receives the insurance proceeds.

#### XIV. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

Whether, and the manner in which, any or all of the Condominium Property which shall be damaged or destroyed by casualty shall be repaired, reconstructed or replaced shall be determined as follows:

A. Residential Buildings. If any residential building shall be damaged or destroyed, repair or reconstruction thereof, or termination of the Condominium, shall be in accordance with the following:

1. Total Destruction of all Residential Buildings. If all residential buildings within the Condominium are totally



destroyed or are so damaged that no Unit therein is habitable, the buildings and none of the improvements comprising Common Elements shall be reconstructed, and the Condominium shall be terminated unless the owners of Units to which seventy-five (75%) of the Common Elements are appurtenant and mortgagees holding first mortgages on not less than fifty-one percent (51%) of the Units agree in writing, within sixty (60) days after the date of such destruction, to reconstruct the same and/or unless any policy or policies of casualty insurance covering the same shall require reconstruction thereof as a condition precedent to the payment of proceeds thereunder and in either case as long as the then applicable zoning and other regulatory laws and ordinances shall allow the same to be reconstructed.

**2. Partial Destruction of the Residential Buildings.**

If one or more, but less than all of the Units in the buildings remain habitable, the damaged or destroyed Common Elements and/or Units shall be repaired or reconstructed so that the buildings and/or Units shall be restored to substantially the same condition as existed prior to such damage or destruction, unless within sixty (60) days after the casualty it is determined by agreement of the Unit Owners and mortgagees in the manner provided in Article XI hereof, that the Condominium shall be terminated.

**B. Common Elements.** Damaged or destroyed improvements constituting part of the Common Elements shall be repaired, reconstructed and/or replaced unless in the event of total destruction of the Units, or by agreement after partial destruction, the Condominium shall be terminated.

**C. Certificate.** The Insurance Trustee may rely upon a certificate executed by the President and Secretary of the Association to determine whether or not damaged or destroyed Condominium Property shall be repaired or reconstructed.

**D. Plans and Specifications.** Repair or reconstruction of the Condominium Property shall be substantially in accordance with the plans and specifications pursuant to which the same were originally constructed, provided that the Board may authorize reasonable variations from the original plans and specifications as may appear to them to be necessary or desirable.

E. Responsibility. If the damage or destruction shall be limited only to one or more Units for which the responsibility of maintenance, repair and replacement is that of the affected Unit Owners, then such Unit Owners shall be responsible for carrying out the repair or reconstruction thereof. In all other instances of damage or destruction, the Association shall be responsible for carrying out the repair and reconstruction thereof.

F. Construction Funds. All funds for the payment of repair and reconstruction costs, consisting of insurance proceeds and/or funds collected by the Association from Unit Owners shall be disbursed toward payment of such costs in the following manner:

1. Association. If the total funds assessed against and collected from Unit Owners by the Association for payment of repair and reconstruction costs is more than Five Thousand and no/100 Dollars (\$5,000.00) then all such sums shall be deposited by the Association with and disbursed by the Insurance Trustee. In all other cases the Association shall hold such sums so assessed and collected and shall disburse the same in payment of the costs of reconstruction and repair.

2. Insurance Trustee. The proceeds of insurance collected on account of a casualty and the sums assessed against and collected from Unit Owners by the Association and deposited with the Insurance Trustee shall constitute a construction fund which shall be disbursed in payment of the costs of repair and reconstruction in the following manner:

(a) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of repair and reconstruction is upon one or more, but less than all Unit Owners, shall be paid by the Insurance Trustee to the affected Unit Owners and, if any of such Units are mortgaged, to the affected Unit Owners and their mortgagees jointly, or in such other method as the effective insurance policy shall require.

(b) Association--Lesser Damage. If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is less than Five Thousand and no/100 Dollars (\$5,000.00) then the construction fund shall be disbursed in payment of such costs upon the order of the

Association; provided, however, that upon request to the Insurance Trustee by a mortgagee which is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

(c) **Association--Major Damage.** If the amount of the estimated costs of reconstruction and repair which is the responsibility of the Association is more than Five Thousand and no/100 Dollars (\$5,000.00) then the construction fund shall be disbursed in payment of such costs in the manner required by the Board and upon approval of an architect registered to practice in Florida and employed by the Association to supervise the work.

(d) **Surplus.** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in the construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund in the manner elsewhere herein stated; except, however, that the part of a distribution to a beneficial owner which is not in excess of assessments paid by such owner into the construction fund shall not be made payable to any mortgagee.

(e) **Certificate.** Notwithstanding the provisions herein, the Insurance Trustee shall not be required to determine whether or not sums paid by Unit Owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or upon approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid, nor to determine whether surplus funds to be distributed are less than the assessments paid by Unit Owners. Instead, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and properly payable and stating the name of the payee and the amount to be paid; provided that when a mortgagee is herein required to be named as payee the Insurance Trustee shall also name the mortgagee as payee; and further provided that when the Association, or a

mortgagee which is the beneficiary of an insurance policy the proceeds of which are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association.

