

2
 (26)
 STEWART TITLE

Prepared by and Record and Return to:
 Baron L. Bartlett
 50 North A1A, Suite 103
 Ponte Vedra Beach, FL 32082

01312

Public Records of
 St. Johns County, FL
 Clerk# 00-020275
 O.R. 1495 PG 1777
 10:44AM 05/12/2000
 REC \$105.00 SUR \$13.50

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
MARSH VIEW AT PONTE VEDRA SHORES

THIS DECLARATION, dated April 27, 2000, is made by MARSHVIEW DEVELOPMENT, INC., a Florida corporation, the owner of fee simple title to all of the real property as described on Exhibit A attached hereto (hereinafter the "Property") located within the Ponte Vedra Shores West subdivision as described on the plat recorded in Map Book 14, pages 34 through 35, of the Public Records of St. Johns County, Florida ("Marsh View at Ponte Vedra Shores"). Marshview Development, Inc. hereby declares that all of the lots of Marsh View at Ponte Vedra Shores are as shown on Exhibit A attached hereto, and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, liens and all other matters set forth in this Declaration which shall run with the land and be binding upon the Developer and all parties having or acquiring any right, title, or interest in these lots in Marsh View at Ponte Vedra Shores or any part thereof.

ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION

Section 1.1 **Mutuality**. The covenants, restrictions and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every Lot and Unit, and are intended to create mutual equitable servitudes upon each Lot and Unit in favor of the other Lots and Units, to create reciprocal rights among the respective Owners, and to create privity of contract and an estate between the grantees of Lots and Units, their heirs, successors, and assigns.

Section 1.2 **Benefits and Burdens**. Every person who is an Owner does by reason of taking title to a Unit on a Lot within Marsh View at Ponte Vedra Shores subdivision agree to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its burdens.

ARTICLE II
DEFINITIONS

Section 2.1 **Sub-Association**. Marsh View at Ponte Vedra Shores West Association, Inc., a Florida non-profit corporation, its successors and assigns (hereinafter the "Sub-Association"). The Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Sub-Association are attached as Exhibits B and C respectively.

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

Section 2.3 **Developer**. Marshview Development, Inc., a Florida corporation, Its successors and assigns.

Section 2.4 **Marsh View at Ponte Vedra Shores Property**. Marsh View at Ponte Vedra

OR1495P61778

Shores Lots as described on Exhibit A and together with and including other real property made subject to this Declaration or any supplemental declaration in accordance with the provisions of Article III less and except any real property released from this Declaration in accordance with the provisions of Article III.

Section 2.5 Lot. Lot shall mean any lot or other parcel within Marsh View at Ponte Vedra Shores on which a residence has been or could be constructed.

Section 2.6 Unit. Unit shall mean a single-family dwelling located on a lot as a part of a multi-family building, together with all appurtenant improvements located on the Lot.

Section 2.7 Building. The word Building, when capitalized, shall mean a building within the Property containing two or more units.

Section 2.8 Improved Lot. Any Lot on which one or more Units are located.

Section 2.9 Unimproved Lot. Any Lot which is not an Improved Lot.

Section 2.10 Owner. A person who is a record owner of a Unit on each Lot.

Section 2.11 Master Association. Ponte Vedra Shores West Homeowners Association, Inc., a Florida non-profit corporation, its successors and assigns.

Section 2.12 Original Declaration. The original declaration of Covenants, Restrictions and Easements as recorded in Official Records Volume 488, page 255 and Designation of Architectural Control Committee in Official Records Volume 587, page 219, Assignment in Official Records Volume 629, page 6 and supplemental in Official Records Volume 605, page 302 of the public records of St. Johns County, Florida, and Terms, Conditions, Covenants, Restrictions and Easements in Official Records Volume 655, page 1772 of the public records of St. Johns County, Florida. This document contains provisions creating easements, liens for amounts of money, charges or assessments for various purposes. All Lots and Units herein are subject to these Master Association Declarations and well as these second and subordinate Covenants and Restrictions (hereinafter referred to as the "Master Association").

Section 2.13 Common Property. All real or personal property and all interests in real or personal property (including easements and use rights) owned by the Association, or Developer located within or adjacent to the boundaries of the Lots within Marsh View at Ponte Vedra Shores, held for the common use and enjoyment of the members of the Master Association and the Sub-Association. The common property also specifically includes each Lot and the original plat as controlled by the Master Association. In addition, the Common Property shall specifically include any underground well, feeder lines, pumps, pumphouses and additional components serving the underground irrigation system and any replacements or additions thereto within the Property up to the Lot lines of individual Lots. Finally, until such time as the Developer no longer owns any Lots within the Property, the Developer, or such of its successors and assigns as shall have been specifically granted the right to submit additional property to this Declaration, may designate additional property as Common Property of the Sub-Association as long as the conditions of Section

OR1495P61779

3.1 regarding addition of property are met.

Section 2.14 The Work. The initial development by the Developer of all or any portion of any Lot as a residential complex by the construction and installation of parking, buildings, landscaping, and other improvements, and the sale, lease, or other disposition of the Property in parcels. 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.

ARTICLE III **ADDITIONS, DELETIONS, PLATTING**

Section 3.1 Additions, Deletions. Developer may, but shall not be obligated to, subject additional lands to this Declaration from time to time provided only that (a) any additional land subjected to this Declaration shall be contiguous to property then subject to this Declaration (for purposes of this Section 3.1, property separated only by public or private roads, water bodies or open space shall be deemed contiguous), (b) the additional land shall be open space to become part of the Common Property adjacent to single family residential Units when the property is made subject to this Declaration, and (c) the addition of such lands shall not, without the joinder or consent of a majority of the members of the Master Association, materially increase the pro rata share of Master Association expenses payable by the Owners of property, other than the Lots subjected to these Covenants and Restrictions, subject to this Declaration prior to such addition. Developer may also, but shall not be obligated to, withdraw land from the scheme of development contemplated by this Declaration and release it from the obligations of this Declaration from time to time, provided only that (a) all lands remaining subject to this Declaration after such withdrawal are contiguous, and (b) the withdrawal of such lands shall not, without the joinder or consent of a majority of the members of the Master Association, materially increase the pro rata share of the Master Association expenses payable by the Owners of property remaining subject to his Declaration after such withdrawal. Addition of lands to, or withdrawal of lands from this Declaration shall be made and evidenced by filing in the public records of St. Johns County, Florida, a supplementary declaration with respect to the lands to be added or withdrawn. Developer reserves the right to so amend and supplement this Declaration without the consent or joinder of the Sub-Association or of any Owner or mortgagee of land in Marsh View at Ponte Vedra Shores.

Section 3.2 Platting and Subdivision Restrictions. Developer may from time to time, plat or replat all or any part of the Property, and may file subdivision restrictions and amendments thereto with respect to any undeveloped portion of the Property or any after acquired property.

