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**RESTATED DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
FIDDLER'S MARSH**

INDEX OF RESTATED DECLARATION OF

COVENANTS AND RESTRICTIONS

FOR

FIDDLER'S MARSH

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RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

FIDDLER'S MARSH

THIS RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR FIDDLER'S MARSH is made and executed effective _____, by FIDDLER'S MARSH (AT L'ATRIUM) HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

R E C I T A L S :

I. L'Atrium IV Joint Venture, a joint venture ("Developer"), has executed and recorded the Declaration of Covenants, Conditions and Restrictions for L'Atrium IV, which is recorded in Official Records Book 716 at page 827 of the current public records of St. Johns County, Florida, as amended to the date hereof (together, the "Original Declaration").

A. Pursuant to Article III, Section 2 of the Original Declaration, the Class B membership in the Association has as of September 15, 1993, ceased and been converted to Class A membership.

B. In accordance with Article VIII, Section 5 of the Original Declaration, more than two-thirds (2/3) of the Class A members of the Association have consented to the Association's amendment by restatement of the Original Declaration more particularly set forth hereafter.

C. It is the intent of this Restated Declaration to promote the safety and well being of the members of the Association and to preserve and enhance the value of the property hereinafter defined as Fiddler's Marsh.

NOW THEREFORE, the Association hereby declares that all parcels of land subject to the Original Declaration as of the effective date hereof and which are described on Exhibit A attached hereto and made a part hereof ("Fiddler's Marsh"), shall be subject to the terms of this Restated Declaration 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 Restated Declaration, which shall run with the land and be binding upon the Association and all parties having or

acquiring any right, title or interest in Fiddler's Marsh, or any part thereof.

ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION

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

Section 1.2 **Benefits and Burdens.** Every person who is an Owner does by reason of taking title to property within Fiddler's Marsh agree to all the terms and provisions of this Restated Declaration and shall be entitled to its benefits and subject to its burdens.

ARTICLE II
DEFINITIONS

Section 2.1 **Association.** Fiddler's Marsh (at L'Atrium) Homeowners Association, Inc., a Florida non-profit corporation, its successors and assigns.

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

Section 2.3 **Fiddler's Marsh, Property or Community.** The real property described on Exhibit A attached hereto and made a part hereof, together with and including other real property made subject to this Restated Declaration or any supplemental declaration in accordance with the provisions of Article III, hereof less and except any real property released from this Restated Declaration in accordance with the provisions of Article III hereof.

Section 2.4 **Lot.** Any lot or other parcel, together with improvements, within the Community on which a residence has been or could be constructed.

Section 2.5 **Improved Lot.** Any Lot upon which improvements have been completed as evidenced by issuance of a certificate of

occupancy or equivalent authorization issued by St. Johns County, Florida.

Section 2.6 Unimproved Lot. Any Lot which is not an Improved Lot.

Section 2.7 Owner. A person who is a record owner of a Lot.

Section 2.8 Common Area. All real or personal property, easements and all other interests in real or personal property (including use rights) owned by the Association, whether or not located within the boundaries of the Community, held primarily for the common use and enjoyment of the members of the Association. The Common Area specifically includes, without limitation, the real property and other interests more particularly described in Exhibit B attached hereto and made a part hereof. In addition, the Common Area shall specifically include, without limitation, any feeder lines, pumps and additional components serving any common underground irrigation system serving the Common Area and any replacements or additions thereto within the Community, and any traffic control or entry signage, or entry feature and associated landscaping, serving primarily the Community. Finally, the Association may designate additional property as Common Area as long as the conditions of Section 3.1 regarding addition of property are met.

Section 2.9 Limited Common Area. The Limited Common Area of a Lot shall consist of the portion of the Property between the front Lot line and the nearest edge of the road surface (as it may exist from time to time), and the portion of the real property immediately adjoining the Property which is located between the rear Lot line and the nearest shoreline of any lake contiguous to or within twenty feet of the Lot, within the area bounded by the extension of the side Lot lines, together with any portion of the Property (or such adjoining real property) contiguous to the Lot which, as a result of the natural configuration of the property or the initial landscaping installed by the Developer, is primarily of benefit to such Lot. Any question concerning the boundary of a Limited Common Area shall be determined by the Association.

Section 2.10 Surface Water or Stormwater Management System. The system located within the Community which controls discharges necessitated by rainfall events and which incorporates methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity

and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40 or 40C-42, Florida Administrative Code.

ARTICLE III
ADDITIONS AND DELETIONS

Section 3.1 **Additions and Deletions.** The Association may, but shall not be obligated to, subject additional lands to this Restated Declaration from time to time provided only that (a) any additional land subjected to this Restated Declaration shall be contiguous to Property then subject to this Restated 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 either be open space to become part of the Common Area or shall be subject to a recorded Final Development Plan restricting its use to single family residential purposes when the property is made subject to this Restated Declaration, (c) the Owners of property within additional lands made subject to this Restated Declaration shall agree in writing to become subject to this Restated Declaration, including assessment by the Association for their pro rata share of Association expenses, and (d) the addition of such lands shall not, without the joinder or consent of a majority of the members of the Association, materially increase the pro rata share of Association expenses payable by the Owners of Property subject to this Restated Declaration prior to such addition. The Association may also, but shall not be obligated to, withdraw land from the scheme of development contemplated by this Restated Declaration and release it from the obligations of this Restated Declaration from time to time provided only that (a) all lands remaining subject to this Restated Declaration after such withdrawal are contiguous, (b) the Owners of such land shall consent in writing to such withdrawal, and (c) the withdrawal of such lands shall not, without the joinder or consent of a majority of the members of the Association, materially increase the pro rata share of the Association expenses payable by the Owners of Property remaining subject to this Restated Declaration after such withdrawal. Addition of lands to, or withdrawal of lands from, this Restated 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.