XV. USE RESTRICTIONS.

Use of the Condominium Property shall be in accordance with and subject to the following provisions so long as the Condominium exists:

A. Units. Each of the Units shall be occupied only by a single family, its servants and guests or lessees as a residence and for no other purposes.

B. Common Elements. The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of such improvements.

C. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Common Elements which will increase the rate of insurance upon the Condominium Property.

D. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or any part thereof; and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Condominium Property shall be the same as is elsewhere herein specified.

E. Regulations. Reasonable regulations concerning the use of the Condominium Property may be made and amended from time to time by the Board. Such regulations may include, without limitation,

limitations on the number and species of pets which may be kept within the Condominium Property. No such regulation shall contravene any portion of this Declaration or of the Association's Articles of Incorporation or Bylaws. Copies of such regulations and amendments thereto shall be furnished by the Association to all Unit Owners and residents of the Condominium upon request.

F. Proviso. Until Developer has sold all of the Units, neither the Unit Owners nor the Association shall interfere with the sale of the Units. Developer may make such use of the unsold Units and Common Elements (including, without limitation, the clubhouse) as may facilitate such sales, including, but not limited to, maintenance of sales offices and model units, the display of signs and use of the Common Elements in the promoting of sales of Units in the Condominium.

G. Rights of Developer. Developer, for itself, its successors, assigns, nominees, designees and grantees, hereby reserves a perpetual, alienable, releasable and non-exclusive easement, privilege and right of ingress and egress over and across all paved roadways and drives located within the Condominium Property. Developer shall have the unrestricted and sole right and power of assigning in whole or in part, alienating and releasing the privileges, easement and rights referred to in this paragraph. Such easement is and shall remain a private easement and the sole and exclusive property of Developer, its successors, assigns, nominees, designees and grantees; provided, however, such easement rights shall not be used so as to interfere with the installation and location of completed vertical improvements upon the Condominium Property.

H. Leasing. In order to preserve the character of the Condominium as predominantly owner-occupied, and to comply with the eligibility requirements for financing in the secondary mortgage market, leasing of Units shall be governed by the restrictions imposed by this Paragraph. Except as provided herein, the leasing of Units shall be prohibited.

1. General. Owners desiring to lease their Units may do so only if they have applied for and received from the Board of Directors either a "leasing permit" or a "hardship leasing permit." Such a permit, upon its issuance, will allow an Owner to lease his

or her Unit provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph. All leasing permits and hardship leasing permits shall be valid only as to a specific Unit Owner and Unit and shall not be transferable between either Units or Unit Owners (including a subsequent Owner of a Unit where a permit was issued to the Owner's predecessor in title).

2. Leasing Permits. An Owner's request for a leasing permit shall be approved if current, outstanding leasing permits have not been issued for more than twenty-five percent (25%) of the total Units (excluding Units owned by the Declarant) in the Condominium. A leasing permit shall be automatically revoked upon the happening of any of the following events: (i) the sale or transfer of the Unit to a third party (excluding sales or transfers to (a) an Owner's spouse, (b) a person cohabitating with the Owner and (c) a corporation, partnership, company or legal entity in which the Owner is a principal; (ii) the failure of a Unit Owner to lease his or her Unit within ninety (90) days of the leasing permit having been issued; or (iii) the failure of a Unit Owner to have his or her Unit leased for any consecutive ninety (90) day period thereafter. If current leasing permits have been issued for more than twenty-five percent (25%) of the total Units (excluding Units owned by the Declarant), no additional leasing permits shall be issued (except for hardship leasing permits) until the number of outstanding current leasing permits fall below twenty-five percent (25%) of the total Units (excluding Units owned by the Declarant) in the Condominium. Owners who have been denied a leasing permit shall automatically be placed on a waiting list for a leasing permit and shall be issued the same if they so desire when the number of current outstanding leasing permits issued falls to twenty-five percent (25%) or less of the total Units (excluding Units owned by the Declarant) in the Condominium. The issuance of a hardship leasing permit to an Owner shall not cause the Owner to be removed from the waiting list for a leasing permit.

3. Hardship Leasing Permit. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a hardship leasing permit. The Board of Directors shall have the authority to

issue or deny requests for hardship leasing permits, in its discretion, after considering the following factors: (i) the nature, degree and likely duration of the hardship; (ii) the harm, if any, which will result to the Condominium if the permit is approved; (iii) the number of hardship leasing permits which have been issued to other Owners; (iv) the Owner's ability to cure the hardship; and (v) whether previous hardship leasing permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to, the following situations: (i) a Unit Owner must relocate his or her residence outside the Jacksonville metropolitan area and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (ii) where the Owner dies and the Unit is being administered by his or her estate; and (iii) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit. Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional hardship leasing permits. Hardship leasing permits shall be automatically revoked if, during the term of the permit, the Owner is approved for and receives a leasing permit.

4. Leasing Provisions. Leasing which is authorized, pursuant to permit hereunder, shall be governed by the following provisions:

(a) Notice. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.