ARTICLE IV **PROPERTY RIGHTS**

Section 4.1 Owners' Easement of Enjoyment. The Sub-Association shall at all times be responsible for the maintenance of the Common Property. When the Developer no longer owns any Lots within the Property or, at Developer's option, at any earlier time, the Common Property shall be conveyed to the Sub-Association subject to any taxes for the year of conveyance, restrictions, conditions, limitations, easements of record for drainage and public utilities and perpetual non-exclusive easement for ingress and egress granted to the Master Association. Every Owner shall

OR1495P61780

have a right of use and an easement of enjoyment in and to the Common Property of the Sub-Association, which shall be appurtenant to, and pass with, the title to every Lot subject to the following:

4.1.1 The right of the Sub-Association to take such steps as are reasonably necessary to protect the Common Property against foreclosure.

4.1.2 The right of the Developer or the Association to grant easements and rights of way as either may deem appropriate for the property development and maintenance of the Property, including and without limitation, the Developer/s right to reserve an easement for itself, its successors and assigns for ingress, egress, maintenance and utilities over all roadways and Common Property.

4.1.3 All provisions of this Declaration, any plat of all or any parts of the Property, and the Articles and Bylaws of the Association.

4.1.4 Rules and regulations governing use and enjoyment of the Common Property adopted by the Association. Easements and restrictions of record affecting any part of the Common Property.

4.1.5 Provisions of the Restated Declaration.

4.1.6 Each Lot shall be provided access via a joint and recognized driveway that may be located partially within the Common Property. The driveway serving each Lot is hereby designated for the exclusive use of the Owner of the Lot served, his guests, invitees and authorized delivery persons.

Section 4.2 Reciprocal Easements. Reciprocal appurtenant easements are hereby created between each Lot and the adjacent portion or portions of the Common Property, and between adjacent Lots, for (i) the existence, maintenance, repair, and reconstruction of any roofs, exterior walls or party walls, driveways, as provided in this Declaration for the benefit of those persons or entities, including the Association, responsible for or permitted to perform such maintenance, repair and reconstruction; (ii) lateral and subjacent support; (iii) overhanging roofs, eaves, pull-off parking spaces (and the use thereof for permitted parking purposes), and trees, if any, installed by Developer as part of the Work, and their replacements; (iv) encroachments caused by the unwillful placement, settling, or shifting of any improvements (including Unit walls) constructed, reconstructed, or altered thereon in accordance with the provisions of this Declaration; and (v) the drainage of ground and surface waters as part of the Work.

The extent of such easements for maintenance, drainage, support, and overhangs is that reasonably necessary to effectuate their respective purposes; and, except as to pull-off parking spaces, easements of encroachment may extend to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary at such point. The easement for encroachment shall specifically allow the continued existence of Unit walls and other improvements appurtenant to any Unit constructed across Lot lines as part of the Work and shall permit reconstruction of such Unit walls and other appurtenances to Units in substantially the same location in the event of destruction of one or more Units within a Building.

OR1495P61781

There is no easement for overhangs or encroachments caused by the willful or intentional misconduct of any Owner of the Association. There are also reciprocal appurtenant easements between Lots for the installation, maintenance, repair and replacement of any utility installations (including any television or radio cables and appurtenances) servicing more than one Lot; but such easements must be exercised in a reasonable manner so as not to cause any permanent, material injury to any Lot. Entry into any improvement is authorized only with the consent of its Owner and occupant, which consent may not be unreasonably withheld so long as such entry is at a reasonable time, in a reasonable manner, and upon reasonable prior notice whenever circumstances permit.

ARTICLE V **THE SUB-ASSOCIATION**

Section 5.1 **Membership.** Each Owner including the Developer (at all times so long as it owns any part of the Property subject to this Declaration) shall be a member of the Sub-Association and the Master Association, provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 5.2 **Classes and Voting.** The Sub-Association shall have such classes of membership as are set forth in the Articles of the Association.

Section 5.3 **Duties and Obligations Re: Common Area.** It shall be the duty of the Sub-Association to manage and maintain the Common Property in a safe, clean, attractive, sanitary and serviceable condition, and in good order and repair for the benefit of all Owners. The Sub-Association's duties shall include the management, operation, maintenance, repair, servicing, tangible personal property installed by Developer as part of the Common Property. The Sub-Association shall keep the improvements located in the Common Property, if any, including fixtures and personal property of the Sub-Association, insured the maximum insurable replacement value, excluding foundation and excavation costs, as determined by the Board of Directors. The insurance shall provide coverage against loss or damage by fire or other hazards covered by a standard extended endorsement and such other risks as from time to time are customarily covered with respect to improvement similar in construction, location and use as the improvements on the Common Property, including but not limited to vandalism and malicious mischief, and flood and water damage, if the improvements are at any time located in a federally designated flood plain area. The Sub-Association shall carry public liability insurance in amounts and with coverage as determined by the Board. To the extent from time to time available, the Sub-Association's insurance must provide for waiver of subrogation by the Sub-Association's insurer against any Owner because of unintentional acts or omissions.

Section 5.4 **Lawn and Landscape Maintenance.** In the event the Master Association fails or otherwise refuses to provide lawn and landscape maintenance, the Sub-Association shall provide lawn and landscape maintenance consisting of mowing, trimming, edging, fertilizing, weeding, pruning, and pest control for all grassed and landscaped areas located on each Lot within the Property. The Sub-Association and its employees, contractors or agents shall have an easement over and across all Lots as shall be necessary or convenient to provide the lawn maintenance described

0R1495P61782

herein. The Sub-Association shall not be responsible for replacement of damaged or dead grass, shrubs or other plants.

Section 5.5 Services. The Sub-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 Sub-Association determines are necessary, convenient, or desirable for the proper operation of the Property or the performance of the Sub-Association's responsibilities under this Declaration, whether such personnel are furnished or employed directly by the Sub-Association or by any person with whom it contracts. Without limitation, the Sub-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 Declaration or Sub-Association's rules and regulations.

Section 5.6 Other Rights. The Sub-Association shall have and may exercise any and all other rights, powers, or privileges given to it expressly by this Declaration or the Articles of Incorporation and Bylaws of the Association and shall also have every other right, power, and privilege reasonably necessary, convenient, or desirable to effectuate the exercise of any right, power or privilege so granted.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of real property within the Property, other than the Developer, hereby covenants, and by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Sub-Association and the Master Association any annual assessments or charges and any special assessments for capital improvements or major repair against such property. Such assessments shall be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with interest thereon from the due date at the highest lawful rate and costs of collection thereof (including reasonable attorneys fees), shall be a charge on the Lot and shall be a continuing lien upon the Lot(s) (other than Lot[s] owned by Developer) against which each such assessment is made, and shall also be the personal obligation of the Owner. No Owner may avoid liability for the assessments by waiver of rights to use, or by non-use of, the Common Property or by abandonment.

Section 6.2 Purpose of Assessments. The annual and special assessments levied by the Master Association or the Sub-Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property and in particular for the improvement and maintenance of the Common Property and of any easements in favor of the Sub-Association and for carrying out the responsibilities and obligations of the Sub-Association. Assessments may be used for the cost of taxes on the Common Property, insurance, labor, equipment, materials, management, maintenance and supervision thereof, as well as for such other purposes as are permissible activities of, and are undertaken by the Sub-Association.

Section 6.3 Annual Assessments.

