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IN THE COUNTY COURT OF
DUVAL COUNTY, FLORIDA

CASE NO: 16-2018-CC-13861
DIVISION: CC-I

MARSH SOUND ASSOCIATION, INC.,
a Florida corporation,

Plaintiff,

v.

KELLY R. CLIFFORD and, NANCY L. CLIFFORD

Defendants.

_____ /

MOTION FOR DEFAULT FINAL JUDGMENT

COMES NOW Plaintiff, Marsh Sound Association, Inc, a Florida corporation, by and through its undersigned attorney, and moves the Court for a Default Final Judgment against Defendant, Kelly R Clifford, and in support thereof would show as follows:

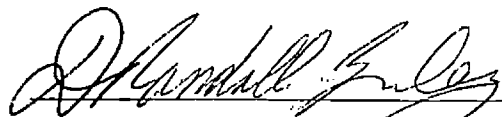
1. Plaintiff filed its Complaint on October 8, 2018, copy attached as Exhibit "A".
2. Summons and Complaint were duly served upon said Defendant on October 12, 2018, copy of service return attached as Exhibit "B".
3. Defendant, Nancy L. Clifford is deceased.
4. Defendant has failed to file any pleading in response to the complaint.
5. The Clerk has entered a clerk's default, copy attached as Exhibit "C".
6. A Default Final Judgment should be entered.
7. As alleged in the Complaint, Defendant owns real property located in the Marsh Sound subdivision which is governed by the Declaration Of Covenants And Restrictions For Marsh Sound, recorded at Official Records Book 6758 pages 219 *et seq.*, of the public records of Duval County, Florida, as amended by the First Amendment to Declaration of Covenants and

Restrictions for Marsh Sound recorded at Official Records Book 7814, pages 965 *et seq*, and Second Amendment to Declaration of Covenants and Restrictions for Marsh Sound recorded at Official Records Book 7868, pages 1076 *et seq*, hereinafter collectively the "Declaration".

8. The Complaint alleges violations of the Declaration set forth in the Complaint.
9. The violations must be corrected as required by the Declaration.
10. Defendant has been unresponsive to Plaintiff's demands for the violations to be corrected.
11. Money damages are inadequate and the only workable remedy is a mandatory injunction directing Defendant to correct the violations.
12. A thirty (30) day time frame for correction of the violations should be imposed.
13. Absent compliance with the mandatory injunction within thirty days, Plaintiff should be specifically authorized to enter onto Defendant's property to correct the violations.
14. Defendant should be required to reimburse Plaintiff for the cost of correcting the violations.
15. Plaintiff has incurred attorney fees and costs and should be reimbursed for same.

WHEREFORE, Plaintiff requests this Court to enter; a Default Final Judgment awarding Plaintiff a mandatory injunction directing Defendant to correct the violations, imposing sanctions for failure to do so, awarding attorney fees and costs and for such other and further relief as this Court deems appropriate.

BRILEY & DEAL, LLC

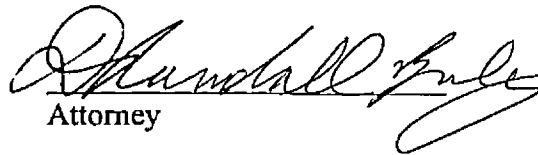
A handwritten signature in black ink, appearing to read "D. Randall Briley", written over a horizontal line.

D. RANDALL BRILEY, ESQUIRE
Fla. Bar No.: 0797316

2215 S. Third Street
Suite 101
Jacksonville Beach, FL 32250
(904) 285-5299
(904) 285-5299 Facsimile
rbriley@jaxrelaw.com
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished to Kelly R. Clifford and Nancy L. Clifford, 2142 Softwind Trail West, Jacksonville, FL 32224, by ☒ United States Mail () Hand Delivery () Facsimile Transmission this 20 day of September, 2019.


Attorney

Filing # 79006434 E-Filed 10/08/2018 01:19:07 PM

**IN THE COUNTY COURT OF
DUVAL COUNTY, FLORIDA**

**CASE NO:
DIVISION:**

**MARSH SOUND ASSOCIATION, INC.,
a Florida corporation,**

Plaintiff,

v.

KELLY R. CLIFFORD and, NANCY L. CLIFFORD

Defendants.

COMPLAINT

Plaintiff, MARSH SOUND ASSOCIATION, INC., sues Defendants, KELLY R.
CLIFFORD and NANCY L. CLIFFORD, and says as follows:

1. This is an action to enforce the Declaration of Covenants and restrictions for Marsh Sound and this Court has jurisdiction pursuant to Section 34.01(1)(d) Florida Statutes.
2. At all times material hereto, the Plaintiff was and is a corporation, organized and existing under the laws of the State of Florida, and serving as the homeowner association for Marsh Sound, created by the Declaration Of Covenants And Restrictions For Marsh Sound, recorded at Official Records Book 6758 pages 219 *et seq.*, of the public records of Duval County, Florida, as amended by the First Amendment to Declaration of Covenants and Restrictions for Marsh Sound recorded at Official Records Book 7814, pages 965 *et seq.* and Second Amendment to Declaration of Covenants and Restrictions for Marsh Sound recorded at Official Records Book 7868, pages 1076 *et seq.*, hereinafter collectively the "Declaration".
3. Defendants are the owners of real property located at; 2142 Softwind Trail West, Jacksonville, Duval County, Florida 32224, and is more particularly described as:

EXHIBIT A

Lot 45, MARSH SOUND, according to plat thereof as recorded in Plat Book 45, Page(s) 70 through 70C, of the current public records of Duval County, Florida,

hereinafter referred to as the "Property".

4. At all times relevant to this action the Property has been and is subject to and encumbered by the Declaration, a copy attached hereto as **Exhibit "A"**.

5. The Declaration at Article III, Use Restrictions. Section 3.4 Landscaping as amended by the First Amendment, Article V, Rights and Obligations of the Association, Section 5.2(a), Unit exterior and Lot Maintenance and Article VII Obligations of Owners, Paragraph 7.1, Maintenance requires the Defendants to maintain the condition of the Lot and Section 3.12, Storage of Fuel Tanks, Garbage and Trash Receptacles requires Defendants to store all garbage containers out of view from the street or other Lots.

7. Defendants habitually fail to properly store their garbage containers, the fence at the Property is in disrepair and needs to be replaced and the landscaping is not properly maintained, all of which are hereinafter referred to as the "Violations".

8. Plaintiff through legal counsel requested Defendants to cure the Violations, see correspondence attached hereto as Exhibit "B" and incorporated herein.

9. Defendants have refused or failed to cure the Violations.

10. On or about September 12, 2018, Plaintiff served the Statutory Notice of Mediation pursuant to Section 720.311, Florida Statutes on Defendants, copy attached as Exhibit "C".

11. Defendants failed to respond.

12. Based on the failure to respond and Section 320.311, Florida Statutes, the requirement for mediation is waived.

13. Plaintiff has retained the undersigned attorneys to represent it in this matter, and is

obligated to pay said attorneys a fee for their services, Section 10.1 (b) of the Declaration provides that the prevailing party shall be entitled to recover its attorney fees and costs in this action.

14. Plaintiff is entitled to enforce the Declaration against homeowners who are in violation thereof.

15. Defendants' failure to cure the Violations is a breach under the Declaration.

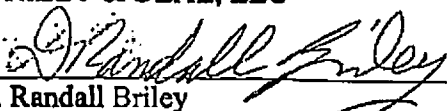
16. Irreparable harm will result if Defendants are allowed to continue to violate the Declaration. Plaintiff must be allowed to enforce the Declaration in order to maintain the integrity of the Community.

17. There is no adequate remedy at law.

18. There is no matter of public interest in this cause.

WHEREFORE, Plaintiff requests the Court to enter its mandatory injunction requiring Defendants to bring the Property into compliance with the Declaration and requiring Defendants to pay Plaintiff's costs and attorneys and for such other and further relief as this Court deems appropriate.

BRILEY & DEAL, LLC

By: 

D. Randall Briley

2215 South Third Street, Suite 101

Jacksonville Beach, FL 32250

(904) 285-5288

rbriley@jaxrelaw.com

Florida Bar No. 797316

Attorneys for Plaintiff

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DECLARATION OF COVENANTS AND
RESTRICTIONS FOR
MARSH SOUND

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made by San Pablo Road Associates, Ltd., a Georgia limited partnership whose address is c/o Champion Realty Group, Inc., 4110 Southpoint Blvd., Suite 112, Jacksonville, FL 32216 ("Developer"), this 24th day of August, 1989.

ARTICLE I

INTRODUCTION, DEFINITIONS AND CONSTRUCTION

Developer is the owner of the real property located in Duval County, Florida more particularly described on Exhibit A attached hereto (the "Property"). Developer has caused the Property to be surveyed and platted as Marsh Sound Unit One in accordance with the Plat. 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 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.