ARTICLE IV
PROPERTY RIGHTS

Section 4.1 **Ownership, Maintenance and Use of Common Area.**
The Association shall at all times be responsible for maintaining

the Common Area. Every member of the Association shall have a right of use and an easement of enjoyment in and to the Common Area which shall be appurtenant to, and pass with, the title to every Lot, subject to the following:

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

4.1.2 The right of the Association to grant easements and rights of way for the proper development, operation and maintenance of the Property, including and without limitation, easements for ingress, egress, maintenance, drainage and utilities over all roadways and platted utility easements located within the Property.

4.1.3 The rights of each Owner and the Association to utilize the Stormwater Management System for drainage of all or any portion of Fiddler's Marsh.

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

4.1.5 Rules and regulations governing use and enjoyment of the Common Area adopted by the Association and easements and restrictions of record affecting any part of the Common Area.

4.1.6 Each Lot shall be provided access by a single driveway located within the Limited Common Area appurtenant to each Lot. 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.

4.1.6 The exclusive use rights of individual Lot Owners as provided in Section 4.2.

Section 4.2 Use and Maintenance of Limited Common Areas.

Notwithstanding any other provision of this Restated Declaration to the contrary, each Lot Owner shall be responsible for maintaining the grass and other landscaping within the Limited Common Area of his Lot. Each Lot Owner shall have the exclusive right to use the Limited Common Area of his Lot as a yard subject to the rights of the Association to establish rules and regulations governing use and enjoyment of the Common Area and the rights and easements reserved and granted elsewhere in this Restated Declaration including, but not limited, to the right to construct driveways, locate or relocate roads, paths, walkways and sidewalks within the

Common Area. The Lot Owner shall not place or erect any structure within the Limited Common Area without the prior approval of the ARC pursuant to Article VIII hereof.

ARTICLE V
THE ASSOCIATION

Section 5.1 **Membership.** Each Owner shall be a member of the 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 **Voting.** The voting rights of Members shall be as set forth in the Articles of Incorporation of the Association.

Section 5.3 **Duties and Obligations Re: Common Area.**

5.3.1 It shall be the duty of the Association to manage and maintain the Common Area in a safe, clean, attractive, sanitary and serviceable condition, and in good order and repair for the benefit of all Owners. The Association's duties shall include the management, operation, maintenance, repair, servicing, replacement, and renewal of all improvements, equipment, and tangible personal property installed by Developer as part of the Common Area. The Association shall keep the improvements located on the Common Area, including fixtures and personal property of the Association, insured for 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 improvements similar in construction, location and use as the improvements on the Common Area, 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 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 Association's insurance must provide for waiver of subrogation by the Association's insurer against any Owner because of unintentional acts or omissions.

5.3.2 The Association shall be responsible for the maintenance, operation and repair of the Surface Water or Stormwater Management System. Maintenance of the Surface Water or Stormwater Management System(s) shall mean the exercise of

practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted, or if modified, as approved by the St. Johns River Water Management District.

ARTICLE VI
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot within the Community 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 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) 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 Area or by abandonment.

Section 6.2 Purpose of Assessments. The annual and special assessments levied by the Association shall be used exclusively for the benefit of Fiddler's Marsh and the Owners, for the purpose of promoting the recreation and enjoyment of the residents in Fiddler's Marsh and in particular, for the improvement and maintenance of the Common Area, the Surface Water or Stormwater Management System (including all drainage structures located within the Community), and any easements in favor of the Association. Assessments may be used for the cost of taxes on the Common Area, 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 Association.

Section 6.3 Rate of Assessment. All annual and special assessments shall be at a uniform rate for each Lot subject to assessment.

Section 6.4 Annual Assessments. 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 its decision as to the amount of the annual assessment shall be dispositive. The maximum annual assessment increase shall be five percent (5%) over the previous year's annual assessment. The annual assessment may be increased above the five percent (5%) increase by a vote of two-thirds (2/3) of the members of the Association entitled to vote.

Section 6.5 Supplemental Assessments. If the Board fixes the annual assessment for any year and thereafter during such year determines that the necessary functions of the Association cannot be funded by such assessment, the Board may, by majority vote, levy a supplemental assessment which shall not be considered a special assessment levied pursuant to Section 6.6 hereof.

Section 6.6 Special Assessment for Capital Improvements and Major Repairs. In addition to any annual assessments, the 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 in writing by members of the Association holding two-thirds (2/3) of the votes in the Association.

Section 6.7 Negligence. Any Owner shall be liable to the Association for the expense of any maintenance, repair or replacement of the Common Area rendered necessary by his act, neglect or carelessness or by that of his family or his guests, employees, agents, issues or other invitees. This expense shall become part of the Assessment to which such Lot and Owner are liable under this Article VI. 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 6.8 Date of Commencement of Annual Assessments and Due Dates. The assessments shall commence on the first day of a specified month fixed by the Board to be the date of commencement. Assessments shall be collected in advance on at least a quarterly basis. The payment schedule and due date of any assessments shall be fixed in the resolution authorizing such assessments.

Section 6.9 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 kept in the office of the Association and 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 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 Association, setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6.10 Effect of Non-Payment of Assessment: Lien, Personal Obligation, Suspension of Right to Vote, Remedies of Association.