(b) General. No Unit shall be leased for a term less than nine (9) months. Units may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of Units or

assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Unit. The Owner must provide the lessee copies of the Declaration, Bylaws and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

**XVI. COMPLIANCE AND DEFAULT.**

Each Unit Owner shall be governed by and shall comply with the terms of the Declaration of Condominium, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted pursuant thereto, as they may be amended from time to time. Failure of the Unit Owner to comply therewith shall entitle the Association or other Unit Owners to the following relief in addition to the remedies provided by the Condominium Act:

A. Negligence. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any member of his family or his or their guests, employees, agents, lessees or other invitees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

B. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Declaration, the Articles of Incorporation and Bylaws of the Association and any and all regulations adopted pursuant thereto, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

C. Fines, etc. The Association shall be authorized to levy reasonable fines against Unit Owners for violations of the terms and conditions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and any and all regulations adopted



pursuant thereto. No fine may exceed One Hundred and no/100 Dollars (\$100.00) for any single violation, except that a fine may be levied on the basis of each day of a continuing violation. In such event, the fine shall not exceed One Thousand and no/100 Dollars (\$1,000.00) in the aggregate. No fine may be levied except after giving reasonable notice and opportunity for a hearing before a committee comprised of Unit Owners appointed by the Board of Directors to the offending Unit Owner in accordance with procedures to be established by the Board. No fine shall be imposed with respect to any unoccupied Unit.

D. No Waiver of Rights. The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provision of the Condominium Act, this Declaration, the Articles of Incorporation and Bylaws of the Association or the regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

XVII. ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT.

To provide the funds necessary for proper operation and management of the Condominium Property, the Association has been granted the right to make, levy and collect assessments against the Units and Unit Owners. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of operating and managing the Condominium and Association Property by the Association.

A. Determination of Assessments.

1. Assessments by the Association against each Unit Owner and his Unit shall be the share of the total assessments to be made against all Unit Owners and their Units as is set forth on Exhibit "B" attached hereto.

2. Should the Association become the Unit Owner, the assessment which would otherwise be due and payable to the Association by a Unit Owner, reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, shall be apportioned and the assessment therefor levied ratably among all Unit Owners which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive

of the interests therein appurtenant to any Unit or Units owned by the Association.

B. Time for Payment. The assessment levied against the Unit Owner and his Unit shall be payable in quarterly or monthly, or such other installments and at such time as shall from time to time be fixed by the Board as permitted by the Condominium Act.

C. Annual Budget. The Board shall establish annual budgets in advance for each fiscal year which shall estimate all expenses for the forthcoming fiscal year required for the proper operation, management and maintenance of the Condominium, including, when deemed necessary or advisable by the Board, a reasonable allowance for contingencies and reserves and shall estimate all income to be collected during the year. Upon adoption of each annual budget by the Board, copies thereof shall be delivered to each Unit Owner, and the assessment for the year shall be based upon such budget. Failure to deliver a copy of the budget to a Unit Owner shall, however, not affect the liability of the Unit Owner for such assessment. Should the Board at any time and from time to time determine, in the sole discretion of the Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary. The specific purpose of any special assessment approved by the Board shall be set forth in a written notice of such assessment sent or delivered to each Unit Owner. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Unit Owners. However, upon completion of such specific purpose or purposes, any excess funds shall be considered Common Surplus. Without limiting the generality of the foregoing, assessments shall be used for the operation, maintenance and repair of the Surface Water or Stormwater Management System including, but not limited to, work within retention areas, drainage structures and drainage easements.

D. Reserve Fund. The Board, in establishing each annual budget for the Condominium, shall include therein a sum to be collected and maintained as a reserve fund for the capital expenditures, deferred maintenance and replacement of the Common

Elements and personal property held for the joint use and benefit of all Unit Owners. The amount to be reserved shall be computed by dividing the estimated replacement cost of an item by its estimated remaining useful life. No such reserve shall be included within the annual budget for the Condominium Property if the Unit Owners, by a majority of votes at a duly called meeting of the Association, elect to provide no fiscal reserves or a lesser amount of fiscal reserves than as provided herein for any fiscal year. If a meeting of the Unit Owners has been called to determine to provide no reserves or reserves less adequate than required, and such result is not attained or a quorum is not attained, the reserves, as included in the Annual Budget, shall go into effect.

E. General Operating Reserve. The Board, when establishing each annual budget, may, when deemed necessary or desirable, include therein a sum to be collected and maintained as a general operating reserve to provide a measure of financial stability during periods of special stress when such sums may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Unit Owners, as a result of emergencies or for other reason placing financial stress upon the Association.

F. Use of Association Funds. All monies collected by the Association shall be treated as the separate property of the Association, and such monies collected from the Unit Owners may be applied by the Association to the payment of any expense of operating and managing the Condominium Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles, and Bylaws and as the monies for annual assessments are paid to the Association by any Unit Owner, the same may be commingled with monies paid to the Association by the other Unit Owners. The prior sentence notwithstanding, funds received by the Association from other Unit Owners or otherwise attributable to other condominiums which may be administered by the Association, shall not be commingled with funds collected by the Association which are attributable to the Condominium. Although all funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of Common Elements, including, without limitation, Common Surplus, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign,

hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit.