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 Marsh Sound Association, Inc., a not for profit corporation organized pursuant to Chapter 617, Florida Statutes, its successors and assigns.

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

1.5 "Common Areas" means all property from time to time owned by the Association or designated for ownership by the Association for the common use and enjoyment of the Owners, together with all improvements, fixtures, and tangible personal property now or hereafter situated thereon and all appurtenant easements.

1.6 "Developer" means San Pablo Road Associates, Ltd., a Georgia limited partnership whose address is c/o Champion Realty Group, Inc., 4110 Southpoint Blvd., Suite 112, Jacksonville, Florida 32216, its successors and assigns with respect to the entire Property, and any Persons who acquire substantially all the undeveloped lands within the Property or the Unplatted Lands for the purpose of development of the Property or completion of the Work, or who acquire substantially all the developed Lots for resale purposes.

Prepared by and return to:
Bert C. Simon, Esq.
Gartner, Brock & Simon
Post Office Box 10697
Jacksonville, FL 32247-0697

EXHIBIT A

OFFICIAL RECORDS

1.7 "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.

1.8 "Legal Documents" collectively means this Declaration of Covenants and Restrictions 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 By-Laws (the "By-Laws"), as the same may be amended from time to time.

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

1.10 "Lot" means any plot of land shown on the Plat or any subsequently recorded subdivision plat of the Property, which is designated thereon as a lot, excluding any areas designated as Common Areas or for utilities or drainage uses or dedicated to public use.

1.11 "Marshfront Lots" means all Lots containing within the Lot lines portions of marshes or wetlands, or having frontage on or common boundaries with marshes or wetlands within the jurisdiction of the United States Army Corp of Engineers or the State of Florida Department of Environmental Regulation.

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 Association, the Federal Housing Authority and similar guarantors or insurers of First Mortgages.

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 the Developer.

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

1.16 "Plat" means that subdivision plat of Marsh Sound to be recorded in the Public Records of Duval 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 thereto.

1.17 "Property" means the lands in Duval County, Florida, described on Exhibit "A" attached to this Declaration 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.

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1.19 "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. Such 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.

1.20 "Unit" means a single family detached dwelling located on a Lot.

1.21 "Unplatted Lands" means the lands in Duval County, Florida, described on Exhibit "B" attached to this Declaration.

1.22 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.

ARTICLE II

PROPERTY RIGHTS AND EASEMENTS

2.1 Title to Common Areas and Owner's Easements of Enjoyment. The 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, 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) Fees. The Association's right to charge reasonable fees for the use of any recreational facility, if any, situated upon the Common Area.

(b) Suspension. The Association's right: (i) to suspend the voting rights of any Owner for any period during which any assessment against such Owner's Lot remains unpaid; (ii) to suspend such Owner's and his lessee's right to use any recreational facility owned or controlled by the Association, for the same period; and (iii) to suspend any Owner's and his lessee's right to the use of any such recreational

OFFICIAL RECORDS

facility for a period not to exceed sixty (60) days for any material infraction of the Association's Regulations.

(c) Dedication-Mortgage. The Association's right to mortgage the Common Areas or to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members of the Association. Such dedication, transfer or mortgage must be approved by at least 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, 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 dedication, transfer 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.

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

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

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

(g) 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.

(h) 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 General Easements. All Lots are subject to perpetual easements: (a) to the Association for ingress and egress and for the maintenance, repair, and reconstruction of any landscaped areas, Unit exteriors or other portions of a Lot, as provided in this Declaration and for the performance of the Association's duties hereunder; and (b) 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 Lot line in the amount of three (3) feet for the installation, maintenance, and use of drainage ditches, pipes or other drainage facilities.

2.3 Lake and Marsh Related Easements. The City of Jacksonville, Florida is hereby granted perpetual drainage easements through each of the lakes, lagoons, marshes and other wetlands situated in whole or in part on the Property for use and maintenance as an outfall for storm drainage waters. Each Lakefront Lot and Marshfront Lot is subject to an easement to the City of Jacksonville and the Association from the top of the lake embankment or the edge of the marsh to the rear lot lines (including any sub-

merged portions of the lot) for the installation, maintenance, repair and replacement of stormwater filtration and retention systems. The City of Jacksonville, Florida, and the Association shall have perpetual easements across each Lakefront Lot and Marshfront Lot for ingress and egress to such lake or marsh for the purposes of exercising any right or performing any obligation provided in this Declaration, on the Plat, or by Law.

2.4 Property Boundary Fence. As part of the Work, Developer may construct a privacy fence or landscaped berm across some of the Lots to separate the Property, and provide a buffer, from adjoining properties (the "Property Boundary Fence"). If the provisions of this Declaration are extended to the Unplatted Lands as provided herein, Developer may construct a similar Property Boundary Fence on some of the Lots to be platted in subsequent phases. All Lots upon which portions of the Property Boundary Fence are located, are subject to an exclusive perpetual easement for the location of the Property Boundary Fence. All such Lots are also subject to easements to the Association for the maintenance, repair and replacement of the Property Boundary Fence and the landscaping associated therewith, which may be exercised by the Association if the Owner fails to properly maintain the Property Boundary fence as hereinafter provided.

2.5 Plat Easements. Reference is made to the utilities, drainage, ingress and egress, non-access, and other easements shown on the Plat. The 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 water mains, drainage ditches, sewer lines and other suitable installations for drainage and sewage disposal, or for the installation, maintenance, transmission and use of electricity, gas, telephone, water 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 stormwater drainage. If any Owner constructs any improvements on such easement areas or landscapes such areas in a manner that interferes with the exercise of the easement rights, the Owner of the Lot shall remove the improvements or landscape items upon written request of Developer, the Association or the grantees 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.

2.6 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 and all Persons from time to time lawfully occupying such Owner's Lot. 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 establish covenants and restrictions and amendments thereto with respect to any such portion of the Property.

ARTICLE III

USE RESTRICTIONS

3.1 Residential Use: 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. Each Lot shall be used for single family residential purposes only. 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. The letting, renting, or leasing of Units for non-transient residential purposes shall not constitute a trade or business.

3.2 Size and Minimum Floor Elevation Limitations. The Units constructed on each Lot shall not exceed the height of thirty-five (35) feet above grade level. Units shall have a minimum square footage of one thousand five hundred (1,500) square feet of interior living area, exclusive of garages, porches and patios, except that the A.R.C. may approve a smaller square footage where Lot sizes or configurations favor smaller Units, but not less than one thousand three hundred fifty (1,350) square feet. Total ground coverage of the Unit shall not exceed thirty-five percent (35%) of the Lot surface area.

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, playground equipment 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. No trailer, basement, garage, or any outbuilding of any kind other than a guest house or servants' quarters shall be at any time used as a residence either temporarily or permanently. No picnic areas and no detached outbuildings shall be erected or permitted to remain on any lot prior to the start of construction of a permanent residence thereon.

3.4 Landscaping. In connection with the construction of improvements on any vacant Lot, 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. The landscaping plans must show at the minimum the location of all structures and a tree survey. The tree survey shall identify the trees that will remain following construction. In general, living trees measuring six (6) inches or more in diameter at a point two (2) feet above the ground will not be permitted to be removed without the written approval of the Developer or the A.R.C. unless located within eight (8) 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 the Developer or the Association (following transfer of control of the Board of Directors from Developer) a stipulated liquidated damage sum of \$20.00 per inch of diameter measured as stated above for each tree, up to a maximum liquidated

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damage sum of \$2,000 for any Lot. No hedges or hedge like grouping of plants exceeding four (4) feet in height shall be permitted without the written approval of the A.R.C. No artificial grass, plants or other artificial vegetation shall be placed or maintained on any Lot. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain on any Lot.

3.5 Fences.

(a) General. No hedges, fences, walls or similar structures may be erected on a Lot, until the location, quality, style, color and design have been first approved in writing by the A.R.C. In general, fences, walls and hedges will not be permitted to define property lines. The A.R.C. shall grant approval for fences, walls and hedges only when necessary to provide privacy from highly trafficked streets, parking lots, driveways and other areas. Fences shall not be permitted within ten (10) feet of the lake embankment or edge of the marsh on Lakefront or Marshfront Lots without a showing of special hardship. No fence, wall or hedge may exceed six (6) feet in height. No chain link, barbed wire or other forms of wire fences are permitted, except decorative wrought iron, vinyl clad chain link, or other metal fences approved by the A.R.C. ~~All fences must be painted or stained from the exterior of each Lot as determined in the sole discretion of A.R.C.~~ *Amended*

(b) Property Boundary Fence. Without the prior written approval of the A.R.C., the Property Boundary Fence, as described in Article II hereof, may not be removed, altered or modified in any manner, whatsoever nor used for any purpose except to provide privacy to the Property.

(c) Preservation of Easement Rights. Specific reference is made to the easements shown on the Plat and reserved in this Declaration. No fence, wall, or other improvements that interfere with exercise of these easement rights may be constructed, installed or maintained in these easement areas. Any improvements or landscaping located in these easement areas are subject to removal at the expense of the Owner of the Lot when requested by the grantees of the easement.