6.10.1 The lien of the 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 secure assessments, interest, and costs of collection which shall specifically include court costs, reasonable attorneys' fees, and advances to pay taxes and prior encumbrances and interest thereon, which are due and payable when the claim of lien is recorded and which may accrue thereafter and prior to voluntary payment or the entry of a final judgment against the Owner(s). Such claims of lien shall be signed and verified by an officer or agent of the 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, such Assessment shall bear interest from its due date at the highest lawful rate, and the Association may at any time thereafter bring an action in foreclosure and/or a suit on the personal obligation against the owner(s).

6.10.2 In addition to the provisions of 6.10.1 above, upon a vote of the majority of the Board, the Association may assess a late fee against any Owner for the non payment of installments of annual assessments that are delinquent in excess of thirty (30) days and/or suspend the voting rights of any Owner for

the non-payment of installments of annual assessments that are delinquent in excess of ninety (90) days.

Section 6.11 Subordination to Lien of Mortgages. The lien of the assessments provided for by this Restated 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 association, real estate investment trust or institutional purchaser of first mortgages in the secondary mortgage market, including, without limitation, Federal National Mortgage Association ("FNMA") which is perfected by recording prior to the recording of a claim of lien for any such unpaid assessments by the 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 the Association 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 the Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

Section 6.12 Exempt Property. The Board shall have the right to exempt any of the Property from the assessments, charges 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:

- (i) Any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (ii) All of the Common Area.
- (iii) Any of the Property exempted from ad valorem taxation by the laws of the State of Florida, to the extent agreed to by the Association.

Except as otherwise provided by this Article VI, no land or improvements devoted to residential dwelling or related use shall be exempt from such assessments, charges or lien herein created.

ARTICLE VII

EXTERIOR MAINTENANCE ASSESSMENT

Section 7.1 Exterior Maintenance. Subject to the procedures set forth in paragraph 7.2, the Association may provide maintenance upon any Lot or Limited Common Area requiring same, when reasonably necessary in the opinion of the Board to preserve the beauty, quality and value of Fiddler's Marsh or any portion thereof. Such maintenance shall include but not be limited to painting, roof repair and replacement, gutters, downspouts, exterior building surfaces, yard clean-up, and yard maintenance.

Section 7.2 Enforcement Procedures. If the Board shall determine that maintenance is necessary pursuant to Section 7.1 hereof, the Board shall cause written notice of such determination to be delivered to the Owner of the affected Lot. The notice shall specify the maintenance to be performed and allow the Owner a period of not less than fifteen (15) days to perform the required maintenance or request a hearing before the Board to contest the Board's determination that the maintenance should be performed. In the event that the Owner shall request a hearing, a hearing before the Board shall be scheduled at a date which is not less than seven (7) days following such request. If following the hearing, the Board shall by majority vote determine that the maintenance is not necessary, then it shall promptly provide the Owner with written notice that the prior request to perform maintenance is withdrawn. If following the hearing, the Board shall determine by majority vote that the maintenance is necessary, the Board shall advise the Owner in writing of such decision and notify the Owner that the maintenance must be performed within fifteen (15) days of the Owner's receipt of such notice. If an Owner fails to perform requested maintenance or fails to request a hearing within fifteen (15) days of receipt of the first notice from the Board, or if the Owner fails to perform such maintenance within fifteen (15) days following receipt from the Board of its reaffirmation following a hearing that the maintenance needs to be performed, the Association may undertake the maintenance as described in the Board's written notice to the Owner.

Section 7.3 Assessments of Costs. The cost of any maintenance undertaken by the Association under the provisions of this Article VII shall be assessed against the Property upon which such maintenance is performed or, in opinion of the Board, benefitting from same. The exterior maintenance assessments shall not be considered a part of the annual or special assessments imposed upon the Property pursuant to Article VI of this Restated Declaration or pursuant to the Initial Covenants. Any exterior maintenance assessment shall be a lien upon each Lot assessed and the personal obligation of the Owner of each such Lot and shall become due and payable in all respects, together with interest and fees for the cost of collection as provided for in Section 6.10,

and shall be subordinate to mortgage liens to the extent provided by Section 6.11.

Section 7.4 Access. For the purpose of performing the maintenance authorized by this Article VII, the Association, through its duly authorized agents or employees, shall have the right, after the notice to the Owner provided under Section 7.2, to enter upon any Lot or any portion of the Property or the exterior of any improvements thereon at reasonable hours on any day except Saturday or Sunday. In the case of emergency repairs, access will be permitted at any time with only such notice as, under the circumstances, is practically affordable.

ARTICLE VIII **ARCHITECTURAL CONTROLS**

Section 8.1 Necessity of Architectural Review and Approval.
No improvements or structure of any kind including, without limitation, any dwelling, building, fence, wall, swimming pool, screen enclosure, enclosed garage, sewer, drain, disposal system, decorative building, mailbox, light post, or other improvements 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 Association. The plans and specifications for any improvements shall show the nature, kind, shape, height, size, materials, floor plans, exterior color schemes, locations and orientation on the Lot and approximate square footage and shall contain a construction schedule and such other information as the Association or ARC, as hereinafter defined, shall reasonably require. 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 Architectural Control Criteria enacted by the Board of Directors by the Association. Any person performing improvements upon any Lot shall first obtain all necessary permits and maintain all required licenses under applicable law. It shall be the burden of each Owner to supply four (4) sets of completed plans and specifications for any proposed improvement to the Architectural Review Committee ("ARC") of the Association. The ARC shall approve or disapprove plans and specifications properly submitted within thirty (30) days of such submission. Any plans or change or modification to approved plans shall not be deemed approved by ARC unless a written approval is granted by the ARC to the Owner submitting same or unless the ARC fails to approve or disapprove such plans or modifications within thirty (30) days of their proper submission.