G. Delinquency or Default. The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. Upon such default, the Association shall be entitled to charge an administrative fee, in addition to interest, in an amount not to exceed Twenty-five and no/100 Dollars (\$25.00) or five percent (5%) of the delinquent installment, for each installment due that is late. Upon default and upon recording a claim of lien Pursuant to this Article XVII, the Association shall have the option of accelerating all remaining installments due from the defaulting Unit Owner for the remainder of the budget year in which the default occurs. When in default, the delinquent assessments (or accelerated installments thereof, if applicable) shall bear interest at the highest rate permitted under applicable law until the same, and all interest due thereon, has been paid in full.

H. Personal Liability of Unit Owner. Each Unit Owner shall be personally liable, jointly and severally, as the case may be, to the Association for the payment of all assessments, regular or special, interest on such delinquent assessments or installments thereof as above provided, and for all cost of collecting the assessments and interest thereon, including reasonable attorney's fee, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity own(s) a Unit.

I. Liability Not Subject to Waiver. No Unit Owner of a Unit may exempt himself from liability for any assessment levied against the Unit Owner and his Unit by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit, or in any other manner.

J. Lien for Assessment. The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements which lien shall and does secure the monies due for all (1) assessments (or accelerated installments thereof, if the Association elects to accelerate installments under paragraph G above) levied against the Unit Owner(s) and each Unit, (2) interest, if any, which may become due on delinquent assessments owing to the Association, and (3) costs and expenses, including a

reasonable attorney's fee, which may be incurred by the Association in enforcing its lien upon the Unit. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for St. Johns County, Florida, and in any suit for the foreclosure of said lien, upon the approval of such Circuit Court, the Association shall be entitled to rental from the Unit Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a Receiver for said Unit. The rental required to be paid shall be established by the Circuit Court.

K. Recording and Priority of Lien. The lien of the Association shall be effective from and after recording this Declaration in the public records of St. Johns County, Florida. However, as to first mortgagees of record, the lien is effective from and after recording a claim of lien. The claim of lien shall state the description of the Unit encumbered thereby, the name of the record owner, the name and address of the Association and the amount and the date when due. The claim of lien shall continue in effect until all sums secured thereby shall have been fully paid, however no claim of lien shall continue for a longer period than one (1) year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. Such claims of lien shall secure unpaid assessments, interest, costs, attorney's fees and interest thereon which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

L. Effect of Foreclosure or Judicial Sale. A first mortgagee who acquires title to the Unit by foreclosure or deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the certificate of title or deed, as applicable. However, such mortgagee's liability is limited to a period not to exceed six (6) months, but in no event shall such mortgagee's liability exceed one percent (1%) of the original mortgage debt. In no event shall the mortgagee be liable for more than six (6) months of the Unit's unpaid Common Expenses or assessments accrued before the acquisition of title to

the Unit by the mortgagee, or one percent (1%) of the original mortgage debt, whichever is less.

M. Effect of Voluntary Transfer. When the Unit Owner proposes to lease, sell or mortgage the Unit, the Association, within fifteen (15) days of written request of the Unit Owner, shall furnish to a proposed purchaser or mortgagee, a statement verifying the status of payment of any assessment or other monies which shall be due and payable to the Association by the owner of such Unit. Such statement shall be executed by any officer of the Association and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against the Unit Owner and Unit due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association) then the rent, proceeds of such sale or mortgage proceeds, as the case may be, shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such rent, proceeds of sale or mortgage to the Unit Owner responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of transfer of title, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

CR:491P60636

N. Commencement of Assessments. The date of commencement of the assessments against each Unit as described in this Article shall be established by the Board.

XVIII. REGISTRY OF OWNERS AND MORTGAGEES.

The Association shall at all times maintain a register of the names of the Unit Owners and their respective mortgagees which shall be based upon information supplied by the Unit Owners. Upon the transfer of title to any Unit, the transferee shall notify the Association in writing of his interest in such Unit together with recording information identifying the instrument by which such transferee acquired his interest in the Unit. The Unit Owner of a Unit encumbered by a mortgage shall notify the Association of the name and address of the mortgagee, the amount of such mortgage, or mortgages, and the recording information identifying the same. The holder of any mortgage encumbering a Unit may notify the Association of any such mortgage(s), and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

XIX. ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS.

Neither a Unit Owner nor the Association shall make any alterations, improvements or additions to Units or Common Elements, except in compliance with the following:

A. Units. Unless the Unit Owner(s) shall first submit plans for such work to the Board and the Board, by resolution unanimously adopted by the affirmative vote of all members thereof, shall approve and consent thereto, no alteration of or improvement or addition to a Unit, shall be made, constructed, erected or installed which shall:

1. remove, in whole or in part, replace, reroute or otherwise affect any column, bearing wall or partition, pipe, duct, wire or conduit or obstruct any easement herein provided for;

