

RETURN TO:

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OFFICIAL RECORDS

HARBOUR ISLAND
DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made on the date hereinafter set forth
✓ by WALTER T. BONEY.

W I T N E S S E T H :

WHEREAS, Walter T. Boney is the owner of certain property in the County of Duval, State of Florida, which is more particularly described as:

All numbered lots, all roadways and Tract "A" shown on the plat of Harbour Island, according to the plat thereof recorded in Plat Book 41, pages 53, 53A and 53B current public records of Duval County, Florida.

NOW THEREFORE, Walter T. Boney hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

✓ Section 1. "Association" shall mean and refer to HARBOUR ISLAND COMMUNITY ASSOCIATION, INC., its successors and assigns.

Section 2. "Declarant" shall mean and refer to Walter T. Boney and his heirs, representatives, successors and assigns if such successors or assigns should acquire more than two undeveloped Lots from the Declarant for the purpose of development. The term "Declarant" shall specifically include Register Moody General Contractors, Inc.

Section 3. "Lot" shall mean and refer to each and every numbered lot shown on the Plat. Tract "A" shall not be a "Lot". A "Canal Lot" shall be a Lot which is bounded by the canal.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Plat" shall mean the plat of Harbour Island recorded in Plat Book 41, pages 53, 53A and 53B, current public records of Duval County, Florida.

Section 6. "Properties" shall mean and refer to that certain real property hereinbefore described and shown on the Plat.

Section 7. "Residence" shall mean the single family dwelling placed upon a Lot.

Section 8. "Tract 'A'" shall mean Tract "A" shown on the Plat.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on January 1, 1991.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) annual general assessments or charges, and; (2) annual and special waterway assessments levied against Canal Lots (3) general special assessments for capital improvements levied against all Owners; and (4) individual special assessments levied against particular Owners as a result of a violation of these covenants. The assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made and each Owner hereby grants such lien to the Association; such lien shall not be affected by any sale or transfer of the property to which the lien applies. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Annual Assessments. The annual general assessments levied by the Association shall be used for the following purposes:

- (a) To maintain all roadways within the Properties;
- (b) To maintain the bridge connecting the island with the mainland and the walkway adjacent to the bridge;

(c) To maintain all landscaping, signs, and all amenities which may be placed upon any land owned by the Association;

(d) To carry public liability insurance in such amounts as the Board of Directors deems sufficient;

(e) To pay and perform all of the obligations required of the Association pursuant to the agreement between the Association and the City of Jacksonville as set forth in the deed recorded in Official Records Volume 5918, page 2339, public records of Duval County, Florida;

(f) To maintain all street lighting and drainage facilities with respect to the Properties;

(g) To pay all ad valorem taxes and special assessments with respect to the roadways, bridge, and any property owned by the Association; and

(h) To establish reserves for the foregoing; and

(i) To pay such other charges and expenses as may be authorized from time to time by the Board of Directors.

Section 3. Waterway Assessments. All Canal Lots shall be subject to annual waterway assessments to defray the expense of and to establish reserves for maintainance, dredging, and repair of the canal. The Association shall also have authority to levy special waterway assessments to pay extraordinary or unforeseen expenses, but such assessments shall require the approval of 2/3ds of each class of members who own Canal Lots and who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Special Assessments.

(a) In addition to the annual general assessments and waterway assessments authorized above, the Association may levy, in any assessment year, a general special assessment against all Lots, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including

fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

(b) In addition, the Board of Directors of the Association is authorized, in its reasonable discretion, but not obligated, to levy an individual special assessment against any particular Lot or Lots and the Owner(s) thereof to remedy any violation of these covenants, including but not limited to the failure of any Owner to maintain the exterior of his Residence and his landscaping.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4(a) (but not 4(b)), shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At each such meeting called, the presence of members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum.

Section 6. Uniform Rate. Both annual general assessments and general special assessments must be fixed at a uniform rate for all Lots and may be collected on such basis as the Association determines. Waterway assessments, (whether annual or special) must be fixed at a uniform rate for all Canal Lots and may be collected on such basis as the Association determines.