Section 8.2 Architectural Review Committee. The architectural review and control functions of the Association shall be administered and performed by the ARC, which shall consist of a minimum of three (3) members of the Association. Members of the ARC shall be appointed by, and serve at the pleasure of, the Board of Directors of the Association. The Board may, but shall not be obligated, to appoint at least one (1) architect or landscape architect to the ARC. A majority of ARC shall constitute a quorum to transact business at any meeting of ARC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of ARC. Any vacancy occurring on the ARC because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors.

Section 8.3 Powers and Duties of the ARC. The ARC shall have the following powers and duties:

8.3.1 To recommend amendments or additions to the Architectural Control Criteria, to the Board. Any such amendment or addition shall be consistent with the provisions of this Restated Declaration, and shall not be effective until adopted by a majority of the members of the Board at a meeting duly called and noticed at which a quorum is present and voting. Following approval by the Board, notice of additions or amendments to the Architectural Control Criteria shall be delivered to each member of the Association, at intervals not less frequent than one (1) year. Provided, however, the delivery to each member of the Association of such notice shall not constitute a condition precedent to the effectiveness or validity of such addition or amendment nor shall it be necessary for any addition or amendment to be recorded.

8.3.2 To require submission to ARC 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, screen enclosure, sewer, drain, disposal system, decorative building, mailbox, light post, , or other improvement, the construction or placement of which is proposed upon any Lot. The ARC shall 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 ARC to completely evaluate the proposed structure or improvement in accordance with the provisions hereof.

8.3.3 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, mailbox, light post, or

other improvement or change or 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 ARC 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. The Board shall approve each decision of the ARC unless the Board shall reasonably determine that the ARC's decision is inconsistent with the provisions of this Restated Declaration or the Architectural Control Criteria, or if a request for review is submitted by an aggrieved party as hereafter provided. Any party aggrieved by decisions of ARC shall have the right to make a written request to the Board, within thirty (30) days of such decisions, for a review thereof. The determination of the Board upon review of any such decision shall be dispositive as to the Association's approval.

Section 8.4 Compensation of the ARC. Non-professional members of the ARC shall serve without compensation. The Board is encouraged to appoint professionally qualified persons (architects, landscape architects, etc.) to the ARC, and if it elects to do so, it may, at its option, pay reasonable compensation to such members of the ARC.

Section 8.5 Variance. Subject to approval by the Board, the ARC may authorize variances from compliance with any of the architectural provisions of this Restated Declaration or the Architectural Control Criteria when circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require same. Such a variance must be evidenced by a document signed by at least a majority of the members of the ARC. If such a variance is granted, no violation of the covenants, conditions and restrictions contained in this Restated Declaration shall be deemed to have occurred with respect to the matters for which the variance was granted. The granting of such a variance shall not, however, operate to waive any of the terms and provisions of this Restated Declaration for any purpose except as to the particular Lot or property and particular provisions of this Restated Declaration or the Architectural Control Criteria covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations, including but not limited to, zoning ordinances and set-back lines or requirements imposed by any governmental or municipal authority.

Section 8.6 No Liability. The reviews, acceptances, inspections, permissions and approvals required under this Restated

Declaration and made by the Association, the ARC, or their respective agents or employees are for the sole purpose of protecting the aesthetic integrity of the Community. As a result, neither the Association, the ARC, or their respective agents or employees shall be deemed to express any opinion as to the engineering aspects, structural soundness or advisability of any improvement whether or not approved. Neither the Association, the ARC, or their respective 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 in any way related to the subject matter of any such review, acceptance, inspection, permission, consent, or approval, whether given, granted or withheld by the Association, the ARC or their respective agents or employees.

ARTICLE IX
RESTRICTIONS

Section 9.1 Permitted Uses.

9.1.1 Except as specifically otherwise provided in this Restated Declaration, the Lots subject to this Restated Declaration may be used for residential living units and for no other purpose.

9.1.2 Any dwelling or portion thereof located within the Community may be used by the Owner thereof for business purposes; provided however, no such business shall employ any person who is not an Owner or a person who regularly resides in the dwelling used for such purposes, and no such business shall be operated which entails regular visits from patrons, clients, vendors, suppliers, or other persons similarly related to the operation of such business. Lastly, no business conducted within a dwelling within the Community may be identified by any exterior signage whatsoever, including without limitation, signage appearing on vehicles, unless such vehicles are parked within an enclosed garage at all times when not in use.

Section 9.2 No Detached Buildings. No garage, tool or storage shed may be constructed separately and apart from a residence unless approved by the Association, and no garage may be enclosed as a room or otherwise be used as part of the living area of any residence. No tents, trailers, tanks, shacks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot without the prior written consent of the Association.

Section 9.3 Setbacks. All dwellings and structures constructed within the Community shall comply with all setback and similar requirements imposed by the St. Johns County Zoning Code, or any statute, ordinance, or rule of similar import.

Section 9.4 Landscaping. The Association may enact Architectural Control Criteria requiring that a detailed landscaping plan for each Lot and Limited Common Area appurtenant thereto be submitted to and approved by the ARC prior to the alteration of or addition to landscaping installed upon any Lot or Limited Common Area. Sodding with St. Augustine or Bermuda grass varieties only will be required on all yards. No seeding and/or sprigging shall be permitted. All Lots and appurtenant Limited Common Areas that are not landscaped or left in a natural wooded state shall be sodded and irrigated to the paved roadway and/or lake's edge where such Lot abuts a roadway and/or lake.

