

COVENANTS AND RESTRICTIONS
FOR
BAY HARBOUR
A Deed-Restricted Community
Amended Change as of October 15, 2018
TO OR VOL 7904, PG 0698 AND PG0704

WHEREAS, BERRYMAN ENTERPRISES. INC., a Florida corporation, the address of which is 7406 Main Street, Jacksonville, Florida 32208, was the owner and developer ("Developer") of all the property in Duval County, Florida more particularly described in Exhibit "A", attached hereto and by this reference made a part hereof (the "Property"); and

WHEREAS, the Developer, in developing the Property, is desirous of placing certain covenants and restrictions upon the use of all of the Property as subdivided and sold in parcels or portions (hereinafter referred to as "Lots") as shown on the Plat of Bay Harbour recorded in Plat Book 49, pages 11, 11A -11B, 11C, current public records of Duval County, Florida (the "Plat"), and is desirous that the covenants and restrictions shall run with the title to and touch and concern the Property hereby restricted;

WHEREAS, the Developer encumbered the Property by that certain Covenants and Restrictions for Bay Harbour as recorded at Official Records Book 7904, Page 695, of the current public records of Duval County, Florida, which run with the title to and touch and concern the Property (the "Original Covenants");

WHEREAS, Section 38 of the Original Covenants provide that the terms thereof may be amended by approval of not less than sixty-seven percent (67%) of all Owners of Bay Harbour Homeowners Association, Inc.;

WHEREAS, it is the desire of the Owners to restate the Original Covenants and amend certain terms contained therein as set forth herein;

WHEREAS, this instrument was approved by not less than sixty-seven percent (67%) of all Owners at a meeting for that purpose for which quorum was obtained.

NOW, THEREFORE, the Developer, for itself and its successors and assigns, does hereby restrict the use, as hereinafter provided, of all of the Property, and the HOA does hereby place upon the Property the following covenants and restrictions to run with the title to and touch and concern the Property, and the grantee of any deed conveying any Lot or Lots, parcels or tracts or any parts or portions thereof shall be deemed by the acceptance of such deed to have accepted

same subject to these Covenants and Restrictions, and to have covenanted to observe, comply with and be bound by all such covenants and restrictions as follows:

1. Definitions.

(a) "Association" shall mean the Bay Harbour Homeowners Association, a Florida corporation not for profit to be established by Developer, its successors and assigns.

(b) "Board of Directors" "BOD" shall mean the Association's Board of Directors.

(c) "Common Areas" shall mean all property from time to time owned by the Association or designated for ownership by the Association (as established by HOA) for the common use and enjoyment of all Lot Owners, together with all improvements, fixtures, and tangible personal property now or hereafter situated thereon and all appurtenant easements.

(d) "Legal Documents" shall collectively mean this Declaration of Covenants and Restrictions, and any supplemental or amendatory declarations made in accordance herewith, as amended from time to time, and the Association's Articles of Incorporation (the "Articles") and the Association's By-Laws (the "By-Laws"), as same may be amended from time to time.

(e) "Mortgage" shall mean any mortgage or other instrument validly creating a lien upon any Lot, as security for performance of an obligation. The term "Mortgage" does not include judgements, 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.

(f) "Mortgage" shall mean the Person(s) named as the obligee under any Mortgage, or the successor in interest to any such Person.

(g) "Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot.

(h) "Person" shall mean any natural person or artificial entity having legal capacity.

(i) "Regulations" shall mean any rules and regulations regarding the use of the Property duly adopted by the Association in accordance with the Legal Documents.

(j) "Unit" shall mean a single-family dwelling.

2. Membership. Every Owner of a Lot shall be 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.

3. Classification. The Association shall have one class of voting membership; Class A members shall be Owners, and shall be entitled to one vote for each Lot Owned.