- (a) Until January 1 of the year immediately following the conveyance of the first

0R1495P61783

Lot by the Developer, the maximum the annual maintenance assessment shall be \$1,800.00 per year or \$150.00 per month for each fully assessable Unit. The Board shall fix annual assessments in accordance with the provisions of this Article VI to meet the projected financial needs of the Association and, so long as it fixes the annual assessment at or below the maximum its decision as to the amount of the annual assessment shall be dispositive.

(b) Commencing with the fiscal year beginning January 1 of the year immediately following the conveyance of the first Unit by the Developer and each year thereafter, the board, at its annual meeting next preceding such date, and each respective January 1 thereafter, may set the amount of the maximum annual assessment for the following year for each Unit, provided that the maximum annual assessment may not be increased by more than ten percent (10%) above the maximum annual assessment for the previous year unless otherwise approved by a vote of four-fifths (4/5) of the members of the Board.

(c) The amount of the annual assessment shall be fixed by the Board at least thirty (30) days before the beginning of each fiscal year and shall be payable monthly or in such other installments as shall be determined by the Board of Directors. Written notice of such assessment shall be given to every owner; but the failure to give such notice will not invalidate any otherwise proper assessment. In the absence of Board action to the contrary at least thirty (30) days before the beginning of any fiscal year, the annual assessment then in effect will continue for such fiscal year.

(d) The first annual assessment for Marsh View at Ponte Vedra Shores shall be payable monthly at the rate of \$150.00 per month per fully assessable Unit. The initial capital contribution upon purchase of each Unit shall be \$1,000.00.

Section 6.4 Commencement of Annual Assessment. The annual assessment begins as to all Lots within the Property on the first day of the month following the recording of the first deed conveying title by the Developer of any Lot within the Property to an Owner other than the Developer. The first annual assessment against any Lot shall be prorated according to the number of months then remaining in the fiscal year.

Section 6.5 Supplemental Assessments. If the Board fixes the annual assessment for any year at a level below the maximum level permitted under Section 6.3 and thereafter during such year determines that the necessary functions of the Sub-Association cannot be funded by such assessment, the Board may, by majority vote, levy a supplemental assessment (not including special assessments) so long as the total annual assessment is equal to or less than the maximum level specified under Section 6.4.

Section 6.6 Special Assessment for Capital Improvements and Major Repairs. In addition to any annual assessments, the Sub-Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement including the necessary fixtures or replacement of a capital improvement including the necessary fixtures and personal property related thereto. Any such special assessment shall be approved by four-fifths (4/5) of the members of the Board.

OR1495P61784

Section 6.7 Special Assessments for Maintenance. The cost of any maintenance undertaken by the Sub-Association under the provisions of Article VIII shall be assessed against the property upon which such maintenance is performed or, in the opinion of the Board, benefiting from same. The assessment shall be apportioned among the property involved in the manner determined to be appropriate by the Board. If no allocation is made, the assessment shall be uniformly assessed against all of the Lots in the affected area. Such maintenance assessments shall not be considered a part of the annual assessments imposed upon the Property pursuant to this Article VI or pursuant to the Restated Declaration. Any exterior maintenance assessment shall be a lien upon each Lot assessed and the personal obligation of the Owner of each such Unit and shall become due and payable on all respects, together with interest and fees for the cost of collection as provided for in Section 6.1, and shall be subordinate to mortgage liens to the extent provided by Section 6.12.

Section 6.8 Uniformity of Assessments. All annual, supplemental or special assessments for maintenance as provided under Section 6.7, levied by the Sub-Association shall be uniform throughout the Property except that such assessments against any Lot in which the Developer owns an interest 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 the Sub-Association (as defined in the Articles of Incorporation) in an amount not less than twenty-five percent (25%) nor more than one hundred percent (100%) of the amount of the applicable assessment against Lots owned by the Class A members of the Sub-Association then in effect; provided that the Developer funds the deficits, if any, between the aggregate amount assessed Class A members and the Developer and the total expenses of the Sub-Association during the applicable period of control. 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 member so the Sub-Association, prorated as of, and commencing with, the month following the date of transfer of title.

Section 6.9 Negligence. Any Owner shall be liable to the Sub-Association for the expense of any maintenance, repair or replacement of the Common Property rendered necessary by his act, neglect or carelessness or by that of his family or his guests, employees, agents, invitees or other invitees. This expense shall become part of the Assessment to which such Lot and owner are liable under this Article. As such, it shall be a lien upon such Lot and obligation of the Owner and shall become due and payable in all respects as provided hereunder.

Section 6.10 Duties of the Board in Fixing Assessments. The Board shall fix the date of commencement, and the amount of the assessment against each Lot and other portions of the Property, and the payment schedule and the due date at least thirty (30) days in advance of the beginning of the fiscal year. The Board shall prepare or cause to be prepared a roster of the Lots and assessments applicable thereto which shall be open to inspection by any Member during normal business hours. Written notice of the assessment shall be sent to every Owner subject thereto not later than seven (7) days after approval of the assessment by the Board.

The Sub-Association shall, upon demand at any time, furnish to any owner liable for such assessment a certificate in writing signed by an officer of the Sub-Association, setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment of and any assessment therein stated to have been paid.

0R1495P61785

Section 6.11 Effect of Non-Payment of Assessment: Lien, Personal Obligation, Remedies of Sub-Association. The lien of the Sub-Association shall be effective from and after recording in the public records of St. Johns County, Florida, a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount and the due date. Such claim of lien shall include only assessments which are due and payable when claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interests thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Sub-Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record, and the affected Lot Owner shall pay the cost of such satisfaction.

If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest from the due date at the highest lawful rate, and the Sub-Association may at any time thereafter bring an action to and/or a suit on the personal obligation against the Owner(s). There shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action (including reasonable attorneys' fees), and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees to be fixed by the Court together with the costs of the action.

Section 6.12 Subordination to Lien of Mortgages. The lien of the assessments provided for by this Declaration shall be subordinate to the lien of any first mortgage to a federal or state chartered bank, mortgage company, life insurance company, federal or state savings and loan Sub-Association or real estate investment trust which is perfected by recording prior to the recording of a claim of lien for any such unpaid assessments by the Sub-Association. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot by deed in lieu of foreclosure of such Lot or pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure of such mortgage. The total amount of assessment which remains unpaid as a result of a first mortgagee obtaining title to the Lot, shall be added to the total budget of Marsh View at Ponte Vedra Shores and paid by all Owners including the first mortgagee on a pro rata basis. No sale or other transfer shall relieve any Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. A written statement of either the Developer or the Sub-Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

Section 6.14 Exempt Property. The Board shall have the right to exempt any of the Property from the assessments, charge and lien created herein, provided that such part of the Property exempted is used (and as long as it is used) for any of the following purposes:

- (a) Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) All of the common Property;
- (c) Any of the Property exempted from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Sub-Association.

Notwithstanding any provision herein, no land or improvement devoted to residential

DR1495P61786

dwelling or related use shall be exempt from such assessments, charges or lien except to the extent provided in Section 6.8 hereof.