Section 9.5 Motor Vehicles and Boats. No boats, recreation vehicles, vans or other motor vehicles, except four wheel passenger automobiles and vans, shall be placed, parked or stored upon any Lot; nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a garage. Four wheel passenger automobiles and vans shall be placed, parked or stored only on paved areas within the Lot and/or Common Area designated for parking, unless otherwise approved by the ARC or the Association. Commercial vehicles shall not be parked within public view on a regular basis. No vehicles shall be parked within the portion of the Common Area constituting recreational facilities, except when the owners of such vehicles are lawfully using such recreational facilities.

Section 9.6 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 television, cable, satellite or radio reception on another Lot shall be deemed a nuisance and a prohibited activity. If a dispute or 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.

Section 9.7 Antenna. The installation of all aerials, antennae or satellite dishes shall be subject to the approval of the ARC in accordance with architectural criteria imposed by the Association from time to time and in accordance with all applicable

rules and regulations of the Federal Communication Commission or other governmental authorities having jurisdiction.

Section 9.8 **Lakes.** Only the Association shall have the right to pump or otherwise remove any water from any lake within or adjacent to the Community for the purpose of irrigation or other use, or to place any refuse in such lake or lakes. The Association shall have the sole and absolute right (but no obligation) to control the water level of such lake or lakes and to control the growth and eradication of plants, fowl, reptiles, animals, fish and fungi in or on any such lake. No gas or diesel driven boat shall be permitted to be operated on any lake. Lots which now or may hereafter be adjacent to or include a portion of a lake (the "lake parcels") shall be maintained so that such grass, planting or other lateral support to prevent erosion of the embankment adjacent to the lake and the height, grade and contour of the embankment shall not be changed without the prior written consent of the Association. Further, all shoreline vegetation, including cattails and the like, shall be maintained and controlled by the Owner of any lake parcel pursuant to the requirements of Section 9.15 hereof. If the Owner of any lake parcel fails to maintain the embankment or shoreline vegetation as part of its landscape maintenance obligations in accordance with the foregoing, the Association shall have the right, but no obligation, to enter upon any such lake parcel to perform such maintenance work which may be reasonably required, all at the expense of the Owner of such lake parcel pursuant to the provisions of Article VII of this Restated Declaration. Title to any lake parcel shall not include ownership of any riparian rights associated therewith. No docks, bulkheads or other structures shall be constructed on such embankments unless and until same shall have been approved by the ARC. No structure shall be constructed upon any lake parcel which shall unreasonably interfere with another Owner's view of a lake from such Owner's Lot. The Association shall have the right to adopt reasonable rules and regulations from time to time in connection with use of the surface waters of any lake adjacent to or nearby the Community. The Association shall have the right to deny such use to any person who in the opinion of the Association may create or participate in the disturbance or nuisance on any part of the surface waters of any such lake. The use of the surface waters of any such lake shall be subject to rights granted to other persons pursuant to the rules and regulations of the Association.

WITH RESPECT TO WATER QUALITY, WATER LEVELS, WILDLIFE AND LAKE BANKS, SLOPES AND LAKE BOTTOMS, ALL PERSONS ARE REFERRED TO SECTION 12.8 HEREOF.

Section 9.9 Insurance and Casualty Damages. Each Owner shall be required to obtain and maintain in force and effect a policy of fire and other casualty insurance with coverage adequate to cover the full replacement cost of the dwelling and other improvements located on his Lot. 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 six (6) 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 year and in accordance with the provisions of this Restated 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 sixty (60) days from the date of such damage or destruction.

Section 9.10 Trees. No tree or shrub, the trunk of which exceeds six (6) inches in diameter four and one-half (4-1/2) feet above the ground, shall be cut down, destroyed or removed from a Lot without the prior express written consent of the Association.

Section 9.11 Artificial Vegetation. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot.

Section 9.12 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 ARC.

Section 9.13 Lighting.

9.13.1 No external lighting including without limitation, light posts, shall be installed without the prior approval of the ARC. No lighting shall be permitted which alters the residential character of the Community.

9.13.2 All external lights located upon the Lots that provide illumination of roadway areas within Fiddler's Marsh shall be kept lighted from dusk to dawn each day. Further, such utility lights shall be maintained so that illumination therefrom shall not be obstructed by trees, shrubs, or any other object.

Section 9.14 Animals. Dogs and cats shall be kept under control by the Owner at all times. Dogs shall be leashed at all times when outside of its Owner's dwelling or fenced enclosure. Animals shall be kept for the pleasure of 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 of wildlife or property, such animal may not thereafter be kept on a Lot. Further, in the event any group of animals shall collectively become dangerous or an annoyance or nuisance to other Owners, or destructive to wildlife or property, the Board of Directors shall have the right to require the applicable Owner to reduce the number of animals kept on the Lot, or to take such other remedial action as the Board of Directors shall specify.

Section 9.15 Maintenance of Lots and Limited Common Areas.

With respect to the Improved Lots, no weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Improved Lot or Limited Common Area, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Improved Lots and all portions of the Property and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake edge maintenance, all in a manner with such frequency as is consistent with good property management. In order to implement effective control, the Association, its agents and assigns, shall have the right to enter upon any Improved 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 distracts from the overall beauty and safety of the property in accordance with the provisions of Article VII hereof. During construction upon any Lot, 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 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.

Section 9.16 Fences. Except as originally constructed by the Developer, or as subsequently approved by the ARC, no fence, wall or other barrier shall be constructed upon any Lot.

