Prepared By:
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Suite 4
Jacksonville, Florida 32217

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MALLARD COVE, UNIT TWO

THIS DECLARATION is made on the date hereinafter set forth by LAND PLANNERS DEVELOPMENT, INC., a Florida corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of all those certain properties in Duval County, Florida, being more particularly described as:

> Mallard Cove, Unit Two, according to the plat thereof recorded in Plat Book 45, pages 25, 25A and 25B, of the current public records of Duval County, Florida.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, agreements and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof. Any person accepting a deed to any portion of the property shall be deemed to have agreed to all of the easements, restrictions, covenants and agreements as set forth herein.

## ARTICLE I - DEFINITIONS

1. "Association" shall mean and refer to the Mandarin Mallard Cove Association, Inc., a Florida corporation not for profit, its successors and assigns.

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

3. "Properties" shall mean and refer to that certain real

property hereinabove described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

4. "Common Areas" shall mean all re property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Declarant may hereafter convey portions of the properties to the Association to constitute additional Common Areas but shall have no obligation to do so.

5. "Lot" shall mean and refer to the building plots of land shown upon the recorded subdivision plat of the properties described above.

6. "Declarant" shall mean and refer to Land Planners Development, Inc., and any person or entity to whom Declarant shall assign its rights and duties under this agreement.

7. "Lakes" shall mean all areas established for storage or treatment of storm water or surface water even though title to any such area shall be held by an individual t owner.

8. "Builder" shall mean and refer to any individual or entity, including but not limited to Tompkins Investment Group Incorporated, a Delaware corporation, its subsidiaries, successors and assigns, duly licensed and qualified in the State of Florida for the construction of residential dwellings who purchases a Lot or Lots in the subdivision for the sole purpose of constructing a residential dwelling for sale to an Owner.

ARTICLE II - PROPERTY RIGHTS

1. Owner's Easements of Enjoyment. Every owner and the Association shall have a right and easement of enjoyment in and to any Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility hereafter situated upon any Common Area;

b) the right of the Association to suspend the voting rights and right to use of any recreational facilities, if any,

as to any owner for any period during which any assessment against such owner's lot remains unpaid and for a period not to exceed 60 days for any infraction of the Association's published rules and regulations;

c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by its members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds of all votes eligible to be cast by both member classes of the Association.

2. Delegation of Use. Any owner may delegate, in accordance with the by-laws, such owner's right of enjoyment to the Common Area and facilities to the members of such owner's family, tenants, or contract purchasers who reside on the property.

ARTICLE III - MEMBERSHIP AND VOTING RIGHTS

1. Assessment. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

2. Membership. The Association shall have two classes of voting membership: CLASS A - Class A members shall be all owners, with the exception of the Declarant and Builders as defined in Article I, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

CLASS B - Class B members shall be the Declarant and any Builder as defined in Article I of this declaration. Class B members shall be entitled to twelve (12) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following

events, whichever occurs earlier:

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

b) on December 31, 1994, or

c) when Declarant requests that Class B membership be converted to Class A membership and such conversion is approved by a majority vote of the Class B members.

ARTICLE IV - COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each lot owned within the Properties, hereby covenants, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: 1) annual assessments or charges, and (2) special assessments for capital improvements or maintenance, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such owner's successors in title unless expressly assumed by them, but the lien shall survive any conveyance of title.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the common areas, islands in roadways, and the storm and/or surface water management system. Said maintenance, in addition to the foregoing, shall

include the continual maintenance and cleaning of the storm and/or surface water management system required by the St. Johns River Water Management District pursuant to permit number 40-031-0263M and other applicable rules and regulations. The continual maintenance and cleaning provided for in this paragraph shall be the sole responsibility of the Association.

3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum assessment shall be $48.00 per year per lot.

a) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum assessment may be increased each year but not more than 5% above the maximum assessment for the previous year without a vote of the membership.

b) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum assessment may be increased more than 5% by a vote of two-thirds of the members who are voting in person or by proxy, at a meeting duly called for such purpose.

c) The Board of Directors shall fix the assessment annually at amounts not in excess of the maximum.

4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, 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, re-construction, repair or replacement of a capital improvement upon any common area, including fixtures and personal property related thereto; provided that any such special assessment shall have the assent of two-thirds of the votes of each class of members who are voting in person or by proxy at a meeting duly called for such purpose.

