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**UTILITY'S MOTION TO STRIKE
RESPONSE OF SAILFISH POINT PROPERTY OWNERS REPRESENTATIVES
AND CHARLES R. BUCKRIDGE TO UTILITY OBJECTION TO
PETITION FOR LEAVE TO INTERVENE
AND
MOTION TO DENY SPOR PETITION FOR LEAVE TO INTERVENE**

**ORIGINAL
FILE COPY**

900816-115

EXHIBITS

| <u>Exhibit</u> | <u>Subject</u> | <u>Referred to in ¶</u> |
|----------------|--|-----------------------------|
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| C | Declaration of Covenants and Restrictions | 13 |
| D | Amendments to Declaration | 13 |
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| F | Mortgage and Security Agreement | 35 |

DOCUMENT NUMBER-DATE

03442 APR -9 1991

CPSC-RECORDS/REPORTING

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1991-1992

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EXHIBIT
B

EXHIBIT "F" TO REFUNDABLE ADVANCE AGREEMENT

SAILFISH POINT

DECLARATION OF

PROTECTIVE COVENANTS AND RESTRICTIONS

FOR

SAILFISH POINT



36-13-11

Final
1/23/80

DECLARATION OF
PROTECTIVE COVENANTS AND RESTRICTIONS
FOR
SAILFISH POINT

466 2058

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TO
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FOR
SAILFISH POINT

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DECLARATION OF PROTECTIVE
COVENANTS AND RESTRICTIONS
FOR
SAILFISH POINT

THIS DECLARATION, made this 25th day of January, A.D., 1981, by SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida, its successors and assigns (hereinafter referred to as "Developer"), having its office at Suite 601, Admiralty Building, 4440 P.G.A. Boulevard, Palm Beach Gardens, Florida 33410. The Developer declares that the real property, as described in Exhibit "A" hereto, and such additions thereto as may hereafter be made pursuant to Article II hereof is owned by Developer and is made subject to this Declaration of Protective Covenants and Restrictions for Sailfish Point (hereinafter referred to as this "Declaration"). Said real property is and shall be held, transferred, sold, conveyed and occupied subject to the provisions of this Declaration as hereinafter set forth which are for the purpose of protecting the value and desirability of, and which shall run with, said real property and be binding on all parties, having any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof as hereinafter defined.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

Section 1. "ASSOCIATION" shall mean and refer to SAILFISH POINT PROPERTY OWNERS' AND COUNTRY CLUB ASSOCIATION, INC., a Florida corporation not for profit, and its successors and assigns which shall be deemed to act on behalf of all Owners, as hereinafter defined, of the real property which is subject to this Declaration, who become Members in accordance with the terms of this Declaration, in exercising, delegating and assigning the powers of maintaining and administering the community properties and facilities as presently or hereafter constituted in accordance with the terms of this Declaration, the Common Areas, and the Country Club, as those terms are hereinafter defined, in administering and enforcing the provisions of this Declaration. The Association is more particularly described in Article IV herein.

Section 2. "BOARD" shall mean and refer to the duly elected or appointed Board of Directors of the Association.

Section 3. "BUILDER" shall mean and refer to any person or entity which acquires record title to any Lot or Parcel from the Developer, as those terms are hereinafter defined and is designated in the instrument of conveyance from the Developer as a "Builder."

Section 4. "CLUSTER COMMITTEE" shall mean and refer to any and all committees of the Owners of Single Family Attached Units as hereinafter defined, organized for the operation and maintenance of areas to be exclusively used by said Single Family Attached Unit Owners in a particular area within Sailfish Point which is subjected to the provisions of a recorded Declaration of Cluster Covenants for that area. The relationship of the Cluster Committee to the Association is more particularly described in Article IV of this Declaration.

Section 5. "CLUSTER COMMON ELEMENTS" shall mean and refer to the area or areas exclusively used by the Owners of Single Family Attached Units in a particular area within Sailfish Point, which area has been submitted to a Declaration of Cluster Covenants, and which common elements are more particularly described in the Declaration of Cluster Covenants.

Section 6. "COMMON AREAS" shall mean and refer to any portion, whether real or personal, of the Sailfish Point Property, as hereinafter defined, which is subject to this Declaration, title to which is not held by the Developer, the Owner of a Residential Unit or Parcel, the Golf Club, the Marina Owner, or Sailfish Point Utility Corporation, as those terms are hereinafter defined. In addition, "Common Areas" shall mean and refer to any property, real or personal, submerged or unsubmerged, conveyed to the Association or reserved for use as a common area on any recorded plat of a portion of the Sailfish Point Property. "Common Areas" shall include any real property hereinbefore described whether submerged or unsubmerged, all fixtures, improvements and appurtenances located thereon or thereunder, and personalty used in connection therewith.

Section 7. "CONDOMINIUM ASSOCIATION" shall mean and refer to any and all condominium associations organized for the ownership, operation and maintenance of areas exclusively used and owned in common by the Owners of Condominium Units in a particular area within Sailfish Point, which is submitted to a condominium regime. The relationship of the Condominium Association to the Association is more particularly described in Article IV of this Declaration and in any Declaration creating a condominium.

Section 8. "CONDOMINIUM COMMON ELEMENTS" shall mean and refer to the area or areas exclusively used and owned in common by the Owners of Condominium Units in a particular area within Sailfish Point, which is submitted to a condominium regime and which common elements are more particularly described in any Declaration of Condominium.

Section 9. "CONDOMINIUM UNIT" shall mean and refer to a condominium unit together with its appurtenant share of the undivided common elements as described in and which is encumbered by a Declaration of Condominium.

Section 10. "COUNTRY CLUB" shall mean and refer to any portion of the Common Areas, so designated, described or shown upon any recorded plat or in any conveyance to the Association, together with all improvements, fixtures, improvements and appurtenances located thereon or thereunder and personalty used in connection therewith.

Section 11. "DECLARATION OF CLUSTER COVENANTS" shall mean and refer to the written instrument which establishes Cluster Common Elements, the Cluster Committee, and rules, regulations and covenants which exclusively appertain to all Single Family Attached Units erected on a Parcel.

Section 12. "DECLARATION OF CONDOMINIUM" shall mean and refer to the written instrument which, when recorded in the Public Records of Martin County, subjects all or part of a Parcel to a condominium form of ownership of real property.

Section 13. "DEVELOPER" shall mean and refer to SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida, and its successors or assigns if any such successor or assign acquires any rights, title or interest to or in all or any portion of Sailfish Point, as hereinafter defined, from the Developer for the purpose of development and is designated by a recorded document as the Developer by SAILFISH POINT, INC. and shall also refer to any assignee of Sailfish Point, Inc. under the Planned Unit Development Zoning Agreement, as described in Section 14 of this Article.

Section 14. "DEVELOPMENT PLAN" shall mean and refer to the general plan of development for Sailfish Point, as hereinafter defined, which plan has been agreed to and is not inconsistent with the Planned Unit Development Zoning Agreement between the Developer and Martin County dated January 9, 1979 and recorded in Official Records Book 463 at Page 1143, et seq. of the Public Records of Martin County, together with any amendments thereto, as may from time to time be agreed to and recorded.

Section 15. "GOLF CLUB FACILITIES" or "GOLF COURSE" shall mean and refer to any plot of land described, designated or shown upon any recorded plat within Sailfish Point as "Golf Club Facilities" or "Golf Course", together with all improvements thereon and fixtures, improvements and appurtenances located thereon or thereunder and personally used in connection therewith.

Section 16. "GOLF CLUB" shall mean and refer to SAILFISH POINT GOLF CLUB, INC., a Florida corporation not for profit which shall be deemed to act on behalf of its members in exercising, delegating and assigning the powers of maintaining and administering the Golf Club Facilities and/or the Golf Course, and in collecting and disbursing the annual dues together with any fees, initiation or otherwise, paid by the members of the Golf Club.