Section 9.17 Obstruction of Vision. The Association shall have the right, but no obligation, to remove, or require the removal of any fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial, placed or located upon any Lot if the

location of same will, in the sole judgment and opinion of ARC, obstruct the vision of the motorist upon any of the streets.

Section 9.18 Maintenance of Driveways. Each Lot Owner shall be responsible for maintenance of the driveway serving his Lot.

Section 9.19 Roadways.

9.19.1 The Association shall have the unrestricted and absolute right to deny ingress to any person who, in the opinion of the Board, has created or participated in a prior disturbance or nuisance on any part of the Property. The Association shall have the right, but no obligation, from time to time to control and regulate all types of traffic on the parcels within the Property which have been platted as private roadways (the "Community roadways"), including the right to prohibit use of the Community roadways by traffic or vehicles (including and without limitation, motorcycles and "go carts") which in the sole opinion of the Board would or might result in damage to the Community roadways or pavement or other improvements thereon or create a nuisance for the residents and the right, but no obligation to control and prohibit parking on all or any part of the Community roadways. The Association shall have the right, but no obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree or other things natural or artificial, placed on or located on any Lot, if the location of the same will, in the sole judgment and opinion of the Board, obstruct the vision of a motorist upon any of the roadways. In the event and to the extent that the parcels referred to in this Section 9.18.1 or easements over and across said parcels for ingress and egress shall be dedicated to or otherwise acquired by the public, the preceding provisions of this Section 9.18.1 thereafter shall be of no further force or effect.

9.19.2 The Association and its successors and assigns shall have the sole and absolute right at any time, with the consent of the Board of County Commissioners of St. Johns County or the governing body of any municipality or other governmental body or agency then having jurisdiction over the Property, to dedicate to the public all or any part of the Community roadways and all or any part of the easements reserved herein (including those shown on the plat). In addition, the Association shall have the right to redesignate, relocate or close any part of the Community roadways without the consent or joinder of any party so long as no Lot is denied reasonable access to a public dedicated street or highway by such redesignation, relocation or closure.

Section 9.20 Replatting. The Association and any Owner shall have the right to resubdivide or replat any Lot for any

purpose whatsoever without the consent of any other party, provided however, that no residence shall be erected upon, nor shall any Owner or other person be allowed to occupy, any replatted Lot or fractional part thereof having an area less than the smallest Lot shown on the original plats of Fiddler's Marsh.

Section 9.21 No Development of Marsh Areas. Neither the Association nor any Owner shall build upon, fill, or otherwise alter any portion of the Property lying within those areas described as Parcel 2 on Exhibit A.

ARTICLE X

UTILITY PROVISIONS

Section 10.1 Water System. The central water supply system provided for the service of the Community shall be used as sole source of potable water for all water spigots and outlets located within or on all buildings and improvements located on each Lot. Each Owner shall pay water meter charges established or approved by the supplier thereof and shall maintain and repair all portions of such water lines located within the boundaries of his Lot. No individual water supply system or well for consumptive purposes shall be permitted on any Lot. No other well shall be permitted on any Lot without the prior written consent of the Association.

Section 10.2 Irrigation System. Irrigation to portions of the Common Area shall be provided by an underground irrigation system, including feeder lines, pumps, wells and other components which system shall form part of the Common Area. The cost of irrigation to the Common Area shall be paid as a portion of the regular annual assessment charged to the Owners pursuant to Article VI hereof. The cost of maintenance and repair of irrigation systems serving individual Lots shall be the sole responsibility of the Owners of such Lots and shall not be included in any assessments imposed by the Association.

Section 10.3 Sewage System. The central sewage system serving the Community shall be used as the sole sewage system for each Lot. Each Owner shall pay when due the periodic charges or 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 septic tank, marsh, lake, pond, park, ravine, drainage ditch or canal or roadway.

Section 10.4 Other Restrictions Applicable to Water and Sewer Systems. United Water Resources ("United Water") or its successors and assigns, has the sole and exclusive right to provide

all water and sewage facilities and service to the Property. No well of any kind shall be dug or drilled on any one of the Lots or other tracts to provide water for use within the structures to be built thereon, and no potable water shall be used within said structures except potable water which is obtained from Jax Suburban. All sewage from any building must be disposed of through the sewage lines or through the sewage lines and disposal plant owned or controlled by Jax Suburban. No water from air conditioning systems, ice machines, swimming pools, or any other form of condensate water shall be disposed of through the lines of the sewer system. Jax Suburban is hereby given the right and power to enforce the provisions of this paragraph against any person who violates the provisions hereof.

Section 10.5 Garbage Collection. Garbage, trash and rubbish shall be removed from the Lots only by parties or companies approved by the 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. The Association shall have the right from time to time to prescribe by rule, the type of receptacles that may be used for storage of trash and where such receptacles shall be stored when not in use.

Section 10.6 Electrical, Cable Television and Telephone Service. All electric, cable television, telephone, satellite and other Cable Television utility lines and connections between the main or primary utilities lines or individual satellite dishes 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, as applicable.

ARTICLE XI

RIGHTS AND EASEMENTS IN FAVOR OF THE ASSOCIATION

Section 11.1 Easements for Ingress, Egress, Utilities and Drainage. The Association shall have for itself, its successors, assigns and designees, a right-of-way and easement for ingress and egress and to erect, maintain and use utilities, electric, telephone and street lighting poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains, gas, sewer, water lines, drainage ways and structures, cable television and radio equipment or other public conveniences or utilities, on, in and over, (i) any area designated as an easement, private street or right-of-way area, or part of the Common Area on the plat of the Community or on the plat of any property made subject to this Restated Declaration pursuant to Section 3.1; (ii) a strip of land within each Lot three

(3) feet in width at the front and rear of each Lot and along the side of each Lot; and (iii) for Lots which include or adjoin a lake, a strip of land ten (10) feet in width along and upland of the lake bank, measured from the top of bank of such lake bank. Provided, however, the foregoing easements shall be released automatically on any Lot upon which the original improvements constructed by the Developer encroach into said easement, but only to the extent necessary to accommodate such encroachment.