5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the

purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a quarterly basis.

7. Date of Commencement of Annual Assessments. Due Dates: The annual assessments provided for herein shall commence as to all lots on the date of the recording of this Declaration in the public records of Duval County, Florida. No lot owned by the Declarant shall be subject to any assessment until a residence has been constructed thereon and occupied. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessments on a specified lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within 30 days after the

due date shall bear interest from the due date at the rate of 10% per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property involved, or both. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of such owner's lot.

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

ARTICLE V - LAND USE AND BUILDING TYPE

1. Land Use and Building Type. No one other than Declarant shall use any lot except for residential purposes. Unless otherwise specifically allowed or permitted under these covenants, no structure shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height. No outbuilding or other structure at any time situate on said land shall be used as a hospital, sanitarium, church, charitable, religious or philanthropic institution, or for business or manufacturing purposes, and no duplex residence, garage apartment or apartment house shall be erected or placed on or allowed to occupy said land.

2. Declarant's Right to Resubdivide, Replat or Assign. Declarant shall have the right to resubdivide or replat any of the said land owned by it. In the event any of said land is resubdivided or replatted for rights-of-way for roads, streets or

easements, none of the restrictions contained herein shall apply to the portions thereof used for such purposes. Declarant shall have the right to assign to any person or poration its rights and duties under these covenants.

3. Storm/Surface Water Management. The St. Johns River Water Management District has jurisdiction over this subdivision and has issued Stormwater Discharge Permit No. 40-031-0263M authorizing construction and operation of a storm and/or surface water management system to serve the subdivision. No alteration to any part of the aforementioned system, including but not limited to, lakes, swales and pipes, will be allowed without the written consent of Declarant. All clearing, grading and other construction activities must comply with the terms and conditions of the said permit. Specifically, the owners of Lots 37 thru 51 are required to install rear lot water treatment at the time of house construction in accordance with the terms and conditions of the said permit.

4. Conservation Easement. The Declarant hereby reserves unto itself, its successors and assigns, a perpetual, non-exclusive easement (the "Conservation Easement") over and across all areas noted on the Plat as conservation easements.

No right-of-access by the general public to the Property or any portion thereof is conveyed by this easement.

This easement, and all terms and conditions hereof, shall run with the land and be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of the Declarant and the St. Johns River Water Management District.

This easement may be amended or cancelled, or portions of the property released herefrom, only by written instrument duly recorded in the public records of Duval County, Florida, and executed by the Declarant and the St. Johns River Water Management District or their respective heirs, successors, assigns and personal representatives.

The purpose of this Conservation Easement is to preserve the

land predominately in its natural state pursuant to the following description of "Prohibited Activities" and "Permitted Activities":

A. The following activities shall constitute prohibited activities on the Conservation Easement area (the "Prohibited Activities"):

a) Construction or placing of buildings, roads, utilities, or other structures on or above the ground.

b) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials.

c) Removal or destruction of trees, shrubs or other vegetation, except trimming or pruning as permitted by the Declarant.

d) Excavation, dredging or removal of loam, peat, gravel, soil, rock, or other material in such a manner as to affect the surface.

e) Any surface use which does not permit the Conservation Easement area to remain predominantly in its natural condition.

f) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

B. The following activities shall constitute permitted activities (the "Permitted Activities"):

a) Trails and picnic and observation areas.

b) Any activities for passive recreational purposes, such as those listed in a) above, which do not require the removal or destruction of vegetation or the dumping or placing of landfill.

c) Any activities and improvements required or permitted under St. Johns River Water Management District Permit No. 40-031-0263M.

5. St. Johns River Water Management District Easement. The

Declarant hereby reserves unto itself, its successors and assigns, a perpetual, nonexclusive easement (the "S.J.R.W.M.D. Easement") over and across all areas noted on the Plat as S.J.R.W.M.D. easement. The purpose of this S.J.R.W.M.D. easement is to provide an undisturbed area for the creation, propagation and maintenance of a wetland habitat. The Declarant and the St. Johns River Water management District hereby reserve unto themselves, their successors and assigns, a perpetual alienable right to enter the said S.J.R.W.M.D. easement for the purpose of planting, monitoring or maintaining the wetland habitat.