2. remove or change the style, pattern, material, texture or outside color of any door, window, screen, fixture, equipment or appliance in or on an exterior Unit or building wall;

3. cover, from the inside or outside, the glass or other transparent and/or translucent material in any exterior door or window with, or apply or affix thereto, any material or substance which shall render the same opaque or change the exterior color thereof, except interior draperies, curtains, shades or shutters which are lined, backed, covered or painted on the side visible from the exterior with a white or cream colored material;

4. enclose in any fashion or install any flooring other than that which is approved by the Board on a balcony, patio, porch or terrace;

5. affix to or over any exterior door or window, or otherwise install on the exterior of any Unit or building, any storm or hurricane shutter or awning or any protective or decorative panel, paneling, trim, enclosure, fixture or appliance. Notwithstanding anything in this Declaration to the contrary, the Board shall adopt hurricane shutter specifications for each building within the Condominium which shall include color, style and other factors deemed relevant by the Board. All such specifications adopted shall comply with the applicable building code. The Board shall not refuse approval of the installation or replacement of hurricane shutters conforming to the specifications adopted by the Board. The installation, replacement and maintenance of such shutters in accordance with the procedures set forth herein shall not be deemed a material alteration to the Common Elements for purposes of this Declaration; and

6. otherwise change, modify or alter the exterior of any Unit or building so that it thereby differs in appearance from any other Units or buildings of the same type.

B. Common Elements. There shall be no material alterations or substantial improvements or additions to the Common Elements except as hereafter set forth. Upon the affirmative vote of a majority of the members of the Board, the Association shall have the right to make or cause to be made alterations, improvements and/or additions to the Common Elements, except the acquisition of additional real property. The acquisition of additional real property shall be approved by seventy-five percent (75%) of the Voting Interests in the Association. The cost of such alterations,



improvements and/or additions shall be assessed against and collected from all Unit Owners as Common Expenses.

In any litigation or other dispute related to or arising out of this Article XIX, the prevailing party shall be entitled to reimbursement of its costs incurred in the litigation or dispute including, without limitation, reasonable attorneys' fees for both trial and appeal.

**XX. TERMINATION.**

The Condominium may be terminated in the following manner in addition to the manner provided by the Condominium Act:

A. Destruction. In the event it is determined in the manner elsewhere herein provided that the improvements shall not be reconstructed because of total destruction or major damage, the Condominium plan of ownership will be thereby terminated without agreement.

B. Agreement. The Condominium may be terminated at any time by the approval in writing of all of the Unit Owners in the Condominium, and by all record owners of mortgages upon Units therein owned by Institutional Lenders and other mortgagees approved by the Association. If the proposed termination is submitted to a meeting of the members of the Association (the notice of which meeting gives notice of the proposed termination) and if the approval of the Owners of Units to which not less than seventy-five percent (75%) of the Common Elements are appurtenant and of the record owners of first mortgages encumbering seventy-five percent (75%) of the Units in the Condominium owned by Institutional Lenders are obtained not later than thirty (30) days from the date of such meeting, then the approving Unit Owners shall have an option to buy all of the Units of the other Unit Owners for the period ending on the sixtieth (60th) day from the date of such meeting. Such option shall be upon the following terms:

1. **Exercise of Option.** The option shall be exercised by delivery or mailing by certified mail of an agreement to purchase signed by the record owners of Units who will participate in the purchase to each of the Unit Owners of the Units to be purchased. The agreement shall indicate which Units will be

purchased by each participating Owner and shall agree to purchase all of the Units owned by Owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

2. **Price.** The sale price for each Unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be confirmed in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

3. **Payment.** The purchase price shall be paid in full in cash or shall include assumption of any existing mortgage financing plus cash.

4. **Closing.** The sale shall be closed within ten (10) days following the determination of the sale price.

C. **Certificate.** The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the public records of St. Johns County, Florida.

D. **Shares of Owners After Termination.** After termination of the Condominium, the Unit Owners shall own the Condominium Property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Unit Owners. Such undivided shares of the Unit Owners shall be the same as the undivided shares in the Common Elements appurtenant to the Owner's Units prior to the termination as set forth in Exhibit "B" hereto.

E. Amendment. This Article XX cannot be amended without consent of all Unit Owners and of all owners of mortgages required to approve termination by agreement.

XXI. CONDEMNATION.

A. General. Whenever all or any part of the Condominium Property shall be taken by any authority having the power of condemnation or eminent domain, each Unit Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association if such award amounts to less than Five Thousand and no/100 Dollars (\$5,000.00) and to the Insurance Trustee if such award amounts to Five Thousand and no/100 Dollars (\$5,000.00) or more. Unless otherwise provided by law at the time of such taking, any award made therefor shall be disbursed by the Association or the Insurance Trustee, as the case may be, as hereinafter provided in this Article XXI.