Amended
3.6. Setback Lines. To assure that location of dwellings will be staggered where practical and appropriate, so that the maximum amount of view and breeze will be available to each dwelling 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 dwelling or other structure upon all Lots, subject to compliance with zoning regulations. Except in instances of irregular Lot configurations or when there is a special hardship, the A.R.C. shall not approve set-backs less than twenty (20) feet from the top of the bank or the edge of the marsh for Lakefront Lots and Marshfront Lots. 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.

3.7 Parking Restrictions and Garages.

(a) Parking. Unless and until the Association promulgates Regulations expressly authorizing the parking, storage, or repair, of boats, trailers, recreational vehicles, or other vehicles, 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. Com-~~
~~mmercial 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. The Association~~
~~may enforce the foregoing 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 48 hours, or the occasional parking of vehicles by de-~~
~~livery personnel or guests of Owners in a manner not comply-~~
~~ing with this paragraph.~~

(b) Garages. No garage shall be permanently enclosed or converted to another use. No carports shall be permitted. All Units must be constructed with garages attached or detached which shall contain at least two parking places with a minimum of three hundred sixty (360) square feet of usable space appropriate for the parking of Permitted Vehicles. ~~garages must have electric door openers which shall be maintained in a useful condition and shall be kept closed when not in use. Garage entrances shall face toward the side or rear of the Lot, unless otherwise approved by the Developer or the A.R.C.~~

3.8 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 and of equal or greater quality as originally constructed in accordance with approved plans and specifications.

3.9 Antenna Systems. No television or radio masts, towers, poles, antennas, aerials, satellite dishes, or similar appurtenances 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.

3.10 Occupancy and Leasing Restrictions. Each of the Units shall be occupied only by the Owner or lessee of a Unit, members of their family, their servants and nonpaying social guests. 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. No lease may be for a period of less than six months without the approval of the Association.

3.11 Animals. No animals, livestock, or poultry shall be raised, bred, or kept anywhere within the Property, except that caged birds and other common household pets 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 com-

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mercial purpose and provided further that such pets are neither dangerous nor a nuisance to the residents of the Property. Dogs must be leashed or kept within enclosed areas at all times. All pets are prohibited from the recreational facilities, if any, located on the Common Area.

3.12 Storage of Fuel Tanks, Garbage and Trash Receptacles. All above ground tanks, cylinder or containers for the storage of liquified petroleum, gas, or other fuel, garbage or trash, 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.

3.13 Sewage Disposal and Water Service. All water and sewage facilities and service to the Property shall be supplied by means of the central water supply and sewage system providing service to the Property. No well of any kind shall be dug or drilled on the Property except for the purpose of providing landscape irrigation. No septic tank may be constructed on any lot. No sewage may be discharged on the open ground or into the lakes. No water from air conditioning systems or swimming pools shall be discharged into the wetlands, canals or lakes, except from swimming pools located on the Common Area.

3.14 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 United States Postal Service regulations.

3.15 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.

Amended **3.16 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 installed in any side of a building which faces a street. No exterior components of air conditioning units shall be visible from the street.

3.17 Wetlands.

(a) **General.** Only the 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 the City of Jacksonville, Florida, 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 embankment

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shall not be changed without the prior written consent of the Association. No docks, moorings, pilings, bulkheads, decks, gazebos 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. Except with the prior written consent of the Association or in accordance with the Association's Regulations, no swimming, bathing, fishing, canoeing, boating, or other recreational activity of any nature is permitted in, about, or on any lake or wetland located on Common Areas notwithstanding that all or portions of such wetlands may be located within a Lot. If the Association permits boating activities, it shall be limited to manually powered boats, sailboats sixteen (16) feet or less, and boats sixteen (16) feet or less powered by electric trolling motors. No boats of any kind may be stored at or near the Lakes or lake embankment.

(c) Governmental Permits. Reference is made to the St. Johns River Water Management District ("SJRWMD") Permit No. 40-031-0184 and subsequent surface water management permits issued by SJRWMD. No construction of improvements and no dredging or filling activities are permitted waterward of the wetlands limit lines as shown on the plans entitled "Marsh Sound" prepared by England, Thins & Miller, Inc. dated June 2, 1988, Project number E87-75, 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. The foregoing provisions may not be amended without the approval of the St. Johns River Water Management District.

3.18 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 at the time of such act or omission, such Owner or the Association has insurance in force complying with the requirements of this Declaration. 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.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

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

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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, Class A members are all Owners except Developer. Class A members are entitled to one vote for each Lot owned. Upon termination of Class B Membership, Class A members are all Owners, including Developer so long as Developer is an Owner.

(b) **Class B.** The Class B member is Developer who is entitled to three votes for each Lot owned. The Class B membership will cease and be converted to Class A membership upon the happening of either of the following events, whichever occurs first: (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or (ii) seven (7) years from the recording date of this Declaration.

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 By-Laws must be available for inspection by any Owner or the 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 the Developer for so long as the Developer is a member of the Association.

4.6 Amplification. The members of the Association shall elect the Board of Directors of the Association, who shall manage the affairs of the Association. The Board of Directors shall appoint officers of the Association to administer the operation of the Association. The provisions of this Article are amplified by the Association's Articles and By-Laws, 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 By-Laws 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 By-Laws to the contrary.

ARTICLE V

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1 The Common Area.

(a) General. Subject to the rights of the 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, fixtures, furnishings, equipment, and other related personal property. The Association shall keep the foregoing in a safe, clean, attractive, sanitary, and servicable condition, and in good order and repair. The Association's duties with respect to the Common Areas 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. 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 Other Maintenance.

(a) 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, including the landscaping and any portion of the Property Boundary Fence located thereon, 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 thirty (30) days following notice by the Association specifying the maintenance or repair item, then the Association after approval by not less than seventy-five percent (75%) of the members of the Board of Directors, shall have the right but not the obligation, through its agents and employees, to enter upon the lot and to perform such repair, maintenance, or restoration. The cost of such exterior maintenance shall be assessed to the Owner of the lot and shall become due and payable in all respects, together with interest and fees and costs of collection, as provided for other assessments of the Association. Additionally, the Association shall have a lien for all unpaid costs and interest against the lot, and such costs and interest shall be the personal obligation of the person who owned the

Lot at the time the notice was given by the Association, in the same manner as herein provided for other assessments of the Association.

(b) Lake Maintenance. The Association shall maintain the lakes and wetlands within the Property, notwithstanding that a portion of any lake or wetland may be located within one or more Lots. Subject to the rights of the City of Jacksonville, Florida, and other governmental authorities, the Association shall have the exclusive right to determine and control water levels and water quality, and to control the growth and removal of plants, animals, fish and fungi, within the lakes and wetlands. The provisions of this subparagraph do not supercede the provisions of Article VII hereof that require Lakefront Lot Owners to maintain the lake shoreline located adjacent to their Lots.

(c) Surfacewater Management. The Association shall operate and maintain the surfacewater management system that Developer has installed as part of the Work pursuant to the permits issued by the Florida Department of Environmental Regulation and the St. Johns Water Management District, including all lakes, retention areas, underdrains, culverts and filtration systems. If the Association is dissolved, the property consisting of the surfacewater 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 surfacewater management system shall be subject to easements to such agency of local government to operate and maintain the surfacewater management system. If the conveyance is not accepted by the local government agency, then the surfacewater management system must be conveyed to a not for profit corporation similar to the Association. Any modification of the surfacewater management system that would adversely affect the system must have the prior approval of the St. Johns Water Management District.

5.3 Public Property. The Association shall maintain all Property identification signs and landscaping and grassed areas installed by Developer as part of the Work located in public rights-of-way or on utility parcels within the Property, except portions to be maintained by Owners under the provisions of Article VII hereof.

5.4 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. The Association may obtain and pay for legal and accounting services necessary, convenient, or desirable in connection with the operation of the Property or the enforcement of the Legal Documents or the Association's Regulations.

5.5 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 Areas so long as such rules and regulations are consistent with the rights and duties established by the Legal Documents. The validity of the Association's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property as a residential community. The rules and regulations initially shall be promulgated by the Board of Directors and may be amended by a majority vote of the Board of Directors, or may be amended or rescinded by a majority of both classes of membership present and voting at any regular or special meeting convened for such pur-

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pose. No regulation, decision, amendment or other action that reasonably may have the effect of waiving, lessening, or otherwise interfering with the scope or enforcement of any restriction imposed on the Property by this Declaration will be valid without the written approval of the 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 Article 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.

5.6 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.

5.7 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.

5.8 Restriction on Capital Improvements. All capital improvements to the Common Areas, except for replacement or repair of those items installed by Developer as part of the Work, and except for personal property related to the Common Areas, must be 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.