No right-of-access by the general public to the Property or any portion thereof is conveyed by this easement.

This easement, and all terms and conditions hereof, shall run with the land and be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of the Declarant and the St. Johns River Water Management District.

This easement may be amended or cancelled, or portions of the property released herefrom, only by written instrument duly recorded in the public records of Duval County, Florida, and executed by the Declarant and the St. Johns River Water Management District or their respective heirs, successors, assigns and personal representatives.

The following activities shall constitute prohibited activities on the Conservation Easement area (the "Prohibited Activities"):

a) Construction or placing of buildings, roads, utilities, or other structures on or above the ground.

b) Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials.

c) Removal or destruction of trees, shrubs or other vegetation, except trimming or pruning as permitted by the Declarant.

d) Excavation, dredging or removal of loam, peat,

gravel, soil, rock, or other material in such a manner as to affect the surface.

e) Any surface use which does not permit the S.J.R.W.M.D. Easement area to remain predominantly in its natural condition.

f) Any activity detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

6. Garage. Each home shall have an attached two car garage. No garage shall be permanently enclosed or converted to another use. All garages shall contain at least 400 square feet of usable space appropriate for parking automobiles. All garages must have doors which shall be maintained in a useful condition and shall be kept closed when not in use. Carports will not be permitted.

7. Outbuildings. No outbuilding shall be erected, placed or altered on any lot without the prior approval of the Architectural Control Committee.

8. Approval of Structure. No residence, structure, wall or swimming pool shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location of improvements with respect to topography and finished grade elevation. No exposed block or built up roof will be permitted in the construction of any dwelling. Approval shall be as provided in paragraph 25 below. No outbuildings or drives, walks, fences, walls or swimming pools shall be erected or constructed on any lot prior to the erection or construction of a permanent residence thereon. No fence, wall, bulkhead or structure of any kind will be permitted below the top of the slope of the lake bank as shown on the final survey on waterfront lots. Docks shall not be permitted.

9. Dwelling Size. Unless specifically approved in writing by the Architectural Control Committee, no dwelling shall be permitted on any lot unless the ground floor area of the main structure, exclusive of one-story open porches and garages, shall contain at least 1300 square feet for a one-story dwelling and at least 800 square feet for the ground floor of a dwelling of more than one story, with at least 1300 square feet for both stories combined.

10. Building Location. No building shall be located on any lot nearer than 25 feet to the front line or nearer than 15 feet to any side street line. No building shall be located nearer than 7.5 feet to an interior lot line. No dwelling shall be located on any lot nearer than 10 feet to the rear lot line, or nearer to the rear lot line than the rear building restriction line. No dwelling shall be located closer than 15 feet from any existing dwelling. The Architectural Control Committee shall be empowered to issue a variance in regard to the above measurements as it may deem prudent.

11. Lot Area. No dwelling shall be erected or placed on any lot having an area of less than 8,800 square feet.

12. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

13. Recreational and Commercial Vehicles. No commercial vehicles, boats or trailers of any type shall be permitted to be placed on any lot subject to these covenants, unless such shall be placed or parked in a fenced side yard or fenced rear yard of a lot, but not placed in the side yard of a corner lot on the side abutting a street. No wheeled vehicles of any kind or any other offensive objects may be kept or parked in a state of disrepair between the paved road and residential structures. No automobiles, trailers, or boats shall be parked in the roadways or on the right-of-way adjoining the lots. For purposes of this

paragraph, a vehicle which is a 3/4 ton or less truck used as transportation to and from the lot owner's employment shall not be considered a commercial vehicle. No travel trailers or motorized homes shall be permitted.

14. Temporary Structures. No structure of a temporary character, trailer, tent, motorized home, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

15. No Subdivision. No Lot located within the Property shall be subdivided to constitute more than one building plot.

16. Mailboxes. Declarant shall provide locations and construct cluster mailbox receptacles, as approved by the United States Postal Service. No individual lot owner shall cause to be constructed any mailbox facility other than those provided by the Declarant.

