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Public Records of
St. Johns County, FL
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**FIFTH AMENDMENT TO DECLARATION OF
COVENANTS, RESTRICTIONS, CONDITIONS AND EASEMENTS
of
HARBOUR ISLAND AT MARSH LANDING**

This Fifth Amendment To Declaration of Covenants, Restrictions, Conditions and Easements of Harbour Island at Marsh Landing is made this 22nd day of February, 2006 by **HARBOUR ISLAND AT MARSH LANDING HOMEOWNER'S ASSOCIATION, INC.**, a Florida corporation not-for-profit (the "Association").

WHEREAS, the real property within Harbour Island at Marsh Landing is subject to all of the terms and conditions set forth in the Declaration of Covenants, Restrictions, Conditions and Easements of Harbour Island at Marsh Landing dated April 22, 1993 and recorded on June 23, 1993 at Official Records Book 997, page 1273 of the public records of St. Johns County, Florida, as amended by (i) that certain First Amendment to Declaration of Covenants, Restrictions and Easements of Harbour Island at Marsh Landing dated November 5th, 1993 and recorded on March 3, 1994 at Official Records Book 1040, page 1440 of the public records of St. Johns County, Florida, as amended by (ii) that certain Second Amendment to Declaration of Covenants, Restrictions, and Easements of Harbour Island at Marsh Landing dated January 10, 1996 and recorded on February 14, 1996 at Official Records Book 1155, page 384 of the public records of St. Johns County, Florida, as amended by (iii) that certain Third Amendment to Declaration of Covenants, Restrictions and Easements of Harbour Island at Marsh Landing dated April 24, 1997 and recorded on June 17, 1994 at Official Records Book 1246, page 477 of the public records of St. Johns County, Florida, as amended by (iv) that certain Fourth Amendment to Declaration of Covenants, Restrictions and Easements of Harbour Island at Marsh Landing dated March 12, 1998 and recorded on April 1, 1998 at Official Records Book 1307, page 996 of the public records of St. Johns County, Florida, as amended by (v) that certain Amended and Restated Amendment to Declaration of Covenants, Restrictions and Easements of Harbour Island at Marsh Landing dated October 28, 2003 and recorded on November 20, 2003 at Official Records Book 2092, page 1575 of the public records of St. Johns County, Florida, as further amended herein and as further amended and as supplemented from time to time (collectively, the "Declaration").

WHEREAS, **FLETCHER REALTY III, INC.**, a Florida corporation, as the Developer, the Declarant under the Declaration and the sole Class "B" member of the Association as defined in the Declaration, turned over control of the Association to its members effective October 28, 2003 (the "Turnover Date"), and

WHEREAS, in accordance with the provisions of Section XVII.3 of the Declaration, the Association

desires to make certain amendments to the Declaration as more fully set forth herein.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the Association hereby declares:

1. **General.** Unless set forth herein to the contrary, all capitalized terms herein shall have the same meaning as set forth in the Declaration.

2. **Uniform Rate and Maximum Amount of Annual Assessment.** Section IV.4 is amended to add the following paragraph between the first and second paragraphs of the section:

“Prior to the Turnover Date, Developer entered into an agreement with certain Class C members which allows those Class C members to pay annual assessments and special assessments in an amount equal to Fifty percent (50%) of the annual assessments and special assessments paid by Class A members (the “Special Rate”). The Class C members are: E. ANDRUS HEALY and ERIN R. HEALY (Slip #551), WILLIAM S. FELLNER and MARY L. FELLNER (Slip #464) and JAMES R. SWANSON DECLARATION OF TRUST U/A DATED MAY 13, 1992 (#602) (the “Excepted Class C Members”). Developer is the owner of Fifteen (15) of the Yacht Basin Mooring Slips (Slip #s 546, 548, 470, 471, 473, 476, 579, 684, 685, 686, 687, 688, 689, 692, and 695) and also pays the Special Rate for each Yacht Basin Mooring Slip owned by the Developer. The amount payable by Class A members for annual assessments and special assessments as defined in the Declaration for each Appurtenant Yacht Mooring Slip shall be referred to as the “Regular Rate”.

If any Excepted Class C Member named above or the Developer transfers ownership of all or any portion of an Appurtenant Yacht Mooring Slip or a Yacht Basin Mooring Slip (the preceding described events shall be referred to as “Special Rate Terminating Events”), the right of the owner of the affected Yacht Mooring Slip to pay the Special Rate immediately following a Special Rate Terminating Event shall be and is hereby immediately terminated. A Special Rate Terminating Event shall include any voluntary and involuntary ownership transfers, including, without limitation, those to heirs, devisees, trusts or any other person or entity. The owner of the affected Yacht Mooring Slip shall be obligated to pay the Regular Rate for all annual and special assessments, and the Regular Rate for all annual and special assessments shall begin to accrue, as of the date of the Special Rate Terminating Event. If a Special Rate Terminating Event occurs after a special assessment has been approved, the owner of the affected Yacht Mooring Slip shall be obligated to pay such special assessment at the Regular Rate.

3. **Use Restrictions.** Section IX.4 (f) is amended and restated in its entirety as follows:

“Jet skis and similar personalized watercraft shall be permitted in the Lagoon System; provided, however, that the use and operation of jet skis and any such similar personalized watercraft, (i) shall require that such watercraft be operated within the Lagoon System at “Dead Idle/No Wake” speed at all times, and (ii) while operating within the Lagoon System, such personalized watercraft shall not have a noise level that is greater than the noise level produced by small boats while operating at “Dead Idle/No Wake” speed. If necessary, such watercraft shall be outfitted with a muffler or similar device to reduce the noise level as required herein.

Notwithstanding anything in the Declaration to contrary regarding the modification or permitted improvements to Appurtenant Yacht Mooring Slips or Yacht Basin Mooring Slips, including, without limitation, Section X.1(c), as amended and restated, owners of Appurtenant Yacht Mooring Slips or Yacht Basin Mooring Slips may, subject to prior written approval of the Board, add a floating dock to accommodate jet skis only. Such floating docks shall be docks with the brand name "Jet Dock" or shall be substantially similar to docks with the brand name "Jet Dock" and "black" shall be the only permitted color for such docks.

We, the undersigned, as the duly authorized officers of the Association certify that the foregoing Fifth Amendment to Declaration of Covenants, Restrictions, Conditions and Easements of Harbour Island at Marsh Landing was duly proposed and adopted in accordance with Section XVII.3 of the Declaration and in accordance with the Charter and Bylaws of the Association.

Signed, sealed and delivered
in the presence of

Janet C. Pritchett
Janet Pritchett
S. Patricia McInerney
S. Patricia McInerney

HARBOUR ISLAND AT MARSH LANDING
HOMEOWNER'S ASSOCIATION, INC

By: Bill Dennis, its President

"ASSOCIATION"

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 22nd day of FEBRUARY 2006 by BILL DENNIS, as President of HARBOUR ISLAND AT MARSH LANDING HOMEOWNER'S ASSOCIATION, INC, a Florida not-for-profit corporation, who is personally known to me and/or who has produced _____ (type of identification) as identification.

(Notarial Seal)

Ina Sue Atkinson
Signature of Notary Public
Notary Public, State of Florida
My commission expires: 04-17-09