Section 17. "INSTITUTIONAL FIRST MORTGAGE" shall mean and refer to a mortgage which is a first lien on a Parcel or Residential Unit, as hereinafter defined, and is held by a bank, savings bank, a savings and loan association, insurance company, real estate investment trust, or any other recognized lending institution.

Section 18. "LOT" shall mean and refer to any plot of land numerically designated and shown or described in any recorded plat within the real property which is subject to this Declaration, with the exception of the Common Areas, as herein defined, and with the exception of those areas designated as "Parcel" in any such recorded plat.

Section 19. "MARINA" or "MARINA FACILITIES" shall mean and refer to any plot of land or submerged land described, designated or shown upon any recorded plat within Sailfish Point, as hereinafter defined, as "Marina" or "Marina Facilities" together with all improvements thereon and fixtures, improvements and appurtenances located thereon or thereunder and personally used in connection therewith.

Section 20. "MARINA OWNER" shall collectively mean and refer to the owner or owners of record of all or any part of the Marina or Marina Facilities.

Section 21. "MEMBER" shall mean and refer to all those Owners, as herein defined, who are Members of the Association in accordance with Article V of this Declaration.

Section 22. "OWNER" shall mean and refer to the record owner, whether one or more persons or entities, including the Developer, of the fee simple title to any Parcel or Residential Unit, as hereinafter defined.

Section 23. "PARCEL" shall mean and refer to any plot of land alphabetically designated and designated as "Parcel", as shown or described in any recorded plat within the real property which is subject to these Covenants and Restrictions, with the exception of the Common Areas.

Section 24. "RESIDENTIAL UNIT" shall collectively refer to Lots, Single Family Attached Units and Condominium Units.

Section 25. "SALES CENTER PARCEL" shall mean and refer to all or any part of Parcel "B" of Plat No. 1 Sailfish Point, to be recorded concurrently with this Declaration.

Section 26. "SAILFISH POINT" or "SAILFISH POINT PROPERTY" shall mean and refer to the real property which is described in Exhibit "A" attached hereto and made a part hereof.

Section 27. "SAILFISH POINT UTILITY CORPORATION" shall mean and refer to the entity, in whatever legal form, which owns and/or operates and/or manages the water and/or waste water treatment facilities which serve the Owners, the Golf Club, the Marina Owner, the Developer and all other users of the Sailfish Point Property excluding the irrigation system which serves the Golf Club Facilities and Golf Course and the irrigation system which serves all Owners, the Developer, the Marina Owner, and all other users of the Sailfish Point Property.

Section 28. "SINGLE FAMILY ATTACHED UNIT" shall mean and refer to any structure, to be used only as a single family residence which will be located on any Parcel and which is encumbered by a Declaration of Cluster Covenants which applies only to such Parcel.

Section 29. "UTILITY PARCEL" shall mean and refer to all or any part of Parcel "C" of Plat No. 1 of Sailfish Point to be recorded concurrently with this Declaration and shall include where the context so requires, all improvements thereon and appurtenances thereto.

Section 30. "WATER MANAGEMENT SYSTEM" shall mean and refer to the system described in the Surface Water Management Permit No. 43-00125-S, issued by the South Florida Water Management District, which encumbers all Sailfish Point Property and which must be maintained by the Association, as from time to time amended with approval of the South Florida Water Management District, or whatever governmental agencies have jurisdiction over a drainage system at Sailfish Point.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

DECLARATION BINDING UPON RECORDING OF PLAT, AND SUPPLEMENTARY DECLARATION: The intent of the Developer, for itself and its successors and assigns, is that this Declaration shall become binding and effective as to any platted area within Sailfish Point only upon the occurrence of both of the following events: (1) the recordation, among the Public Records of Martin County, Florida, of a plat for that part of Sailfish Point; and (2) the recordation, among the Public Records of Martin County, Florida, of a Supplementary Declaration of Protective Covenants and Restrictions for that part of Sailfish Point. The Developer shall have the right, from time to time to impose the covenants and restrictions contained in this Declaration, and all supplements and amendments thereto on unplatted areas within Sailfish Point. The Developer, its successors and assigns, shall have the right to bring within the Sailfish Point Property which is subject to the terms of this Declaration such additional area or areas within Sailfish Point provided that such additions are not inconsistent with the Planned Unit Development Zoning Agreement, as referred to in Article I, Section 14 herein. The Developer also reserves to itself the right to increase the number of residential housing units provided for in the Planned Unit Development Zoning Agreement, as described in Article I, Section 14 of this Declaration, provided that the Board of County Commissioners of Martin County consents, in writing, to such increase. In no event shall any such Supplementary Declaration, Declaration of Condominium and/or Declaration of Cluster Covenants revoke or amend all or any part of this Declaration. In the case of any ambiguity or conflict among the terms of the Supplementary Declaration, Declaration of Condominium or Declaration of Cluster Covenants, the provisions of this Declaration shall control.

ARTICLE III
PROPERTY RIGHTS

Section 1. TITLE TO THE COMMON AREAS AND THE COUNTRY CLUB: At its election, the Developer may retain the legal title to all or parts of the Sailfish Point Property which are to become the proposed Common Areas and/or the Country Club until, but not later than, such time as the Developer has sold and conveyed title to five hundred seventy-three (573) Residential Units, at which time, legal title to the Common Areas shall be conveyed by the Developer to the Association. At the time of the conveyance of the Common Areas, the Association must accept the conveyance and shall have no right to reject same.

At the time of conveyance, the Developer shall convey by Special Warranty Deed. Such conveyance shall be free and clear of all liens and encumbrances, and subject only to: (a) taxes and assessments for the year of conveyance and all subsequent years, (b) restrictions, conditions, limitations, reservations, easements of record, including, but not limited to, any recorded easements in favor of governmental entities for the maintenance of the jetty at the southern end of Sailfish Point, (c) perpetual non-exclusive easements from and to the Golf Course, Golf Club Facilities, the Marina, the Marina Facilities, the Utility Parcel and any of the Sailfish Point Property owned by the Developer or its assignees at the time of the conveyance, which easements shall be for the use, benefit and enjoyment of Developer, Builders, Sailfish Point Utility Corporation, members of the Golf Club, the Marina Owner, its or their guests, invitees, licensees, successors and assigns. The Common Areas and the Country Club are subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 2. AD VALOREM TAX ASSESSMENTS TO THE COMMON AREAS: For the purposes of ad valorem taxation, each Member shall pay his pro rata share of the ad valorem taxes imposed on the Common Areas, including the Country Club, which pro rata share shall be deemed to constitute a part of each Residential Unit. The percentage of Common Areas, including the Country Club, which shall be deemed to constitute each Residential Unit shall be a fraction: the numerator of which shall be one (1); and the denominator of which shall be the total number of residential housing units provided for in the Planned Unit Development Agreement, as described in Article I, Section 14 of this Declaration, together with all recorded amendments thereto.