B. Common Elements. In the event of a taking by eminent domain of part or all of the Common Elements, if seventy-five percent (75%) or more of the Unit Owners approve the repair and restoration of such Common Elements, the Board of Directors shall arrange for the repair and restoration of such Common Elements, and the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. In the event that seventy-five percent (75%) or more of the Unit Owners do not approve the repair and restoration of such Common Elements or if no repair or restoration is required, the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the net proceeds of such award in the same manner as they are required under this Declaration to distribute insurance proceeds where such proceeds exceed the cost of repair or restoration of the damage.

C. Condemnation of a Unit or Part of a Unit. Where all or part of a Unit has been taken by eminent domain and seventy-five percent (75%) or more of the Unit Owners duly approve the repair and restoration of the Residential Building and Common Elements, the Board of Directors shall adjust such loss with the affected Unit Owner including, but not limited to, the payment of

4233

**Return to:**  
Aegis Mgt, Inc.  
P.O. Box 2055  
Ponte Vedra Beach, FL 32004

## MARSH COVE II AMENDMENT

to the **Declaration** for Marsh Cove II Homeowners Association, Inc.

This Amendment to the **Declaration** for Marsh Cove II is made effective the 1st day of February, 2005 by the Marsh Cove II Homeowners Association, Inc., a Florida non-profit corporation ("Association").

### RECITALS:

- A. The Declaration for Marsh Cove II is recorded in Official Records Book 1062, pages 1423 through 1454 of the current public records of St. Johns County, Florida
- B. Pursuant to Article XII, page 38, Paragraph 12.4 (b) of the Declaration, this Amendment to the Declaration has been proposed by the Board of Directors present at a duly called meeting of the Board of Directors on 2/1/5, and was approved.

Now **Therefore**, the Association hereby amends the Declaration as follows:

**Article I, Page 2, Paragraph 1.5, Line 5 shall be changed to read:**

*Shelby's Cove Court, not Shelly's Cove*

**Article III, Page 8, Paragraph 3.1 titled Residential Use, Line 4:**

**Remove:** *their domestic help and nonpaying social guests.*

**Article III, Page 10, Paragraph 3.12 Titled Occupancy and Leasing Regulations, Line 2:**

**Remove:** *servants and nonpaying social guests.*

**Add:** *for a period of not less than twelve (12) months unless approved by the Board in advance.*

**Line 6-7 Shall Read (adding *or sublet*):** *No rooms may be rented, or sublet, and no transients may be accommodated in a unit.*

**In Witness Whereof**, the Association has caused this Amendment to be duly executed as of the date and year first above written.

The undersigned Vice President of Marsh Cove II hereby certifies that the above Amendment is a true and correct copy of the Amendment adopted at a meeting of the Board of Directors.

Signed, Sealed and Delivered  
in the presence of

[Signature]  
JOHN S. JEWELL  
(Print or Type Name)

Jane E. Nadeau  
Jane E. Nadeau  
(Print or Type Name)

**Marsh Cove II Homeowners Association, Inc.**  
a Florida non-profit corporation  
By: Kelly LaLonde  
Its: **Vice President**  
Kelly LaLonde

[CORPORATE SEAL]

State of Florida }  
                              } SS  
County of St. Johns }

The foregoing instrument was acknowledged before me this 25 day of Mar, 2005 by  
Kelly LaLonde as Vice President of the Marsh Cove II Homeowners Association, Inc., a Florida  
non-profit corporation, on behalf of the corporation.

JOEANN ADAMS  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # DD168713  
EXPIRES 12/2/2006  
BONDED THRU 1-888-NOTARY1

[Signature]  
(Print Name) JOEANN ADAMS  
NOTARY PUBLIC  
State of Florida at Large  
Commission # DD168713  
My Commission Expires: 12/2/06  
Personally Known  
Or Produced I.D. FLA DRIVERS LICENSE  
Type of Identification Produced:  
\_\_\_\_\_

Prepared By:

Aegis Mgt, Inc.

②

**Marsh Cove Condominium Association  
1220 Marsh Cove Court, Ponte Vedra Beach, FL 32082  
Telephone: (904) 273-9148 Fax: (904) 273-9158**

## **BY-LAWS & COVENANTS AMMENDMENT**

### **Leasing Provision**


**The Leasing Provisions within the Marsh Cove Condominium Association By-Laws & Covenants are hereby amended as follows:**

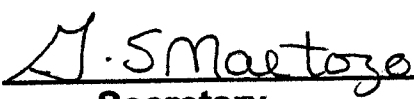
**"The leasing of any unit within Marsh Cove is limited, effective immediately, to only those owners who were the owner(s) of record prior to September 16, 2008. Leasing is prohibited, and will not be allowed for any owner(s) of record who have purchased and closed on their units after September 16, 2008."**

**The maximum number of units that can be leased at Any one time is returned to the 25% as originally stated in the By-Laws & Covenants.**

**"All other provisions in regards to "Leasing" contained within the By-Laws& Covenants will remain in full force And effect."**

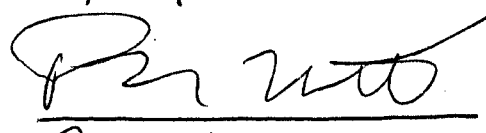
**Approved and adopted on September 16, 2008 at the Board of Directors monthly meeting of the Marsh Cove Condo Association.**

Signed:  Date: 9/17/08  
President

 Date: 9/17/08  
Secretary

WITNESS:

  
JEFF HANLY

  
RYAN WETHERHOLD



*[Handwritten Signature]*

State of Florida  
County of Duval

*Sail Madero, Melissa Stone* The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of September, 2008 by *Sail Madero, Melissa Stone* who ~~is~~ are personally known to me or who has produced as identification.