Section 7. Date of Commencement of Assessments: Due Dates. The annual general assessments and waterway assessments for each respective Lot shall commence on the first day of the month following the conveyance of such Lot by Walter T. Boney or Register Moody General Contractors, Inc., as the case may be. The first annual general assessment and annual waterway assessment for each Lot shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual general assessment and annual

waterway assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual general assessment and annual waterway assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen (18%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of or abandonment of his Lot or non-use of or abandonment of the canal.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first or second mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exemption. Notwithstanding anything contained herein, so long as any Lot is owned by Walter T. Boney or Register Moody General Contractors, Inc., such Lot shall not be subject to assessments.

Section 11. Capital Contributions. The Association may require, upon the conveyance of each Lot from Walter T. Boney or Register Moody General Contractors, Inc., the payment of a capital contribution equal to the annual general assessment and annual waterway assessment for such year.

Section 12. Maximum Assessments.

(a) Until January 1, 1987, the maximum annual general assessment shall be Two Hundred and No/100 (\$200.00) Dollars per Lot and the maximum annual waterway assessment shall be Three Hundred and No/100 (\$300.00) Dollars per Canal Lot.

(b) From and after January 1, 1987, the maximum annual general assessment and the maximum annual waterway assessment may each be increased each year in accordance with changes in the Consumer Price Index (All Items), but in no event shall any such assessment be less than the assessment established for the preceding year. Such increases may be made by the Association without a vote of the membership.

(c) From and after January 1, 1987, the maximum annual general assessment may be increased above the increase indicated by the Consumer Price Index by a vote of 2/3ds of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. Likewise, the maximum annual waterway assessment may also be increased above the change indicated by the Consumer Price Index by a vote of 2/3ds of each class of members who own Canal Lots and who are voting in person or by proxy at a meeting duly called for this purpose.

(d) The Board may fix the annual general assessment and the annual waterway assessment at an amount not in excess of the maximum.

(e) The Association, in determining the common expenses, shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Association's property and the maintenance and dredging of the canal and such reserve fund shall be maintained out of the annual general assessments and annual waterway assessments.

ARTICLE IV

MAINTENANCE

Section 1. Association. The Association shall repair, replace and maintain in good condition the bridge and walkway connecting the island with the mainland, and all roadways, signs, landscaping, street lighting, drainage facilities and all other real and personal property owned by the Association.

Section 2. Residences. Each Owner shall maintain his Residence, all landscaping and any bulkhead upon his Lot in good condition and repair. If any Owner fails to maintain his Residence, landscaping and bulkhead in accordance with this Declaration, then the Board of Directors of the Association, may (but shall not be obligated to) levy a special assessment against the Lot and the Owner thereof for the cost of the repair and maintenance.

Section 3. Destruction. In the event any Residence is damaged or destroyed by fire or other casualty, then within nine months of the date of such damage or destruction, such Residence shall be restored by the Owner thereof in accordance with the procedure set forth in Article V, or the Lot shall be cleared and landscaped.

Section 4. Since there are many other property owners abutting the canal, in other subdivisions, the Association shall have no duty or responsibility to maintain the canal. The Association shall cooperate with other homeowner associations in the area in a joint attempt to maintain the canal from time to time.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall, dock, pier, bulkhead or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or

alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association (the "Board"), or by an architectural committee composed of three (3) or more representatives appointed by the Board (the "Committee"). In the event said Board, or the Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

SETBACK LINES

The Committee or the Board shall have the right to establish appropriate setback requirements in the process of approval of plans pursuant to Article V. For the purpose of this covenant, fences, walls and unroofed and unscreened patios shall not be considered part of the building and may be erected back of setback lines, subject to prior written approval of the Board or Committee as provided in Article V and subject to the provisions regarding easements in Article VII.

ARTICLE VII

EASEMENTS

Section 1. Utilities and Drainage. Easements for installation, maintenance, repair and replacement of utilities, cable television and drainage are reserved over, under, across and upon the following areas of each Lot, (other than any portion of Lots 11 and 12 having a depth [as measured at right angles from the roadway] of less than forty feet, which portions shall not be encumbered by any of the following easements):

(a) A strip of land contiguous to each interior side — line of a Lot five (5) feet in width; and

(b) A strip of land contiguous to the front line of each Lot and fifteen (15) feet in width.

