

July 5, 1994

Prepared by and return to
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IN RE

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DECLARATION OF COVENANTS,

CONDITIONS, EASEMENTS

AND RESTRICTIONS FOR

MARSH COVE II

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

ARTICLE I

INTRODUCTION AND DEFINITIONS

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

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

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

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

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

Recorded in Public Records, St. Johns County, FL
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Recording 129.00 Surcharge 16.50

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.19 **"Surface Water Management System"** means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, Florida Administrative Code.

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

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

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

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

ARTICLE II

PROPERTY RIGHTS AND EASEMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) As to any Lots constructed as Zero-Lot Line Lots, there are reciprocal, appurtenant, and perpetual easements between adjacent Lots, for (1) the maintenance, repair, and reconstruction of any roofs, exterior walls or other portions of the Unit for the benefit of those Persons, including the Association, responsible for or permitted to perform such maintenance, repair and reconstruction; (ii) lateral and subjacent support; (iii) overhanging roofs, eaves, and trees, if any, installed by Developer as part of the Work, and their replacements; and (iv) encroachments caused by the unwillful placement, settling, or shifting of any improvements constructed, reconstructed, or altered thereon in accordance with the provisions of this Declaration. To the extent not inconsistent with this Declaration, the general rules of Law apply to the foregoing easements. The extent of such easements for maintenance, drainage, support, and overhangs is that reasonably necessary to effectuate their respective purposes, and easements for encroachments extend to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. There is no easement for overhangs or encroachments caused by the willful or intentional misconduct of an Owner or the Association.

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

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

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

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

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

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

ARTICLE III

USE RESTRICTIONS

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

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

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

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

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

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

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

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

3.8 Parking Restrictions and Garages.

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

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

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

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

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

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

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

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

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

3.14 Hazardous Materials. No hazardous or toxic materials or pollutants shall be maintained, stored, discharged, released, or disposed of in or under the Property except in strict compliance with applicable statutes, rules and regulations. Fuel or gas storage tanks and other flammable, combustible, or explosive fluids, materials, or substances for ordinary household use may be stored or used in the Property only in strict compliance with manufacturers' directions and applicable safety laws and codes, and shall be stored in containers specifically designed for such purposes. All above ground tanks, cylinders, or containers for the storage of any fuel must be approved by the A.R.C. and shall be screened from view from adjacent Lots and any street.

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

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

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

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

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

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

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

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

3.22 Wetlands.

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

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

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

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

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

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

ARTICLE IV

ASSOCIATION

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

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

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

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

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

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

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

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

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

4.7 Mergers.

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

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

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

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

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

ARTICLE V

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1 The Common Areas.

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

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

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

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

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

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

NEITHER DEVELOPER, THE ASSOCIATION, THE MASTER ASSOCIATION NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND CANAL, CREEK, MARSH AREA, STREAM OR OTHER WATER BODY WITHIN OR ADJACENT TO THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI GOVERNMENTAL AGENCY OR ENTITY AS REFERENCED HEREIN. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID AREAS SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF SUCH PROPERTY TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILD LIFE MAY INHABIT OR ENTER INTO WATER BODIES WITH OR ADJACENT TO THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

ALL PERSONS ARE HEREBY NOTIFIED THAT LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF THE PROPERTY MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT WITHIN THE PROPERTY, ALL OWNERS OR USERS OF SUCH PROPERTY SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ANY AND ALL LIABILITY OR DAMAGES ARISING FROM THE EXISTENCE, DESIGN, CONSTRUCTION OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES OR LAKE BOTTOMS.

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

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

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

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

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

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

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

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

ARTICLE VI

COVENANTS FOR ASSESSMENTS

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

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

6.2 Annual Maintenance Assessments.

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

(b) Amount.

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

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

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

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

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

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

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

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

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

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

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

6.9 Remedies of the Association.

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

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

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

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

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

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

ARTICLE VII

OBLIGATIONS OF OWNERS

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

ARTICLE VIII

ARCHITECTURAL CONTROL

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

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

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

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

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

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

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

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

ARTICLE IX

MASTER DECLARATION AND MASTER ASSOCIATION

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

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

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

ARTICLE X

INSURANCE

10.1 Types of Coverage.

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

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

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

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

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

10.2 Repair and Reconstruction After Fire or Other Casualty.

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

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

ARTICLE XI

ASSOCIATION LIABILITY

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

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

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

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

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

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

ARTICLE XII

GENERAL PROVISIONS

12.1 Enforcement.

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

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

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

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

12.4 Amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

12.9 Assignment. Developer may assign to any Person, including Persons engaged in the business of constructing improvements on Lots for resale purposes, all or some of the rights, privileges and exemptions granted herein to Developer in connection with the ownership, use, or development of a portion of the Property. Any such assignment shall be non-exclusive unless otherwise noted, and shall be effective only for so long as such right, privilege or exemption would inure to the benefit of Developer.

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

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

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

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

D.R. 1062 PG 1452

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

Signed, sealed and delivered
in the presence of:

Barbara S. Walker
Print Name: BARBARA S. WALKER

Terry Blewett
Print Name: Terry Blewett

MARSH COVE, LTD II

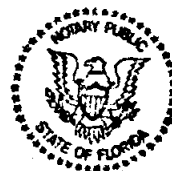
By: PLANTATION DEVELOPERS, INC.
General Partner

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

STATE OF FLORIDA
COUNTY OF DUVAL

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

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



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

O.R., 1062 PG 1453

D.R. 1062 PG 1454

CONSENT AND JOINDER

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

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

Signed, sealed and delivered
in the presence of:

Jean M. Corriveau
Print Name Jennie G. Corriveau

Jennifer Davis
Print Name Jennifer Davis

PONTE VEDRA NATIONAL BANK

BY:

Guy N Nix Jr
Print Name GUY N NIX JR
Its _____ President

STATE OF FLORIDA
COUNTY OF

This instrument was acknowledged before me this 7th day of July, 1994, by GUY N NIX JR, _____ President of Ponte Vedra National Bank, a _____ banking association, on behalf of the association. He is personally known to me and did not take an oath.

Monica M Bright
Notary Public, State of Florida

Print Name MONICA M BRIGHT
My commission expires _____



JAX-84794.6