17. Fences. All fences shall be constructed of natural wood. No fence shall be installed which restricts or prohibits ingress and egress as granted by easements herein. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the rear of the house or the side of the house in the case of a corner lot unless approved by the Architectural Control Committee and in no event shall any fence exceed a maximum height of six (6) feet or be lower than a minimum height of five (5) feet unless approved by such committee. All fences shall be constructed and maintained to present a pleasing appearance as to quality of workmanship and materials, harmony of external design with existing structures and as to location with respect to topography and finished grade elevation. It shall be within the sole and exclusive purview of the Architectural Control Committee to make the determination as to whether or not a fence is pleasing in appearance as provided herein. Picket fences will not be permitted. Declarant reserves the right to release areas such as sewer lift stations, playgrounds, etc., from the above fence restrictions.

18. Signs. No sign of any kind shall be displayed to the public view on any lot without the prior written approval of the Architectural Control Committee except one sign of not more than two square feet advertising the property for sale, or after one (1) year from the closing date on the Lot, one sign of not more than two (2) square feet advertising the property for rent, or signs used by a builder to advertise the property during the construction and sales period. The entranceway identification sign shall be exempt from this provision and shall remain for the enjoyment of the owners of all Lots. The Architectural Control Committee shall have the right to promulgate standards for the quality, size, appearance, location and type of all signs to be displayed to public view.

19. Clotheslines. There shall not be permitted any exterior clotheslines on any lots.

20. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

21. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial use.

22. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Rubbish, trash, garbage or other waste shall be kept in closed sanitary containers constructed of metal or rigid plastic. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be visible from the street except on scheduled garbage

pick up days.

23. Motorists' Vision to Remain Unobstructed. The Declarant shall have the right, but not the obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial, placed or located on any lot, if the location of same will, in the sole judgment and opinion of the Declarant, obstruct the vision of motorists upon any of the streets.

24. Landscaping. The mass indiscriminate cutting down of trees is expressly prohibited without the written consent of the Architectural Control Committee, EXCEPT those areas where buildings and other improvements shall be located; i.e. homes, patios, driveways, gardens, parking and recreational areas, etc. Also, selective cutting and thinning for lawns and other general improvements shall be permitted. All disturbed areas on any lot must be seeded or covered with sod or mulch and maintained to present a pleasing appearance and to prevent the growth of weeds. It is the responsibility of each lot owner whose lot abuts a lake to maintain the lake bank to the waters' edge. It is the responsibility of each lot owner to maintain the area between the front property line of his lot and the street, as well as the side property line and the street in the case of corner lots. It is the responsibility of each lot owner to prevent erosion on all areas of his lot, including easements, by sodding, seeding and mulching, or other methods which may be deemed appropriate.

25. Architectural Control Committee.

a) Membership. The Architectural Control Committee shall be composed of three (3) persons appointed by Declarant. A majority of the committee may designate a representative to act for it. In the event of the death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

So long as Declarant owns any lots in the subdivision, Declarant shall have the right to appoint the members of such committee. At any time after Declarant has sold all lots or has waived, in writing, its right to appoint such committee members, the then record owners of a majority of the lots shall have the power and right through a duly recorded written instrument to elect the members of the committee, to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. Such rights may be assigned to the Mandarin Mallard Cove Association, Inc.

b) Procedure. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

26. Utility Lines. All water, sewer, electrical, telephone, television, gas and other utility lines shall be placed underground. No antennas or satellite dishes of any kind shall be placed on any lot.

27. Air Conditioning Units. No air conditioning units may be installed in any window if such unit shall be visible from any public street.

28. Roadways. No one, other than Declarant, shall use any lot or any portion thereof for roadway purposes and no one, other than Declarant, shall construct a driveway upon any lot except to serve the lot upon which it is constructed. Unless approved in writing by the Architectural Control Committee, only one driveway per lot, said driveway serving the garage on the lot, shall be permitted.

29. Utility Provisions. The City of Jacksonville or its successors has the sole and exclusive right to provide all water and sewage facilities and service to the property described

herein. No well of any kind shall be dug or drilled on any one of the lots or tracts to provide water for use within the structures to be built, and no potable water shall be used within said structures except potable water which is obtained from the City of Jacksonville or its successors or assigns. Nothing herein shall be construed as preventing the digging of a well to be used exclusively for use in the yard and garden of any lot or tract or to be used exclusively for air conditioning. All sewage from any building must be disposed of through its sewage lines and through the sewage lines and disposal plant owned or controlled by the City of Jacksonville or its successors or assigns. 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. The City of Jacksonville has a non-exclusive perpetual and unobstructed easement and right in and to, over and under property as described in this Declaration and the plat of the Property for the purpose of ingress, egress and installation and/or repair of water and sewage facilities.