5.9 Reserves. The Association shall establish and maintain an adequate reserve fund for the repair and replacement of improvements and personal property that the Association is obligated to maintain under the provisions of the Legal Documents. 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

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

6.2 Annual Maintenance Assessments.

(a) General. The annual maintenance assessments levied by the Association must be used exclusively to promote the recreation, health, safety, and welfare of the residents and occupants within the Property, and for the operation, management, maintenance, repair, renewal and replacement of the Common Areas (including maintenance of adequate reserves), the payment of taxes and insurance, and for the performance of the Association's duties under the Legal Documents. The annual assessment shall be used to 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 conveyance of the first Lot by Developer to an Owner other than Developer, the maximum annual maintenance assessment shall be Three Hundred Dollars (\$300.00) 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 fifteen percent (15%) 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. 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.

(c) Commencement of Annual Assessment. The annual assessment begins as to all Lots within the Property on the first day of the month following the first conveyance of a

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Lot to an owner other than Developer within such extension. If the operation of this Declaration is extended to additional lands, as provided herein, then the Annual Assessment begins against all Lots within each such extension on the first day of the first month following the first conveyance of a Lot to an Owner other than Developer within such extension. The first annual assessment against any Lot shall be prorated according to the number of months then remaining in the fiscal year.

(d) Working Capital Fund. The Association shall establish a working capital fund to provide for unforeseen expenditures and which will be funded as set forth in this subparagraph. Upon the initial transfer of title of a Lot to an Owner (excluding transfer to the Developer or Persons in the business of constructing Units on Lots for resale purposes), the transferee shall pay to the Association a working capital contribution equal to two months of the then current annual maintenance assessment. This capital contribution shall not be considered as an advance payment of the annual maintenance assessment. Developer or each such Person in the business of constructing Units for resale purposes shall collect the working capital contribution at the closing of the sale to such Owner and to promptly pay the same to the Association.

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 after the Owner fails to pay it when due and the default continues for thirty (30) days after written notice.

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 and which is not being occupied as a residence may be fixed by the Board of Directors for so long as there is a Class B membership in an amount

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not less than twenty-five percent (25%) nor more than one hundred percent (100%), of the amount of the annual maintenance assessment against Lots owned by the Class A members of the Association then in effect; provided that Developer shall have agreed to fund the deficits, if any, between the aggregate amount assessed Class A members and Developer, and the total expenses of the Association during the applicable period. Developer shall be obligated to fund such deficits only as they are actually incurred by the Association. The 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 elect a majority of the Board of Directors of the Association. Thereafter, the Developer shall pay an annual maintenance assessment amount attributable to any Lot then owned by Developer and which are not being occupied as a residence at one-half (1/2) the rate assessed against Lots owned by Owners other than Developer. 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, 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 with, the month following 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, shall become a lien on such Lot in favor of the Association upon the recording of a claim of lien signed by an officer of the Association. The Association may record a claim notice of lien against any Lot when any assessment is more than 30 days 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 fore-

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closure, 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.

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 Mortgagees) in accordance with the Association's normal assessment procedures. No such sale or transfer relieves such Lot from liability for assessments thereafter becoming due, or from the Association's lien. The Association shall report to any First Mortgagee of a Lot any assessments remaining unpaid for more than 30 days and shall give such First Mortgagee 30 days in which to cure such delinquency before instituting foreclosure proceedings against such Lot, provided the First Mortgagee has given the Association written notice of its mortgage, designating by a proper legal description the Lot encumbered and stating the address to which notices shall be given. This provision shall not 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, (including the Property Boundary Fence, if any), 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 the public right-of-way 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. 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,

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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.

7.2 Casualty Damage. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, unless the improvements are completely destroyed, 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 VIIIARCHITECTURAL CONTROL

8.1 Architectural Review Committee. The Developer shall initially appoint, and thereafter the Association shall maintain, a standing committee identified as the Architectural Review Committee, (the "A.R.C.") composed of three or more persons who need not be Owners. 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. In the absence of specific action appointing members of the A.R.C., the Board of Directors shall be the committee members. The Developer shall retain the right to appoint the A.R.C. members until the first to occur of a) the sale by Developer of all the Lots in the Property and the Unplatted Lands or b) ten (10) years from the date this Declaration is recorded. Thereafter the Board of Directors of the Association shall appoint the A.R.C. 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 committee shall be entitled to compensation for services performed, except that the 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 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 the 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 construc-

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tion 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 of (when constructed without A.R.C. approval), 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 committee'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 unless any structure, use, or activity is expressly permitted by the Architectural Criteria.

8.4 Applications. All applications to the A.R.C. must be accompanied by two (2) copies of detailed and complete plans and specifications. If the A.R.C. does not approve or disapprove any application within 30 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 inspect the construction after completion to assure compliance with the approved plans and specifications and, if requested in writing, shall 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 the Developer or the Association neither the 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.

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ARTICLE IX

OPERATION AND EXTENSION

9.1 Effect Upon Unplatted Lands. With respect to the Unplatted Lands, the provisions of this Declaration are not self-executing and shall be of no legal force and effect unless from time to time extended to all or any portion of the Unplatted Lands by a recorded amendment to this Declaration, that declares all or a part of the Unplatted Land to be subject to the provisions hereof. Developer or any person to whom Developer has assigned its rights to develop the Unplatted Land may execute and record such an amendment or amendments without the consent or joinder of any Owner, the Association, or any other Person. The provisions of this Declaration then automatically shall be extended to the portion of the Unplatted Lands described in such amendment and shall run with such lands and be binding upon all Persons having any right, title or interest therein, or any part thereof, their respective heirs, successors, and assigns. Until the foregoing restriction upon the title to all or any portion of the Unplatted Lands, if the provisions of this Declaration have not been so extended to the Unplatted Lands on or before fifteen years from the date this Declaration is recorded, then the Developer, its successors or assigns shall no longer have the right to extend the provisions of this Declaration as provided in this Article.

9.2 Other Extensions. The extension of the provisions of this Declaration to any lands other than the Unplatted Lands requires the approval of two-thirds (2/3) of each class of the members of the Association. Such extension shall become effective upon recording an amendment to this Declaration, executed by the Association and the Owners of all interests in lands to which the provisions of this Declaration are extended with the formalities from time to time required for a deed under the laws of the State of Florida.

ARTICLE X

GENERAL PROVISIONS

10.1 Enforcement.

(a) Rights of Developer and Association. Developer reserves the right for the 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 these covenants and restrictions. The foregoing shall not impose on the Developer or the Association any obligations to exercise the foregoing rights. 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.

(b) Legal Proceedings. The 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 the Developer is the prevailing party in any litigation involving the Legal Documents,

OFFICIAL RECORDS

ments 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 in trial and appellate proceedings 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.

(c) No Waiver. Failure by the Developer, the Association or by any Owner to enforce any covenant, restriction, 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 the Developer or the Association to any Owner or any other Person.

10.2 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 the 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 sixty-seven percent (67%) of the then Owners 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.

10.3 Amendment.

Amended (a) Developer. The 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, 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.

(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 sixty-seven percent (67%) of all Owners. No amendment shall be effective until recorded but the Association's pro- per execution shall entitle it to public record, notwithstanding the informal execution by the requisite percentage of Owners.

initial 10.4 Other Approvals. All of the following actions require the prior approval of the Developer (for so long as Developer owns any Lots for sale in the ordinary course of business) and the

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holders of sixty-seven percent (67%) of the First Mortgages with- in the Property; (a) amendment of this Declaration, except as ex- pressly provided in the Article entitled "Operation and Extension" and in subparagraph (a) of the last preceding paragraph; and (b) alienation or encumbrancing of all or any portion of the Common Areas, except as permitted under Article II of this Declaration; and (c) the merger, consolidation, or dissolution of the Associa- tion; and (d) the annexation of additional lands or the extension of the provisions of this Declaration to lands other than the Unplatted Lands.

10.5 Reservation of Right to Release Restrictions. Subject to applicable zoning regulations, in each instance where a struc- ture has been erected, or the construction thereof is substan- tially advanced, in such a manner that some portion of the struc- ture encroaches upon any set-back or easement area or the Common Area or otherwise does not conform to the requirements of this Declaration or the Architectural Criteria, Developer reserves for itself the right to release the Lot from the encroachment or the non-conformance and to grant an exception to permit the encroach- ment without the consent or joinder of any Person irrespective of who owns the affected areas, so long as Developer, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots and the overall appearance of the Property. Upon granting of an exception to an Owner, the ex- ception granted shall be binding upon all subsequent Owners of the affected Lots.

10.6 Rights of First Mortgagees. Any First Mortgagee and in- surers 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 cur- rent 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 in- curred in providing such copies; and

(c) **Meetings.** To designate a representative to attend all meetings of the membership of the Association, who is en- titled 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 rea- sonable, 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 Mort- gage 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 en- cumbered 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, can- cellation 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 the mortgage holders.