Section 3. TITLE TO THE GOLF COURSE OR GOLF CLUB FACILITIES: Developer reserves the option to retain title to the Golf Course, the Golf Club Facilities or to convey the Golf Course, the Golf Club Facilities or any part or parts thereof to the Golf Club, which conveyance will be at such time and upon such terms as may be agreed upon by the Developer and the Golf Club. The Golf Course and Golf Club Facilities are subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 4. TITLE TO THE MARINA OR MARINA FACILITIES: Developer reserves the option to retain title to the Marina and/or Marina Facilities or to convey the Marina, the Marina Facilities or any part or parts thereof. The grantee of any conveyance may be the Marina Owner, provided the Marina and/or Marina Facilities are subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 5. TITLE TO THE UTILITY PARCEL: Developer reserves the option to retain title to the Utility Parcel or to convey any part or parts thereof. The grantee of any conveyance may be the Sailfish Point Utility Corporation, or the Association, or any government entity, provided that the Utility Parcel is subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 6. TITLE TO THE SALES CENTER PARCEL: Developer reserves the option to retain title to the Sales Center Parcel or to convey any part or parts thereof. The grantee of any conveyance may be the Association, any Condominium Association or any Builder, provided the Sales Center Parcel is subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 7. GENERAL EASEMENTS: Each of the following easements are hereby reserved and otherwise created and conveyed in favor of the Association, all Members, all Builders, the Developer, Sailfish Point Utility Corporation, the Golf Club and its members, the Marina Owner and their respective licensees, invitees, grantees, successors, and assigns unless said licensees, invitees, grantees, successors and assigns are the subject of an action of the Board prohibiting their entry onto the Sailfish Point Property, and are covenants and servitudes running with the title to the Sailfish Point Property:

(a) Utilities. An easement for utilities, including but not limited to, electricity, telephone, water and wastewater services, drainage, and irrigation systems for the Golf Club and for the Association and its members, as set forth on or in any plat or any Declaration of Condominium, or any Declaration of Cluster Covenants filed as to all or any part of the Sailfish Point Property, or as may be required for utility services, including the maintenance and operation of wells, well sites and a system for drainage, irrigation and effluent areas in order to adequately serve all or any part of the Sailfish Point Property, and all improvements thereon.

(b) Pedestrians and Vehicular Traffic. An easement for pedestrian and vehicular traffic over, through and across the Common Areas and the Country Club including, but not limited to, access to and from MacArthur Boulevard, the public way, but the same shall not give or create in any person the right to drive or park upon any portion of the Sailfish Point Property not intended for such common use or designated as such by the Association or by the Developer.

(c) Emergency Vehicles. An easement for the right of all lawful emergency vehicles, equipment and persons in connection therewith to pass over and across all portions of the Sailfish Point Property to service the Owners, residents and all improvements.

(d) Maintenance and Repair. Those easements for maintenance and repair as set forth in Article VII, Section 11 of this Declaration are easements to enter over, through and upon all portions of Sailfish Point for the purpose of maintaining, repairing and replacing Residential Units, the Common Areas, the Marina and Marina Facilities, the Golf Course and Golf Club Facilities, the Utility Parcel and the Sales Center Parcel.

(e) Ingress and Egress Easements for Parcels. An easement for ingress and egress from and to: each Lot and Parcel, the Common Areas, Country Club, the Golf Course and Golf Club Facilities, the Marina and Marina Facilities, the Utility Parcel and the Sales Center Parcel.

IN P 488 2068

(f) Security System. An easement for the security system which may be constructed in or on the Sailfish Point Property, as set forth in any plat or any Declaration of Condominium or any Declaration of Cluster Covenants filed as to any part of the Sailfish Point Property, or as may be required for security purposes in order adequately to secure all or any portion of the Sailfish Point Property, and any improvements thereon.

(g) Construction. An easement to enter upon, through and over and to use any portion of the Common Areas in connection with any construction on the Sailfish Point Property.

(h) Drainage. An easement or easements for drainage as may be from time to time required by the Water Management System.

(i) Maintenance of Water Management System. An easement or easements for maintenance, repair, and operation of the Water Management System.

ARTICLE IV

ASSOCIATION NETWORK

Section 1. ASSOCIATION: The Developer has caused to be incorporated a corporation known as SAILFISH POINT PROPERTY OWNERS' AND COUNTRY CLUB ASSOCIATION, INC., a Florida corporation not for profit, in accordance with the Articles of Incorporation of which a copy is attached hereto and made a part hereof as Exhibit "B", and the initial Bylaws, a copy of which is attached hereto and made a part hereof as Exhibit "C". The Association has not been formed, organized or incorporated in such a manner to qualify for tax exempt status under any provision of the Internal Revenue Code. This Association shall have the duties imposed in the Articles of Incorporation of said Association. This Association is or will become vested with primary authority and control over all Common Areas and is or will become the owner of all real and personal property known as the Common Areas, including the Country Club. The Association is the organization with the sole responsibility to make and collect assessments from all Members, the Developer, Builders, the Golf Club and the Marina Owner, which assessments will be made in accordance with Article VI. Assessments will be used solely for the purposes described in Article VI. The Association may also make and collect charges for maintenance services against any Owner, the Developer, the owner(s) of the Golf Club Facilities and Golf Course, the Marina and Marina Facilities, the Utility Parcel, and the Sales Center Parcel as more fully set forth in Article VII of this Declaration. The charges levied by the Association are separate, apart and in addition to any initiation fees, membership dues, charges or assessments which may be made or charged by the Marina Owner, the Golf Club, Sailfish Point Utility Corporation, any Condominium Association, or any Cluster Committee, to or against its or their shareholders and/or members, and/or users. The Association shall have the right to a lien for the charges and assessments to which it is entitled in accordance with Article VI of this Declaration.

Section 2. CONDOMINIUM ASSOCIATIONS: Condominium Associations, subordinate to the Association, may additionally be organized and operated with respect to a particular condominium regime in Sailfish Point, subject to the provisions of Article XIII. These Condominium Associations shall have the power to levy maintenance assessments for

the Condominium Common Elements as provided in the Declaration of Condominium, which maintenance assessments shall be separate and apart from any and all assessments levied by the Association, together with any rights which may be set forth in the Declaration of Condominium for the particular condominium regime. Each Condominium Unit Owner must be a member of the Association in accordance with Article V of this Declaration.

Section 3. **CLUSTER COMMITTEES:** Cluster Committees, subordinate to the Association, may additionally be organized and operated with respect to any cluster of Single Family Attached Units located within a Parcel which is subject to the terms of a recorded Declaration of Cluster Covenants. Cluster Committees shall have a power to recommend to the Association that the Association levy assessments with respect to the Cluster Common Elements owned by the Single Family Attached Unit Owners in such cluster. Said assessments are separate and apart from any and all assessments levied by the Association for the Common Areas and the Country Club. The Association shall have the right to a lien for the assessments to which it is entitled in accordance with Article VI of this Declaration. Each Single Family Attached Unit Owner must be a Member of the Association in accordance with Article V of this Declaration.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. **MEMBERSHIP:** There shall be two (2) classes of Members in the Association, as follows:

(1) **CLASS A MEMBERS:** Class A Members shall be all Owners of Residential Units and Parcels, except the Class B Member.

(2) **CLASS B MEMBER:** The Class B Member shall be SAILFISH POINT, INC., a Florida corporation, or its designee, successor or assignee, in its capacity as Developer of Sailfish Point.

Every Owner, except the Developer, who has received prior approval by the Association in accordance with this Article shall be a Class A Member of the Association. The Owner shall remain a Class A Member so long as such Owner owns any real property in Sailfish Point. The Developer's Class B membership in the Association shall terminate on the earlier of: (a) December 31, 1995; or (b) the time the Developer no longer owns any Residential Unit or Sailfish Point Property, unless terminated earlier by Developer's filing of a Certificate of Termination of Interest in Sailfish Point. At such time as the Developer's Class B membership terminates, the Developer shall become a Class A Member to the extent and for the period during which it owns any Residential Unit or Property in Sailfish Point. No entity or individual holding a security interest in Sailfish Point Property shall be a Member. Membership shall not be alienable from ownership of any Residential Unit or Parcel. A corporation or partnership may become a Member.