4. Amplification. The members of the delete association and add Bay Harbour HOA shall elect a Board of Directors of the Association, who shall manage the affairs of the Association. The Board of Directors shall elect officers of the Association to administer the operation of the Association. The provisions of this paragraph and of paragraphs 2 and 3 hereof are amplified by the Association's Articles and By-Laws, but no such amplification shall alter or amend substantially any of the rights or obligation of the Owners set forth in this paragraph and in paragraphs 2 and 3 hereof. The Association intends that the provisions of this Declaration, the Articles and By-Laws to be established and be interpreted and enforced to avoid inconsistencies or conflicting results. If any such conflict necessarily results, however, the Association intends that the provisions of this Declaration control anything in the Articles or By-Laws to the contrary.

5. Rights and Obligations of the Association.

(a) The Common Area.

i) General. Subject to the rights of the Association 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, fixtures, furnishings, equipment, and other related personal property. The Association shall keep the foregoing in a safe, clean, attractive, sanitary, and serviceable condition, and in good order and repair. The Association's include the management, operation, maintenance, repair, replacement, and renewal of all improvements, equipment, and tangible personal property installed by HOA as part of the Work, and any replacements or additions thereto made in accordance with the provisions of the Legal Documents.

ii) Insurance. To the extent insurance can be obtained, the Association shall keep any improvements located on the Common Areas and fixtures and personal property of the Association, insured to the maximum insurable replacement value, excluding foundation and excavation costs, 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 similar improvements, including vandalism and malicious mischief, and flood and water damage, if the improvements are at any time located in a federally designated flood area. The Association shall carry public liability insurance in amounts and with coverage as determined by the Board of Directors. 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.

(b) Water Access Community Park. The Association shall be responsible for management and maintenance of the water access community park (if any) established on the Property, including any entry way, privacy walls, and small capacity boat ramp which may be situated or constructed thereon. Every Owner in residence, family, and guest (must be accompanied by owner) shall have a nonexclusive right and easement of enjoyment in and to said park area provided, however, the Association shall have the right to establish (at its sole discretion change from time to time) the hours during which such area should be open. The foregoing para was amended as of 12/3/2009. Neither the Association nor any of their

respective directors, officers, successors or assigns, shall be liable for any injury to persons (including injuries resulting in death) or damage to or loss of property sustained by an Owner or his family members, guests, invitees or lessees, or any other person, resulting from or in any way relating to any of such individuals' presence at or use of the park; 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 indemnify and hold and save the Association, and their respective directors, officers, successors and assigns, harmless from and against any and all claims, causes of action, damages and expenses resulting from or in any way relating to any such injury to persons (including injuries resulting in death) or damage to or loss of property.

(c) Unit Exterior and Lot Maintenance. If an Owner of any Lot shall fail to maintain, repair or restore the exterior of his Lot and Unit including the landscaping located thereon in the manner required by the Association Legal Documents within thirty (30) 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, through its agents and employees, to enter upon the Lot and perform such repair, maintenance or restoration. 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. These rights shall be in addition to those reserved by the HOA.

(d) Rules and Regulations. The Association from time to time may adopt, alter, amend, rescind and enforce reasonable rules and regulations governing the use of the Lots and the Common Areas so long as such rules and regulations are consistent with the rights and duties established by the Legal Documents. The validity of the Association's rules and 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 rules and 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 the voters cast by the membership present or by proxy 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 the BOD. The BOD'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. Wherever any provision of this Declaration prohibits any activity, condition or structure within the Property, except as permitted by the Association's Regulations such restriction or prohibition

in self executing unless and until the Association issues Regulations expressly permitting the same.

(e) Implied Rights. The Association by and through its Board of Directors or its assigns may exercise any right, power or privilege given to it expressly by the Legal Documents and every other right, power or privilege reasonably necessary, convenient or desirable to the exercise of any right, power or privilege so granted.

(f) Access by BOD. The BOD has a right of entry onto 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 BOD's performance of any duty imposed, or exercised of any right granted, by the Legal Documents. Such right of entry must be exercised in a peaceful and reasonable manner at reasonable times 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 BOD 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 BODs right of entry may be exercised by its agents, employees, contractors, and managers.

(g) Restriction on Capital Improvements. All capital improvements to the Common Areas, except for replacement or repair of those items installed by HOA as part of the Work, and except for personal property related to the Common Areas, must be approved by two-thirds (2/3) of the votes cast by members who are present in person or by proxy and voting at a meeting duly convened for such purpose.