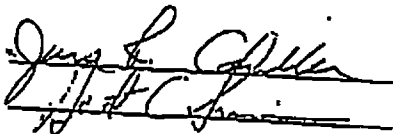
10.7 Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration shall be interpreted, or enforced to prevent Developer, or its contractors, subcontractors, agents, employees, successors or assigns from doing or performing on all or any part of the Property owned or controlled by Developer whatever it or they determine to be necessary, convenient, or desirable to complete the Work. 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.

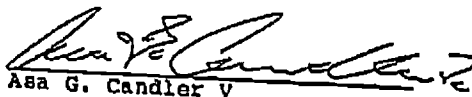
10.8 Assignment. Developer may assign to any Person, including Persons engaged in the business of constructing improvements on Lots for resale purposes, all or some of the rights, privileges and exemptions granted herein to Developer in connection with the ownership, use, or development of a portion of the Property including by way of example the rights, privileges and exemptions described in paragraph 10.7 hereof. 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.

10.9 Severability. Invalidation of any provision of the Legal Documents by judgment or court order will not affect any other provision, all of which will remain 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.

10.10 Notices. Any notice required to be sent to any Owner, or the 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 either the records of the Association or the public records of Duval County, Florida 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.

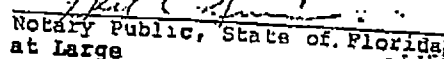
IN WITNESS WHEREOF, Developer has executed this Declaration the date first stated above.


Asa G. Candler


Asa G. Candler

STATE OF GEORGIA FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 24 day of August, 1984, by Asa G. Candler.


Notary Public, State of Florida
at Large

My Commission Expires:

My Commission Expires: March 10, 1990
Notary Public, State of Florida

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DECLARATION OF COVENANTS AND
RESTRICTIONS FOR
MARSH SOUND

List of Exhibits

Exhibit A - The Property

Exhibit B - Unplatted Lands

YULO / JULY 1989
OFFICIAL RECORDS

THE PROPERTY

January 12, 1989

Legal Description
Marsh Sound

A part of the Bartolomeo De Castro Y Ferrer Grant, Section 38, Township 2 South, Range 28 East, Duval County, Florida and being more particularly described as follows:

Commence at the intersection of the southerly line of said Section 38, with the easterly right-of-way of San Pablo Road (an 80.0 foot wide right-of-way); thence North 17°-35'-41" West, along the easterly right-of-way of said San Pablo Road, 1463.25 feet to the point of beginning; thence continue North 17°-35'-41" West, 1412.99 feet; thence North 84°-46'-10" East, 680.00 feet; thence South 05°-13'-50" East, 120.00 feet; thence South 16°-32'-19" West, 53.84 feet; thence South 05°-13'-50" East, 140.00 feet; thence North 84°-46'-10" East, 89.93 feet; thence South 01°-39'-06" East, 141.91 feet; thence South 25°-49'-06" East, 55.13 feet; thence South 00°-07'-49" East, 204.51 feet; thence North 88°-50'-58" East, 83.78 feet; thence South 21°-13'-41" East, 292.61 feet; thence South 15°-43'-41" West, 330.90 feet to the northerly line of Holiday Harbor, Unit 7; according to record plat thereof recorded in plat book 36, pages 96 & 96A; thence South 84°-46'-10" West, along said line and its extension, 480.00 feet; thence South 01°-04'-11" East, 77.23 feet to the point of beginning.

Containing 19.05 Acres.

EXHIBIT A

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UNPLATTED LANDS

A portion of the Bartolomeo de Castro Y Farrer Grant, Section 38, Township 2 South, Range 28 East, Duval County, Florida, being more particularly described as follows:

Commence at the corner common to Sections 25, 26, and said Section 38, all being in Township 2 South, Range 28 East, Duval County, Florida; thence North 84°41'57" East, along the southerly line of said Section 38, 3502.93 feet to its intersection with the easterly right-of-way line of San Pablo Road (an 80.00 foot right-of-way); thence North 17°35'41" west, along said right-of-way, 1463.25 feet to the point of beginning; thence continue north 17°35'41" West, along said right-of-way, 1412.99 feet; thence North 84°46'10" East, 2600.47 feet to a point on the easterly line of said Section 38; thence South 16°27'58" East, along said easterly line, 417.33 feet to the fourth mile post south from the northeast corner of said township; thence South 01°30'47" East, along said easterly line, 895.74 feet to its intersection with the easterly production of the northerly line of Holiday Harbor Unit 7, as recorded in Plat Book 36, pages 96 and 96A of the Current Public Records of Duval County, Florida; thence South 84°46'10" West, along said line and northerly line of said Holiday Harbor Unit 7, 2315.55 feet; thence South 01°04'11" East, 77.23 feet to the point of beginning.

Containing 75.0 acres.

LESS AND EXCEPT EXHIBIT A.

EXHIBIT B

FILED AND RECORDED
IN PUBLIC RECORDS
OF DUVAL COUNTY, FLA.
JUN 31 11 29 AM '89
CLERK OF COURTS
W. J. [Signature]

090180

YUL 18 14 1994

FIRST AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS FOR MARSH SOUND **OFFICIAL RECORDS**

This First Amendment to Declaration of Covenants and Restrictions for Marsh Sound is made by MARSH SOUND ASSOCIATION, INC., a Florida nonprofit corporation ("Association"), and MONTGOMERY LAND COMPANY, a Florida corporation ("Developer"), effective the 16th day of March, 1994.

R E C I T A L S :

A. The Declaration of Covenants and Restrictions for Marsh Sound has been recorded in Official Records Volume 6758 at page 219 of the current public records of Duval County, Florida (the "Original Declaration").

B. Prior to the effective date hereof, the Developer acquired substantially all of the developed Lots within the Property and resold them to third parties. Pursuant to Section 1.6 of the Original Declaration, Montgomery Land Company has become the "Developer" as such term is defined in the Original Declaration.

C. The Association and the Developer desire to amend the Original Declaration as more particularly set forth hereafter. The amendments to the Original Declaration set forth hereafter have been specifically requested by an institutional First Mortgagee. Pursuant to Sections 10.3 and 10.4 of the Original Declaration, this First Amendment has been approved by the Developer, and counterparts hereof have been signed by not less than 67% of all of the Owners. Further, this First Amendment has been approved by 67% of the First Mortgagees within the Property.

NOW THEREFORE, in consideration of the foregoing recitals, the Developer and Association hereby amend the Original Declaration as follows:

1. The Developer and the Association hereby confirm that the above-stated recitals are true and correct.

2. All defined terms contained in this First Amendment shall have the same meanings as such terms are defined by the Original Declaration. The Original Declaration and this First Amendment shall be together referred to herein as the "Declaration".

3. Section 1.6 of the Original Declaration is hereby amended in its entirety to read as follows:

1.6 "Developer" means Montgomery Land Company, a Florida corporation whose address is 9000 Regency Square Boulevard, Suite 201, Jacksonville, Florida 32211, its successors, and such of its assigns as to which the

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OFFICIAL RECORDS

rights of Developer hereunder are specifically assigned, but only to the extent set forth herein. Developer may assign only a part of its rights hereunder, or all or a portion 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 the Developer, but may exercise such rights of Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Montgomery Land Company is a successor in interest to San Pablo Road Associates, Ltd., a Georgia limited partnership, and shall have the same rights, power and authority to be exercised at its option and in its sole discretion, to develop, construct, sell, repair, maintain, alter or do any other act with respect to the Property as could have been exercised by San Pablo Road Associates, Ltd. pursuant to the Original Declaration; provided however, that Montgomery Land Company's status as the Developer shall not be implied, deemed, or construed to result in any assumption of liability of any kind pertaining to the prior acts, omissions, duties, liabilities or responsibilities of San Pablo Road Associates, Ltd., or any other Developer of the Property.

4. Section 3.2 of the Original Declaration is hereby amended in its entirety to read as follows:

3.2 Size and Minimum Floor Elevation Limitations. The units constructed on each Lot shall not exceed the height of thirty-five (35) feet above grade level. Units shall have a minimum square footage of one thousand seven hundred and fifty (1,750) square feet of heated and air-conditioned space. Total ground coverage of each Unit shall not exceed thirty-five percent (35%) of the Lot surface area.

5. Section 3.4 of the Original Declaration is hereby amended in its entirety to read as follows:

3.4 Landscaping. No artificial grass, plants or other artificial vegetation shall be placed or maintained on any Lot. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain on any Lot; provided however, nothing contained in this Section shall prevent natural vegetation from being incorporated into the landscaping on particular Lots. At a minimum, all front yards within the Property shall be fully sodded and shall be landscaped with not less than twenty-four (24) shrubs.