Section 2. **ACQUISITION AND COMPOSITION OF MEMBERSHIP:** Except for the Developer, whose membership is established by the provisions of this Declaration, and except for any Builder approved by the Developer, membership in the Association shall be established by approval by the Board of an application for membership. Board approval of an application will be based upon: (i) the results of an investigation of the applicant's financial ability to pay the dues and assessments of the Association and to maintain a residence in Sailfish Point in accordance with the terms of the Declaration, Articles, Bylaws and rules and regu-

lations of the Association, any Condominium Association or Cluster Committee; (ii) the results of an investigation as to the existence of any criminal record of the applicant, his family, or the shareholders, officers, partners, or employees of the applicant; and (iii) the results of any investigation of the applicant's understanding of and willingness to abide by the provisions of this Declaration, the Articles, Bylaws and rules and regulations of the Association, any Condominium Association or Cluster Committee. Membership shall not be denied to any applicant based upon the applicant's race, color, creed, national origin, age, or sex, nor shall such denial be contrary to applicable Federal or Florida law. Membership in the Association shall be automatically terminated when a Member divests or is divested of all fee ownership interest in any Residential Unit or Parcel.

Section 3. **VOTING:** Whenever a vote of the Members is required by this Declaration, any Supplementary Declaration or the Articles or Bylaws of the Association, the total number of votes which may be cast shall be equal to the number of residential housing units as established in the Planned Unit Development Zoning Agreement, as described in Article 1, Section 14 hereof, together with all recorded amendments thereto.

(a) Each Class A Member shall be entitled to one (1) vote for each Residential Unit owned by said Class A Member, provided, however, that a Builder who owns a Parcel shall be entitled to a number of votes equal to the number of Residential Units set forth in any recorded deed or instrument of conveyance from the Developer to the Builder for said Parcel. The Class B Member shall have a number of votes equal to the total number of residential housing units established by the Planned Unit Development Zoning Agreement as more fully described in Article I, Section 14 of this Declaration together with any recorded amendments thereto, less the votes to which the Class A Members are entitled.

(b) The Class B Member shall have the right to elect a majority of the Board, until such time as the Developer has sold and conveyed title to no less than five hundred seventy-three (573) Residential Units. In the event that not less than sixty (60) days prior to the next regularly scheduled annual meeting of the Members there shall be not less than one hundred Members, and in the event the total number of Directors shall be not less than three, then the Class A Members shall have the right to elect one director. In the event that not less than sixty (60) days prior to the next regularly scheduled annual meeting of the Members there shall be not less than three hundred Members, and in the event the total number of Directors shall be not less than five, then the Class A Members shall have the right to elect a total of two directors. In the event that, not less than sixty (60) days prior to the next regularly scheduled annual meeting of the Members there shall be not less than five hundred Members, and in the event the total number of Directors shall be not less than seven, then the Class A Members shall have the right to elect a total of three directors. So long as the Class B Member owns a Residential Unit or any property, developed or undeveloped, in Sailfish Point, the Developer shall have the right to elect not less than one (1) Director.

ARTICLE VI

COVENANTS FOR ASSESSMENTS

Section 1. **PURPOSE OF ANNUAL ASSESSMENTS:** All annual assessments levied by the Association and any other revenues received by the Association shall be used exclusively to promote the benefit of the Members, their guests and invitees; to promote the health, safety, welfare of the Members; to establish a residential community for the maximum

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benefit and enjoyment of all Owners; and in particular, to improve, construct or reconstruct, repair or replace, maintain and operate the Common Areas, including the Country Club.

The Common Areas including the Country Club are operated solely and exclusively for the convenience and benefit of all Owners. The Common Areas provide, among other things, access to and security for all Residential Units. The Country Club provides a meeting place for social, administrative and recreational functions for all Owners and provides services to all Owners, which services are intended to create a comfortable, convenient and pleasant residential community which is adapted to the South Florida environment.

The Association shall spend such sums as it receives for payment of all costs, expenses, charges and taxes that may be duly incurred by the Association, acting through the Board, from time to time in operating, managing, repairing, replacing, protecting and conserving the Common Areas, and in carrying out its duties and responsibilities as provided by this Declaration and the Articles of Incorporation and Bylaws of the Association.

The Association shall also spend such revenues for the cost(s) of doing any other thing necessary or desirable, in the opinion of the Board, to keep the Common Areas neat and in good order, properly operating, and to eliminate any hazard or take any action which, in the opinion of the Board, may be reasonably required for the safety and general benefit of all Owners and residents of Sailfish Point.

Section 2. DELEGATION OF RIGHT TO ASSESS: The Association may delegate to the Board the right to make, levy and collect assessments, of any kind, and the right to exercise any right or remedy in regard to delinquent assessments as such rights and remedies are created in this Declaration, any Supplementary Declaration, the Articles and Bylaws of the Association and any rules and regulations established by the Board.

Section 3. RATE OF ASSESSMENT: Sailfish Point Property shall, for the purpose of determining the annual assessments, be classified for each year's annual assessment as: (1) Improved Units, which shall be defined as Residential Units which have received a certificate of occupancy; (2) Unimproved Units and Parcels which shall be defined as Residential Units and Parcels which have been platted but have not yet received certificates of occupancy for improvements thereon; and (3) Unplatted Units Within Sailfish Point which shall be defined as the total number of residential housing units permitted in the Planned Unit Development Zoning Agreement described in Article I, Section 14 of this Declaration, together with any amendments thereto, less the total number of residential housing units which constitute Improved Units, and Unimproved Units. Unplatted Units Within Sailfish Point excludes the Golf Club Facilities and Golf Course, the Marina and Marina Facilities, the Utility Parcel and the Sales Center Parcel.

All Owners of Improved Units, including the Developer, shall pay the same amount of annual assessment for each such Improved Unit. All Owners of Unimproved Units, including the Developer, shall pay the same amount of annual assessments on each such Unimproved Unit. The Owner or Builder of a Parcel, including the Developer, shall be assessed in accordance with the stated maximum number of residential housing units expressed in the deed conveying title to the Parcel from the Developer or, if no such deed exists, the stated maximum number of residential housing units expressed in the most recent of the following: (a) the building permits; or (b) the grant of preliminary zoning by the Board of Commissioners of Martin County.

(a) Each Owner of an Improved Unit, including the Developer, shall be obligated to pay for each Improved Unit, a share of the annual budget of the Association calculated as follows:

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$$\frac{100 \times B}{100 \times C + 50 \times P + 25 \times U} = \text{Annual Assessment Per Improved Unit}$$

- B = The Annual Budget.
- C = The number of Improved Units as of January 1 of the Budget year.
- P = The number of Unimproved Units as of January 1 of the Budget year.
- U = The number of Unplatted Units within Sailfish Point as of January 1 of the Budget year.

(b) Each Owner of an Unimproved Unit, including the Developer, shall be obligated to pay for each Unimproved Unit a share equal to one half the rate paid by the Owner of an Improved Unit.

(c) Each Owner of an Unplatted Unit within Sailfish Point, including the Developer, shall be obligated to pay for each Unplatted Unit Within Sailfish Point a share equal to one quarter the rate paid by the Owner of an Improved Unit.

(d) In accordance with the quarterly billing of annual assessments, if the classification of a Residential Unit changes during any quarter, the assessment rate will be adjusted on the first day of the quarter following such change.

All annual assessments shall be billed and payable in four (4) equal quarterly installments.

Section 4. ASSESSMENTS TO OWNERS OF SINGLE FAMILY ATTACHED UNITS AND CONDOMINIUM UNITS: In accordance with the terms of a recorded Declaration of Condominium and/or Declaration of Cluster Covenants, the Owner of a Single Family Attached Unit or Condominium Unit will be assessed for the upkeep and maintenance of the Condominium Common Elements or Cluster Common Elements which he is obligated to maintain. These assessments for upkeep, maintenance and other expenses related to the Condominium Common Elements or Cluster Common Elements are separate, apart and in addition to the assessments, of whatever nature, which are levied by the Association.