(h) Reserves. The BOD shall 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 the Legal Documents, including the surface water management system. Reserves, as determined from time to time by the Board of Directors, shall be funded from the annual maintenance assessment described in subparagraph 6. (b) hereof.

6. Covenants for Assessments.

(a) Assessments Established. For each Lot within the Property, 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:

- i) An annual maintenance assessment, as defined in subparagraph 6. (b); and
- ii) Special assessments, as defined in subparagraph 6. (c); and
- iii) Special assessments for property taxes levied and assessed against the Common Areas or the Association's property, as defined in subparagraph 6. (d); and
- iv) Specific assessments against a particular Lot that are established pursuant to any provisions of the Legal Documents, as provided in subparagraph 6. (e); and
- v) All excise taxes, if any, that from time to time may be imposed upon all or any portion of the assessments established by this paragraph and by paragraph 6.

(b) Annual Maintenance Assessments.

i) General. The annual maintenance assessments levied by the Association must be used exclusively to promote the recreation, health, safety, and welfare of the residents and occupants within the Property, and of the Common Areas and the Association's property, including the payment of taxes and insurance, and for the performance of the Association's duties under the Legal Documents. The annual assessment shall be used to pay all 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.

ii) Amount.

a) Until January 1 of the year immediately following the commencement of annual assessments as set forth in sub-subparagraph 6. (b)iii), the maximum annual maintenance assessment shall be Two Hundred and Seventy-Six Dollars (\$276.00) for each full assessable Lot. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

b) Commencing with the fiscal year beginning January 1 of the year immediately following the commencement of annual assessments as set forth in sub-subparagraph 6.(b)iii), 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 fifteen percent (15%) above the maximum annual maintenance assessment for the previous year unless approved by two-thirds (2/3) of the votes cast by members present in person or by proxy at a duly convened meeting. The amount of the annual maintenance assessment shall be fixed by the Board of Directors at least thirty (30) days before the beginning of 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 recording in the public records of the first transfer of title of any Lot upon which a Unit has been constructed to a Unit Owner. For purposes of the preceding sentence, a "Unit Owner" means any Owner.

iv) Working Capital Fund. The BOD shall establish a working capital fund to provide for unforeseen expenditures, which will be funded as set forth in this subparagraph. Upon the initial transfer of title of a Lot to an Owner other than the HOA or a Person who acquires the Lot for purposes of constructing a Unit for resale purposes, the transferee shall pay to the Association a working capital contribution of Two Hundred Seventy-Six dollars (\$276.00.) This capital contribution shall not be considered as an advance payment of the annual maintenance assessment.

(c) Special Assessments. The BOD 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. The obligations set forth in this subparagraph for the cost of any purchase of addition 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 the votes cast by members present in person or by proxy.

(d) 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. 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.

(e) 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 as herein provided, also may be assessed by the Association against the Owner's Lot after the Owner fails to pay it when due and the default continues for thirty (30) days after written notice.

(f) 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, delete in which HOA owns any interest, or which is owned by a Person delete to whom HOA has assigned in whole or in part its rights and obligations under this delete subparagraph delete the following 6.(f), and which is not being occupied as a residence, may be fixed by the Board of Directors in an amount equal to twenty-five percent(25%)of the amount of the annual maintenance assessment against Lots owned by the Class A members of the Association then in effect; provided that HOA, and any such Person to who delete HOA may have assigned its rights under this paragraph, shall have delete agreed to fund the deficits, if any, between the aggregate amount assessed all Owners, and the total expenses of the Association during the applicable period. HOA and such assignees shall be obligated to fund such deficits only as they are actually incurred by the Association. The HOA shall cease to pay any portion of the deficit of the annual operating expenses of the Association under the provisions of this paragraph when Develop and such assignees are no longer entitled to elect a majority of the Board of Directors of the Association, or whenever they elect to pay the full assessment against their lots, whichever first occurs. 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 paragraph 6. Add It is the responsivity and obligation of each resident property owner to fund any assessments that is levied by the HOA that is not in concert with the C&Rs.

(g) 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 or Resident (Add) 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.