Within the easement areas no structure or other improvement shall be placed or permitted to remain which may damage or unreasonably interfere with the installation and maintenance of utilities and drainage facilities.

The expense of moving or relocating any improvement within an easement area in the event such moving is required in order to install, erect, maintain, repair or replace any such line shall be borne by the Owner of the Lot at the time such removal or relocation is required. The easement areas and areas within any set-back line of each Lot and all improvements therein shall be maintained continuously by the Owner of each Lot. All utility lines serving only one Lot from the point where such line connects to the main line shall be maintained by the Owner of such Lot.

Section 2. Canal Maintenance Easement. Declarant hereby reserves unto itself, its successors and assigns, for the use and benefit of the Canal Lots, the nonexclusive and perpetual right and easement to enter upon the portion of the Canal Lots bordering on the canal to the extent necessary to perform maintenance, dredging and repairs upon the canal.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Residential Use. Each Lot shall be used exclusively for residential purposes only, and no manufacturing or commercial enterprise or enterprises of any kind for profit, including but not limited to the rental of rooms or apartments, shall be maintained upon or in connection with the use of any Lot.

No structure shall be erected, altered, placed or permitted to remain on any Lot other than a Residence and related facilities.

Section 2. Detached Structures and Objects. Without the prior written consent of the Board or Committee, none of the following buildings, structures or objects shall be erected and maintained or allowed to remain on any Lot unless screened from view from all other Lots, all roadways and from the canal and marsh: pens, yards and houses for pets; hothouses; greenhouses; above ground storage of construction materials, wood, coal, oil and other fuels; clothes washing and drying equipment; laundry rooms; appliances; tool shops and workshops; servants' quarters; guest houses; play houses; summer houses; outdoor fireplaces; barbecue pits, swimming pools, dressing rooms, garbage and trash cans and receptacles; detached garages and carports, and above ground exterior air conditioning and heating equipment and other mechanical equipment and any other structures or objects determined by Declarant, the Board or the Committee to be of an unsightly nature or appearance.

Section 3. Temporary, Movable Structures. Except as otherwise permitted herein, no shed, shack, trailer, tent or other temporary or movable building or structure of any kind shall be erected or permitted to remain on any Lot. This paragraph shall not however prevent the use of a temporary construction shed during the period of actual construction (which shall be no longer than nine months unless otherwise approved by Declarant) of the main residence and other buildings permitted hereunder, nor the use of adequate sanitary toilet facilities for workmen during the course of such construction nor shall this paragraph prevent Declarant from establishing a sales office upon the Properties so long as Declarant holds Lots for sale.

Section 4. Window Air Conditioner. No window air conditioner unit shall be installed in any Residence without the prior written consent of Declarant, the Board or the Committee.

Section 5. Antennas. No radio or television aerial or antenna or any other exterior electronic or electric equipment or device of any kind shall be installed or maintained on the exterior of any Residence or any portion of any Lot unless and until Declarant, the Board or Committee shall have approved of the location, size and design thereof and the necessity therefor.

Section 6. Mail Boxes. There shall be no mail boxes or newspaper boxes unless approval therefor is given by Declarant, the Board or the Committee which shall also require approval as to the initial and continued location, size and design of same.

Section 7. Trash. Burning of trash, rubbish, garbage, leaves or other materials, in the open, by an incinerator or otherwise, is prohibited. All garbage and trash must be stored in closed containers and in such location so as to be hidden from view from any adjacent Lot or street.

Section 8. No Wells or Septic Tanks. No well or septic tank shall be constructed on any Lot without the prior written approval of Declarant.

Section 9. Parking, Storage, Repairs. No vehicles (including but not limited to boats, boat trailers, travel trailers, camp trailers, motor homes, mobile homes) or any similar property shall be kept on any street or stored on any Lot except within a garage or an area screened from view of any Lot, street, canal or marsh. No repairing or overhauling of any vehicles is allowed on any part of the Properties.