ARTICLE VII
MASTER SUB-ASSOCIATION AND ASSESSMENTS

Section 7.1 Ponte Vedra Shores West Master Association. Upon acceptance of a deed to a Lot, each Owner becomes a member of the Ponte Vedra Shores West Master Association, Inc. Each Lot within Marsh View at Ponte Vedra Shores has been subjected to annual and special assessments by the Master Association, in accordance with the Original Declaration of Covenants, Restrictions and Easements as recorded in Official Records Volume 488 page 255, of the Public Records of St. Johns County, Florida and any additional property made subject to this Declaration pursuant to Section 3.1 shall be made subject to the Restated Declaration by recorded instruments, acting through its Board of Directors, shall have the powers, rights and duties with respect to the Property as set forth in the Restated Declaration and the Articles of Incorporation and Bylaws of the Master Association.

Section 7.2 Lien Rights. Ponte Vedra Shores West Association, Inc. is entitled to a lien upon each Lot for any unpaid assessments under the Original Declaration. Marsh View at Ponte Vedra Shores West Association, Inc. is likewise entitled to a lien for any unpaid assessments under the Declaration.

Section 7.3 Sub-Association Responsibilities. If for any reason the Sub-Association refuses or fails to perform the obligations imposed on it under the terms of this Declaration, and other documents relevant to the Property, the Master Association shall be and is hereby authorized to act for and on behalf of the Sub-Association in such respect that the Sub-Association has refused or failed to act, and any expenses thereby incurred by the Master Association shall be reimbursed by the Sub-Association.

ARTICLE VIII
OBLIGATIONS OF OWNERS

Section 8.1 Lot and Unit Maintenance.

(a) **Owner Responsibility.** Each Owner shall, at his expense, maintain, repair and replace all portions of the exterior of his Lot, the Unit and the driveway serving his Lot, including without limitation the roof, gutters, downspouts and exterior building surfaces and their replacements, all glass surfaces and screening, doors, electric and plumbing equipment, air conditioner and heating units, lawn and landscaping items (except that the Sub-Association shall provide the lawn and landscape maintenance described in Section 5.4) and any other equipment, structures, improvements, additions, or attachments, located on the Lot by Owner or Unit or installed by Developer as part of the Work. The foregoing obligation includes any maintenance, repair, or replacement required because of the occurrence of any fire, wind, vandalism, theft, or other casualty.

All maintenance and repair shall be performed by each Owner at regular intervals as shall be necessary to keep his Lot and Unit in an attractive condition and in substantially the same condition

OR1495P61787

and appearance as existed at the time of completion of the Work, subject to normal wear and tear that cannot be avoided by normal maintenance.

As to any and all maintenance such as painting and staining, that if performed on one or more Units within a Building without being performed on all Units within the Building would create an unsightly or non-uniform appearance, all Owners within a Building shall perform such maintenance at substantially the same time, except to the extent more frequent maintenance of portions of the Building may be required due to exposure to the sun or other conditions causing accelerated weathering. To insure coordination of such maintenance, no Unit Owner may perform such maintenance upon his Unit unless the other Unit Owners within his building have agreed in writing to perform such maintenance on their Units at substantially the same time or unless the Board shall have given written approval to perform such maintenance upon one or more Units within a Building without performance of such maintenance upon all the Units within the Building. If any Unit Owner believes that such maintenance is necessary on one or more Units within his Building and the Owners of such Units will not perform such maintenance, then the Unit Owner may request that the Board notify such Unit Owners that they shall be required to perform such maintenance within a time period to be determined by the Board.

Each Owner shall promptly perform any maintenance or repair requested by the board to prevent any damage or loss to other Lots or Units or the Common Areas, and shall be liable for all loss or damage sustained by other Owners or the Sub-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.

An Owner may not cause or permit any material alteration in the exterior appearance of his Lots and Units, including the color of exterior surfaces of the Unit, without the prior written approval of the Sub-Association and the Architectural Review Committee ("ARC"). Owner shall use only roof materials, paint, and stain colors approved by the Sub-Association and the ARC when performing repair and maintenance, or when repainting or staining the exterior of their Units.

(b) Sub-Association Authority. If (i) any Owner refuses or fails to timely maintain, repair, or replace, as the case may be, any exterior portion of his Lot or Unit after reasonable notice from the Sub-Association specifying the maintenance or repair items and (ii) a majority of the members of the Board so find after reasonable notice to, and reasonable opportunity to be heard by the Owner affected, then the Sub-Association may maintain, repair, or replace the portion of the Lot or Unit specified in the notice from the Sub-Association at such Owner's expense and the cost thereof shall be specifically assessed against such Owner's Lot as elsewhere provided in this Declaration.

Section 8.2 Insurance. Each Owner shall keep his Unit insured to the maximum insurable replacement value, excluding foundation and excavation costs 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 his Unit. Each Owner shall provide the Sub-Association with a certificate of insurance within fifteen (15) days of the issuance of the policy and within fifteen (15) days of each renewal thereof. Failure of an Owner to carry the insurance required herein shall permit the Sub-

0R1495P61788

Association, following ten (10) days notice to the Owner, to obtain the required insurance coverage and to specifically assess the Owner for the cost thereof, including a reasonable fee for placing the insurance. An Owner may join with other Owners of Units within his building to purchase one insurance policy covering the entire building, or may authorize the Sub-Association to purchase insurance covering his Unit and other Units in the Property, provided, however, nothing herein shall be deemed to require the Sub-Association to provide such service.

All policies of insurance carried by the Owners shall provide that insurance proceeds payable on account of loss of, or damage to a Unit shall be payable solely to the Owner and the Owner's mortgagee, if any, except in the case of damage to more than one contiguous unit, in which case the damage shall be adjusted with the carrier or carriers by the Sub-Association and the proceeds shall be payable to the Sub-Association, as trustee for the Owners of the Units damaged and the Owners' mortgagees, if any. Such insurance proceeds shall be applied to repair or restore the Property as provided below. All insurance policies carried by Owners shall provide that coverage may not be cancelled by the carrier without first giving the Sub-Association, and the Unit mortgagee, if any, ten (10) days written notice of cancellation. All such policies shall contain, if obtainable, a waiver of the right of subrogation against any and all Lot Owners, members of the Lot Owner's family, the Sub-Association, its officers, agents and employees, as well as a waiver of the "pro rata" clause and "no other insurance" clause.

In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Sub-Association as trustee for the Owner or Owners, the Board shall, with the concurrence of mortgagees, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the Property to as good condition as formerly existed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal government agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least two (2) members of the Board, or by an agent duly authorized by the Board. The board shall obtain bids from at least two (2) reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such building or buildings. In the event that insurance proceeds are insufficient to pay all costs of repairing or rebuilding to as good condition as formerly existed, the Board shall levy a special assessment against all Owners of the damaged Units in such proportion as the Board deems fair and equitable in the light of the damage sustained by such Units to make up any deficiency. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective Owners and mortgagees in such proportion as the Board deems fair and equitable in light of the damage sustained by such Units. Such payments shall be made to all such Owners and their mortgagees as their interest may appear.

Section 8.3 Termite Protection. Each Owner shall annually cause his Unit to be inspected by a certified pest control operator for termite and other wood destroying insects, and shall maintain a termite bond with respect to his Unit. Each Owner shall provide the Association with a copy of each annual inspection and evidence that the bond is in full force and effect. Failure of an Owner to obtain and maintain such bond shall permit the Sub-Association following ten (10) days' notice, to obtain a termite inspection and bond, and to specifically assess the Owner for the cost thereof, including a reasonable fee for obtaining the inspection and bond. An Owner may join with

DR1495P61789

other Owners of Units within his building to obtain termite protection for the entire building or may authorize the Sub-Association to obtain termite protection for his Unit and other Units in the Property; provided, however, nothing herein shall be deemed to require the Sub-Association to provide such service.