(h) Lien for Assessments. All sums assessed to any Lot, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, are secured by a continuing lien on such Lot in favor of the Association. 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 such 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. Except as provided in subparagraph 6. (k) hereof, all lienors acquiring liens on any Lot or Resident (add) after this Declaration is recorded are deemed to consent that their liens are inferior to the lien established by this Declaration, whether or not such consent is specifically set forth in the instrument creating the lien. The Association may record a notice of lien as to any Lot against which any assessment is more than forty-five (45) days delinquent.

(i) Remedies of the Association.

i) Personal Obligation. Any assessment not paid within forty-five (45) 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 judgement for unpaid assessments may be maintained without foreclosing, waiving, or otherwise impairing the Association's lien, or its property.

ii) 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 foreclosures, 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.

(iii) Added from Amendment dated 12/3/2009, Fines: Property owner's failure to correct violations of Covenants/Deed Restrictions may be levied reasonable fines, not to exceed one hundred dollars per violation. Property owner must be notified of the violation(s) by registered/return receipt mail and given 30 days to correct violation prior to imposing a fine.

A fine may be levied on the basis of each day of continuing violation, except that no fine may exceed one thousand dollars, in the aggregate.

(j) Homesteads. By acceptance of a deed or other conveyance of title to any Lot, the Owner is deemed to acknowledge that the assessments established by this paragraph 6 are for the improvement and maintenance of any homestead thereon and that the Association's lien has priority over any homestead right.

(k) Subordination of Lien. The lien for the assessments provided in this paragraph 6 is subordinate to the lien of any First 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. The Association shall report to any First Mortgagee of a Lot any assessments remaining unpaid for more than thirty (30) days and shall give such First Mortgagee thirty (30) days in which to cure a delinquency before instituting foreclosure proceedings against such Lot, provided the First Mortgagee has given the Association written notice of its mortgage, designating by a proper legal description the Lot encumbered and stating the address to which notices shall be given.

7. Single Family Residence Only: 35-Foot height Limit. No structure shall be erected, altered or permitted to remain on any Lot other than for use as a single-family residence. The height of the main residence on each Lot shall not be more than thirty-five (35) feet above the normal surface of the ground. No building situated on any Lot shall be rented or leased. Nothing herein contained shall be construed as permitting any Lot Owner to use any Lot for road purpose or easements to any lands not contained within the property.

8. Motorists' Vision to Remain Unobstructed. The HOA shall have the right, but no obligation, to remove, or require the removal of any fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial, placed or located on any Lot, if the location of same will, in the sole judgement and opinion of the HOA, obstruct the vision of the motorist upon any of the streets located on the Property.

9. Minimum Square Footage for Any Principal Residence. No residence shall be erected on any Lot unless the square footage area thereof, (exclusive of screened porches, garage, and storage rooms, etc.), shall equal or exceed 2, 450 square feet of heated, and air-conditioned living space. Amendment dated 12/3/2009.

10. Other Structures. The following building, structures and objects may be erected and maintained on the Lot, subject to the provisions of paragraph 13, only if the same are located wholly away from, and not within the view of, any street: houses for pets, above-ground storage of construction materials, washing and drying equipment, laundry rooms, tool and workshops, detached garages, hothouses, greenhouses, bathhouses, children's playhouses,

outdoor fireplaces, barbecue pits, swimming pools or installation in connection therewith, or any other structure or objects of an unsightly nature or appearance. Each such object shall be walled, fenced or sufficiently landscaped, using materials with height and design, and in such a manner that such objects shall be obstructed from view from the outside of the Lot. Utility yard walled, vinyl fence shall not exceed six (6) feet in height without the approval of the BOD. Upon written approval from the BOD only, air conditioning units may be installed at the side of the residence provided the noise from same will not disturb neighboring homeowners. Each such unit must be adequately and ornamentally screened. Per Amendment dated 4/17/2002: Only BOD approved buildings will be allowed in the rear yards under the following conditions:

- a. Storage building must be approved by the Board in writing.
- b. Storage building must be placed on and anchored permanently to a concrete slab.
- c. Storage building must be placed in least visible area in rear portion of the lot.
- d. An approved privacy fence has to be in place around the rear portion of the lot to assure aesthetic compliance.
- e. Site plan must be furnished with location of existing home, existing or future privacy fence, and future storage building. (Plan may be hand drawn.)
- f. The Board must complete site visit prior to final approval.
- g. Acceptable construction materials include brick, stucco, and other materials by prior written approval of the Board. No wood fences will be allowed.