6. Section 3.5, subparagraph (a) of the Original Declaration is hereby amended to delete the last sentence thereof.

7. Section 3.6 of the Original Declaration is hereby amended in its entirety to read as follows:

3.6 Setback Lines. All dwellings and other structures shall be located on the Lots so as to comply with any and all setback requirements established or enforceable by the City of Jacksonville, Duval County, Florida, and as established by any recorded Plat or other document affecting such Lots. Further, the Developer reserves the right to establish specific setback lines applicable to any Lots owned by the Developer, which setback lines shall be established by recorded Plats or other documents affecting such Lots.

8. Section 3.7, subparagraph (b) of the Original Declaration is hereby amended by deleting the last two sentences thereof.

9. Section 3.16 of the Original Declaration is hereby amended in its entirety to read as follows:

3.16 Window Coverings and Air Conditioning Units. Without the prior written approval of the A.R.C., no aluminum foil, tinted glass or other reflective materials shall be installed or maintained on any windows of a Unit. No window air conditioning or heating units shall be installed within the Property.

10. Section 10.3, subparagraph (b) of the Original Declaration is hereby amended in its entirety to read as follows:

(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 upon the written approval of Owners holding not less than sixty-seven percent (67%) of the votes allocated to the Class A member. Further, for so long as the Developer shall own any Lots subject to the terms of this Declaration, any such amendment shall require the prior written approval of the Developer. Any such amendment shall be executed by an authorized representative of the Association and recorded in the current public records of Duval County, Florida. No amendment to this Declaration shall be effective until recorded in said public records.

11. Section 10.4 of the Original Declaration is hereby amended in its entirety to read as follows:

10.4 Other Approvals. All of the following actions require the prior approval of First Mortgagees holding mortgages which encumber not less than sixty-seven percent (67%) of the Lots subject to mortgages: (a)

amendment of this Declaration, except as provided in Article IX hereof and in subparagraph (a) of the last preceding paragraph; (b) alienation or encumbrancing of all or any portion of the Common Areas, except as permitted under Article II of this Declaration; (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 lands other than the Unplatted Lands.

WHEREFORE, this First Amendment to Declaration of Covenants and Restrictions for Marsh Sound has been duly executed by the Association and the Developer effective the date first above written.

Signed, sealed and delivered in the presence of:

James P. Wilson
James P. Wilson
Elsa B. Murphy
Elsa B. Murphy

MARSH SOUND ASSOCIATION, INC.,
a Florida nonprofit corporation

By: Mitchell R. Montgomery
(Print or Type Name)
Its: President
(Title)

VOL: 7814 PG: 969

STATE OF FLORIDA }
COUNTY OF DUVAL } SS

OFFICIAL RECORDS

The foregoing instrument was acknowledged before me this 16th
day of March, 19 94, by Mitchell R. Montgomery, as
President of Marsh Sound Association, Inc., a Florida
nonprofit corporation, on behalf of the corporation.

JANET P. WILSON
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires April 21, 1995
Commission No. CC 095628

Janet P. Wilson
(Print Name Janet P. Wilson)
NOTARY PUBLIC
State of Florida at Large
Commission # CC 095628
My Commission Expires: April 21, 1995
Personally Known XX
or Produced I.D. _____
[check one of the above]
Type of Identification Produced _____

Signed, sealed and
delivered in the
presence of:

Janet P. Wilson
Janet P. Wilson
Elsa B. Murphy
Elsa B. Murphy

MONTGOMERY LAND COMPANY, a
Florida corporation

By: Mitchell R. Montgomery
Mitchell R. Montgomery
(Print or Type Name)
Its: President
(Title)

STATE OF FLORIDA }
COUNTY OF DUVAL } SS

The foregoing instrument was acknowledged before me this 16th
day of March, 19 94, by Mitchell R. Montgomery, as
President of Montgomery Land Company, a Florida
corporation, on behalf of the corporation.

JANET P. WILSON
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires April 21, 1995
Commission No. CC 095628

Janet P. Wilson
(Print Name Janet P. Wilson)
NOTARY PUBLIC
State of Florida at Large
Commission # CC 095628
My Commission Expires: April 21, 1995
Personally Known XX
or Produced I.D. _____
[check one of the above]
Type of Identification Produced _____

94-0042389

94 MAR 23 PM 2:25

FILED AND RECORDED
IN PUBLIC RECORDS
OF DUVAL COUNTY FLA

RECORD VERIFIED
Harry W. Ross
CLERK OF CIRCUIT COURT

OFFICIAL RECORDS

Prepared by and Return to:
Patty A. Hite
Montgomery Land Company
9000 Regency Sq Blvd. #201
Jacksonville, FL 32211

SECOND AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS FOR MARSH SOUND

This Second Amendment to Declaration of Covenants and Restrictions for Marsh Sound is made by MONTGOMERY LAND COMPANY a Florida corporation ("Developer"), effective the 16th day of May, 1994.

RECITALS:

A. The Declaration of Covenants and Restrictions for Marsh Sound has been recorded in Official Records Volume 6758 at page 219, as amended and recorded in Official Records Volume 7814 at page 965 of the current public records of Duval County, Florida (together the "Original Declaration").

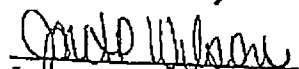
B. The Developer desires to amend the Original Declaration as more particularly set forth hereafter. This amendment to the Original Declaration set forth hereafter is being made pursuant to the terms set forth in Article IX, Section 9.1 of the Original Declaration to subject the Unplatted Lands to the terms and provisions of the Original Declaration.

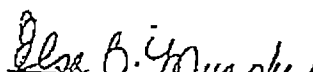
NOW THEREFORE, in consideration of the foregoing recitals, the Developer hereby amends the Original Declaration as follows:

1. The Developer hereby confirms that the above-stated recitals are true and correct.
2. All defined terms contained in this Second Amendment shall have the same meanings as such terms are defined by the Original Declaration. The Original Declaration, and this Second Amendment shall be together referred to herein as the "Declaration".
3. Section 1.17 of the Original Declaration is hereby amended in its entirety to read as follows:
1.17 "Property" means the lands in Duval County, Florida, described on Exhibit "A" and Exhibit "B" attached to this Declaration together with all other lands that hereafter may be made subject to the provisions of this Declaration in the manner provided herein.

WHEREFORE, this Second Amendment to Declaration of Covenants and Restrictions for Marsh Sound has been duly executed by the Developer effective the date first above written.

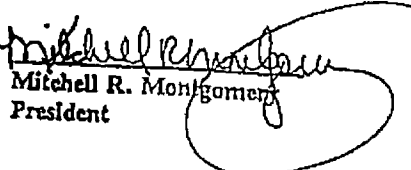
Signed, sealed and delivered
in the presence of:


Janet P. Wilson


Elsa B. Murphy

MONTGOMERY LAND COMPANY
a Florida corporation

By:


Mitchell R. Montgomery
President

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STATE OF FLORIDA
COUNTY OF DUVAL

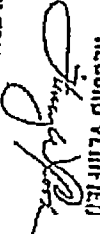
The foregoing instrument was acknowledged before me this 16th day of May, 1994, by Mitchell R. Montgomery, President of Montgomery Land Company, a Florida corporation, on behalf of the corporation. He is personally known to me and he did not take an oath.

My Commission Expires:

JANET P. WILSON
NOTARY PUBLIC, STATE OF FLORIDA
My commission expires April 21, 1995
Commission No. CC 095628


Janet P. Wilson
Notary Public, State of Florida

94-0082792
FILED AND RECORDED
IN PUBLIC RECORDS
OF DUVAL COUNTY FLA

94 JUN -7 PM 12:47
RECORD VERIFIED

CLERK OF CIRCUIT COURT

2215 S. Third Street, Suite 101
Jacksonville Beach, FL 32250



TELEPHONE: (904) 285-5299
FACSIMILE: (904) 285-1640
INTERNET: www.jaxrelaw.com

April 25, 2018

VIA CERTIFIED MAIL RETURN RECEIPT NUMBER
7017 0660 0000 0988 0165 AND REGULAR US MAIL

Kelly Clifford
2142 Softwind Trail West
Jacksonville, FL 32224

RE: Violations at 2142 Softwind Trail West

Dear Mr. Clifford:

As you may or may not be aware, I am the attorney for Marsh Sound Association, Inc. I have been requested by the Board of Directors of the Association to correspond with you with regard to violations at the above referenced property. The Declaration of Covenants and Restrictions for Marsh Sound, the "Declaration", empowers the Board of Directors to enforce its provisions.

I have been advised by the Board that there are numerous violations of the Declaration at your property located at 2142 Softwind Trail West. The landscaping is in poor condition as there are dead areas in the lawn, weeds are growing in the lawn, the lawn is not being edged and you have failed to trim shrubs appropriately. Further, there is an Agave Plant which is growing out into the street and must be removed.

As you have been previously made aware, Section 3.12 Storage of Fuel Tanks, Garbage and Trash Receptacles of the Declaration provides that garbage containers are to be screened or kept from view from any adjacent Lot or the street and that all rubbish, trash, garbage, or other accumulations shall be kept inside the unit or in appropriate receptacles. The Association has

EXHIBIT B

provided me with pictures which show clear violations of this Section. You are allowing various items to accumulate on your driveway and in other places on your Lot and your garbage containers are regularly in open view.