ARTICLE IX

ARCHITECTURAL CONTROLS

Section 9.1 Marsh View at Ponte Vedra Shores Architectural Control Committee. The architectural review and control functions of the Sub-Association shall be administered and performed by the Marsh View at Ponte Vedra Shores Architectural Control Committee ("MVAPVSACC"). The MVAPVSACC shall consist of three (3) members who shall be appointed by and serve at the pleasure of the Developer so long as the Developer owns at least one (1) Lot within Marsh View at Ponte Vedra Shores or until such earlier time as Developer, at its option, assigns the right to appoint the MVAPVSACC to the Board. Thereafter, the MVAPVSACC shall consist of either three (3) or five (5) members (at the option of the Board) who shall be appointed by and serve at the pleasure of the Board. Members of the MVAPVSACC need not be members of the Sub-Association. A majority of the MVAPVSACC shall constitute a quorum to transact business at any meeting of the MVAPVSACC and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the MVAPVSACC. Any vacancy occurring on the MVAPVSACC because of death, resignation, or other termination of service of any member thereof shall be filled by the Developer so long as the Developer owns at least one (1) Unit within Marsh View at Ponte Vedra Shores and by the Board thereafter.

Section 9.2 Approval Required by the MVAPVSACC and ARC. Except for the initial construction of improvements upon any Lot by the Developer, no landscaping, improvements or structure of any kind including, without limitation, any building, fence, wall, swimming pool, screen enclosure, sewer, drain, disposal system, decorative building, window coverings, landscaping device or object, or other improvements including painting of individual units shall be commenced, erected, placed or maintained upon any Lot, nor shall any addition, change, or alteration therein or thereof be made, unless and until the plans, specifications and location of the same shall have been submitted to, and approved in writing by, the MVAPVSACC and the ARC (as defined in Section 9.5). All plans and specifications shall be evaluated as to harmony of external design and location in relation to surrounding structures and topography and as to conformance with the Architectural Control Criteria for Marsh View at Ponte Vedra Shores (a copy of which is attached hereto as Exhibit C) as amended from time to time. It shall be the burden of each Owner to supply four sets of completed plans and specifications for any proposed improvement to the MVAPVSACC. The MVAPVSACC shall approve or disapprove plans and specifications properly submitted within thirty (30) days of such submission. The ARC shall approve or disapprove plans and specifications within fifteen (15) days of receipt of notice of approval by the MVAPVSACC. Any plans or change or modification to approved plans shall not be deemed approved by the MVAPVSACC unless a written approval is granted by the MVAPVSACC to the Owner submitting same or unless the MVAPVSACC fails to approve or disapprove such plans or modifications within thirty (30) days of their proper submission.

Section 9.3 Powers and Duties of the MVAPVSACC. The MVAPVSACC shall have the following powers and duties:

DR1495P61790

9.3.1 To recommend amendments of the Architectural Control Criteria to the Board. Any amendment of the Architectural Control Criteria shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board at a meeting duly called and notice at which a quorum is present and voting and approved by a majority of the members of the ARC at a meeting duly called at which a quorum is present and voting. Upon approval by the Board and the ARC, notice of any amendment to the Architectural Control Criteria, including a verbatim copy of such amendment shall be delivered to each member of the Sub-Association. Provided, however, the delivery to each member of the Association of Notice and a copy of any amendment to the Architectural Control Criteria shall not constitute a condition precedent to the effectiveness or validity of such amendment nor shall it be necessary for any amendment to be recorded.

9.3.2 To require submission to the MVAPVSACC of four (4) complete sets of all plans and specifications signed by the Owner for any improvement or structure of any kind, including, without limitation, any building, fence, wall, swimming pool, enclosure, sewer, drain, disposal system, decorative building, landscaping device or object, or other improvement, the construction of which is proposed upon any Lot. The MVAPVSACC may also require submission of samples of building materials proposed for use on any Lot, and may require such additional information as reasonably may be necessary for the MVAPVSACC to completely evaluate to proposed structure or improvement in accordance with the provisions hereof.

9.3.3 To approve or disapprove any improvements or structure of any kind, including, without limitation, any building, fence, wall, swimming pool, screen enclosure, sewer, drain, disposal system, decorative building, landscape device or object or other improvement or change of modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot and to approve or disapprove any exterior additions, changes, modifications or alterations therein or thereon. All decisions of the MVAPVSACC shall be submitted to the Board, and evidence thereof may, but need not, be made by a certificate in recordable form executed under seal by the President or any Vice President of the Association. Any party aggrieved by a decision of the MVAPVSACC shall have within thirty (30) days of such decision, for a review thereof. The determination of the Board upon review of any such decision shall be dispositive as to Association approval.

9.3.4 To adopt a schedule of reasonable fees for processing requests for MVAPVSACC approval of proposed improvements. Such fees, if any, shall be payable to the Sub-Association, in cash, at the time that plans and specifications are submitted to the MVAPVSACC.

Section 9.4 Compensation of MVAPVSACC. Members of the MVAPVSACC shall serve without compensation so long as the Developer retains the right to appoint the members of the MVAPVSACC. Thereafter, the Board is encouraged to appoint professionally qualified persons (architects, landscape architects, etc.) to the MVAPVSACC, and if it elects to do so, it may, at its option, pay reasonable compensation to such professionally qualified members.

Section 9.5 Architectural Review Committee. Upon approval of any plans and specifications by the MVAPVSACC, the MVAPVSACC shall notify the Master Association ARC in

DR1495P61791

writing of such approval and shall provide a copy of the plans and specifications to the Master Association ARC. The Master Association ARC shall have fifteen (15) days from the date of approval by the MVAPVSACC to determine whether the requested improvement is in harmony with the development of Marsh View at Ponte Vedra Shores. The Master Association ARC shall indicate its approval of the requested improvement by marking or stamping the plans with its seal and the date. If the Master Association ARC disapproves the requested improvement, it shall provide written notice of such disapproval to the MVAPVSACC and the Owner. Disapproval by the Master Association ARC may be appealed to the Board of Directors of the Master Association for a period of fifteen (15) days after receipt of notice of disapproval by Owner. If the Master Association ARC does not act within fifteen (15) days of receipt of the plans and specifications, it shall be deemed to have approved the requested improvement.

Section 9.6 No Liability. The reviews, acceptances, inspection, permissions and approvals required under this Declaration and made by the Developer, Sub-Association, Master Association, MVAPVSACC, Master Association ARC, or their agents or employees are for the sole purpose of protecting the aesthetic integrity of Marsh View at Ponte Vedra Shores. As a result, neither the Developer, Sub-Association, Master Association, MVAPVSACC, ARC or their agents or employees express any opinion as to the engineering aspects, structural soundness or advisability of any improvement whether or not approved. Neither the Developer, Association, Master Association, MVAPVSACC, ARC or their agents or employees 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 on any way related to the subject matter of any such review, acceptance, inspection, permission, consent, or approval, whether given, granted or withheld by the Developer, MVAPVSACC, Sub-Association, Master Association, ARC or their agents or employees.