11. Set Back for All Structures.

(a) No building or any type or kind of permanent structure (except drives and walks), or any part of any of same, shall be erected, placed or allowed in the area of any Lot lying between (i) the front building restriction line as shown on the Plat, and (ii) the street on which the Lot abuts; or nearer than seven and one-half (7.5) feet to any interior side line of the Lot.

(b) No building, fence, wall or similar structure or any type or kind of permanent structure excepting a boathouse and/or pier shall be placed on any waterfront Lot nearer than thirty-five (35) feet to the back-Lot line as shown on the Plat.

12. Vinyl Fences. Vinyl fences or walls may not be built or maintained on any portion of any Lot except on the rear except as provided in paragraph 11 hereof, or interior side Lot line and no closer to the front of the Lot than the front line of the main residence; nor closer than twenty (20) feet to a side street, when the residence is situated on a corner Lot. No fence or wall shall be executed higher than six (6) feet from the normal surface of the ground. No fence or wall shall be erected until the quality, style, color, materials and design shall have been first approved by the BOD or its duly appointed representative. Per Amendment dated 4/17/2002. No wood fence will be allowed. Existing wood fences for residences as of 4/17/2002 will be allowed to remain, but will not be allowed upon replacement of existing fence.

13. All Structures to Be Approved by ARC/HOA. For the purpose of further ensuring the development of the Property as a residential area of highest quality and standards, and in order that all improvements on each Lot shall present an attractive and pleasing appearance from all sides of view, the HOA reserves the exclusive power and discretion to control and approve all of the buildings, structures, and other improvements on each Lot in the manner and to the extent set forth herein. No residence or improvements, regardless of size or purpose, whether attached to

or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any Lot, nor shall any additions to or exterior change or alteration be made until specifications covering same, showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes, location and orientation on the Lot and square footage, construction schedule, and such other information as the BOD shall require, including, if so required, plans for the grading and landscaping of the Lot showing any changes proposed to be made in the elevation or surface contours of the land, have been submitted to and approved by the BOD in writing. The BOD shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and Lot-grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons connected with future development of said land or contiguous lands. In passing upon such building plans, the BOD may take into consideration the suitability and desirability of proposed construction and of the materials of which it is proposed to erect the same, the quality of the proposed workmanship and materials proposed to be used as the BOD shall specify or require. The BOD reserves the right to establish an Architectural Review Committee (ARC) to act in its place and stead. In all cases, the exteriors of all homes must be of brick or other masonry construction. No exposed concrete, metal roofs, or solar panels shall be permitted.

14. Location and Size of Garage. All garages shall have capacity for at least two (2) automobiles and shall be located so that the doors and entrances shall not be facing any street, and shall be equipped with electric garage door openers and closers which may be activated from automobiles and shall be closed at all times when the garage space is not being actively utilized by a member of the Owner's family. No carports shall be constructed on any Lots.

15. No Parking of Vehicles, Boats, Etc. no wheeled vehicles of any kind, boats trailers, storage units, or any other offensive objects shall be kept on the paved road or parked between the paved road and the residential structures except automobiles or other wheeled vehicles of temporary guests or visitors of residents. Such wheeled vehicles or objects shall be completely inside a garage attached to the main residence or within the rear yard provided each object is sufficiently screened to be obstructed from view from outside of the Lot. Private automobiles of the occupants bearing no commercial signs shall be parked in the driveway on the Lot from the commencement of use thereof in the morning to the cessation of use thereof in the evening. Private automobiles of guests of the occupants shall be parked in such driveways, and other vehicles shall be parked in such driveways during the times necessary for pickup and delivery service and solely for the purpose of such service. No wheeled vehicle or boat shall be kept parked in the front or side yard of any Lot. No travel trailers, trailers or motor homes shall be maintained or kept on any Lot.