Section 10. Condition of Lots. Each Owner shall maintain the entire Lot (and the improvements thereon) in a neat and clean condition at all times. No trash, garbage, rubbish, debris or refuse or unsightly objects shall be allowed to be placed, accumulated, or suffered to remain anywhere on any Lot or street.

Section 11. Drying. There shall be no outdoor drying of wash on any Lot or other portion of the Properties, unless screened from view from and other Lot, all roadways and any canal or marsh.

Section 12. Animals. No animals, livestock or poultry of any kind shall be raised, bred or maintained on any Lot or other portion of the Properties. There shall be allowed a reasonable number of domesticated dogs, cats or other household pets provided such pets are kept for the pleasure and use of the Owner, and not for commercial purposes, none of which shall be permitted to run free. If, in the sole discretion of Declarant or the Board, any of said pets become dangerous or an annoyance or nuisance to other residents of the Properties or surrounding areas, or destructive of wildlife or property, they may not thereafter be kept on the Properties.

Section 13. Grading. No Lot or part thereof or any other portion of the Properties shall be graded, and no changes in elevation of any portion of the Properties shall be made which would adversely affect any adjacent property, without the prior written consent of Declarant.

Section 14. Resubdividing; Replatting; Access Restrictions. Without the prior written approval of Declarant no Lot shall be resubdivided or replatted. In the event of such approved replatting or resubdividing, all of the provisions of this Declaration shall apply to the portion of the Properties so resubdivided or replatted and no such resubdividing or replatting shall affect any easement shown on the Plat or reserved in this Declaration. Declarant shall have the right to approve the use of one or more contiguous Lots, all or part of any Lot, all of one Lot and part of a contiguous Lot or Lots or any combination of contiguous parts of Lots which will form an integral unit of land suitable for use as a residential building site.

Section 15. Canal Lots. No Canal Lot owner shall have the right to pump or otherwise remove any water from the canal for the purpose of irrigation or for any other use or to place any refuse, pollutant or other discharge in the canal. The owner of each Canal Lot shall maintain his Lot with grass plantings or a bulkhead or other lateral support to prevent erosion of the

embankment adjacent to the canal and the height, grade and contour of the embankment shall be maintained and shall not be changed without the prior written consent of the Declarant or the Association.

Section 16. Additional Covenants and Restrictions. No Owner, other than Declarant, of any part of the Properties shall, without the prior written approval of Declarant impose any additional covenants or restrictions on any part of the Properties.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, including Declarant, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years; provided however the obligations imposed under Article IV, Section 1 shall not be terminated until maintenance of common areas and roadways has been assured by the governmental entity or agency having jurisdiction thereof. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent

(90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Reservation. Notwithstanding anything to the contrary contained in Section 3 of this Article, Declarant reserves unto itself, its successors, assigns, nominees and designees and shall have the right to the following:

(a) To amend this Declaration, without prior approval of any Owner, so long as such amendment shall conform to the general purposes and standards set forth herein or so long as such amendment is required as a condition for financing by any institutional lender or any organization that purchases or insures real estate mortgages.

(b) To amend this Declaration, without prior approval of any Owner for the purpose of curing any ambiguity in or any inconsistency between the provisions set forth herein or to amend this Declaration in any respect that does not materially affect the rights of any Owners of Lots previously conveyed.

(c) To include in any contract for sale, deed, or other instrument hereafter made, any additional covenants other than those set forth herein which do not lower the standards of this Declaration, without prior approval of any Owner.

(d) To release, without prior approval of any Owner, any Lot or other portion of the Properties from any part of the covenants set forth in this Declaration which have been violated if Declarant in its sole discretion, determines such violation or violations to be minor or insubstantial and to make exceptions, without prior approval of any Owner, to the covenants and restrictions set forth herein if Declarant deems such exception to be in the best interest of the development.

Notwithstanding anything in this Section 4 to the contrary, no amendment to this Declaration shall affect the rights or lien of any mortgagee without such mortgagee's express consent thereto.