ARTICLE X **RESTRICTIONS**

Section 10.1 Residential Use. The Lots subject to this Declaration may be used for residential living units and for no other purpose except that one or more Lots may be used as model homes by the Developer during the development and sale of Marsh View at Ponte Vedra Shores and adjacent properties. No business or commercial building may be erected on any Lot and no business may be conducted on any part thereof.

Section 10.2 No Detached Buildings. No garage, tool or storage shed may be constructed separately and apart from a residence unless approved by the MVAPVSACC. No tents, trailers, tanks, shacks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the written consent of the Developer. This provision shall not be interpreted to prohibit construction of irrigation pumphouses and similar structures by the Developer as part of the Work.

Section 10.3 Layout and Setbacks. In order to assure that location of dwellings will be staggered where practical and appropriate, to assure visual and acoustical privacy and 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 Developer reserved unto itself, its

OR1495P61792

successors and assigns, the right to control absolutely and to solely decide the precise site and location of any dwelling or other structure upon all Lots. Provided, however, that all buildings will be set back at least 10 feet from the front lot line and 15 feet from the rear lot line and that there will be a minimum of 20 feet between four-plex buildings.

Section 10.4 Motor Vehicles and Boats. No boats, recreation vehicles or other motor vehicles, except four wheel passenger automobiles, shall be placed, parked or stored upon any Lot unless approved by the board, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a building totally isolated from public view. All motor vehicles must be parked in garages from the end of each day until the following morning. Commercial vehicles shall not be parked within public view on a regular basis. Construction trailers may be parked during construction of the Work only with the express written consent of the Developer and in an area designated by the Developer.

Section 10.5 Nuisances. Nothing shall be done or maintained on any Lot which may be or become an annoyance or nuisance to the neighborhood. Any activity on a Lot which interferes with televisions, cable or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. If a dispute or a question arises as to what may be or become a nuisance, the issue shall be submitted to the Board. Its decision shall be dispositive of such dispute or question. No immoral, improper or unlawful use shall be made of the Property and all valid laws, zoning ordinances and regulations of governmental agencies having jurisdiction thereof shall be complied with. During construction or reconstruction of all or any part of the Work, the noise, dust or other inconvenience created by such construction shall not be considered a nuisance so long as the construction activities are performed in accordance with normal usual practices.

Section 10.6 Antenna. No aerial or antenna shall be placed or erected upon any Lot, or affixed in any manner to the exterior of any building in Marsh View at Ponte Vedra Shores. Antennas, if any shall be built into the attic space of the home.

Section 10.7 Landscaping Maintenance. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Lots and all portions of the Property and any improvements placed thereon shall at all times be maintained in a neat and attractive condition. Landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of plants, plant beds, trees, turf, proper irrigation and marsh edge maintenance. The Sub-Association shall provide the lawn and landscape maintenance described in Section 5.4 of this Declaration. Each Owner, however, shall be responsible for removal and replacement of damaged or dead grass, shrubs and other plants. In order to implement effective control, the Sub-Association, its agents and assigns, shall have the right to enter upon any Lot for the purpose of mowing, pruning, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Board detracts from the overall beauty and safety of the Property, in accordance with the provisions of Article VIII hereof. During reconstruction upon any Lot after destruction of the original improvements installed by Developer, any and all vehicles involved in the construction or delivery of materials and supplies to the site shall enter and exit the site only over the driveway or driveway subsurface and shall not park on any roadway or any property other than the Lot on which construction is proceeding. During construction of the

0R1495P61793

dwelling or other improvements, the Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot. The foregoing provisions shall not apply to the original construction of the Work.

Section 10.8 Casualty Damages. In the event of damage or destruction by fire or other casualty to the improvements on any Lot, the Owner shall commence reconstruction of the improvements within three (3) months from date of casualty and shall repair or rebuild such damaged or destroyed improvements in a good workmanlike manner, within a reasonable time not to exceed one (1) year and in accordance with the provisions of this Declaration. The improvements shall be reconstructed in accordance with the original plans and specifications including color scheme, placement on lot and materials. All debris must be removed immediately and the Lot shall be restored to an orderly condition within a reasonable time not to exceed thirty (30) days from the date of such damage or destruction.

Section 10.9 No Further Subdivision. No Lot shall be divided, subdivided or reduced in size.

Section 10.10 Trees. No tree or shrub, the trunk of which exceeds four inches in diameter, shall be cut down destroyed or removed from the Lot without the prior express written consent of the MVAPVSACC.

Section 10.11 Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the MVAPVSACC.

Section 10.12 Signs. No sign of any kind shall be displayed to the public view on any Lot except as may be approved as to size and design and in accordance with criteria established by the ARC.

Section 10.13 Lighting. No external lighting shall be installed without the prior approval of the MVAPVSACC. No lighting shall be permitted which alters the residential character of Marsh View at Ponte Vedra Shores.

Section 10.14 Animals. No animals, livestock, or poultry shall be raised, bred, or kept anywhere within the Property, except that not more than two dogs, two cats, or two caged birds (or any combination thereof not exceeding two animals) may be kept in the Units provided that such pets are neither dangerous nor a nuisance to the residents of the Property. All animals shall be kept under control by the Owner at all times and leashed when outside the Owners' dwelling. Each Owner shall be responsible for cleaning up after his pet. Animals shall be kept for the pleasure or Owners only and not for any commercial or breeding use or purposes. If, in the discretion of the Association, any animal shall become dangerous or an annoyance or nuisance to other Owners, or destructive or wildlife or Property, they may not thereafter be kept in a Unit.

Section 10.15 Fences. Except as originally provided by the Developer, or as approved by the Developer (and the MVAPVSACC and the Master Association ARC) to provide visual and

0R1495PG1794

acoustical privacy, no fence, wall or other barrier shall be constructed upon any Lot.

Section 10.16 Maintenance of Driveways. The Sub-Association shall be responsible for maintenance of the driveway serving his Lot.

Section 10.17 Prohibition of Timesharing. No Residence within the Subdivision may be divided into Time-Share units as defined in Section 721.05 of the Florida Statutes.

ARTICLE XI

PARTY WALLS

Section 11.1 General Rules of Law to Apply. Each wall or fence built as a part of the Work upon the Property and placed on the dividing line between Lots is a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage caused by intentional, willful, or negligent acts or omissions apply.

Section 11.2 Sharing of Repair and Maintenance. The cost of reasonable repair, maintenance, and replacement of a party wall and the foundation or footing supporting any party wall shall be shared by the Owners who make use of the wall or foundation in proportion to such use.

In the event that any Owner should fail or refuse to perform or pay for any maintenance, repairs, or restorations as required by this Article, the adjoining party wall Owner shall have the following remedy, in addition to any other remedies provided by the laws of the State of Florida.

The affected Owner may serve written demand upon the delinquent Owner, demanding that the maintenance, repairs, or restoration be made within thirty (30) days after the service of the demand. The demand shall be deemed to have been served if it is hand delivered to the delinquent Owner, by certified or registered mail, postage prepaid, and deposited in the United States Mail.