16. Window Air Conditioners. No window air conditioning units shall be installed.

17. No Overhead Wires. All telephone, electric and other utilities lines and connections between the main utility lines and the residence and other buildings shall be located underground so as not to be visible. Electric service is provided by the Jacksonville Electric Authority, Jacksonville, Florida, through underground primary service lines running to transformers.

18. **Garbage Cans.** Garbage cans and trash shall only be placed out for collection on the day collection is scheduled by the City of Jacksonville and removed from the street prior to the following day.

19. **Completion of Commenced Construction.** When the construction of any building is begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. The main residence and all related structures shown on the plans and specification approved by the HOA must be completed within eight (8) months after the start unless such completion is rendered impossible as the direct result of strikes, fires, national emergencies, or natural calamities. Prior to completion of construction, the property Owner shall install at his expense a suitable concrete driveway from the paved portion of the abutting street only at the driveway to a Lot. Such vehicles shall not be parked at any time on the street or upon the Property other than the Lot on which the construction is proceeding.

20. **No Picnic Areas Prior to Construction.** No picnic areas and no detached outbuildings shall be erected or permitted to remain on any Lot prior to the start of construction of a permanent residence thereon.

21. **No Sheds, Shacks or Trailers.** No shed, shack, trailer, travel trailer, tent or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any Lot. Any contractor or sales person may maintain a trailer or portable construction shack of attractive design on any Lot used in connection with the construction or sale of houses being built in this subdivision for no longer than twelve (12) months.

22. **Residing Only in Residence.** No trailer, garage, or any outbuilding of any kind shall be at any time used as a residence either temporarily or permanently.

23. **Size of Signs.** No signs of any character shall be displayed or placed upon any Lot except "FOR SALE" signs, which signs may refer only to the particular premises on which displayed, and shall be of materials, size, heights, and design specified by the BOD. The BOD may enter upon any Lot and summarily remove any signs which do not meet the provisions of this paragraph.

24. **Aerials and Antennas.** No radio or television aerial or antenna nor any other exterior electronic or electric equipment or devices of any kind shall be installed or maintained on the exterior of any structure located on a Lot or on any portion of any Lot occupied by a building or other structure, unless the same shall have been approved by the BOD. Per Amendment dated 4/17/2002: Small satellite dish roof area that is architecturally pleasing. Dish must not be visible from either Schooner Key Place or Peaceful Harbour Drive. Location to be approved by Board in writing.

25. **Mail Boxes.** Mail boxes shall be of material, size, height and design specified by BOD.

26. **Pets.** Not more than two (2) dogs, two (2) cats or four (4) birds (excluding parrots) may be kept on a single Lot for the pleasure and use of the occupants (but not for any commercial or breeding use or purpose). If, in the sole opinion of the HOA, the animal or animals become(s) dangerous or create(s) any annoyance or nuisance in the neighborhood or nearby property, or become(s) destructive of wild life, it/they may not thereafter be kept on the Lot. Birds shall be kept caged at all times.

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

28. **Sewage.** No individual sewage disposal system shall be permitted on any homesite upon any of said property unless the system is designed, located and constructed in accordance with the rules and regulations of the State and City Board of Health. Approval of such system as installed shall be obtained from such Authorities. No sewage or refuse shall be discharged onto the open ground or into any river, pond, park, ravine, drainage ditch or canal access way.

29. **Utility and Future Expansion Easements on Sides and Rear of Lots.** The HOA, for itself and its successors and assigns, hereby reserves and is given a perpetual, alienable, and releasable easement, privilege and right on, over and under the ground to erect, maintain and use electric and telephone wires, cables, conduits, water mains, drainage lines or drainage ditches, sewers and other suitable equipment for drainage and sewage disposal purposes or for the installation, maintenance, transmission and use of electricity, gas, telephone, lighting, heating, water, drainage, sewage and other conveniences, as well as for future phase addition, allowing for vehicular passage and roadways through said easement sufficient to meet city and county code and regulation. The HOA shall have the unrestricted and sole right and power of alienating and releasing the privileges, easements and rights referred to in this paragraph. The Owner of the Lot subject to the Privileges, rights and easements referred to in this paragraph shall acquire no right, title, or interest in or to any wires, cables, conduits, pipes, lines, roads, or other equipment or facilities placed on, over or under the property which is subject to said privileges, rights and easements.