In accordance with the terms of the particular Declaration of Cluster Covenants and with Article IV, Section 3 of this Declaration, each Cluster Committee shall prepare a budget for the upkeep and maintenance of the Cluster Common Elements which such Committee is obligated to maintain. This budget shall be submitted to the Association and, if approved by the Association, may be the basis for assessments to the Owners of the Single Family Attached Units who use such Cluster Common Elements.

Section 5. SPECIAL ASSESSMENTS: In addition to any annual assessments, the Association may levy in any assessment year one or more special assessments, 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 made to the Common Areas, and the Country Club, including the necessary fixtures and personal property related thereto and operational deficits or other extraordinary or unbudgeted items deemed reasonably necessary by the Association. Such special assessments shall be levied against all Owners, the Developer, the Golf Club, the Marina Owner and Sailfish Point Utility Corporation, as their interests shall appear and at the rate of assessment approved by the Association.

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In the event a judgment, of a court of competent jurisdiction, is rendered against the Association, the Association shall levy a special assessment against all Members for the purpose of satisfying such judgment, plus interest and costs. The amount of this special assessment shall be prorated equally among all Owners of Residential Units, regardless of whether such Residential Unit is an Improved Unit, Unimproved Unit or Unplatted Unit Within Sailfish Point as those terms are used in this Article. Nothing contained herein shall limit the right of the Association to exercise any and all rights which it may have to appeal the entry of any judgment against the Association.

The Association may establish a special assessment district within the Sailfish Point Property which district corresponds to an area or areas of Sailfish Point in order to meet the particular needs of the Owners of Sailfish Point Property in said areas and which area or areas correspond to benefit received from a particular resource. The Association may subject those Residential Units, Parcels, the Golf Course and Golf Club Facilities, the Marina and Marina Facilities, the Utility Parcel, or the Sales Center Parcel within said special assessment district to special assessments to pay for expenses which include, but are not limited to, maintenance dredging, periphery bulkheading and maintenance thereof, abatement of erosion and other matters for which such a special assessment may be reasonably levied by the Association uniformly within such a special assessment district.

Section 6. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: Recognizing that the provision of operation and management of the Common Areas and the Country Club results in benefit to all of the Owners and that the payment of such common expenses represented by the assessments levied and collected by the Association, is necessary in order to preserve and protect the Sailfish Point Property, the Developer hereby covenants, and each Owner, by acceptance of a Deed or other instrument of conveyance therefor, including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association: (1) all annual assessments, fees and charges, exclusive of any and all assessments levied by any Condominium Association; (2) all special assessments for capital improvements, major repair and/or extraordinary maintenance and/or other extraordinary items, including but not limited to, operating deficits deemed necessary by the Board which are beneficial to all or part of the Common Areas, and (3) exterior maintenance assessments. The Association, is hereby granted the right to impose liens upon each and every Residential Unit, Parcel, the Golf Club and Golf Course Facilities, the Marina Facilities and all appurtenances thereto and improvements thereon, which liens shall secure and do secure the monies due for all assessments now or hereafter levied against the owner of such Residential Unit, Parcel, the Golf Club and Golf Course Facilities, and the Marina and Marina Facilities. Such liens shall also secure interest and any charges and late fees due and owing on any delinquent assessment. Such lien shall also secure all costs and expenses of collection, including a reasonable attorney's fee whether suit be brought or not, which may be incurred by the Association, in enforcing said lien. The Association is hereby granted the right to accelerate the balance of the calendar year's assessment and to consolidate said balance with any delinquent amount. The lien for assessments shall be a charge on the land and a continuing lien upon the property against which each such assessment is made. In addition, each Owner and the Developer shall be personally liable, jointly and severally, as the case may be, to the Association, for the payment of all assessments, of whatever nature, including interest and any charges and late fees on delinquent assessments and together with all costs and expenses of collecting such assessment including reasonable attorneys' fees whether suit be brought or not, which may be levied by the Association, while such party or parties are an Owner or the Developer.

An assessment which is not paid when due shall bear interest from the date when due at the rate of fifteen (15%) percent per annum until paid. In the event the Owner, the Golf Club, or the Marina Owner

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shall be more than fifteen days delinquent in the payment of any assessment, the Board, after thirty (30) days prior written notice to the Owner, the Golf Club, or the Marina Owner, may declare due and payable all assessments applicable to such Residential Unit, Golf Course and Golf Club Facilities, or Marina and Marina Facilities for the year in which such delinquency occurs.

The personal obligation for all unpaid delinquent assessments shall not pass to an Owner's or the Developer's successor(s) in title unless expressly assumed by him in writing, which assumption must be approved by the Association in writing. The lien for delinquent assessments shall remain attached to the Residential Unit, Parcel, the Golf Course and Golf Club Facilities, or the Marina and Marina Facilities until discharged, as provided herein. The Owner, Developer, Golf Club or Marina Owner may not waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Areas or by abandonment of his or its Residential Unit, Parcel, the Golf Course and Golf Club Facilities, the Marina and Marina Facilities or the Common Areas.

All purchasers of Residential Units or Parcels, by acceptance of an instrument of conveyance, hereby waive all rights to any homestead exemption from forced sale under the Constitution of the State of Florida and under applicable law to the full extent allowable under the laws of the State of Florida now or hereafter existing as to any foreclosure of the aforesaid assessment lien.

Section 7. ASSESSMENTS SUBORDINATE TO INSTITUTIONAL FIRST MORTGAGE: The lien for assessments shall be subordinate and inferior to any recorded Institutional First Mortgage. The Association may, but shall not be obligated to, maintain a register of Institutional First Mortgages and may agree to give such mortgagees written notice of all notices given by the Association to the Owner or Developer of such Residential Units or Parcels encumbered by such Institutional First Mortgage. The written statement of either the Developer or the Association that a lien of the Association is subordinate to a mortgage shall be dispositive of any question of subordination.

If, as the result of a foreclosure or the voluntary conveyance in lieu of foreclosure, the holder of any Institutional First Mortgage acquires title to a Residential Unit or Parcel, the Institutional First Mortgagee or its successors and assigns shall not be liable for any delinquent assessments pertaining to such Residential Unit or Parcel, unless payment therefor is expressly assumed in writing. Such Institutional Mortgagee shall be liable for assessments attributable to the Parcel or Residential Unit to which it takes title from the date of its acquisition of such title.

Section 8. ASSESSMENTS MADE TO FINANCE LITIGATION AGAINST THE DEVELOPER: In the event the Association, on its behalf or on behalf of some or all of its Members, commences or seeks to commence litigation against the Developer based on matters related to Sailfish Point and, in regard to such litigation attempts to levy an assessment of any nature, to finance such contemplated or actual litigation or an appeal therefrom, the Sailfish Point Property which is owned by the Developer shall be exempt from such assessment. Nothing contained in the foregoing shall relieve the Developer of its obligation to pay assessments on Sailfish Point Property owned by it, provided such assessments are not used for the purpose of financing litigation, or appeals therefrom, against the Developer.

Section 9. EXEMPT PROPERTY: The Association shall exempt the following property in Sailfish Point from annual and special assessments, charge(s) and lien(s) created herein if such property is used, and so long as such property is used, for the purposes set forth in this Declaration. Nothing contained herein shall exempt the properties described in this Section from assessments for maintenance, as provided in Article VII, Section 9 of this Declaration. The following property is

property for the benefit of all Members and shall be exempt from annual and special assessments, charges and liens related thereto. Costs related to these properties shall be included in the individual assessments made to the Owners and the Developer:

A. Any easements or other interests therein dedicated and accepted by a public authority and devoted to public use.

B. All Common Areas.

C. To the extent agreed to by the Association, all Sailfish Point Property which is exempt from ad valorem taxation by the laws of the State of Florida.