After expiration of the thirty (30) days following service of the demand if the delinquent Owner has failed or refused to make the demanded maintenance, repairs or restorations, the affected Owner may cause such maintenance, repairs or restorations to be made. In such event the delinquent Owner shall be indebted to the affected Owner for the expense of the maintenance, repairs or restorations, and any damage sustained by the Unit or loss or expense incurred by the affected owner by reason of such failure to timely maintain or restore and such affected Owner shall have a lien against the delinquent Owner's Lot for the full amount of such indebtedness, together with interest at the maximum rate allowed by the laws of the State of Florida. No lien under this provision shall be acquired until a claim of lien is recorded. The form and substance of the claim of lien shall be as similar as practicable as that provided by the Florida Mechanic's Lien Law. Thereafter, the rights and duties and remedies of the respective Owners shall be those as provided to an Owner and a lien claimant under the Florida Mechanic's Lien Law, including but not limited to the rules contained in that statute for discharge of liens, duration of liens, and transfer of liens to security.

No lien acquired under this provision shall be superior to or effective against any bona fide

OR1495P61795

purchaser or mortgagee who shall have acquired their interest of record prior to the recordation of a claim of lien in accordance with this provision.

Section 11.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty and is not covered by insurance, any Owner who has used the wall may restore it; and, if other Owners thereafter make use of the wall, they shall contribute to the cost of restoration in proportion to their use, all without prejudice to the right any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent, willful, or intentional act or omissions.

Section 11.4 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent, willful, or intentional act causes any other Unit or party wall to be exposed to the elements, or to infestation by termites or other injurious agencies, shall bear the whole cost of furnishing the necessary protection against such elements or agencies and of repairing all resulting damage.

Section 11.5 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article is appurtenant to the Lots affected and shall pass to and bind each such Owner's successors in title.

Section 11.6 Easement. In the event that there shall be located within any party wall pipes, vents, electrical outlets, or other structures serving one or more Lots or Units, the Owner of each lot so served shall have and enjoy a perpetual easement for the maintenance and use of any such pipe, vent, electrical outlet or other structure.

ARTICLE XII RIGHTS AND EASEMENTS RESERVED BY DEVELOPER

Section 12.1 Utilities and Drainage. Developer reserves for itself, its successors, assigns and designees, a right-of-way and easement to erect, maintain and use utilities, electric, telephone and street lighting poles, wires, cable, conduits, storm sewers, sanitary sewers, water mains, gas sewer, water lines, drainage ways, or other public conveniences or utilities, on, in and over any area designated as an easement, private street or right-of-way area, or part of the Common Property on the plat of Marsh View at Ponte Vedra Shores or on the plat of any property made subject to this Declaration pursuant to Section 3.1 and on, in and over a strip of land within each Lot five (5) feet in width at the front of each Lot and on, in and over a strip of land five (5) feet in width at the rear of each of Lots. Finally, as to side Lot lines between Buildings, an easement of five (5) feet in width is reserved on each Lot having such a Lot line along such line.

Section 12.2 Drainage. Drainage flow shall not be obstructed or diverted from drainage easement. Developer or the Sub-Association, may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to either of them to be necessary to maintain reasonable standards of health, safety and appearance of the Property and surrounding properties. These easements include the right to cut any trees, bushes or shrubbery, make any grading of the land, or to take any other reasonable action necessary to install utilities and to maintain reasonable standards of health and appearance but shall not include the right to disturb any

0 R 1 4 9 5 P 6 1 7 9 6

permanent improvements erected upon a Lot which are not located within the specific easement area designated on the plat or in this Declaration. Except as provided herein, existing drainage shall not be altered so as to divert the flow of water onto an adjacent Lot or into sanitary sewer lines.

Section 12.3 Future Easements. Developer reserves the right to impose further restrictions and to grant or dedicate additional easements and rights-of-way on any Lots within the Property owned by Developer. In addition, Developer hereby expressly reserved the right to grant easements and rights of way over, under and through the Common Property so long as Developer shall own any portion of the Property. The easements granted by Developer shall not materially or adversely affect any improvements or unreasonably interfere with the enjoyment of the Common Property.

Section 12.4 Cable Television or Radio. Developer reserves for itself, and its successors and assigns, an exclusive easement for the installation, maintenance and supply of radio and television cables within the rights of way and easement areas on the recorded plat of the Property.

Section 12.5 Easements for Maintenance Purposes. The Developer reserves for itself, the Sub-Association, and their agents, employees, successors or assigns an easement, in, on, over and upon each Lot and the Common Property as may be reasonably necessary for the purpose of preserving, maintaining or improving marsh areas, lakes, hammocks, wildlife preserves or other areas, the maintenance of which may be required to be performed by the Developer or Sub-Association.

Section 12.6 Developer Rights re Temporary Structures, Etc. Developer reserves the right for itself, its successors, assigns, nominees and grantees, the rights to erect and maintain such temporary dwellings, model houses and/or other structures upon Lots owned by the Developer, which it may deem advisable for development purposes and to do all acts reasonably necessary in connection with the construction and sale of improvements on the Lots within Marsh View at Ponte Vedra Shores. Nothing contained in this Declaration shall be construed to restrict the foregoing rights of Developer.

Section 12.7 Reservation of Right to Release Restrictions. In each instance where a structure has been erected, or the construction thereof is substantially advanced, in such a manner that some portion of the structure encroaches upon any Lot line or easement area, Developer reserves for itself the right to release the Lot or Unit from the encroachment and to grant an exception to permit the encroachment by the structure over the Lot line, or in the easement area without the consent or joinder of any person irrespective of who owns the burdened Lot or easement area, 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 the granting of an exception to an Owner, copies of such grant shall be forwarded to adjacent Owners and shall be binding upon all subsequent Owners of the affected Lots.

ARTICLE XIII

UTILITY PROVISIONS

Section 13.1 Water System. The central water supply system provided for the service of Marsh View at Ponte Vedra Shores shall be used as the sole source of potable water for all water

0 R 1 4 9 5 P 6 1 7 9 7

spigots and outlets located within or on all buildings and improvements located on each Lot and each Unit. Each Owner shall pay water meter charges established or approved by Developer or other supplier thereof and shall maintain and repair all portions of such water lines located within the boundaries of his Unit. No individual water supply system or well for consumptive purposes shall be permitted on any Lot or Unit.

Section 13.2 Irrigation System. Irrigation for the Common Property shall be provided and maintained by the Sub-Association. Each Lot shall be provided with an irrigation system as part of the original improvements installed by Developer. The Unit Owners shall be solely responsible for the maintenance of the system located on each Unit.

Section 13.3 Sewage System. The central sewage system provided for the service of Marsh View at Ponte Vedra Shores shall be used as a sole sewage system for each Lot and Unit. Each Owner shall maintain and repair all portions of such sewer lines located within the boundaries of their Unit and Lot and shall pay when due the periodic charges on rates for the furnishing of such sewage collection and disposal service made by the operator thereof. No sewage shall be discharged onto the open ground or into any marsh, lake, pond, park, ravine, drainage ditch or canal or roadway and no septic tank or drain field shall be placed or allowed within Marsh View at Ponte Vedra Shores.