Section 11.2 Drainage Flow. Drainage flow shall not be obstructed or diverted from drainage easements. The Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear 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 permanent improvements erected upon a Lot which are not located within the specific easement area designated on the plat or in this Restated 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 11.3 Easements for Maintenance Purposes. The Association and its agents, employees, successors or assigns shall have an easement, in, on, over and upon each Lot and the Common Area as may be reasonably necessary for the purpose of preserving, maintaining or improving Common Area, marsh areas, lakes, hammocks, wildlife preserves or other areas, the maintenance of which may be required to be performed by the Association.

The Association and each Owner shall have an easement over and upon the portions of the Lots more particularly described in Section 11.1 hereof for (i) the ordinary and reasonable maintenance and upkeep of structures located on adjoining Lots; (ii) encroachments created by construction, settling and overhangs including plants, walkways, trellises, walls, and fences; and (iii) the rise and fall of the water level of any lake located within or adjacent to the Property. The prior sentence notwithstanding, no Owner shall have the right to place any plants or improvements on any portion of his Lot to which he does not have direct access without the approval of the adjacent Owner, and no Owner shall have the right to place any plants or other improvement in a manner which will reasonably obstruct an adjacent Owner's access to his own Lot, without the prior consent of such adjacent Owner.

Section 11.4 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, or where circumstances such as topography, natural obstructions, hardships, or aesthetic or environmental considerations require same, the Association shall have the right to release the Lot 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 areas, so long as Association, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health and safety of Owners, the value of adjacent Lots and the overall appearance of the Property. Upon granting of an exception to an Owner, copies of such grant shall be forwarded to adjacent Owners and shall be binding upon all subsequent Owners of the affected Lots.

ARTICLE XII
GENERAL PROVISIONS

Section 12.1 Duration and Remedies for Violation.

12.1.1 The terms and provisions of this Restated Declaration shall run with title to and bind the Property, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Property subject to this Restated Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Restated Declaration is recorded, after which time such terms and conditions shall automatically be extended for successive periods of ten (10) years unless an instrument executed by the President of the Association upon approval by the Owners holding not less than two-thirds (2/3) of the voting interests of the membership of the Association has been recorded, agreeing to terminate the Restated Declaration. Violation or breach of any condition, covenant or restriction herein contained shall give the Association and the 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 such enforcement shall be borne by the then Owner or Owners of the subject property. Expenses of enforcement shall include reasonable attorneys' fees incurred by the Association or the Owners seeking such enforcement, regardless of whether litigation is instituted.

12.1.2 In addition to all other remedies, and to the maximum extent allowed by law, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees or employees, to comply with any covenant or restriction herein contained, or rule of the Association, provided the following procedures are adhered to:

(i) For a first violation, the Association shall give written notice to the Owner of the alleged infraction.

(ii) For a subsequent violation, the Association shall provide the Owner with a notice of its intent to impose a fine for such violation. Included in the notice shall be the date and time of a meeting of a committee of at least three (3) members appointed by the Board who are not officers, directors or employees of the Association, or the spouse, parent, brother or sister of an officer, director or employee (the "Committee") at which time the Owner shall present argument as to why a fine should not be imposed. At least fourteen (14) days prior notice of such meeting shall be given.

(iii) At the meeting, the alleged infractions shall be presented to the Committee, after which the Committee shall receive evidence and hear argument as to why a fine should not be imposed. A written decision of the Committee shall be submitted to the Owner not later than thirty (30) days after the Committee meeting. At the meeting, all interested parties shall have the right to be represented by counsel and to cross-examine witnesses.

(iv) With the approval of a majority of the Committee, the Association may levy fines not to exceed \$100.00 per violation or up to \$100.00 per day, for each day of continuing violation with a single notice and opportunity for hearing consistent with this Section, except that no fine for a continuing violation shall exceed \$1,000.00 in the aggregate.

(v) Fines shall be paid not later than five (5) days after notice of the imposition or assessment thereof.

(vi) The payment of fines shall be secured by one or more liens encumbering the Lot or Lots owned by the offending Owner. Such fines and liens may be collected and enforced in the same manner as regular and special assessments are collected and enforced pursuant to this Restated Declaration.

(vii) All monies received from fines shall be allocated as directed by the Board of Directors.

(viii) The imposition of fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association or any Owner may be otherwise legally entitled; provided, however, any fine paid by an offending Owner shall be deducted from or offset against any damages which may be otherwise recoverable from such Owner.

12.1.3 The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Restated Declaration which relate to the maintenance, operation and repair of the Surface Water or Stormwater Management System.

Section 12.2 Notices. Any notice required to be sent to any member or Owner under the provisions of this Restated Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as a member or Owner on either the records of the Association or the public records of St. Johns County, Florida at the time of such mailing. Notices to the Association shall be sent in the manner described above to the registered office of the Association.

Section 12.3 Severability. Invalidation of any portion of this Restated Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 12.4 Amendment. This Restated Declaration may be amended at any time as follows:

12.4.1 The amendment must first be approved in writing by the Board of Directors of the Association.

12.4.2 After approval by the Board of Directors of the Association the amendment must be approved by the Owners of at least two-thirds (2/3) of the Lots within the Community signifying their approval by signing a copy of the amendment or a written ballot. The number of Lots owned by each Owner shall be indicated next to his signature on the copy of the amendment or ballot.