30. **Weed Control.** The Owner of each Lot, whether such Lot be improved or unimproved, shall keep such Lot free of tall grass, undergrowth, dead trees, dangerous dead tree limbs, weeds, trash and rubbish, and shall keep such Lot at all times in a neat and attractive condition. In the event the Owner of any Lot fails to comply, HOA reserves the right to go upon such Lot and to cut and remove tall grass, undergrowth and weeds and to remove rubbish and any unsightly or undesirable things and objects therefrom, and to do any other things and perform and furnish any labor necessary or desirable in its judgment to maintain the Property in a neat and attractive condition, all at the expense of the Owner of such Lot, which expense shall be payable by such Owner to the HOA on demand. Should HOA use roadside swells for retention for water rather than retention ponds or retention pits, Lot Owners must keep that roadside swell free of debris. The swells cannot be filled so as to create a backup of water flow. The swells shall be grassed in and kept mowed by Lot Owners.

31. **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. The front and side yards of each Lot shall be sodded, and each Lot shall contain at least one (1) tree that is at least two (2) inches in diameter at two (2) feet above ground. In

addition, each Lot shall contain at least ten (10) shrubs. Each Lot shall be landscaped so as to preserve as much natural vegetation as possible. No hedges or hedge-like grouping of plants exceeding four (4) feet in height shall be permitted without the written approval of the HOA or the PRB.

32. **Combining Lots.** In the event a person becomes the owner of two or more adjoining and adjacent Lots, he may combine the adjoining Lots into a single Lot (the "Combined Lot") and these Covenants and Restrictions shall apply to the Combined Lot as a single Lot and not as separate and individual Lots. Delete and replace with the above. There shall remain 35 platted Lots within the Bay Harbour Community, each of which are required to pay Homeowners/Association fees, as are prescribed by Bay Harbour legal documents.

33. **The Board of Directors May Correct Violations.** Wherever there shall have been built or there shall exist on any Lot any structure, building, thing or condition which is in violation of these covenants and restrictions, the BOD shall have the right, but no obligation, to enter upon the property where such violation exists and, without liability, summarily to abate, correct or remove the same, all at the expense of the Owner of such property, which expense shall be payable by such Owner to the BOD, on demand, and such entry and abatement, correction or removal shall not be deemed a trespass or make the BOD liable in any way for any damages on account thereof.

34. **Approval of BOD.** Wherever in these covenants and restrictions the consent or approval of the BOD is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request in writing seeking the same has been submitted to and approved in writing by the BOD. Such request shall be sent to BOD by certified mail with return receipt requested. In the event that the BOD fails to act on any such written request within thirty (30) days after the same has been submitted to the BOD as required above, the consent or approval of the BOD to the particular action sought in such written request shall be presumed; however, no action shall be taken by or on behalf of the person or persons submitting such written request which violates any of the covenants and restrictions herein contained.

35. **Title to Common Areas and Owner's Easements of Enjoyment.** Every owner, his family members, guests, 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 provision of the Legal Document and to the following:

(a) **Dedication.** The Association's right to sell, convey, mortgage, dedicate or otherwise transfer all or any part of the Common Areas to any person for such purpose and subject to such conditions as may be agreed to by the member of the Association. Any such mortgage or transfer must be approved by at least two-third (2/3) of the votes cast of the members of the Association at a meeting duly convened for such purpose and shall be evidenced by a recorded certificate of the Association.

(b) **Easements.** The right of the Board of Directors, without further consent from Owners or their Mortgagees, to grant permits, licenses and easements over all or any part of the Common Areas to any public agency, authority or utility company for the purpose of providing utility or cable television service to the Property and the right of the Board to acquire, extend, terminate or abandon such easement.

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

(d) Suspension. The right of the Association to suspend the voting rights by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations.