Section 13.4 Garbage Collection. Garbage, trash and rubbish shall be removed from the Lots only by parties and companies approved by the Sub-Association. Each Owner shall pay when due the periodic charges or rate for such garbage collection service made by the party or company providing the same.

Section 13.5 Electrical and Telephone Service. All telephone, electric and other utilities lines and connections between the main or primary utilities lines and the residence and the other buildings located on each Lot shall be concealed and located underground so as not to be visible and in such a manner as shall be acceptable to the governing utility authority.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.1 Duration and Remedies for Visitation. The Covenants and Restrictions of this Declaration shall run with title to and bind the Property, and shall inure to the benefit of and be enforceable by the Developer, the Sub-Association, Master Association or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time these Covenants and Restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument executed by the President and Secretary of the Sub-Association upon approval by the Owners holding not less than two-thirds (2/3) of the voting interests of the membership has been recorded, agreeing to change or terminate the Covenants and restrictions in whole or part. Violation or breach of any condition covenant or restriction herein contained shall give the Developer and/or Sub-Association and/or Owner(s), in addition to all other remedies, the right to proceed at law or in equity to compel compliance with the terms of these conditions, covenants or restrictions, and to prevent the violation or breach of any of them, and the expense of

0 R 1495 P 61798

such litigation shall be borne by the then Owner or Owners of the subject Property, provided such proceeding results in a finding that such Owner was in violation of this Declaration. Expenses of litigation shall include reasonable attorneys' fees incurred by Developer, the Sub-Association or both in seeking such enforcement.

Section 14.2 Notices. Any notice required to be sent to any member, 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 member or Owner on either the records of the Sub-Association or the public records of St. Johns County, Florida at the time of such mailing. Notices to the Sub-Association shall be sent in the manner described above to the registered office of the Sub-Association.

Section 14.3 Severability. Invalidation of any portion of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 14.4 Amendment. This Declaration may be amended at any time as follows:

14.4.1 The amendment must first be approved in writing by the Board of Directors of the Master Association unless the Board of Directors of the Master Association determines, in its sole discretion, that the amendment will have no substantial adverse effect on the health and safety of Owners of land outside the Property or on the value and appearance of other lands within Marsh View at Ponte Vedra Shores West.

14.4.2 After approval by the Board of Directors of the Master Association (or their determination that such approval is not necessary), the text of the amendment must be included in the notice of a duly called meeting of the Owners.

14.4.3 The amendment must be approved by the Owners of at least two-thirds (2/3) of the Units within Marsh View at Ponte Vedra Shores signifying their approval by signing a copy of the amendment. The number of Units owned by each Owner shall be indicated next to his signature on the copy of the amendment.

14.4.4 Upon approval of the amendment by the Board of Directors of the Master Association (unless not required under Section 15.4.1) and by the Owner, the President of the Sub-Association shall execute and the Secretary of the Sub-Association attest to a copy of the amendment document which shall be recorded in the public records of St. Johns County, Florida.

14.4.5 Notwithstanding the foregoing, so long as the Developer is the owner of any Lot(s) or any Property subject to this Declaration or amendment thereto, no amendment shall be effective without the Developer's express written joinder and consent.

14.4.6 Further, the Developer specifically reserves the absolute and unconditional right so long as it owns any Lot(s) to amend this Declaration to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Association or any other generally recognized institution involved in the purchase and sale of home loan mortgages or to clarify the provisions herein, without the consent or joinder of any party.

DR1495P61799

Section 14.5 Usage. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 14.6 Effective Date. This Declaration shall become effective upon its recordation in the Public Records of St. Johns County, Florida.

IN WITNESS WHEREOF, the Developer has caused these presents to be executed as required by law on this, the day and year first above written.

Signed, sealed and delivered in
the presence of:

MARSHVIEW DEVELOPMENT, INC.

Sharisse Margaret DelVecchio By: Henry P. Woodburn
Print Name Sharisse Margaret DelVecchio Its PRESIDENT

Baron L. Bartlett
Print Name Baron L. Bartlett

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing Declaration of Covenants and Restrictions for Marsh View at Ponte Vedra Shores was acknowledged before me this 27th day of April, 1999, by Henry P. Woodburn the PRESIDENT of Marshview Development, Inc., a Florida corporation, [] who is personally known to me or [] who has produced Personally Known as identification.



Sharisse Margaret Del Vecchio
Notary Public, State of Florida
My comm. expires Oct. 10, 2003
Comm. No. CC 878485

Sharisse Margaret DelVecchio
NOTARY PUBLIC

011495F01800

CONSENT AND JOINDER TO
COVENANTS AND RESTRICTIONS
FOR
MARSH VIEW AT PONTE VEDRA SHORES

Shell Bay, Inc., a Florida corporation, does hereby consent to and join in the execution of the Covenants and Restrictions to which this Consent and Joinder is attached and simultaneously recorded, and by such consent and joinder does hereby agree that all of the lots of Marsh View at Ponte Vedra Shores as shown on Exhibit A attached to the Covenants and Restrictions, shall hereafter be subject to all the terms and provisions thereof.

Dated this 24 day of April, 2000.

Signed, sealed and delivered
in the presence of:

SHELL BAY, INC.

Barbara S. Walker

By: Michael E. Braren
Michael E. Braren, President

Print Name Barbara S. Walker

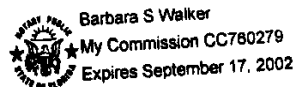
Sherry Hice

Print Name Sherry Hice

STATE OF FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me this 26th day of April, 2000, by Michael E. Braren as President of Shell Bay, Inc., who is personally known to me.

Barbara S. Walker
NOTARY PUBLIC



CONSENT AND JOINDER TO
COVENANTS AND RESTRICTIONS
FOR
MARSH VIEW AT PONTE VEDRA SHORES

0R1495P61801

The Board of Directors of Ponte Vedra Shores West Homeowners Association, Inc. does hereby consent to and join in the execution of the Covenants and Restrictions to which this Consent and Joinder is attached and simultaneously recorded, and by such consent and joinder does hereby agree that all of the lots of Marsh View at Ponte Vedra Shores as shown at Exhibit A attached to the Covenants and Restrictions, shall hereafter be subject to all the terms and provision thereof.

Dated this 2nd day of May 2000

Signed, sealed and delivered
in the presence of:

Ponte Vedra Shores West
Homeowners Association, Inc.

Marilyn L. Allen

Print Name: Marilyn L. Allen

By: Norman Stephens
Its President

Nicole Attebury

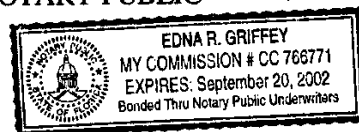
Print Name: Nicole Attebury

COPY

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 2nd day of May 2000, by Norm Stephens as President of Ponte Vedra Shores West Homeowners Association, Inc., who is personally known to me.

Edna R. Griffey
NOTARY PUBLIC



GR1495P61802

EXHIBIT "A"

Lots 2, 3, 13, 14, 16, 17, and 18, PONTE VEDRA SHORES WEST, according to plat thereof as recorded in Map Book 14, pages 34 and 35 of the public records of St. Johns County, Florida.

COPY