Your fence is in poor condition and requires replacement to conform to neighborhood standards. Further, use of plywood in place of missing fencing is particularly unacceptable. You must replace the fence.

You should also be aware that Paragraph 5.2(a), Unit Exterior and Lot Maintenance, the Declaration provides that should an owner fail to maintain, repair, or restore the exterior condition of his Lot or Unit, including the landscaping, the Board is empowered to enter onto the property, perform the required maintenance or repair, charge the amounts expended to the member, and should the member not pay the amounts due, a lien may be placed against the property.

All of the violations included in this letter must be corrected on or before May 18, 2018. Copies of the relevant portions of the Declaration is enclosed for your ease of reference. You should be aware that the Association may also impose a fine upon you pursuant to Section 720.305, Florida Statutes. You are responsible for paying the attorneys fees incurred by the Association in this enforcement action. In light of the foregoing, I am sure that you can see the benefit in resolving the issues before the matter escalates and becomes a much bigger problem for you to deal with. Please correct all of the deficiencies outlined in this letter to avoid the Association taking additional action to enforce the Declaration. I am available to discuss this matter with you, or should you so desire, your attorney. **PLEASE GOVERN YOURSELF ACCORDINGLY.**

Sincerely,


D. Randall Briley

DRB/db

Enclosures

cc: Board of Directors, Marsh Sound Association, Inc.

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rights of Developer hereunder are specifically assigned, but only to the extent set forth herein. Developer may assign only a part of its rights hereunder, or all or a portion 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 the Developer, but may exercise such rights of Developer as are specifically assigned to it. Any such assignment may be made on a non-exclusive basis. Montgomery Land Company is a successor in interest to San Pablo Road Associates, Ltd., a Georgia limited partnership, and shall have the same rights, power and authority to be exercised at its option and in its sole discretion, to develop, construct, sell, repair, maintain, alter or do any other act with respect to the Property as could have been exercised by San Pablo Road Associates, Ltd., pursuant to the Original Declaration; provided however, that Montgomery Land Company's status as the Developer shall not be implied, deemed, or construed to result in any assumption of liability of any kind pertaining to the prior acts, omissions, duties, liabilities or responsibilities of San Pablo Road Associates, Ltd., or any other Developer of the Property.

4. Section 3.2 of the Original Declaration is hereby amended in its entirety to read as follows:

3.2 Size and Minimum Floor Elevation Limitations. The units constructed on each Lot shall not exceed the height of thirty-five (35) feet above grade level. Units shall have a minimum square footage of one thousand seven hundred and fifty (1,750) square feet of heated and air conditioned space. Total ground coverage of each Unit shall not exceed thirty-five percent (35%) of the Lot surface area.

5. Section 3.4 of the Original Declaration is hereby amended in its entirety to read as follows:

3.4 Landscaping. No artificial grass, plants or other artificial vegetation shall be placed or maintained on any Lot. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain on any Lot; provided however, nothing contained in this Section shall prevent natural vegetation from being incorporated into the landscaping on particular Lots. At a minimum, all front yards within the Property shall be fully sodded and shall be landscaped with not less than twenty-four (24) shrubs.

6. Section 3.5, subparagraph (a) of the Original Declaration is hereby amended to delete the last sentence thereof.

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marcial purpose and provided further that such pets are neither dangerous nor a nuisance to the residents of the Property. Dogs must be leashed or kept within enclosed areas at all times. All pets are prohibited from the recreational facilities, if any, located on the Common Area.

3.12 Storage of Fuel Tanks, Garbage and Trash Receptacles. All above ground tanks, cylinder or containers for the storage of liquified petroleum, gas or other fuel, garbage or trash, 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.

3.13 Sewage Disposal and Water Service. All water and sewage facilities and service to the Property shall be supplied by means of the central water supply and sewage system providing service to the Property. No well of any kind shall be dug or drilled on the Property except for the purpose of providing landscape irrigation. No septic tank may be constructed on any lot. No sewage may be discharged on the open ground or into the lakes. No water from air conditioning systems or swimming pools shall be discharged into the wetlands, canals or lakes, except from swimming pools located on the Common Area.

3.14 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 United States Postal Service regulations.

3.15 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.

3.16 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 installed in any side of a building which faces a street. No exterior components of air conditioning units shall be visible from the street.

3.17 Wetlands.

(a) **General.** Only the 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 the City of Jacksonville, Florida, 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 embankment

however, Developer intends that the provisions of this Declaration control anything in the Articles or By-Laws to the contrary.

ARTICLE V

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1 The Common Area.

(a) General. Subject to the rights of the 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, fixtures, furnishings, equipment, and other related personal property. The Association shall keep the foregoing in a safe, clean, attractive, sanitary, and serviceable condition, and in good order and repair. The Association's duties with respect to the Common Areas 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. 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 Other Maintenance.

(a) 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, including the landscaping and any portion of the Property Boundary Fence located thereon, 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 thirty (30) days following notice by the Association specifying the maintenance or repair item, then the Association after approval by not less than seventy-five percent (75%) of the members of the Board of Directors, shall have the right but not the obligation, through its agents and employees, to enter upon the Lot and to perform such repair, maintenance, or restoration. The cost of such exterior maintenance shall be assessed to the Owner of the Lot and shall become due and payable in all respects, together with interest and fees and costs of collection, as provided for other assessments of the Association. Additionally, the Association shall have a lien for all unpaid costs and interest against the Lot, and such costs and interest shall be the personal obligation of the Person who owned the

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Lot at the time the notice was given by the Association, in the same manner as herein provided for other assessments of the Association.

(b) Lake Maintenance. The Association shall maintain the lakes and wetlands within the Property, notwithstanding that a portion of any lake or wetland may be located within one or more Lots. Subject to the rights of the City of Jacksonville, Florida, and other governmental authorities, the Association shall have the exclusive right to determine and control water levels and water quality, and to control the growth and removal of plants, animals, fish and fungi, within the lakes and wetlands. The provisions of this subparagraph do not supercede the provisions of Article VII hereof that require Lakefront Lot Owners to maintain the lake shoreline located adjacent to their Lots.

(c) Surfacewater Management. The Association shall operate and maintain the surfacewater management system that Developer has installed as part of the Work pursuant to the permits issued by the Florida Department of Environmental Regulation and the St. Johns Water Management District, including all lakes, retention areas, underdrains, culverts and filtration systems. If the Association is dissolved, the property consisting of the surfacewater 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 surfacewater management system shall be subject to easements to such agency of local government to operate and maintain the surfacewater management system. If the conveyance is not accepted by the local government agency, then the surfacewater management system must be conveyed to a not for profit corporation similar to the Association. Any modification of the surfacewater management system that would adversely affect the system must have the prior approval of the St. Johns Water Management District.

5.3 Public Property. The Association shall maintain all Property identification signs and landscaping and grassed areas installed by Developer as part of the Work located in public rights-of-way or on utility parcels within the Property, except portions to be maintained by Owners under the provisions of Article VII hereof.

5.4 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. The Association may obtain and pay for legal and accounting services necessary, convenient, or desirable in connection with the operation of the Property or the enforcement of the Legal Documents or the Association's Regulations.

5.5 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 Areas so long as such rules and regulations are consistent with the rights and duties established by the Legal Documents. The validity of the Association's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property as a residential community. The rules and regulations initially shall be promulgated by the Board of Directors and may be amended by a majority vote of the Board of Directors, or may be amended or rescinded by a majority of both classes of membership present and voting at any regular or special meeting convened for such pur-

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closure, 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.

6.10 Homestead. 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. The Association shall report to any First Mortgagee of a Lot any assessments remaining unpaid for more than 30 days and shall give such First Mortgagee 30 days in which to cure such delinquency before instituting foreclosure proceedings against such Lot, provided the First Mortgagee has given the Association written notice of its mortgage, designating by a proper legal description the Lot encumbered and stating the address to which notices shall be given. This provision shall not be construed to impose on the First Mortgagee any duty to collect assessments.

ARTICLE VIIOBLIGATIONS 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, (including the Property Boundary Fence, if any), 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 the public right-of-way 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. 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,

OFFICIAL RECORDS

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 levy assessments to recover the cost thereof.

7.2 Casualty Damage. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, unless the improvements are completely destroyed, 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.

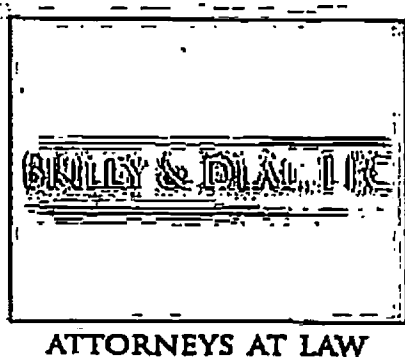
ARTICLE VIII

ARCHITECTURAL CONTROL

8.1 Architectural Review Committee. The Developer shall initially appoint, and thereafter the Association shall maintain, a standing committee identified as the Architectural Review Committee, (the "A.R.C.") composed of three or more persons who need not be Owners. 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. In the absence of specific action appointing members of the A.R.C., the Board of Directors shall be the committee members. The Developer shall retain the right to appoint the A.R.C. members until the first to occur of a) the sale by Developer of all the Lots in the Property and the Unplatted Lands or b) ten (10) years from the date this Declaration is recorded. Thereafter the Board of Directors of the Association shall appoint the A.R.C. 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 committee shall be entitled to compensation for services performed, except that the 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 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 the 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.

2215 S. Third Street, Suite 101
Jacksonville Beach, FL 32250



TELEPHONE: (904) 285-5299
FACSIMILE: (904) 285-1640
INTERNET: www.jaxrelaw.com

September 12, 2018

VIA CERTIFIED MAIL RETURN RECEIPT
7016 1370 0001 1148 1524 & REGULAR US MAIL

Kelly Clifford & Nancy Clifford
2142 Softwind Trail West
Jacksonville, FL 32224

RE: STATUTORY OFFER TO PARTICIPATE IN PRESUIT MEDIATION
Violations at 2142 Softwind Trail West

Dear Mr. & Ms. Clifford:

The alleged aggrieved party, Marsh Sound Association, Inc., hereby demands that Kelly Clifford and Nancy Clifford, as the responding parties, engage in mandatory pre-suit mediation in connection with the following disputes, which by statute are of a type that are subject to pre-suit mediation:

1. Garbage containers not properly stored and items accumulated in view from the street and other Lots;
2. Fence in disrepair and requires replacement; and
3. Landscaping in poor condition with dead sod, weeds growing in the yard and lack of maintenance.
4. Agave plant encroaching into street.

Pursuant to Section 720.311, Florida Statutes, this demand to resolve the dispute through pre-suit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the Statute, the parties are required to engage in pre-suit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, the aggrieved party

EXHIBIT C

demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediatory meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in presuit mediation, you are not bound in any way to change your position. Furthermore, the mediatory has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.

If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding, unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.

The aggrieved party has selected and hereby lists five certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select any one of these mediators. The fact that one party may be familiar with one or more of the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest, and their current hourly rates, are as follows:

Honorable Mattox S. Hair, 1022 Park Street, Ste. 201, Jacksonville, FL 32204
Telephone No. (904) 358-3580

Hourly rate is \$350.00 with a 2 hour minimum plus 1 hour administration fee to review file and other matters.

John McCorvey, Esq. 301 W. Bay Street, Suite 1458, Jacksonville, FL 32202
(904) 329-7237

Hourly rate is \$300.00, 1 hour administrative fee, 1 hour minimum.

G. Michael Burnett, Esq., 6272 Dupont Station Court, Jacksonville, FL 32217
(904) 731-5981

Hourly rate is \$350.00 plus 1 hour administration fee.

Honorable Bernard Nachman, 2733 Alvarado Avenue, Jacksonville, FL 32217

(904) 619-0629

Hourly rate is \$350.00

Thomas Jenks, Esq., 225 Water Street, Ste.1750, Jacksonville, FL 32202

(904) 354-1980

Hourly rate is \$350.00. Advance deposit of \$700.00.

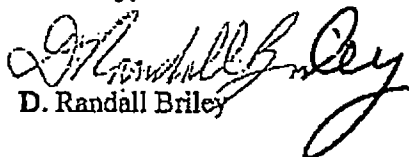
You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.

Unless otherwise agreed by the parties, Section 720.311(2)(b), Florida Statutes, requires that the parties share the costs of pre-suit mediation equally, including the fee charged by the mediator. An average mediation may require three to four hours at the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment of some or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half of the mediator's estimated fees and to forward this amount or such other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned to you if these are in excess of your share of the fees incurred.

To begin your participation in pre-suit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within twenty (20) days from the date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one-half of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in attempting to obtain mediation.

Therefore, please give this matter your immediate attention. By law, your response must be mailed by certified mail, return receipt requested, and by first-class mail to the address shown on this demand.

Sincerely,


D. Randall Briley

DRB/db

cc: Marsh Sound Association, Inc.

AGREEMENT TO MEDIATE

The undersigned hereby agrees to participate in pre-suit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute:

List acceptable mediator or mediators: _____

I further agree to pay or prepay one-half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

Signature of responding party

Telephone contact information

RETURN OF SERVICE

State of Florida

County of Duval

County Court

Case Number: 16-2018-CC-013881

Plaintiff:

Marsh Sound Association, Inc.

vs.

Defendants:

Kelly R. Clifford & Nancy Clifford

For:

D. Randall Briley

Briley & Deal

2215 South Third Street Ste. 101
Jacksonville Beach, FL 32250

Received by Conran Investigations Inc. on the 10th day of October, 2018 at 11:56 am to be served on Kelly R. Clifford, 2142 Softwind Trail West Jacksonville, FL 32224.

I, Sandra Nordin, do hereby affirm that on the 12th day of October, 2018 at 11:00 am, I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the Summons and Complaint; Exhibits with the date and hour of service endorsed thereon by me, to: Kelly R. Clifford at the address of: 7660 Phillips Hwy #20, Jacksonville, FL 32217, and informed said person of the contents therein, in compliance with state statutes.

Additional information pertaining to this Service:

10/12/2018 10:25 am Attempted Service, Dog barking, no answer. Left a card and note.

10/12/2018 11:00 am Individual does live at the property but was served at his work address.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.



Sandra Nordin
SN1176

Conran Investigations Inc.
1616 Jork Rd., Ste. 101
Jacksonville, FL 32207
(904) 396-6500

Our Job Serial Number: CNR-2018000007

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Filing # 79006434 E-Filed 10/08/2018 01:19:07 PM

**IN THE COUNTY COURT OF
DUVAL COUNTY, FLORIDA**

**CASE NO:
DIVISION:**

**MARSH SOUND ASSOCIATION, INC.,
a Florida corporation,**

Plaintiff,

v.

KELLY R. CLIFFORD and, NANCY L. CLIFFORD

Defendants.

SUMMONS

THE STATE OF FLORIDA

To all and singular the Sheriffs of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this action on the defendant(s):

**Kelly R. Clifford
2142 Softwind Trail West
Jacksonville, FL 32224**

Each defendant is required to serve written defenses to the complaint or petition on plaintiff's attorney, whose name and address is:

**D. Randall Briley, Esq.
2215 South Third Street, Ste. 101
Jacksonville Beach, FL 32250
rbriley@jaxrelaw.com
(904) 285-5299**

within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this Court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

WITNESS my hand and the seal of this Court on Oct 10 2018, 2018.



This is a True and Correct Seal

**RONNIE FUSSELL
CLERK OF THE CIRCUIT COURT**

BY: Kathleen McMillen
Deputy Clerk

IMPORTANTE

Usted has sido demandado legalmente. Tiene veinte (20) dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera, si usted desea que el tribunal considere su defensa, deba presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas en dicho caso. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica.

Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney." (Demandante o Abogado del Demandante).

IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cet'te citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes oblige de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le delai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du Tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones).

Si vous choisissez de deposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie au carbone ou une photocopie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney (Plaignant ou a son avocat) nomme ci-dessous.

IN THE COUNTY COURT OF
DUVAL COUNTY, FLORIDA

CASE NO: 16-2018-CC-13861
DIVISION: CC-I

MARSH SOUND ASSOCIATION, INC.,
a Florida corporation,

Plaintiff,

v.

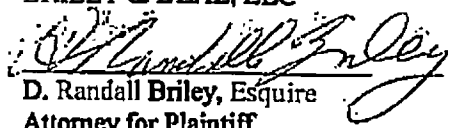
KELLY R. CLIFFORD and, NANCY L. CLIFFORD

Defendants.

MOTION FOR CLERK'S DEFAULT

COMES NOW, Plaintiff, Marsh Sound Association, Inc., by and through its undersigned attorney, and moves for an entry of a default by the clerk against the Defendant, Kelly R. Clifford for failure file any pleading in response to the complaint as required by law.

BRILEY & DEAL, LLC


D. Randall Briley, Esquire
Attorney for Plaintiff

2215 South Third Street, Ste. 101

Jacksonville Beach, FL 32250

FL Bar No. 797316

(904) 285-5299 Telephone

(904) 285-1640 Facsimile

rbriley@jaxrelaw.com

A default is entered in this action against the Defendant, Kelly R. Clifford in the foregoing action for failure to serve or file any paper as required by law.

DATED this ___ day of _____ Sep 09 2019 _____, 2019.

As Clerk of the Court

By: _____

As Deputy Clerk

Copies to: D. Randall Briley, Esquire
Kelly R. Clifford



This is a True and Correct Seal

EXHIBIT C

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