Prepared by  
And return to:

Michael J. Goldsberry, Esq.  
6817 Southpoint Parkway  
Suite 1801  
Jacksonville, FL 32216

**THIRD AMENDMENT TO THE DECLARATION OF CONDOMINIUM FOR  
MARSH COVE CONDOMINIUM**

This Amendment to the Declaration of Marsh Cove Condominium, is effective upon recording, by Marsh Cove at Ponte Vedra Condominium Association, Inc., a Florida not-for-profit corporation ("Association").

**RECITALS:**

- A. The Declaration for Marsh Cove Condominium is recorded at Official Record Book 1491, Page 598, current records of St. Johns County, Florida.
- B. Pursuant to Article XI, page 8, Paragraph B, by proposal of the Board of Directors, at a duly called meeting of the Board of Directors on June 24, 2014, and was approved by the Membership.

Now Therefore, the Association hereby amends the Declaration as follows:

Article V, titled Definition of Units and Common Elements, Paragraph C, is added as follows:

- C. Limited Common Elements. The term "Limited Common Elements" shall mean and comprise the common elements that are reserved in this Declaration for the use of a certain Unit or Units to the exclusion of other Units, and shall include the area(s) directly in the front or in the rear of certain Units to the extent contained in Exhibit "C" to this Declaration.

Article XII, titled Maintenance, Repairs and Replacements, Paragraph C, is added as follows:

- C. Limited Common Elements. The Responsibility for and the cost of keeping clean and in orderly condition those Limited Common Elements that are assigned or granted to, and exclusively serve, a certain Unit or Units to the exclusion of other Units, shall be born by the Owner(s) of the Unit(s) to which the same are appurtenant. All owner-installed improvements, including but not limited to, decks, pavers, and patio's, all of which must first be approved by the Association, must be maintained, repaired and replaced as needed by the Owner(s) of the Unit(s) to which the same are appurtenant. "Owner-installed improvement" shall include improvements installed by previous Owner(s) of said Unit(s). Should Owner(s) fail to maintain, repair



and replace, said owner-installed improvements as may be deemed necessary by the Association, the Association may require Owner(s) to remove said owner-installed improvements or perform removal of said owner-installed improvements by the Association with all costs of said removal assessed as a Special Assessment against the Unit(s) to which said owner-installed improvements were appurtenant.

Article XV, titled Use Restrictions, Paragraph B is amended as follows:

**B. Common Elements and Limited Common Elements.** The Common Elements and Limited Common Elements shall be used only for the purposes for which they are intended in furnishing services and facilities for the enjoyment of such improvements.

Article XIX, titled Alterations of and Improvements to Units and to Common Elements, Paragraph B, is amended as follows:

**B. Common Elements and Limited Common Elements.** There shall be no material alterations or substantial improvements or additions to the Common Elements or Limited Common Elements, except as set forth. Upon the affirmative vote of a majority of the members of the Board, the Association shall have the right to make or cause to be made alterations, improvements, or additions to the Common Elements or Limited Common Elements, except for acquisition of additional real property. The acquisition of additional real property shall be approved by seventy-five percent (75%) of the Voting interests in the Association. In the case of Common Elements, the cost of such alterations, improvements, or additions shall be assessed against and collected from all Unit Owners as Common Expenses. In the case of Limited Common Elements, the costs of such alterations, improvements, or additions shall be initiated and born by the Owner(s) to which the Limited Common Areas is appurtenant, or as may be assessed against and collected from Unit Owners having the exclusive right to use such Limited Common Elements.

Article XIX, titled Alterations of and Improvements to Units and to Common Elements, Paragraph C, is added as follows:

**C. Review and Consultant's Fee.** In connection with any requests to alter or modify any Unit or Limited Common Element, the Board shall have the right to charge such Unit Owner making such request a reasonable review fee. Further, such Unit Owner shall be obligated to reimburse the Association for any consultants reasonably employed by the Board to evaluate any request for modification or alteration. The Board may withhold its approval of any requests for modification or alteration until all such fees have been paid in full.

Article XV, titled Use Restrictions, Paragraph C, is amended as follows:

C. Nuisances. No nuisances shall be allowed upon the Condominium Property, nor any use or practice which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Condominium Property by residents. All parts of the Condominium Property shall be kept in a neat and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor shall any fire hazard be allowed to exist. No use shall be made of any Unit or of the Common Elements which shall increase the rate of insurance upon the Condominium Property. Limited Common Areas, used in accordance with what has been approved by the Association, shall not be considered a nuisance, so long as it is kept in a sanitary condition, with no rubbish or garbage accumulation and kept free of the presence of any condition presenting a fire hazard.

In Witness Whereof, the Association has caused this Amendment to be duly executed as of the date and year written below.

The undersigned President of Marsh Cove at Ponte Vedra Condominium Association, Inc., hereby certified that the above Amendment is a true and correct copy of the Amendment adopted at a meeting of the Board of Directors and approved by the Membership in accordance with the Declaration and Florida Statutes.

Signed, Sealed and Delivered

Marsh Cove at Ponte Vedra  
Condominium Association, Inc.

Witness:

Print Name: FRED REYNOLDS

By: Its President

Witness:

Print Name:

State of Florida

}  
} SS

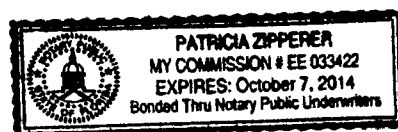
County of St. Johns

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of July 2014, by Melissa Stone, as President of Marsh Cove at Ponte Verdra Condominium Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. who took ☒ did not take ☐ an oath, and who is personally known to me ☒ or produced \_\_\_\_\_ as identification

Patricia Zipperer

Notary Public, State of Florida

My Commission Expires 10/7/2014



# MARSH COVE CONDOMINIUM ST. JOHNS COUNTY, FLORIDA

COMMON AREA SITE PLAN  
NOT TO SCALE  
SHEET 2 OF 2

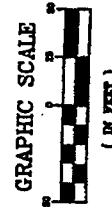
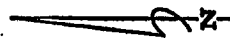
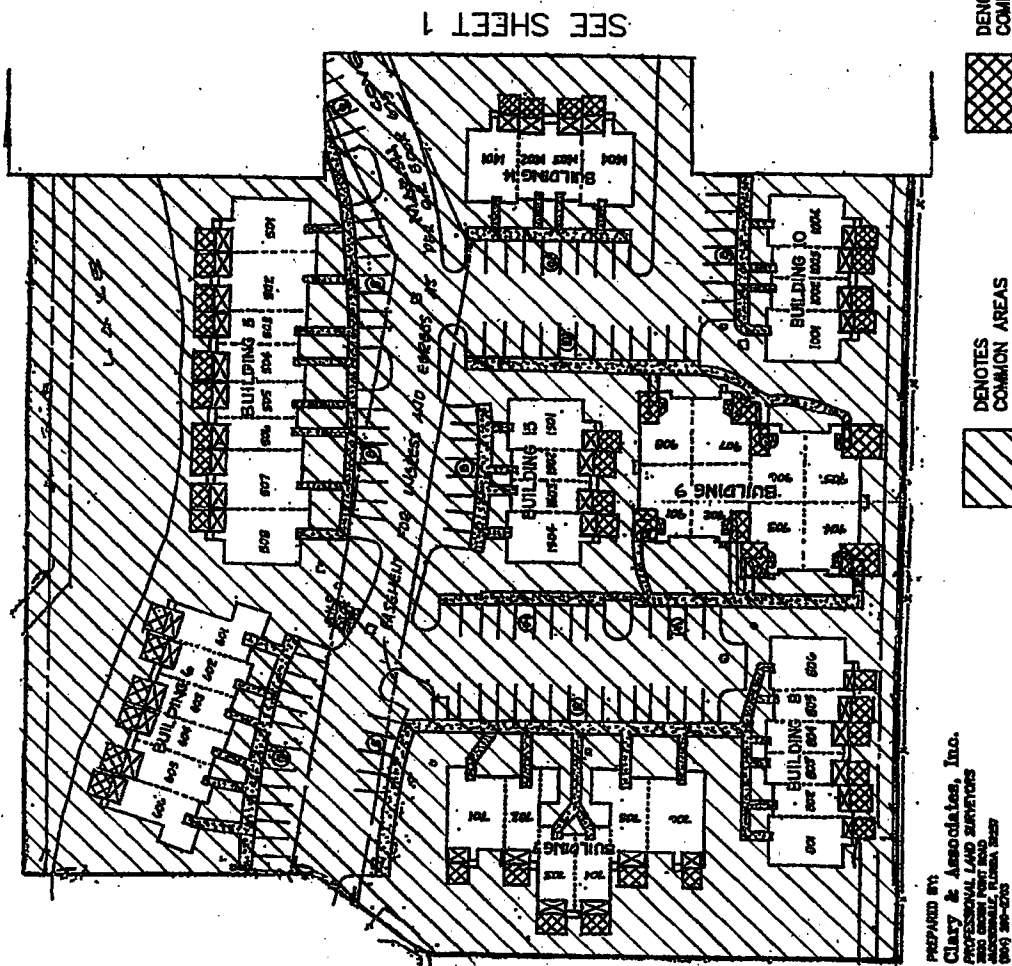


EXHIBIT: SHEET:



Amended Exhibit C