30. Drainage and Utility Easements. The Declarant hereby reserves unto itself a perpetual alienable and releasable privilege and right on, and under the ground to construct, maintain and use electric, telephone, wires, cables, conduits, sewer, water mains or pipes, drainage swales or pipes, and other suitable equipment for the conveyance and use of electricity, telephone, water or other public conveniences or utilities on, in or over a 7.5 foot strip at the back and side of each lot. The said Declarant shall have the unrestricted right and power to release said easement.

31. Enforcement. Any person owning any portion of the above described lands may institute proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain any existing or threatened violation or to recover damages.

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

33. Indemnification. The owner or owners of all lots abutting the lakes within the Property shall, by virtue of having acquired said lots subject to these covenants and restrictions, be deemed to have assumed all of the obligations and responsibilities of Declarant, as set forth in the plat of Mallard Cove, Unit Two as follows:

> Mallard Cove, Unit Two, according to the plat thereof recorded in Plat Book 45, pages 25, 25A and 25B, of the current public records of Duval County, Florida.

hereinafter referred to as the "Plat", and have agreed to indemnify Declarant and save Declarant harmless from suits, actions, damages and liability and expense in connection with loss of life, bodily or personal injury, or property damage, or any other damage arising from or out of an occurrence in, upon or at or from the lakes as shown on the Plat, or any part thereof, or occasioned wholly or in part by any act or omission of owners, owners' agents, contractors, employees, servants, licensees, or concessionaires with the property.

34. Reservation for Subdivision Improvements. Developer reserves the right to enter any lot for the purpose of completing or correcting subdivision improvements as required by agencies of the City, County, State or Federal government.

35. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Declarant reserves and shall have the sole right to: a) amend these covenants and restrictions so long as the Declarant owns at least ten (10) lots within the subdivision or the units yet to be platted, or owns adjoining lands which are to be developed into Mallard Cove, Units Three

and Four; and b) to release any building plat from any part of the covenants and restrictions which have been violated (including, without limiting the foregoing, violations of building restriction lines and provisions hereof relating thereto) if Declarant, in its sole opinion, deems such violations to be insubstantial violations or if Declarant, in its sole opinion, deem such violations necessary for construction and/or sales. Subject to the above rights reserved by the Declarant, this Declaration may be amended by an instrument signed by not less than 66% of the lot owners.

36. Legal Action on Violation. If any person, firm or corporation, or other entity shall violate or attempt to violate any of these covenants and restrictions, it shall be lawful for the Declarant or any person or persons owning any lot on said land (a) to proceed at law for the recovery of damages against those so violating or attempting to violate any of such covenants and restrictions; and (b) to maintain a proceeding in equity against those so violating or attempting to violate any such covenants and restrictions, for the purpose of preventing or enjoining all or any of such violations or attempted violations. The remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Declarant, its successors or assigns, to enforce any covenant or restriction or any obligation, right, power, privilege, authority, or reservation herein contained, however long continued, shall in no event be deemed as a waiver of the right to enforce the same thereafter as to the same breach or violation thereof occurring prior to or subsequent thereto. Lot owners found in violation of these restrictions shall be obliged to pay attorney's fees to the successful plaintiff in all actions seeking to prevent, correct or enjoin such violations or in damage suits thereon. All restrictions herein contained shall be deemed several and independent.

IN WITNESS WHEREOF, the Declarant has executed this instrument this 5th day of April 1989.

Signed, sealed and delivered in the presence of:

LAND PLANNERS DEVELOPMENT, INC.

By: _____
Donald P. Hinson
Its Vice President

State of Florida

County of Duval

The foregoing instrument was acknowledged before me this 5th day of April, 1989, by Donald P. Hinson, as Vice President of Land Planners Development, Inc., on behalf of the corporation.

_____
Notary Public, State of Florida

CLIFFORD B. NEWTON NOTARY PUBLIC

035430

FILED AND RECORDED
IN PUBLIC RECORDS
OF DUVAL COUNTY FLA

APR 7 | 24 PM '89

20 VERIFIED

CLERK OF CIRCUIT COURT