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

36. Board of Directors may Designate a Substitute.

37. Amendment. This Declaration may be amended by an instrument executed by the Association with the formalities from time to time required of a deed under the laws of the State of Florida which has been approved by not less than 67% (sixty seven percent) of all owners.

38. Additional Restrictions by Individual Owners. No property Owner, without prior written consent and approval of the BOD, may impose any additional covenants and restrictions on any part of the Property.

39. Restrictions Effective Period. The covenants and restrictions contained herein, as amended and added to from time to time as provided for herein, shall be subject to the provisions hereof and, unless released as herein provided, be deemed to be covenants and restrictions running with the title to the Property and shall remain in full force and effect until the first day of January, A.D. 2044, or within six (6) months preceding the end of any such successive twenty-five (25) year period, as the case may be, a written agreement executed by the then Owners of a majority of the Lots shall be placed on record in the Office of the Clerk of Circuit Court of Duval County, Florida, or its successor, in which written agreement any of the covenants, restrictions, reservations, and easement provided for herein may be changed, modified, waived or extinguished in whole or in part as to all or any part of the Property then subject thereto, in the manner and to the extent provided in such written agreement. In the event that any such written agreement shall be executed and recorded as provided for above in this paragraph, then these original covenants and restrictions as therein modified shall continue in force for successive periods of twenty-five (25) years, unless and until further changed, modified, waived or extinguished in the manner provided in this paragraph.

40. Legal Action on Violation. If any person, firm or corporation, or other entity shall violate or attempt to violate any of the covenant and restrictions, it shall be lawful for the HOA, the Association, or any person or persons owning any Lot on said land (a) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenants and restrictions, and/or (b) to maintain a proceeding in equity against those so violating or attempting to violate any such covenants and restrictions, for the purpose of preventing or enjoining all or any such violations or attempted violations. The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided

by law. The failure of the BOD, its successors or assigns, to enforce any covenant or restriction or any obligation, right, power, privilege, authority, or reservation herein contained, however long contained, shall in no event be deemed as a waiver of the right to enforce the same thereafter as to the same breach or violation thereof occurring prior to or subsequent thereto. Lot Owners found in violation of these restrictions shall be obliged to pay attorneys' fees to the successful plaintiff in all actions seeking to prevent, correct or enjoin such violations or in damage suits thereon. All restrictions herein contained shall be deemed several and independent. The invalidity of one or more or any part of one shall in no wise impair the validity of the remaining restriction or part thereof.

41. Task Force Committee was formed in 2017/2018 to revise and restate the Covenants and Restrictions. Committee members were Dale (Joe) Cushman, John W. Demps, Sr. (Chair), Vincent Dickerson, and Andre Ferreira. The Task Force members unanimously approved all amendments and submitted to the BOD. BOD also approved. Other community members attended as desired.

IN WITNESS WHEREOF, these Covenants and Restrictions have been executed on the 22
day of December, A.D. 20 18, by Bay Harbour Homeowners Association, Inc.

Signed, sealed and delivered Bay Harbour Homeowners Association in the presence of

By:

Bert Rhodes

BERT RHODES
Chair, Board of Directors
Bay Harbour Homeowners Association

John W. Demps, Sr.

JOHN W. DEMPS. Sr.
Chair, Covenants & Restrictions Committee
Bay Harbour Homeowners Association

Stacey Carpenter

Witness' Signature

Stacey Carpenter

Printed Name of Witness

JoAnn L Harris

Witness' Signature

JoAnn L Harris

Printed Name of Witness

STATE OF FLORIDA, COUNTY OF DUVAL.

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Bert Rhodes as Chair of the Bay Harbour Homeowners Association, and John W. Demps, Sr., Chairman of the Covenants and Restrictions Committee of the Bay Harbour Homeowners Association, a Florida not for profit corporation, known to me to be the person described in and who executed the foregoing instrument and they acknowledged before me that he executed the same for the purposes and consideration therein expressed.

WITNESS my hand and official seal in the County and State last foresaid this 22 day of December, 2018.

Signature of Notary

Sharon D Peterson

Print or Stamp Commissioned of
Notary

Commission Expires:

