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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR
BAYMEADOWS PARK

THIS DECLARATION ("Declaration") is made this 6th day of December, 2019 ("Effective Date"), by BAYMEADOWS PARK LLC, a Florida limited liability company (the "Developer"), which declares that the real property described on **Exhibit A** attached hereto and made a part hereof (the "Property") shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration, which shall be deemed to be covenants running with the title to the Property and shall be binding upon the Developer and all parties having or acquiring any right, title or interest in the Property or any part thereof.

ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION

Section 1.1 **Mutuality**. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every parcel within the Property, and are intended to create mutual equitable servitudes upon each such parcel in favor of the other parcels, to create reciprocal rights among the respective Owners (as hereinafter defined), and to create privity of contract and an estate between the grantees of each and every parcel within the Property, their heirs, successors and assigns. Provided, however, this Declaration and any amendment or supplement hereto shall not be deemed to be for the benefit of any holder of a mortgage or security deed or its successors and assigns, unless and until such holder has acquired title to any parcel within the Property (whether a building site, land, or otherwise) pursuant to foreclosure, judicial proceeding or deed in lieu of foreclosure.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to land located within the Property agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens. EACH DEED OF CONVEYANCE OF ANY LAND LOCATED WITHIN THE PROPERTY MUST SPECIFICALLY STATE THAT TITLE TO THE LAND BEING CONVEYED BY SUCH DEED IS SUBJECT TO THE TERMS AND CONDITIONS OF THIS DECLARATION AND MUST IDENTIFY THE OFFICIAL RECORDS BOOK AND PAGE IN WHICH THIS DECLARATION IS RECORDED IN THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA. ANY DEED OF CONVEYANCE THAT FAILS TO COMPLY WITH THE PRECEDING SENTENCE SHALL BE VOIDABLE BY THE ASSOCIATION.

ARTICLE II
DEFINITIONS

The following words, when used in this Declaration shall have the following meanings:

Section 2.1 **Association**. Baymeadows Park Property Owners Association, Inc., a Florida corporation not-for-profit, and its successors and assigns. This is the Declaration to which the Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Association make reference.

Section 2.2 **Board**. The Board of Directors of the Association.

Section 2.3 **Building Site**. Each separate parcel of land within the Property, as hereafter conveyed or designated by the Developer, consisting of an integral unit of land suitable for development by construction of Commercial Improvements (as defined in Section 2.4). The Hotel Site, Building Site 1, Building Site 2, Building Site 3, and Building Site 4 (as such terms may be used throughout this Declaration) shall each be a Building Site.

Section 2.4 **Commercial Improvement**. Any proposed or completed improvements located on, over, under or within any portion of the Property and which is intended for use and designed to accommodate public, commercial, governmental or business enterprises, including but not limited to, business and professional offices, facilities for the retail sale of goods and services, warehouses, banks and other financial institutions, hotels, recreational, entertainment facilities, automobile parking facilities and restaurants.

Section 2.5 **Common Area**. All real property (including easements, licenses and rights to use real property) and personal property located within or adjacent to the Property, if any, which as of the Effective Date is owned by the Developer or by the Association, and which the Developer has designated for the common use of the Owners by reference thereto in this Section 2.5, or by recording a Supplementary Declaration, pursuant to the terms of Section 4.3 hereof. The Common Area initially designated by the Developer as of the Effective Date shall consist of the real property (and interests therein) more particularly described on **Exhibit B** attached hereto and made a part hereof, together with all improvements constructed therein by Developer but not owned or maintained by a public or private utility company.

Section 2.6 **Developer**. Baymeadows Park LLC, a Florida limited liability company, and its successors and such of its assigns as to which the rights of the Developer hereunder are specifically assigned. Developer may assign all or only a portion of such rights in connection with portions of the Property. In the event of such a partial assignment, the assignee may exercise such rights of the Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Reference in this Declaration to Baymeadows Park LLC as the Developer of the Property is not intended and shall not be construed, to impose upon Baymeadows Park LLC any obligations, legal or otherwise, for the acts or omissions of any assignee and third parties who purchase Building Sites or parcels within the Property from Baymeadows Park LLC and develop and resell the same.

Section 2.7 **Owner**. The record owner or owners of any Building Site.

Section 2.8 **Property.** The real property described on the attached Exhibit A and such additions and deletions thereto as may be made in accordance with the provisions of Sections 3.2 and 3.3 of this Declaration.

Section 2.9 **Site Plan.** The Site Plan attached hereto as **Exhibit C** for the purpose of identifying the Hotel Site, Building Site 1, Building Site 2, Building Site 3, and Building Site 4 as such terms may be used throughout this Declaration.

Section 2.10 **Sub-Association.** Any association now or hereafter created to administer one or more specific portions of the Property pursuant to a declaration of condominium or declaration of covenants and restrictions or similar instrument affecting such portions but shall not mean or in any manner be deemed to include the Association.

Section 2.11 **Sub-Declaration.** Any declaration of covenants, conditions restrictions; declaration of condominium; declaration of cooperative plan; or any other similar instrument recorded in the public records of Duval County, Florida, affecting or purporting to affect any portion (but not all) of the Property.

Section 2.12 **Voting Member.** Those Members (as hereafter defined) or representatives of Members entitled to cast votes in the Association, which Voting Members shall be selected in the manner stated in Article VIII of this Declaration.

ARTICLE III **PROPERTY SUBJECT TO THIS DECLARATION**

Section 3.1 **No Implied Extension of Covenants.** Each Owner and each tenant of any improvements constructed on any Building Site, by becoming an Owner or tenant, shall be deemed to have agreed that (a) the Property shall be the only property subject to this Declaration, (b) that nothing contained in this Declaration or in any recorded or unrecorded plat, map, picture, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting, or requiring the Developer to subject any other property now or hereafter owned by the Developer to this Declaration, and (c) that the only manner in which additional land may be subjected to this Declaration is by the procedure set forth in Section 3.2 hereof.

Section 3.2 **Additional Lands.** Developer may, but shall not be obligated to, subject additional land to this Declaration (or to the assessment provisions of this Declaration) from time to time provided only that (a) any additional land subjected to this Declaration (or its assessment provisions) shall be substantially contiguous to the Property then subject to this Declaration (for purposes of this Section 3.2, property which may be reasonably integrated into the overall development of the Property shall be deemed substantially contiguous), and (b) the owners of property within additional lands made subject to this Declaration shall be and become subject to this Declaration, and shall be responsible for their pro rata share of common expenses for which assessments may be levied as said pro rata share is defined and pursuant to the terms of Article VI of this Declaration. Addition of lands to this Declaration shall be made and evidenced by filing in the public records of Duval County, Florida a Supplementary Declaration executed by the Developer with respect to the lands to be added. Developer reserves the right to supplement this Declaration to add land to the scheme of this Declaration (or its assessment provisions) pursuant to the foregoing provisions without the consent or joinder of any Owner or mortgagee of property, whether fee

simple or leasehold and whether land, condominium unit, or otherwise, within the Property and such addition shall be effective upon recording unless otherwise stated herein.

Section 3.3 **Withdrawal of Lands.** With the consent and joinder of Owners holding a majority of the votes in the Association and the consent and joinder of the Owner of the property to be withdrawn, the Developer, may, but shall have no obligation to, withdraw at any time, or from time to time, portions of the Property from the terms and effect of this Declaration. Upon the Developer's request, the consent and joinder of each and every Owner to such withdrawal shall not be unreasonably withheld or delayed. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the public records of Duval County, Florida a Supplementary Declaration executed by the Developer with respect to the lands to be withdrawn and such withdrawal shall be effective upon such recording, unless otherwise stated therein.

ARTICLE IV **COMMON AREA RIGHTS AND EASEMENTS**

Section 4.1 **Conveyance of Common Area.** Developer agrees that all or any portion of the Common Area owned by Developer may be conveyed or assigned to the Association, subject to covenants, easements, restrictions and other matters of record. Upon the recordation of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds.

Section 4.2 **Owners' Easement of Enjoyment.** Each Owner shall have a right and easement for use and enjoyment in and to the Common Area for its intended purpose, which shall be appurtenant to, and shall pass with, the title to the land of such Owner, subject to the following:

- (a) The right of the owner of the Common Area, with the consent of the Developer, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility;
- (b) The right of the owner of the Common Area, with the consent of the Developer, to make all or any part of the Common Area available for public use, provided that such use shall not unreasonably interfere with the use and enjoyment of such Common Area by the Owners;
- (c) All provisions of this Declaration, any plat of all or any parts of the Property, and all applicable governmental and zoning restrictions;
- (d) Reasonable rules and regulations governing use and enjoyment of the Common Area adopted by the Developer or the Association;
- (e) The rights of the Developer under Section 4.3 to add to or withdraw land from the Common Area and under Section 9.1 to designate reserved parking spaces and to operate a valet service or services on certain portions of the Property from time to time;
- (f) Easements, restrictions, agreements and other matters currently of record;

(g) Easements over and upon the Common Area in favor of any Sub-Associations, now existing or hereafter created in accordance with this Declaration, and the Association and their members, provided, however, that this subsection shall not in itself be deemed to grant any easements or use rights which are not specifically granted elsewhere herein or in any other documents to which the Property (or any applicable portion(s) thereof) are now or hereafter made subject;

(h) The right of the Association to suspend the right of an Owner and such Owner's designees to use the Common Area (except for ingress and egress to an Owner's Building Site or access to utilities or for drainage purposes) and common facilities for any period during which any applicable assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of lawfully adopted and published rules and regulations but only after notice to the affected Owner and failure of such Owner to cure within the period provided in said notice;

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Area, provided that such right is now or hereafter granted to or adopted by the Association;

(j) Anything to the contrary in this Declaration notwithstanding, the Developer shall have the right to permit persons other than Members of the Association and designated persons to use certain portions of the Common Area and any recreational facilities that may be constructed thereon under such terms as Developer may from time to time desire without interference from the Association.

(k) Anything to the contrary in this Declaration notwithstanding, any references herein to any particular Common Area, or particular types of Common Area, are by way of illustration and example only, and Developer shall in no event be required to grant or construct such Common Areas in accordance with such references, and may withdraw or amend such portions of the Common Area as Developer may determine.

In the event of any conflict, ambiguity or uncertainty as to whether certain maintenance or other duties as to any portion of the Property falls within the jurisdiction of the Association or Owner, the determination of the Association shall control.

All maintenance and services performed by the Association, and its agents or designees, pursuant to this Section and all expenses hereunder shall be paid for by the Association through assessments imposed in accordance herewith.

No Owner may waive or otherwise escape liability for the assessments for such maintenance by non-use (either voluntary or involuntary) of the Common Area or abandonment of its right to use the Common Area.

The foregoing easement of enjoyment in favor of the Owners shall not be construed to create or imply any other easements or rights not expressly created by this Declaration, it being the intent hereof to limit the Owners' rights of use of specific portions of the Common Area to only the intended purposes of such areas.

Section 4.3 **Right of the Developer to Designate Property as Common Area or to Withdraw Property from the Common Area.** Notwithstanding anything to the contrary contained in this Declaration, subsequent to the Effective Date, the Developer, shall have the right, in its sole discretion, to designate additional land, easements, use rights and personal property as Common Area, provided only that (i) such land shall be located within the Property or substantially contiguous to the Property (for purposes of this Section 4.3, property which may be reasonably integrated into the overall development of the Property shall be deemed substantially contiguous), and (ii) if such land shall not be owned by the Developer, then the owner of such land must also approve the designation of such land as Common Area. For so long as the Developer shall own any Building Site, the Developer may, at any time, withdraw, or cause to be withdrawn, land from the Common Area in the Developer's sole discretion. The prior sentence notwithstanding, in the event such withdrawal of Common Area shall materially and adversely affect access, availability of utilities, or drainage to or from any Building Site, the Developer shall not have the right to withdraw such Common Area without the consent and joinder of the Owner of the Building Site which is so affected. Addition of land to and withdrawal of land from the Common Area shall be evidenced by recording a Supplementary Declaration in the public records of Duval County, Florida, which shall specifically reference such addition or withdrawal. Withdrawal of land from the Common Area by the Developer shall terminate any and all easements and rights of use of the Owners in such land but shall not otherwise withdraw such land from the provisions of this Declaration unless such withdrawal shall comply with the requirements of Section 3.3 hereof. No land owned by the Developer shall be deemed to be Common Area unless such land is expressly referenced as such under Section 2.5 hereof, or subsequently designated as such by the Developer pursuant to this Section 4.3, even if the Developer consents or acquiesces to the use of such land by the Owner(s). In the event any land, easements, use rights, or personal property owned by the Association shall be withdrawn from the Common Area pursuant to this Section 4.3, upon the written request of Developer, the Association shall promptly execute and deliver to the Developer any and all deeds, bills of sale, assignments or other conveyance documents as may be necessary or appropriate to effectuate the withdrawal of such Common Area.

Section 4.4 **Maintenance of Common Area and Compliance with Applicable Permits.** Prior to the first to occur of (i) the issuance of the last of the Certificates of Occupancy, as such term is defined in Section 6.3, or (ii) January 1, 2022, the Association shall have no maintenance responsibility for the Common Area, and such maintenance shall be undertaken by the Developer. Thereafter, the Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, in a manner consistent with a first class mixed use development, the Common Area and any improvements and landscaping (except utilities owned and maintained by public or private utility companies providing water, sewer, electrical, fire protection, cable television, telephone, or similar utilities to the Property, or any portion thereof) situated on the Common Area, if any. The Association shall maintain the Common Area in accordance with all permit requirements and conditions contained in applicable dredge and fill, consumptive use, surface water permits, or any other applicable permits issued by the United States Army Corps of Engineers ("ACOE"), Florida Department of Environmental Protection ("FDEP"), St. Johns River Water Management District ("SJRWMD"), or Duval County, Florida, and all applicable governmental and zoning regulations. All maintenance obligations of the Association shall be performed as ordered by the Board of Directors of the Association, and all or any portion of the cost of such maintenance incurred by the Association pursuant to this Section 4.4, shall be a common expense of the Association to be collected and paid in the manner prescribed by this Declaration.

Section 4.5 **Easement for Maintenance Purposes.** The Developer hereby reserves for itself, the Association, and their respective agents, employees, contractors, successors and assigns an easement for access in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of access to and maintenance of the Common Area, or other portions of Property to be maintained by Association in accordance with the requirements of this Declaration or as provided by law. The easement reserved hereby shall not be exercised by any party in a manner which unreasonably interferes with the use, occupancy, or enjoyment of any improved portion of the Property. Further, in the event that any portion of the Property shall be damaged or altered in any way as the result of the exercise of the easement rights reserved hereby, such portions of the Property shall be immediately restored to the condition that existed immediately prior to such damage or alteration by the party exercising such rights.

Section 4.6 **Public Easements.** Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual nonexclusive easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

ARTICLE V **ARCHITECTURAL CONTROL**

Section 5.1 **Architectural Review and Approval.** No landscaping, improvement or structure of any kind, including without limitation, any building, fence, wall, sign, screen enclosure, utility line, sewer, drain, disposal system, landscape device or object, driveway or other improvement shall be commenced, erected, placed or maintained upon any Building Site, nor shall any addition, change or alteration therein or thereof be made, unless and until the plans, specifications and location of the same have been submitted to, and approved in writing by the Design Review Committee ("DRC") described in Section 5.2. The preceding sentence shall not be applicable to interior improvements or renovations to buildings that are not visible from the outside of such buildings. Provided however, that any and all such interior improvements and renovations shall be performed in full compliance with all applicable laws, statutes, ordinances and other requirements of governmental authorities and any other rules, regulations or requirements of the Association. Further provided that the requirements and procedures of this Article shall apply to interior improvements and renovations which will have any effect on the use of the exterior portions of buildings, Building Sites or other exterior portions of the Property (including without limitation, as to the use of parking spaces or facilities). All plans and specifications shall be evaluated as to visual and acoustical privacy and as to the harmony of external design and location in relation to surrounding structures, topography, existing trees and other natural vegetation and as to specific conformance with specific development guidelines and review procedures which may be imposed from time to time by the DRC (the "Development Guidelines"). It shall be the burden of each Owner to supply three (3) sets of completed plans and specifications to the DRC and no plan or specification nor any change or modification hereof, shall be deemed approved unless a written approval is granted by the DRC to the Owner submitting same or as otherwise provided herein. The DRC shall approve or disapprove plans, specifications and changes or modifications thereto, properly submitted within forty-five (45) days of each submission and such approval shall not be unreasonably withheld. In the event that within forty-five (45) days of a proper submission of plans, specifications, changes or modifications, to the DRC, no approval or disapproval shall be provided, then such plans and specifications shall be deemed approved. Notwithstanding anything to the contrary herein, with respect to the Hotel Site, the DRC shall not have the right to disapprove any applicable, required, design specification(s), or criteria, generated by Marriott for any of its brands of

hotels and generally applicable to its similarly situated franchisees, in the event such disapproval could result in the termination of the Hotel Owner's franchise, or materially and adversely impact the Hotel Owner's standing, or rights under its franchise, or impose an undue hardship upon the Hotel Owner with respect to its relationship with its franchisor.

Section 5.2 **Design Review Committee.** The DRC shall consist of three (3) or five (5) members who need not be members of the Association. The Developer shall have the right to determine the initial number of members of the DRC and to appoint all of the members of the DRC until such time as the Developer shall assign such right to the Association. Thereafter, the DRC shall be appointed by and serve at the pleasure of the Board of Directors of the Association. A majority of the DRC shall constitute a quorum to transact business at any meeting of the DRC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the DRC. Any vacancy occurring on the DRC because of death, resignation, or other termination of service of any member thereof shall be filled by the Developer, or following the assignment to the Association described above, by the Board of Directors. This Article V shall not be applicable to landscaping, improvements or structures commenced, erected, placed or maintained upon the Property by Developer.

Section 5.3 **Powers and Duties of the DRC.** The DRC shall have the following powers and duties:

5.3.1 To require submission to the DRC of three (3) complete sets of all preliminary and final plans and specifications for any improvement or structure of any kind requiring review and approval of the DRC pursuant to this Article . The DRC may also require such detail in plans and specifications as it deems proper, as well as submission of samples such as but not limited to building materials or other items to show the effect of the proposed improvements on existing buildings, landscaping or other improvements, as well as such additional information as reasonably may be necessary for the DRC to completely evaluate the proposed structure or improvement in accordance with this Declaration and the Development Guidelines. Until receipt of by the DRC of any required submissions, the DRC may postpone review of any plans submitted for approval.

5.3.2 To adopt and modify from time to time, the Development Guidelines.

5.3.3 To approve or disapprove in accordance with the provisions of this Article, any landscaping improvements or structures of any kind, as well as any changes, modifications or alterations thereto as set forth in Section 5.1 above. All decisions of the DRC may, but need not be, evidenced by a certificate in recordable form executed by the authorized representative of the DRC, or by a stamp or other evidence of approval affixed to the approved plans and specifications.

5.3.4 To adopt a schedule of reasonable fees and security deposits for processing requests for DRC approval of proposed improvements constituting new construction and proposed exterior alterations to any improvements, and for securing the completion of such construction in accordance with approved plans and specifications. Such fees, if any, shall be payable to the Association, in cash, at the time that plans and specifications are submitted to the DRC.

Section 5.4 **Compensation of DRC.** The Developer or the Board may, at their option, pay reasonable compensation to any or all members of the DRC.

Section 5.5 **Variance**. The DRC, acting in its sole discretion, may authorize variances from compliance with any architectural provisions of this Declaration or applicable Design Guidelines when circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require or justify same. Such a variance must be evidenced by a document signed by an authorized representative of the DRC. If such a variance was granted, no violation of the covenants, conditions and restrictions contained in this Declaration shall be deemed to have occurred with respect to the matters for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Building Site and particular provisions of this Declaration or applicable Design Guidelines covered by the variance, nor shall it affect in any way an Owner's obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority.

Section 5.6 **Limited Liability**. Neither Developer, the Association, the DRC, nor their respective successors, assigns, agents or employees (together, the "Approving Parties") shall be liable to anyone submitting plans for approval, or to any Owner, tenant or any other person or entity, by reason of any mistake in judgment, negligence, act or omission arising out of or in connection with the approval, disapproval or failure to approve any such plans, specifications, amendments, modifications or changes, or the enforcement or failure to enforce any provision of this Declaration. Every Owner and tenant and every person or entity involved with submissions to the DRC waives and releases the right to bring any action, proceeding or suit against any of the Approving Parties. Where plans are submitted to any of the Approving Parties (including any change or modification thereto), if such plans are approved, such approval shall be deemed to be strictly limited to an acknowledgment of consent by the Approving Parties to the improvements described by such plans being constructed in accordance therewith, and shall not, in any way, be deemed to imply any warranty or representation by any of the applicable Approving Parties that such improvements, if so constructed, will be structurally sound, will meet any applicable requirements of any code or regulation, or will be fit for any particular purpose. Any Owner, tenant or other person or entity who submits such plans shall indemnify and hold harmless the Approving Parties from all damage, loss or prejudice suffered or claimed by any third party on account of: (i) any defects in any plans, specifications, modifications or changes submitted, revised or approved, or any structural or other defects in any work done according to such plans, specifications, modifications or changes; (ii) the approval or disapproval of any plans, specifications, modifications or changes whether or not defective; (iii) the construction or performance of any work, whether or not pursuant to approved plans; or (iv) the development of any Building Site or other area within the Property.

ARTICLE VI
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 6.1 **Creation of the Lien and Personal Obligation of Assessments.** Each Owner of a Building Site within the Property hereby covenants, and by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association any annual and special assessments established and levied pursuant to the terms of this Declaration. All such assessments, together with interest thereon from the due date (after any applicable grace period as specifically set forth below in this Article VI) at the highest lawful rate and costs of collection thereof (including reasonable attorneys' fees) shall be a charge and continuing lien upon each Building Site against which each such assessment is made, and shall also be the personal obligation of the Owner. No Owner may avoid liability for the assessments by waiver of rights to use, or by non-use of, the Common Areas or by abandonment.

Section 6.2 **Purpose of Assessments.**

(a) The annual assessments levied by the Association against all Owners shall be used for the purposes of maintenance and operational expenses, management and accounting fees, taxes, insurance, utility charges and other expenses relating to the Common Area, to fund the obligations of the Association set forth in Section 4.4 hereof, to provide common services to the Owners, and for all other purposes reasonably contemplated by this Declaration, the Articles, the Bylaws, or any cost sharing or similar agreement to which the Association is or may become a party (collectively, the "Common Expenses"). Further, such annual assessments may be levied to fund reasonable reserves for deferred maintenance of, or non-recurring expenses related to, the Common Area. Assessments collected by the Association to fund reserves shall be separately accounted for, it being the requirement of this Declaration that such funds shall be used exclusively for deferred maintenance of, or non-recurring expenses related to, the Common Area.

(b) The Board of Directors may levy special assessments for any purpose relating to permissible or required activities of the Association pursuant to this Declaration, the Articles, or any cost sharing or similar agreement to which the Association is or may become a party. Special assessments shall be allocated among the Owners as provided in Section 6.3 hereof.

Section 6.3 **Calculation and Collection of Assessments.**

(a) Annual assessments shall be established by the Board of Directors based upon an annual budget approved at the Board of Director's annual meeting. The Board of Directors shall hold its first annual meeting by December 15, 2021 and shall hold its subsequent annual meetings by December 15th of the each year thereafter. Each Owner's share of the total annual assessment shall be based upon the calculations as set forth in **Exhibit D** (the "Assessments Allocation"). Any special assessment shall be based upon the percentage of the annual budget paid by each Building Site in the year prior to such special assessment.

(b) Unless otherwise specifically set forth in this Declaration, the assessment obligations of each Owner including the Developer shall commence upon the earlier of (i) completion of construction of all buildings within the Property, which shall be evidenced by issuance of certificates of occupancy by the City of Jacksonville, Florida for each building

contemplated by the engineering plans for the Property approved by the City of Jacksonville, Florida (the "Certificates of Occupancy"); or (ii) January 1, 2022. Annual assessments shall be collectable in advance on a periodic basis established by the Board of Directors from time to time, which periodic basis shall not be less frequent than annually. Special assessments shall be collectable in advance in the manner established by the Board of Directors at the time such special assessments are authorized.

(c) Assessments for the Association may be collected by any applicable Sub-Association as a convenience to the Association and not as an obligation of such Sub-Association as part of such Sub-Association's common expenses.

(d) If any assessments are not paid within fifteen (15) days after the due date, the delinquent Owner shall be assessed an automatic administrative late fee of \$100.00, plus interest on the delinquent assessment calculated at the highest lawful rate, commencing the following day until paid. Any payment received by the Association shall be applied first to any accrued interest, then to any administrative late fee, then to any costs and reasonable attorneys' fees incurred in collection and then to the delinquent assessment, regardless of any restrictive endorsement, designation or instruction placed on or accompanying a payment.

Section 6.4 **Specific Use Assessments.** The Board of Directors may establish and levy annual and special assessments to fund specific services authorized by the Board from time to time, including without limitation the cost of security services, which shall benefit only specific portions of the Property (the "Specific Use Assessments"). The Specific Use Assessments shall be levied against only those portions of the Property that receive the benefit of such services and shall be allocated among only the Owners of those Building Sites located within such portions of the Property, based upon the allocations established by Section 6.3 hereof. The portions of the Property that are deemed to receive the benefit of the Specific Use Assessments authorized by this Section 6.4 shall be determined by the Board in its sole discretion. Notwithstanding any provision of this Section 6.4 to the contrary, no Specific Use Assessment shall be imposed against any portion of the Property, without the Developer's prior consent.

Section 6.5 **Effect of Non-Payment of Assessment; Lien, Personal Obligation, and Remedies of Association.** The lien of the Association shall be effective from and after recording in the public records of Duval County, Florida, a claim of lien stating (i) the description of the Building Site encumbered thereby, (ii) the name of the Owner, (iii) the amount due, and (iv) the due date. Such claim of lien shall include assessments which are due and payable when the claim of lien is recorded as well as assessments which may accrue thereafter, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record, and the affected Owner shall pay the cost of such satisfaction. If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the due date at the highest lawful rate, and the Association may at any time thereafter bring an action to enforce the lien authorized hereby by appropriate foreclosure proceedings and/or a suit on the personal obligation against the Owner. In the event the Association shall fail to bring such an action for collection of such delinquent assessment within thirty (30) days following receipt of written notice from any Owner demanding that such proceedings be commenced, such Owner shall be authorized to institute such proceedings on behalf of the Association. There shall be added to the amount of such delinquent assessment the costs of collection incurred by the Association, or such Owner, which shall

specifically include without limitation reasonable attorneys' fees for trial and appeal. Upon receipt of a written request therefor from any Owner, the Association shall provide such Owner with a written statement of all assessments and other charges due or to become due from such Owner to the Association, which shall be binding on the Association through the date indicated on the Association's written statement.

Section 6.6 **Subordination of Lien to Mortgages.** The lien of the assessments provided for by this Declaration shall be subordinate to the lien of any bona fide mortgage which is perfected by recording prior to the recording of the claim of lien for any such unpaid assessments. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of the Building Site by deed in lieu of foreclosure, pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure of such mortgage. The total amount of assessment which remains unpaid as a result of a mortgagee obtaining title to the Building Site shall be added to the Association's total budget and shall be paid by all Owners including the mortgagee (but excluding the Hotel Site Owner) on a pro rata basis. No such sale or other transfer shall relieve any Building Site from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessments. A written statement of the Association that its lien is subordinate to a mortgage shall be dispositive of any question of subordination.

Section 6.7 **Developer's Assessments.** Notwithstanding any provision of this Declaration to the contrary, during the Development Period (as defined below) Building Sites and other portions of the Property owned by the Developer shall not be subject to any annual or special assessments levied by the Association or to any lien for such assessments. During the Development Period, and in lieu of payment of any assessments to the Association, the Developer shall pay the balance of actual operating expenses of the Association (excluding the cost of funding deferred maintenance and reserve accounts) remaining after the levying and payment of assessments due from the Owners other than the Developer pursuant to assessments levied by the Board of Directors pursuant to this Declaration. The Developer shall be obligated to fund such balance only as the expenses are actually incurred by the Association during the Development Period. The Development Period shall begin when the Association shall become obligated to begin maintaining the Common Area pursuant to Section 4.4 hereof, and shall continue until the Developer shall jointly notify the Association that they will no longer pay for operating deficits of the Association. Upon termination of the Developer's agreement to pay operating deficits, the Developer shall become obligated to pay assessments on Buildings Sites owned by it on the same basis as other Owners. In no event shall the Developer be obligated to pay for operating deficits of the Association after the Developer no longer owns any Building Sites within the Property.

Section 6.8 **Taxes.** Each Owner shall pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against such Owner's Building Site. In the event an Owner fails to pay when due all taxes and assessments described herein, which failure continues for a period of ten (10) days after written notice thereof from the Association, such failure shall constitute a default under this Declaration and the Association may, in addition to its other remedies, thereafter pay such taxes if such taxes are delinquent and the owing Owner has not commenced and is not duly prosecuting any contest of such taxes. The Association shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner shall then have ten (10) business days within which to pay the bill, failing which, the Association shall have a lien on such defaulting Owner's Building Site for the amount of the bill, which amount shall bear interest at the highest lawful rate.

ARTICLE VII
USE RESTRICTIONS AND RIGHTS AND EASEMENTS
RESERVED BY DEVELOPER

Section 7.1 **Compliance with Laws.** All Owners and other occupants of the Property shall at all times comply with the terms of all laws, governmental rules, regulations, statutes and ordinances applicable to the use and ownership operation of improvements located within the Property, including, without limitation all environmental, land use, zoning, marketing and consumer protection ordinances, statutes and regulations.

Section 7.2 **Platting and Additional Restrictions.** The Developer shall be entitled at any time, and from time to time, to plat, replat, or subdivide all or any part of the Property, and to file any covenants and restrictions, or amendments or supplements to this Declaration, with respect to any portion or portions of the Property owned by the Developer, without the consent or joinder of any other party.

Section 7.3 **Owners' Responsibilities.** All Building Sites and improvements located thereon shall be maintained by their respective Owners in a manner consistent with the general appearance of other portions of the Property and standards of maintenance consistent with a first class commercial development. The Owner of each Building Site shall at all times keep the exterior of all buildings and the grounds and landscaping in good order and condition and free of litter. Operations, maintenance and repair activities shall be conducted upon each Building Site in such a manner so as not to damage, injure, destroy or interfere with the operation and maintenance of any Common Area or other Building Sites. Each Owner of each Building Site shall reimburse the Association for the cost of any repairs or replacements to the Common Area, caused by the action or inaction of such Owner or such Owner's tenants, agents, employees, contractors or invitees. If any Owner shall fail to adequately maintain such Owner's Building Site or any improvements located thereon, or shall fail to repair, correct or mitigate any damage to the Common Area within seven (7) days after receipt of written notice from the Association requiring that such action be taken, the Association shall be entitled to take such action at the Owner's expense. Each Owner shall be personally liable to the Association for all direct or indirect costs incurred by the Association in the performance of such repairs or maintenance, the payment of which shall be secured by a lien upon such Owner's Building Site. Such lien shall be enforceable by the Association in the same manner as liens for assessments are enforced pursuant to Article VI of this Declaration.

Section 7.4 **Nuisances.** No Building Site or any other portion of the Property shall be used in a manner that would constitute a violation of any applicable ordinance, rule or statute enforceable by any governmental entity. Nor shall any noxious or offensive activity be carried on within the Property which may be or may become an annoyance or nuisance to other Owners.

Section 7.5 **Rules and Regulations.** The Association, acting through its Board, shall have the right to adopt and amend reasonable rules and regulations pertaining to the use and occupancy of all portions of the Property, which shall be consistent with the provisions of this Declaration.

Section 7.6 **Maintenance Standards.** The Association shall maintain the Property using standards of maintenance consistent with a first class development.

Section 7.7 **Sub-Associations**. All of the restrictions, requirements, and obligations set forth in this Article shall apply to all Sub-Associations, if and when such Sub-Associations come into existence, their common areas/elements (and all improvements thereto) and their uses of all or any portions of the Property. Accordingly, as applied to a Sub-Association, the term Owner as used in this Article shall be deemed to include the Sub-Association (even if it does not hold legal title to its common areas/elements), the term Building Site shall be deemed to include a Sub-Association's common areas/elements (and all improvements thereto) and reference to activities or practices of Owners shall be deemed to include activities or practices of the Sub-Association (regardless of where same occur).

Section 7.8 **Prohibited Uses**. No portion of the Property may be used for any of the following uses (the "Prohibited Uses"): any unlawful use; funeral establishment; used car lot; auction or bankruptcy sale; pawn shop; medical marijuana dispensary or facility selling any marijuana or cannabis-based products; thrift store; food truck; shooting gallery; refinery; adult bookstore or facility selling, renting or displaying pornographic or adult books, magazines, literature, films, pictures, videotapes, video discs or other adult paraphernalia or merchandise of any kind (materials shall be considered "adult" or "pornographic" for such purpose if the same are not available for sale or rental to children under 18 years old because they explicitly deal with or depict human sexuality); massage parlor (provided that reputable day spas, such as Hand and Stone, Massage Envy and Massage Heights, and first class retailers offering massage as an incidental part of its retail business shall be excluded from these Prohibited Uses); unemployment agency; government office serving the public; food stamp center; check cashing business (provided that check cashing in a banking institution such as Bank of America is excluded from these Prohibited Uses); dance hall, cocktail lounge, bar, disco or night club (provided that any dance hall, cocktail lounge, bar, disco or night club that is licensed as a restaurant, which derives at least 51 percent of its gross revenues from the sale of food and nonalcoholic beverages, pursuant to Florida Statutes Chapter 509, shall be excluded from these Prohibited Uses); bingo or similar games of chance, but lottery tickets and other items commonly sold in retail establishments as an incidental part of business are excluded from these Prohibited Uses; second-hand store, provided, however, the foregoing restriction shall not prohibit antique shops or stores selling high quality used merchandise such as *Play It Again Sports* and *GameStop*; or auction house or flea market.

Section 7.9 **Exclusive Uses**.

(A) Except as otherwise specifically approved by Declarant in writing, no portion of the Property, except for Building Site 4, may be used for the sale of (a) whole or ground coffee beans; (b) espresso, espresso-based drinks, or coffee-based drinks; (c) tea or tea-based drinks; (d) brewed coffee; and/or (e) blended beverages.

Notwithstanding the foregoing:

(a) The above restriction shall not prohibit other occupants in the Property from selling brewed coffee or brewed tea which is neither (i) gourmet nor (ii) brand identified, nor from selling pre-bottled tea or pre-bottled tea based drinks. For purposes of this Lease, "gourmet" shall be defined as (a) Arabica bean-based or (b) sourced from a gourmet coffee or tea brand such as Coffee Bean & Tea Leaf, Dunkin Donuts, Intelligentsia, Peets, Caribou, Blue Bottle, or similar branding. For purposes of this Declaration, "brand identified" shall mean coffee or tea that is advertised or

marketed within the applicable retail space using a brand name or served in a brand-identified cup; and

(b) The above restriction shall not prohibit full service, sit-down restaurants with a wait staff and table service serving a complete dinner menu from selling, in conjunction with a sale of a meal, (i) brewed coffee, tea and hot espresso drinks for on-premises consumption only and (ii) milk shakes, malts, and floats; and

(c) First Watch Restaurants, Inc. and any successor or assign of First Watch Restaurants, Inc. operating primarily as a sit-down breakfast restaurant with table service under a trade name containing the words "First Watch" (collectively, "First Watch") may, so long as it is occupying any portion of the Property, sell (i) whole and ground coffee beans on an incidental basis not to exceed one percent (1%) of First Watch's gross sales in any calendar year, (ii) coffee-based drinks, (iii) tea or tea-based drinks, (iv) non-gourmet brewed coffee and First Watch private label brewed coffee primarily for on-premises consumption, and (v) blended beverages, provided such blended beverages do not contain coffee or espresso; provided, however, in no event shall First Watch be permitted to (a) sell espresso and espresso-based drinks, (b) advertise, or display for sale, coffee or coffee related items in storefront windows on its premises or on ground signs, or exterior sign boards on or around the exterior of its premises, or (c) have drive-through service.

(B) Except as otherwise specifically approved by Declarant in writing, no portion of the Property, except for Building Site 1 may be used or occupied by a restaurant that primarily sells "breakfast and/or brunch items" (as defined below), including, but not limited to, Original Pancake House, Daybreak, Crepes Etc., LePeep, Snooze, KeKes, Toast, Egg Harbor, Another Broken Egg, EggHaus Gourmet, Metro Diner, Denny's, Perkin's, Bob Evans, IHOP, Famous Toastery, Mimi's Café or any other similar national, regional or local operations. Notwithstanding the foregoing or anything contained herein to the contrary, the foregoing restriction shall not apply to:

(i) the business operating on Building Site 4, except that if Building Site 4 ceases to be used as a coffee shop which primarily sells coffee beverages and products, but may also sell other food and beverage items for on and off premises consumption (a "coffee shop"), then during the period of time in which Building Site 4 is not being used as a coffee shop, such premises may not, without Declaration's prior written approval, become a breakfast food oriented site-down restaurant with table service; or

(ii) the hotel business on the Hotel Site operating a restaurant that sells breakfast and/or brunch items exclusively for its hotel guests.

For purposes of this Section, "breakfast and brunch items" shall include, but not be limited to, eggs (whether served separately or as a primary ingredient in dishes such as crepes, eggs benedict, skilletts and breakfast burritos), pancakes of any type, omelets of any type and waffles of any type.

ARTICLE VIII MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 8.1. **Membership.** Every person or entity who is an Owner shall be a member of the Association ("Member"). Notwithstanding the foregoing, any such person or entity who merely

holds record ownership as security for the performance of an obligation shall not be a Member of the Association.

Section 8.2. **Voting Rights.** For voting purposes, the Association shall have five (5) Voting Members. The Members shall select the Voting Members, and such Voting Members shall be entitled to cast the respective number of votes as set forth below:

The Owner of each Building Site (as shown on the Site Plan) shall designate one (1) Voting Member who shall be entitled to cast 20 votes. There shall be a total of one hundred (100) votes to be cast by all Voting Members.

So long as the Developer is the Owner of any property governed by this Declaration, if any one of the Voting Members is not designated in accordance with Section 8.4, Developer shall select the applicable Voting Member for that meeting. At such time as the Developer no longer owns any property governed by this Declaration, if the Owners are unable or otherwise fail to select the Voting Members, the Owner having the greatest number of votes shall select the Voting Member(s) for those that are not designated.

Section 8.3. **Developer Rights.** Nothing stated in this article shall be deemed to in any manner impair or diminish any rights, reservations or easements granted to or reserved by the Developer as stated elsewhere in this Declaration, the Articles and Bylaws or any exhibit hereto.

Section 8.4. **Selection of Voting Members.** Each Member shall give written notice to the Association of the person(s) selected as the Voting Member by such Member's Building Site in accordance with the foregoing requirements, and such notice is to be given at or before the first meeting of the Association which the Voting Member is to attend. The Association and all Voting Members (and their constituents) shall be entitled to rely on such notice as constituting the authorization of such Member to its designated Voting Member to cast all votes allocated to such Member's Building Site and to bind same in all Association matters until such notice is changed, superseded or revoked. Each Voting Member may cast only the votes then allocated to it at the time of the vote and may not in any manner split the vote.

Section 8.5. **Board of Directors.** The Association shall be governed by a Board of Directors as provided for in the Articles and Bylaws of the Association. The members of the Board of Directors shall be elected by the Voting Members who shall be selected in the manner set forth in the foregoing provisions of this Declaration and pursuant to the Articles and Bylaws of the Association.

Section 8.6. **General Matters.** When reference is made in this Declaration, or in the Articles of Incorporation or Bylaws, or other relevant documents, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members represented by their respective Voting Members at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the Members themselves or of their Units or property. To the extent lawful, the foregoing shall apply to, without limitation, the establishment of a quorum at any applicable meeting.

ARTICLE IX

GENERAL PROVISIONS

Section 9.1 **Developer's Reserved Rights Regarding Easements.** Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights of way on any portions of the Property owned by Developer. Developer also expressly reserves the right to designate reserved parking for specific uses and times at one or more locations from time to time within the Property. Further, Developer reserves the right to operate a valet service or services at one or more locations within the Property from time to time, and to designate certain parking spaces as reserved for such valet service(s). The designation of such reserved parking spaces by Developer must occur by no later than December 31, 2021, after which date, the right of Developer to designate such reserved spaces shall no longer exist, provided no reserved parking spaces designated by Developer prior to such date shall be invalidated thereafter unless otherwise modified by the Developer. By acceptance of a deed, each Owner acknowledges that the exercise of the foregoing rights by Developer will not violate or conflict with any other terms of this Declaration. In addition, Developer hereby expressly reserves the right to grant easements and rights-of-way over, under and through the Common Area so long as Developer shall own any portion of the Property and provided such easements granted shall not materially or adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Areas. Further, notwithstanding any provision of this Declaration to the contrary, at any time, the Developer shall have the right to execute and record an instrument which shall specifically define or amend the boundary and extent of any easement, license or use right reserved or granted pursuant to the terms of this Declaration, or the Developer may specifically define or amend such boundaries by the designation thereof on one or more recorded plats of portions of the Property. The Developer's determination of the boundary and extent of any easement, license or use right reserved or granted pursuant to this Declaration in accordance with this Section 9.1, shall be dispositive for all purposes.

Section 9.2 **Easements for Ingress, Egress, Utilities and Drainage.** Developer reserves for itself, and its successors, assigns and designees, a non-exclusive, perpetual right-of-way easement for ingress and egress and to erect, maintain and use utilities, electric, telephone and street lighting poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ways and structures, or other public conveniences or utilities, on, in and over (i) any portion of the Common Area; (ii) any area designated as an easement, private street or right-of-way area on any plat of all or any portion of the Property, and (iii) any portion of Building Sites, the maintenance of which is not properly performed by the Owner in accordance with the Declaration.

Section 9.3 **Developer's Easements.** Developer hereby reserves for itself and its successors and assigns, a perpetual easement, privilege and right in and to, over, under, on, and across the Common Area and all other portions of the Property, as well as across dedicated roadways, rights-of-way, and pedestrian paths for ingress and egress as required by Developer's officers, directors, employees, agents, independent contactors, licensees and invitees for purposes of selling or leasing portions of the Property to prospective purchasers, lessees and other invited guests, as well as to post signs and maintain sales and leasing offices; provided, however, that such access and use shall not unnecessarily interfere with the reasonable use and enjoyment of the Common Area by the Owners and further provided, no sign or sales, leasing or marketing office shall be maintained upon a Building Site conveyed to an Owner without the prior written consent of such Owner.

Section 9.4 **Remedies for Violations.** If any Owner or other person shall violate or

attempt to violate any of the covenants or restrictions herein set forth, it shall be lawful for the Association, the Developer or any Owner (i) to prosecute proceedings at law for the recovery of damages against those so violating or attempting to violate any such covenant; or (ii) to maintain any proceeding against those so violating or attempting to violate any such covenant for the purpose of preventing or enjoining all or any such violations, including mandatory injunctions requiring compliance with the provisions of this Declaration. In the event litigation shall be brought by any party to enforce any provisions of this Declaration, the prevailing party in such proceedings shall be entitled to recover from the non-prevailing party or parties, reasonable attorneys' fees for pre-trial preparation, trial, and appellate proceedings. The remedies in this section shall be construed as cumulative of all other remedies now or hereafter provided or made available elsewhere in this Declaration, or by law.

Section 9.5 **Severability**. Invalidation of any of the provisions of this Declaration by judgment or court order shall not affect or modify any of the other provisions, which shall remain in full force and effect.

Section 9.6 **Titles**. The addition of titles to the various sections of this Declaration are for convenience and identification only and the use of such titles shall not be construed to limit, enlarge, change, or otherwise modify any of the provisions hereof, each and all of which shall be construed as if not entitled.

Section 9.7 **Termination or Amendment**. The covenants, restrictions, easements and other matters set forth herein shall run with the title to the Property and be binding upon each Owner, the Developer, the Association and their respective successors and assigns for a period of ninety-nine (99) years from the date of recording hereof, and shall be automatically renewed for successive ten (10) year periods unless terminated as herein provided. The Voting Members holding three-fourths (3/4) or more of the total votes of the Association may alter, amend or terminate these covenants provided, however, that no amendment shall operate to unlawfully discriminate against, or otherwise materially and adversely affect the rights of any Owner or Building Site, unless the Voting Member representing such Owner or Building Site concerned joins in the execution of such amendment, provided, so long as the Developer owns any property within the Property, no such termination or amendment shall be effective without the written consent and joinder of the Developer. Further, until such time as the Developer no longer owns any lands subject to this Declaration, the Developer shall have the unilateral right to amend this Declaration without the consent or joinder of any other party, except for any Owner and such Owner's mortgagee, if any, whose rights are materially and adversely affected by such amendment. Any amendment to this Declaration shall be executed by the Association and Developer, if applicable, and shall be recorded in the current public records of Duval County, Florida.

Section 9.8 **Public Activity Disclosure**. Each Owner acknowledges that owning property or using amenities or rights-of-way adjacent or in close proximity to a hotel, restaurant or other commercial or recreational facility (collectively the "Commercial Facilities") involves certain risks which may have an effect on the Owner's enjoyment or use of such Owner's Building Site or property, the Common Areas, rights-of-way or other land within the Property. Each Owner further acknowledges that from time to time there may be certain public or civic activities located within the Property, such as, for example, art shows, festivals, etc. which activities similarly involve certain risks which may have an effect on the Owner's enjoyment or use of its Building Site or property, the Common Areas, rights-of-way or other land within the Property. Each Owner acknowledges that

such risks may include (for example, and not as a limitation on the generality of such risks) periodic increases in vehicular or pedestrian traffic within the Property by persons shopping in or visiting the Commercial Facilities or public activities, noise or lights associated with the operation of the Commercial Facilities, and any promotional or public relations activities related to the Commercial Facilities or other public activities. Each Owner hereby acknowledges that such activities may at times result in certain annoyance or inconvenience to Owners, residents, or other occupants. Each Owner hereby expressly assumes such risk and agrees that neither Developer nor the Association nor any of their respective employees or agents shall be liable to the Owners or anyone claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of an Owner's Building Site or the Common Areas, the rights-of-way, or other property within the Property to such Commercial Facilities and public activities within the Property, including without limitation, any claim arising in whole or in part from the negligence of Developer or the Association or any of their respective employees or agents.

Section 9.9 **Covenants Running With the Land.** ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF OTHER APPLICABLE SECTIONS HEREOF, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS AND RESTRICTIONS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTY. WITHOUT LIMITING THE GENERALITY OF ANY OTHER SECTION HEREOF, IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS DECLARATION FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS AND RESTRICTIONS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

Section 9.10 **Notices and Disclaimers As To Security.** The Association may, but shall in no manner be obligated to maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be. NONE OF DEVELOPER, THE ASSOCIATION, THEIR RESPECTIVE OFFICERS, DIRECTORS, PARTNERS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS, CONTRACTORS, SUBCONTRACTORS, AND THEIR FRANCHISEES, AND ANY SUCCESSOR, ASSIGN OR OPERATOR OF ANY OF THE FOREGOING (COLLECTIVELY THE "LISTED PARTIES") SHALL IN ANY MANNER BE DEEMED TO BE INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTY. NONE OF THE LISTED PARTIES SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE THE SECURITY OR THE INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN, IF ANY.

Section 9.11 **Assumption of Risk.** Without limiting any other provision herein, each person within any portion of the Property (“User”) accepts and assumes all risk and responsibility for noise, liability, injury, or damage connected with use or occupation of any portion of such Property and areas adjacent to or in the vicinity of the Property, including, without limitation, (a) the condition, water quality, level of any ponds, or and any other water body; (b) noise from maintenance equipment; (c) use of pesticides, herbicides, and fertilizers; (d) view restrictions caused by maturation of trees and shrubbery, or construction on any adjacent properties; (e) reduction in privacy caused by the removal or pruning of shrubbery or trees within any portion of the Property or construction on any adjacent properties; (f) sounds and/or odor transmission; and (g) design, furnishing and equipping of any portion of the Property. Each User also expressly indemnifies and agrees to hold harmless Developer, the Association and all employees, directors, representatives, officers, members, managers, agents, and partners of the foregoing, for any and all damages and expenses, whether direct or consequential, arising from or related to the User’s use of the Property, including without limitation attorneys’ fees, paraprofessional fees, and costs at trial and upon appeal. Without limiting the foregoing, all Users using the Property do so at their own risk.

Section 9.12 **Developer and Association Liability.** Notwithstanding anything contained herein or in the Articles of Incorporation, Bylaws, any rules or regulations of the Association or in any other document governing the Property, Developer and/or Association (collectively, the “Governing Documents”), the Association, except to the extent specifically provided to the contrary herein, shall not be liable or responsible for, or in any manner be 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 and their guests, invitees, agents, servants, contractors or subcontractors. Without limiting the generality of the foregoing:

(a) it is the express intent of the Governing Documents that the various provisions thereof which are enforceable by the Developer and/or the Association and which govern or regulate the uses of the Property or any portion thereof 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) the Developer and the Association are not empowered and have not been created, to act as entities which prevent tortious activities or which enforce or ensure the compliance with the laws of the United States, State of Florida, Duval County and/or other jurisdiction; and

(c) the provisions of the Governing Documents setting forth the uses of Assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of Assessment funds and not as creating a duty of the Association to protect or further the health, safety or welfare of any person(s), even if Assessment funds are chosen to be used for any such reason.

Each Owner (by virtue of its acquisition of title to a Building Site) and each other person having an interest in or lien upon, or making use of, any portion of the Property (by virtue of accepting such interest or lien or making such use) shall be bound by this provision and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Developer and Association arising from or connected with any matter for which the liability of the Developer or Association has been disclaimed hereby. As used herein,

“Developer” and “Association” shall include within its meaning all of directors, officers, committee and board members, managers, employees, agents, contractors (including management companies), subcontractors, successors and assigns, of each of the foregoing.

Section 9.13 **Interpretation.** The Board of Directors of the Association shall be responsible for interpreting the provisions hereof and of any of the Exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. An opinion of legal counsel that any interpretation adopted by the Association is not unreasonable shall conclusively establish the validity of such interpretation.

Section 9.14 **Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose.

Section 9.15 **Joinder by Baymeadows Park Property Owners Association, Inc.** This Declaration is being executed by Baymeadows Park Property Owners Association, Inc. to acknowledge its joinder in this Declaration for the purpose of agreeing to perform its obligations as contained herein.

Section 9.17 **Governing Law and Venue.** The terms, covenants and conditions of this Declaration shall be construed, governed by and enforced in accordance with laws of the State of Florida and venue for all purposes shall be deemed to be Duval County, Florida.

Section 9.18 **Gender and Plurality.** Whenever the context so requires, the use of the masculine gender, the use of the singular to include the plural, and the use of the plural to include the singular.

Section 9.19 **Owner Acceptance and Ratification.** By acquisition of title to a Building Site subject to this Declaration, each Owner thereby irrevocably ratifies, approves and affirms all provisions of the Declaration and actions of the Board with respect to the method of determination and collection of assessments and assessment rates for the year during which such Owner acquired title to its Building Site.

Section 9.20 **Conflict or Ambiguity in Documents.** To the extent of any conflict, ambiguity, or inconsistency between this Declaration, the Articles, or the Bylaws, the terms of this Declaration shall control both the Articles and Bylaws.

Section 9.21 **Effective Date.** This Declaration shall become effective upon its recordation in the public records of Duval County, Florida.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed under seal this 6 day of December, 2019.

Signed, sealed and delivered in the presence of:

BAYMEADOWS PARK LLC, a Florida limited liability company

[Signature]
Name Printed: Ellyne Lonergan

By: [Signature]

[Signature]
Name Printed: Marissa Lorda

Name: David Kight

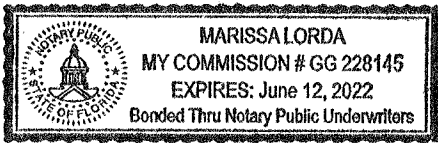
Title: Manager

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 6 day of Dec, 2019, by David Kight, as Manager of Baymeadows Park LLC, a Florida limited liability company, on behalf of the company.

[Signature]

NOTARY PUBLIC, State of Florida
Personally Known ✓
or Produced I.D. _____
[check one of the above]




Type of Identification Produced


CONSENT AND JOINDER

The undersigned hereby consents to and joins in the execution of this Declaration of Covenants, Restrictions and Easements for Baymeadows Park to which this Consent and Joinder is attached, to acknowledge its joinder in the Declaration for the purpose of agreeing to perform its obligations as contained in this Declaration.

Signed, sealed and delivered
in the presence of:

**BAYMEADOWS PARK PROPERTY
OWNERS ASSOCIATION, INC.**, a Florida
corporation


Print Name: Ellyne Lonergan

By: 

Name: David Kight


Print Name: Marissa Lorda

Title: Manager

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 6 day of Dec, 2019, by David Kight, as President of **Baymeadows Park Property Owners Association, Inc.**, a Florida not-for-profit corporation on behalf of the corporation.



NOTARY PUBLIC

State of Florida

Personally known

or Produced I.D.

[check one of the above]

Type of Identification Produced

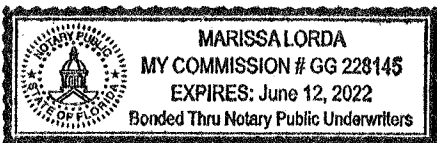


Exhibit A

Property

A CERTAIN TRACT OR PARCEL OF LAND BEING A PART OF SECTION 23, AND A PART OF THE FRANCIS RICHARD GRANT SECTION 56, TOWNSHIP 3 SOUTH, RANGE 27 EAST, DUVAL COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT OF WAY LINE OF BAYMEADOWS ROAD (A VARIABLE WIDTH RIGHT OF WAY, AS IT IS NOW ESTABLISHED), WITH THE EASTERLY BOUNDARY LINE OF SECTION 23; THENCE NORTH 89° 31' 00" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 1,900.00 FEET TO AN INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE OF BAYMEADOWS CIRCLE EAST (A VARIABLE WIDTH PRIVATE ROAD EASEMENT) AND THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED CONTINUE NORTH 89° 31' 00" WEST ALONG SAID NORTHERLY RIGHT OF WAY LINE, FOR 566.81 FEET TO A POINT ON A CURVE IN THE EASTERLY RIGHT OF WAY LINE OF BAYMEADOWS CIRCLE WEST (A VARIABLE WIDTH PRIVATE ROAD EASEMENT); RUN THENCE NORTHERLY ALONG THE ARC OF SAID CURVE CONCAVE WESTERLY AND HAVING A RADIUS OF 170.93 FEET, AN ARC LENGTH OF 82.96 FEET AND A CHORD BEARING NORTH 14° 27' 07" WEST, FOR 82.15 FEET TO THE POINT OF TANGENCY; THENCE NORTH 28° 21' 20" WEST CONTINUING ALONG SAID EASTERLY RIGHT OF WAY LINE, FOR 211.93 FEET TO A POINT OF CURVATURE OF A CURVE IN SAID EASTERLY RIGHT OF WAY LINE CONCAVE TO THE NORTHEAST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 265.00 FEET, AN ARC LENGTH OF 116.09 FEET AND A CHORD BEARING NORTH 15° 48' 21" WEST, FOR 115.16 FEET TO A POINT OF NON-TANGENCY; RUN THENCE THE FOLLOWING FOUR (4) COURSES AND DISTANCES ALONG A NORTHERLY LINE OF LANDS DESCRIBED AND RECORDED IN THE CURRENT PUBLIC RECORDS OF SAID COUNTY IN OFFICIAL RECORDS BOOK 12292, PAGE 1727: COURSE NO. 1, NORTH 88° 52' 08" EAST, FOR 456.70 FEET; COURSE NO. 2, NORTH 71° 56' 23" EAST, FOR 98.00 FEET; COURSE NO. 3, SOUTH 72° 24' 31" EAST, FOR 87.86 FEET; COURSE NO. 4, NORTH 89° 07' 08" EAST, FOR 89.30 FEET TO A POINT ON THE PREVIOUSLY MENTIONED WESTERLY RIGHT OF WAY LINE OF BAYMEADOWS CIRCLE EAST; THENCE SOUTH 00° 29' 00" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, FOR 395.93 FEET TO THE POINT OF BEGINNING.

Exhibit B

Common Area

1. Those portions of the Property that are paved and designated for parking of passenger automobiles (including small pick-up trucks, vans, and SUVs).

2. Those portions of the Property that are paved and designated as roadways and travel lanes and provide access to and from the parking and loading areas within the Property and the adjacent public streets.

3. All landscaped or sodded areas located within the Property and the improvements located thereon, such as sidewalks and bike paths.

Without limiting the generality of the foregoing, it is specifically intended that the Common Area shall include any and all designated subsequent capital improvements made by or at the direction of the Developer and/or the Association beyond the initial installations. In addition to the Association, the Developer shall have the right, subject to obtaining all required governmental approvals and permits, to construct on such Common Area those facilities Developer deems appropriate, and all references herein to particular property or structures which are or may become part of the Common Area are by way of illustration and example only, and Developer shall be under no obligation to grant or construct such particular property or structures by reason of such references. Additionally, the timing, phasing and dates of completion of all such construction relative to Common Area shall be solely within the discretion of the Developer.

Although Developer will endeavor to specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means) the Common Area, such identification shall not be required for a portion of the Property to be deemed a Common Area hereunder. Without limiting the generality of any other provisions of the foregoing, in the event that Developer determines that a particular portion of the Property is or is not a Common Area hereunder, such determination shall be binding and conclusive.

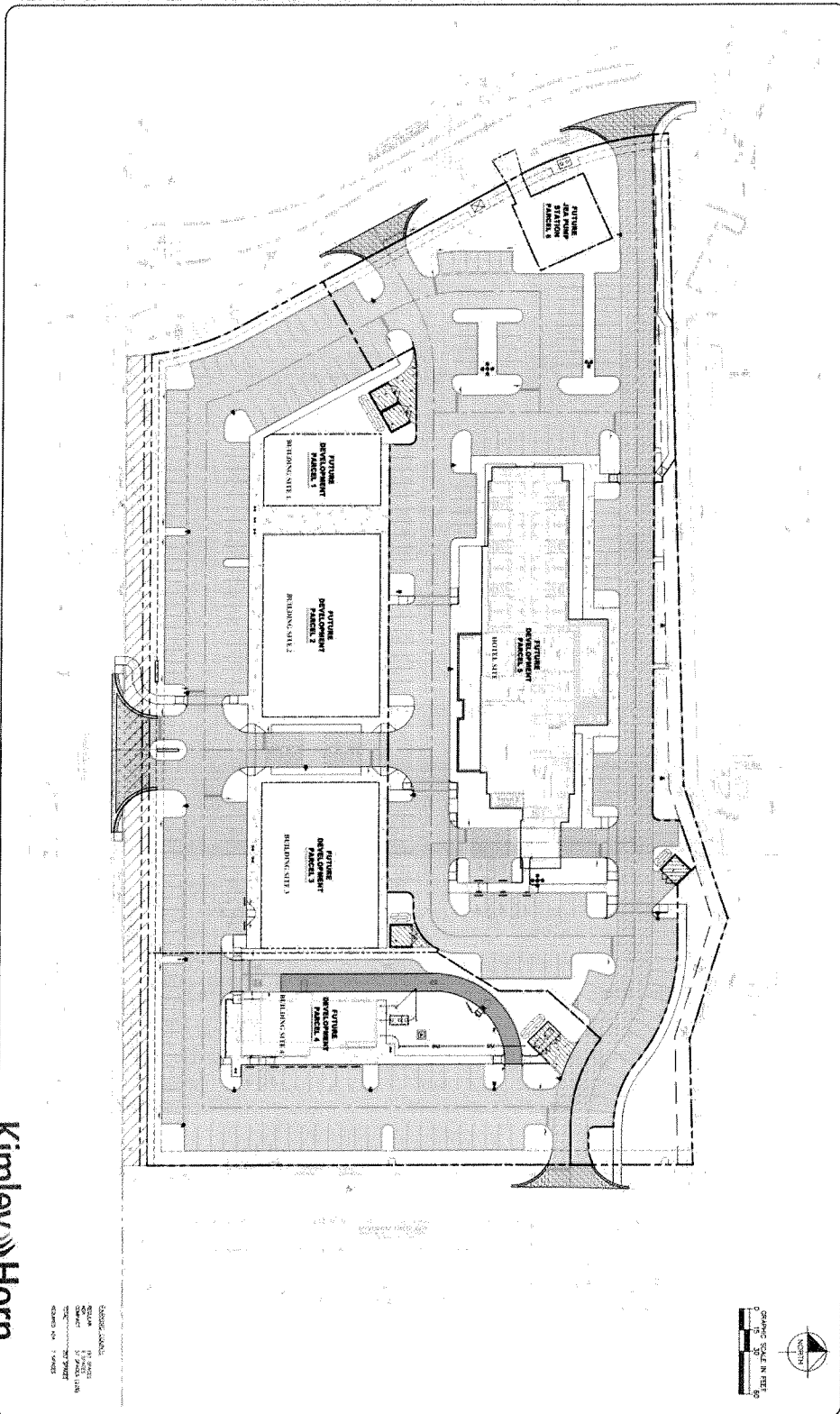
It is specifically contemplated that the Common Area may change from time to time in connection with changes in development plans and other factors not now known. Accordingly, reference in this Declaration to the Common Area shall be deemed to refer to same as they may exist from time to time.

4. Any monument signs on the Property identifying the name of the development and/or the occupants within the Property. Developer reserves the right to grant to particular Owners or occupants of the Property exclusive use right to specific portions of any monument signs.

5. Notwithstanding the foregoing provisions of this Exhibit, the enclosed dumpsters located to the north of Building Site 4 and the dumpster pad thereunder shall be deemed a limited Common Area for the exclusive use of the owner or occupant of Building Site 4, and the expense of maintaining such limited Common Area shall be borne exclusively by the owner or occupant of Building Site 4.

Exhibit C Site Plan

Baymeadows Commercial - Hotel Parcel
City of Jacksonville, Florida



Kimley»Horn

10000 Baymeadows Road
Jacksonville, Florida 32256
904.750.0000
www.kimleyhorn.com

DATE: 08/14/13
SCALE: AS SHOWN
DRAWN BY: J. HORN
CHECKED BY: J. HORN
PROJECT NO.: 13-00000

Exhibit D

Assessments Allocations

1. Beginning on January 1, 2021, the Hotel Site shall be assessed a fixed annual assessment of \$15,000.00 per year (being \$12,000.00 per year as its share of the Common Expenses and \$3,000.00 per year to fund reserves) (the "Hotel CAM Fee"). The Hotel CAM Fee shall increase automatically by ten percent (10%) every five (5) years, commencing on January 1, 2026. The Hotel CAM Fee shall be payable to the Association, in advance, on a periodic basis established by the Board of Directors from time to time, which periodic basis shall not be less frequent than annually.
2. The balance of the assessments for the Association shall be assessed to the remaining Building Sites on a pro rata basis, the numerator of which is the square footage of the building(s) on the Building Site (as reasonably calculated by the Association) and the denominator of which is the total square footage of all the buildings on the Building Sites (as reasonably calculated by the Association) other than the Hotel Site.
3. Notwithstanding the foregoing provisions of this Exhibit D, the annual assessment imposed upon Building Site 4 for the initial assessment year shall not exceed four dollars (\$4.00) per square foot of the interior space of the building to be constructed on Building Site 4, and the annual assessment imposed upon Building Site 4 for any year subsequent to the initial assessment year shall not increase by more than three percent (3%) from the prior year's assessment.