12.4.3 Upon approval of the amendment by the Owners, the President shall execute and the Secretary shall attest to a copy of the amendment which document shall be recorded in the public records of St. Johns County, Florida.

12.4.4 Further, the Association shall have the absolute and unconditional right to amend this Restated 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.

12.4.5 Any amendment to this Restated Declaration which alters the Surface Water or Stormwater Management System, beyond maintenance in its original condition, must have the prior approval of the St. Johns River Water Management District.

Section 12.5 Usage. Whenever used, the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 12.6 Effective Date. This Restated Declaration shall become effective upon its recordation in the public records of St. Johns County, Florida.

Section 12.7 Rights of Mortgagees. Upon written request to the Association any party holding a mortgage encumbering any Lot shall be entitled to timely written notice of the following:

(a) Any condemnation or casualty loss that affects either a material portion of Fiddler's Marsh, or the Lot encumbered by the applicable mortgage.

(b) Any delinquency in the payment of annual or special assessments by the Owner of the Lot on which the party holds a mortgage.

(c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Copies of this Restated Declaration, the Articles of Incorporation and Bylaws of the Association, and any applicable rules or architectural criteria in effect from time to time.

(e) Copies of the financial statements of the Association.

Section 12.8 Disclaimers as to Water Bodies. NEITHER THE ASSOCIATION NOR ITS SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER

BODY ADJACENT TO OR WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTY LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID WATER BODIES SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

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

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

IN WITNESS WHEREOF, the Association 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:

**FIDDLER'S MARSH (AT L'ATRIUM)
HOMEOWNERS ASSOCIATION, INC.,**
a Florida not-for-profit
corporation

Janice B. Hirschberg
Print Name JANICE B. HIRSCHBERG

Marilyn A. Alberti
Print Name Marilyn A. Alberti

By:

Jeffrey Hirschberg
Print Name JEFFREY HIRSCHBERG
Its: President

(CORPORATE SEAL)



0R1461PG0194

STATE OF FLORIDA }
 }SS
COUNTY OF ST. JOHNS }

The foregoing instrument was acknowledged before me this _____
day of NOV. 30, 1999, by JOSEF V. HERSHBERG as President of
FIDDLER'S MARSH (AT L'ATRIUM) HOMEOWNERS ASSOCIATION, INC. a
Florida not-for-profit corporation, on behalf of the corporation.

Print Name

JOHN ALBERTI

NOTARY PUBLIC

State of Florida at Large

Commission # CC649503

My Commission Expires:

5/20/2001

Personally Known _____

or Produced I.D. _____

[check one of the above]

Type of Identification Produced

DRIVERS LICENSE

NOTARY PUBLIC - STATE OF FLORIDA
JOHN ALBERTI
COMMISSION # CC649503
EXPIRES 5/20/2001
BONDED THRU ASA 1-888-NOTARY1

EXHIBIT A**PROPERTY**

Parcel 1:

L'Atrium Unit IV, Phase A, according to the plat thereof recorded in Map Book 19, pages 23 through 27 of the current public records of St. Johns County, Florida.

L'Atrium Unit IV, Phase B, according to the plat thereof recorded in Map Book 24 at pages 66 through 68 of the current public records of St. Johns County, Florida.

L'Atrium Unit IV, Phase C, according to the plat thereof recorded in Map Book 23, pages 62 through 66 of the current public records of St. Johns County, Florida.

Parcel 2:

All of the following described real property conveyed to Fiddler's

Marsh (at L'Atrium) Homeowners Association, Inc., a Florida non-profit

corporation pursuant to Quit Claim Deed dated April 24, 1998 recorded at

Official Records Book 1315, Page 1837, St. Johns County, Florida:

The real property more particularly described in that certain Warranty Deed by Roy Landrum and Alice B. Landrum, his wife, to Tom West Homes, Inc. and L'Atrium Corporation dated May 10, 1984, and recorded in Official Records Book 643, page 44, of the public records of St. Johns County, Florida.

RE No. 062215-0000

The North 318.31 feet of the south 2671.81 feet of Section 44, Township 3 South, Range 29 East, except that part in 100-foot drainage right of way described in Deed Book 96, page 303, of the public records of St. Johns County, Florida.

RE No. 062200-0001

EXHIBIT B**COMMON AREA**

Lot 105, Block III and Tract C of L'Atrium Unit II, according to the plat thereof recorded in Map Book 14, pages 5 through 8, of the current public records of St. Johns County, Florida.

Tracts A, B, La Resérve Drive, Chantal Court, St. Emilion Court, Charlemagne Circle, and "Drainage Easement" all as shown on the plat of L'Atrium Unit IV, Phase A, according to the plat thereof recorded in Map Book 19, pages 23 through 27 of the current public records of St. Johns County, Florida.

La Resérve Circle, La Resérve Drive, Lake, and "Drainage Easement", as shown on the plat of L'Atrium Unit IV, Phase B, according to the plat thereof recorded in Map Book 24 at pages 66 through 68 of the current public records of St. Johns County, Florida.

Tract A - Lake, Colombard Court, and Alsace Court, as shown on the plat of L'Atrium Unit IV, Phase C, according to the plat thereof recorded in Map Book 23, pages 62 through 66 of the current public records of St. Johns County, Florida.

Easement rights set forth in Easement Agreement recorded in Official Records Book 406 at page 14 of the current public records of St. Johns County, Florida.