D. The Utility Parcel, so long as it shall be used as the Utility Parcel.

E. The Sales Center Parcel, so long as it shall be used as the Sales Center Parcel.

Section 10. ASSESSMENTS TO GOLF CLUB FACILITIES, GOLF COURSE, MARINA AND MARINA FACILITIES: The Association shall have the right to assess the Golf Club and the Marina Owner for the particular benefits received by the Golf Club Facilities and Golf Course, and the Marina and Marina Facilities from their respective use of the Common Areas or for particular service provided to or benefit conferred upon said entities and/or their members. The rate of assessment shall be more particularly set forth in respective agreements between the Association and the Golf Club, and the Association and the Marina Owner.

The Association is hereby granted the right to impose liens upon the Golf Club Facilities and Golf Course, and the Marina and the Marina Facilities and all improvements fixtures and appurtenances thereto, which liens shall secure and do secure the monies due for all assessments now or hereafter levied against the Golf Club Facilities and Golf Course, and the Marina and Marina Facilities, which liens shall also secure any interest, charges, penalties and late fees due and owing on such delinquent assessment and which liens shall also secure all costs and expenses of collection, including a reasonable attorney's fee whether suit be brought or not, which may be incurred by the Association in enforcing such liens. These liens for assessments shall be a charge on the land and a continuing lien upon the property against which each such assessments are made.

Section 11. ASSESSMENTS FOR MAINTENANCE SERVICES RENDERED BY THE ASSOCIATION: As provided in Article VII, Section 9, the Association may levy assessments for the maintenance services which it renders to Parcels, Residential Units, the Golf Course and Golf Club Facilities, the Marina and Marina Facilities, the Utility Parcel, or property in Sailfish Point owned by the Developer.

Section 12. CHARGES BY THE GOLF CLUB TO ITS MEMBERS AND BY THE MARINA OWNER ARE SEPARATE FROM ASSESSMENTS: Nothing contained in this Declaration shall affect or limit the rights of the Golf Club to charge regular and special dues and assessments to the members of the Golf Club and to enforce rules and regulations promulgated by the Golf Club in respect to its members, or to affect or limit the rights of the Marina Owner to impose any dues or charges in the conduct of its business.

The rights of the Golf Club to impose or charge such dues and assessments and conduct business are more fully set forth in the Bylaws of the Golf Club.

ARTICLE VII

DUTIES

Section 1. DUTIES OF THE ASSOCIATION: The Association shall have the following duties:

- (a) To maintain, protect, repair and replace, at the Association's expense, all portions of the Common Areas including the Country Club and the irrigation system for the Common Areas;
- (b) To preserve and enhance the natural beauty of Sailfish Point and the properties of the Members of this Association;
- (c) To promote the health, safety and social welfare of the Owners;
- (d) To own, operate, govern, administer and manage the Common Areas, including the Country Club;
- (e) To control the specifications, architecture, design appearance, elevation and location of, and landscaping around, all buildings of any type, including: walls; fences; swimming pools; dune crossings; docks; bulkheading; antennae; sewers; drains; disposal systems; or other structures constructed, placed or permitted to remain in Sailfish Point, as well as the alteration, improvement, addition or change thereto in order to preserve and maintain an integrated architectural design within the Sailfish Point Property;
- (f) To insure compliance with the Planned Unit Development Zoning Agreement as described in Article I, Section 14 hereof, and to maintain all permits for the operation of the Sailfish Point Property, of whatever nature, as required by governmental entities having jurisdiction over Sailfish Point;
- (g) To make and collect assessments, of any type, in accordance with the terms herein;
- (h) To control the waterways, lagoons, lakes and inlets in Sailfish Point and to comply with the terms of the Water Management System and any other permits, licenses and governmental approvals in connection with the waterways;
- (i) To provide for private security in Sailfish Point, and such other services the responsibility for which has been delegated to this Association by the terms hereof, and to provide capital improvements and equipment related thereto on the Common Areas and the Country Club;
- (j) To provide, purchase, acquire, replace, improve, maintain and/or repair such buildings, structures, landscaping, paving and equipment, both real and personal, related to the health, safety, and social welfare of the Members as the Board, in its discretion, determines to be necessary, appropriate, and/or convenient;

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(k) To preserve scenic assets, natural features and natural and man-made recreational areas in Sailfish Point, to the maximum extent feasible;

(l) To oversee the general operation and maintenance of Sailfish Point in such a manner as to prevent substantial injury to the use and value of all or any part of Sailfish Point;

(m) To operate without profit for the sole and exclusive benefit of its Members;

(n) To assure that the provisions of the Declaration are duly enforced;

(o) To provide adequate insurance, where obtainable at reasonable cost, for the Common Areas, including the Country Club, and for the Board and Officers of the Association;

(p) To do and perform all such other acts and things permitted and to exercise all powers granted to a corporation not for profit under the laws of the State of Florida as those laws now exist or as they may hereafter provide;

(q) To comply with all federal, state and local requirements concerning environmental protection including, but not limited to: the compliance with all water quality monitoring requirements; and the maintenance of the Water Management System.

Section 2. MAINTENANCE BY THE OWNER OR BUILDER: The responsibility of each Owner or Builder to keep his Parcel or Residential Unit in compliance with standards promulgated by the Architectural Review Committee of the Board shall be as follows:

(a) To maintain, protect, repair and replace, at his own cost and expense, all portions, above and below the mean high water line, of his Parcel or Residential Unit together with all improvements and equipment located thereon, except any portions to be maintained, repaired and replaced by the Association, a Condominium Association or a Cluster Committee. Such maintenance, protection, repair and replacement shall be done without disturbing the rights of other Owners;

(b) Not to modify or change the appearance or design of any portion of the exterior of any Parcel or Residential Unit without the prior written approval of the Association, of the Condominium Association of any condominium regime of which a Condominium Unit is a part, and of the Cluster Committee of which a Single Family Attached Unit is a part;

(c) To report promptly to the Association any defect or need for repairs, maintenance or replacements for which the Association, any Condominium Association, or Cluster Committee is responsible.

Section 3. MAINTENANCE BY A CONDOMINIUM ASSOCIATION: Each Condominium Association shall be responsible for the maintenance, repair and replacement of the Condominium Common Elements of the particular condominium regime for which such Condominium Association is established in a recorded Declaration of Condominium.

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Section 4. MAINTENANCE BY A CLUSTER COMMITTEE: Each Cluster Committee shall be responsible for the maintenance, repair and replacement of the Cluster Common Elements of the particular Parcel, for which such Cluster Committee is established in a recorded Declaration of Cluster Covenants.

Section 5. MAINTENANCE BY SAILFISH POINT UTILITY CORPORATION: Sailfish Point Utility Corporation shall be responsible for the maintenance, repair and replacement of the Utility Parcel or any improvements thereon.

Section 6. MAINTENANCE BY THE GOLF CLUB: Except for such portions of the Golf Course or Golf Club Facilities which the Association agrees to maintain, the Golf Club or the Developer, whichever owns the Golf Club Facilities and Golf Course, shall be responsible for the maintenance, repair and replacement of the Golf Club Facilities and Golf Course, including the irrigation system for the Golf Course and Golf Club Facilities, provided, however, with respect to the Association's obligation to operate and maintain such portions of the Golf Club and Golf Club Facilities which are an integral part of the Water Management System, the Association shall maintain such portions of the Golf Course and Golf Club Facilities.

Section 7. MAINTENANCE BY THE MARINA OWNER: The Developer or whichever entity owns the Marina and Marina Facilities shall be responsible for the maintenance, repair and replacement of the Marina and Marina Facilities, or any improvements, fixtures and appurtenances located thereon.

Section 8. MAINTENANCE BY THE DEVELOPER: The Developer shall be responsible for the maintenance, repair and replacement of all parts of the Sailfish Point Property which it owns including, but not limited to, the Sales Center Parcel.

Section 9. EXTERIOR MAINTENANCE BY THE ASSOCIATION: In addition to maintenance upon the Common Areas and the Country Club, the Association may provide exterior maintenance service to and upon any structure located on any Parcel or Residential Unit, the Golf Club Facilities and Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Sales Center Parcel, and any property in Sailfish Point owned by the Developer, provided such exterior maintenance is, in the opinion of the Board, required, including without limitation: paint; repair; roof repair and replacement; installation of gutters, down spouts and exterior building surfaces; yard clean-up; maintenance of the Golf Course; bulkheading, dredging, and otherwise maintaining the Marina and Marina Facilities. In addition, the Association may provide maintenance to the landscaping, sprinklers, trees, shrubs, grass, pools, walks, private drives, shorelines and streets, Owner's irrigation systems, and may provide maintenance to other exterior improvements. To the extent such maintenance is provided in a satisfactory manner by a Condominium Association or a Cluster Committee, the Golf Club, the Marina Owner, an Owner, Sailfish Point Utility Corporation, or by the Developer for any part of Sailfish Point, such maintenance shall not be duplicated by the Association.

The provision of any exterior maintenance services by the Association to any Parcel, Residential Unit, the Golf Club Facilities and Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Sales Center Parcel and/or any property in Sailfish Point owned by the Developer shall not be deemed to constitute and does not constitute an acceptance of the ongoing responsibility to maintain such properties or the ownership of such properties. At such time as the Association renders such exterior maintenance services, it shall do so at the sole expense of the Owner, Golf Club, Marina Owner, Sailfish Point Utility Corporation or the Developer for which services such Owner, Golf Club, Marina Owner, Sailfish Point Utility Corporation or Developer shall be assessed in accordance with this Article, which assessment shall be

separate, apart and in addition to any assessment imposed in accordance with Article VI of this Declaration.

The cost of such maintenance may be assessed against an Owner, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation, the Developer or against such Parcels, Residential Units, Golf Club Facilities and Golf Course, Marina and Marina Facilities, Utility Parcel or property in Sailfish Point owned by the Developer which, in the opinion of the Association, benefit from same. Such maintenance costs may also be assessed against all Condominium Units in any particular area of Sailfish Point to the extent that such maintenance is required to be performed upon the Condominium Common Elements of such area, or may be assessed against all Single Family Attached Units established on a particular Parcel, all of which Single Family Attached Units are subject to a Declaration of Cluster Covenants, to the extent that such maintenance is required to be performed upon the Cluster Common Elements. The assessment shall be proportioned among the Parcels and Residential Units, Golf Club Facilities and Golf Course, Marina and Marina Facilities, the Utility Parcel or property in Sailfish Point owned by the Developer, involved in the manner determined to be appropriate by the Association. This exterior maintenance assessment shall be separate, apart and in addition to any annual or special maintenance assessments. Any such exterior maintenance assessment shall be a lien on the Parcel or Residential Unit, Golf Club Facilities and Golf Course, Marina and Marina Facilities, Utility Parcel, or Sailfish Point Property which is owned by the Developer and which is the subject of the maintenance assessment, shall be a personal obligation of the Owner and shall become due and payable in all respects, together with interest, charges, penalties and late fees as provided by the Board. Fees for costs of collection of said assessment, including reasonable attorney's fees, shall be subordinate to any Institutional First Mortgage on such property.

Section 10. ACCESS AT REASONABLE HOURS: Except in the case of emergency when no notice is required, for the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after five days' written notice to the Owner, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation or the Developer to enter upon any Parcel or the exterior of any Residential Unit, the Golf Club Facilities and the Golf Course, the Marina and the Marina Facilities, the Utility Parcel, and/or Sailfish Point Property owned by the Developer which is the subject of the maintenance assessment at reasonable hours on any date except on Sunday. Said notice shall be delivered either in person or mailed to the Owner, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation, or to the Developer, by certified mail, return receipt requested. The notice shall be deemed given when mailed.

Section 11. EASEMENT FOR EXTERIOR MAINTENANCE: The Association is hereby granted a non-exclusive easement to enter upon any Parcel or Lot, the Golf Club Facilities, the Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Sales Center Parcel and any property in Sailfish Point owned by the Developer in order to provide exterior maintenance service to and upon any structure located on or upon any of such enumerated properties in accordance with the terms of this Article.

ARTICLE VIII

ARCHITECTURAL REVIEW AND REQUIRED COMMENCEMENT OF CONSTRUCTION

Section 1. SUPPLEMENTARY DECLARATION: There shall be filed for each platted area within Sailfish Point a Supplementary Declaration

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of Protective Covenants and Restrictions which shall set forth, among other things, the conditions and standards with respect to the architectural control and review of said area.

Section 2. NO TEMPORARY BUILDINGS: No tents, trailers, vans, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Parcel or Residential Unit without prior written consent of the Board. Notwithstanding the foregoing, the Developer shall have the right to erect temporary buildings on property in Sailfish Point owned by it.

Section 3. DRAINAGE: No changes in elevations of property in Sailfish Point shall be made which will alter the natural runoff of rain water or be inconsistent with the Water Management System, except by written consent of the Association.

Section 4. WELLS AND INDEPENDENT WATER AND SEWER SYSTEMS: Except for Sailfish Point Utility Corporation, the Golf Club, Marina Owner or the Developer, no Owner shall be permitted to develop or establish any septic tanks, sewer, or water supply systems or wells shall be permitted. All Owners, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation, and the Developer shall pay the "tap-in" and connection fees as well as monthly service charges as required by Sailfish Point Utility Corporation, the Association, or the Developer, or whichever entity owns and operates the water and wastewater treatment facilities which serve all Owners and users of the Sailfish Point Property.

Section 5. IRRIGATION SYSTEMS: The Golf Club and the Association each may own and operate separate irrigation systems for the property owned by each. Each irrigation system is a part of, and must comply with the terms of, the Water Management System.

Section 6. DOCKS, WATERFRONT CONSTRUCTION, BOATS, DUNE CROSSINGS AND SHORE CONTOURS: The only docks permitted to be erected or maintained on Sailfish Point Property are those docks which are constructed pursuant to applicable government permit, and in accordance with the terms of any Supplementary Declaration of Protective Covenants and Restrictions for the platted portion of Sailfish Point in which such docks are located. No dune crossings, seawalls, bulkheads, mooring, piling, or piers of any kind or any other construction shall be erected by anyone other than the Developer in, on or over dunes, dune vegetation, lakes, lagoons, inlets, the Marina and Marina Facilities, the Inland Harbour or waterways within Sailfish Point without the prior written approval of the Association and then only if the same shall be constructed according to plans, specifications, elevations, types and designs approved in writing by the Association, as well as all federal and state agencies having jurisdiction over the same.

In no event shall a waterfront Lot which adjoins any area platted as a Lagoon or Inland Harbour, be permitted to have more than one pier extending further than navigable water depth and having a maximum thirty feet by three feet "T" or "L" end. Such piers shall be no more than three feet wide and shall be elevated at least three feet above mean high water. Shoreline contours above or below water may not be changed without the written approval of the Association as well as all federal and state agencies having jurisdiction over the same. No pesticides, insecticides, fungicides, herbicides, other deleterious substances or fertilizers shall be applied to the area below the top of the nearshore berm. All areas with natural or replanted vegetation designated for preservation by any permit issued by any federal or state agency in connection with the development of Sailfish Point shall not be altered. No Parcel or Residential Unit shall be increased in size by filling in the waters on which it abuts. Mangrove trimming shall be allowed only to maintain pier corridors. No vessel or boat shall be permanently anchored offshore in any of the lakes, inlets or waterways adjacent to any Parcel or Residential Unit without prior written approval of the Board. No persons shall be permitted to live aboard or

perform hull maintenance work on any vessel docked or moored within the Sailfish Point Property nor may there be discharged from any vessel any substance including bilge water, petroleum products, sewage or litter. No boathouse shall be constructed on or adjacent to any part of Sailfish Point located on a waterway, nor shall any boat canal or boat slip be dug or excavated in any of the waterfront parts of Sailfish Point without prior written approval of the Association and applicable governmental authorities. No motor powered boats of any kind which are not adequately muffled to prevent unreasonable noise shall be kept or used on waters within Sailfish Point, including the Inland Harbour and Marina, except as expressly approved in writing by the Association.

ARTICLE IX

GENERAL USE RESTRICTIONS

Section 1. RESIDENTIAL USE: Recognizing the necessity and desirability of creating and preserving a community with open spaces, natural beauty, clean air and quiet seclusion where the values of family life, high quality residences, peace and comfort, safety and low population density are preserved, and where hazards of traffic pollution, noise and refuse are limited, it is hereby established that each Residential Unit may be used only for the purpose of a single family residential living unit and for no other purpose. Single family residential living unit shall be defined as a residence of one or more persons who are related by blood, marriage or adoption, or who reside together as a single housekeeping unit. The following properties in Sailfish Point shall have the right to engage in certain limited commercial activities related only to the permitted use of those properties: the Golf Course, the Golf Club Facilities, the Marina, the Marina Facilities, the Country Club, the Utility Parcel, and the Sales Center Parcel. Except as hereinafter set forth, no commercial development, no building housing a manufacturing or commercial activity, enterprise or enterprises of any kind shall be permitted maintained on lands in Sailfish Point and no business may be conducted on any part thereof unless expressly approved and accepted in writing by the Association prior to engaging in such business.

Section 2. LEASES: A Residential Unit shall be used only as a residential dwelling and may be available for lease only if approved by the Association. A Residential Unit may be leased no more than one (1) time per calendar year. The Board shall establish such rules and regulations in regard to the leasing of Residential Units by Owners as it determines necessary. All persons approved as lessees shall be subject to this Declaration, the Articles and Bylaws of the Association and all supplements and amendments thereto.

Section 3. RE-SUBDIVIDING: No Lot or Parcel shall ever be re-subdivided or replatted without the written approval of the Developer. A residential site may consist of one (1) or more Lots; or one (1) Lot and a part of a contiguous Lot or Lots; provided that the entire residential site extends from the fronting street to an existing real property line, the golf course, waterway, lagoon, Inland Harbour, inlet or canal, and further provided that the Owner of said Lot(s) has declared, by a written instrument duly recorded in Martin County, Florida that said Owner agrees for himself and his successors that the title to said Lot(s) shall be forever united and never be sold or otherwise transferred except as a consolidated Lot nor used so that more than one (1) residence is constructed on the Lot(s) so consolidated. In the event Lots are consolidated, the Owner of the consolidated Lot shall have only one (1) vote in accordance with Article V, Section 3 of this Declaration and shall pay only one (1) assessment for the consolidated Lot.

Section 4. USE OF THE MARINA AND MARINA FACILITIES: It is hereby declared that the Marina and Marina Facilities will be erected and maintained to provide marina services. The term "marina services" includes, but is not limited to: boat moorage or storage; boat maintenance and repair; ships chandlery services; the maintenance, storage and sale of marine fuel; the operation of a convenience store; the establishment of a condominium form of ownership for some or all of the docks in the Marina, which docks may only be owned by Owners; and the creation and operation of a yacht club, the members of which may only be Owners. In addition, the Marina or Marina Facilities may be used for moorage of boats which are owned by guests of Owners, which moorage shall be regulated by rules and regulations as established from time to time by the Marina Owner or by the owner of the Marina or Marina Facilities.

Section 5. USE OF THE GOLF COURSE AND GOLF CLUB FACILITIES: It is hereby declared that the Golf Course and Golf Club Facilities will be erected and maintained as a golf course exclusively for members of the Golf Club. In addition, the Golf Course and Golf Club Facilities may be used by guests of the members of the Golf Club, which use shall be regulated by rules and regulations, as established from time to time by the Golf Club or by the owner of the Golf Course and Golf Club Facilities. Certain portions of the Golf Course are an integral part of the Water Management System. These areas will be used in connection with the Water System Management for the benefit of all Members of the Association. The irrigation system which irrigates the Golf Course and Golf Club Facilities is, or will be, owned and operated by the Golf Club.

Membership in the Golf Club will be established by the Articles and Bylaws of Sailfish Point Golf Club, Inc. Only Members of the Association will be eligible for membership in the Golf Club. Notwithstanding the foregoing, with Association approval, the Golf Club may admit to its membership persons who are not Members of the Association.

Section 6. USE OF THE COMMON AREAS: It is hereby declared that the Common Areas shall be used exclusively for the benefit of the Members, Members of the Golf Club, the Marina Owner and Sailfish Point Utility Corporation.

Section 7. USE OF THE COUNTRY CLUB: It is hereby declared that a Country Club will be erected and maintained solely to provide recreational facilities, meeting room facilities, a restaurant, lounge, office space and whatever use the Association approves, for the benefit of Members and their guests and invitees. The members of the Golf Club who are not Members may use only the restaurant and lounge in the Country Club.

Section 8. USE OF THE UTILITY PARCEL: It is hereby declared that the Utility Parcel will be improved and maintained to provide water and wastewater treatment facilities and services to all Owners and users of the Sailfish Point Property.

Section 9. USE OF THE SALES CENTER PARCEL: It is hereby declared that the Sales Center Parcel shall be used for the purpose of conducting interviews and meetings with prospective Owners, serving as offices for real estate brokers to sell only Sailfish Point Property, generally marketing Sailfish Point Property, and whatever other use as may be determined by the Developer so long as it holds title to the Sales Center Parcel subject to the approval of Martin County in the event that such approval may be required. The Developer shall have the right to demolish, alter or modify, in whole or in part, any improvements on the Sales Center Parcel without Association approval.

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ARTICLE X

TRANSFER OF OWNERSHIP

Section 1. APPROVAL OF TRANSFER OF OWNERSHIP: No Residential Unit, nor any part thereof, nor any other portion of the property in Sailfish Point, except the Golf Course, Golf Club Facilities, the Marina, the Marina Facilities, the Utility Parcel or the Sales Center Parcel shall be sold, conveyed, leased or otherwise transferred to anyone other than a person or entity which has been approved in writing by the Association in accordance with its Bylaws prior to the time of such conveyance or other transfer.

Section 2. FORECLOSURE OF MORTGAGES AND DELINQUENT ASSESSMENTS: All grantees of conveyances of Parcels and Residential Units expressly stipulate and agree for themselves and their heirs, executors, administrators, legal representatives and assigns that, in the event proceedings are instituted to foreclose any mortgage on property in Sailfish Point, the Developer and its successors or assigns and/or the Association shall have the right to cure the default of any Owner to a mortgagee, together with the right to redeem the mortgage for the amount due thereon, or to purchase said Parcel or Residential Unit at the foreclosure sale for the amount set forth to be due by the mortgagee in the foreclosure proceedings. Should the mortgagor fail to redeem from such mortgagee and, in case of such redemption by the Developer or the Association, the Developer, its successors or assigns, and/or the Association so redeeming, shall take and have absolute fee simple title to the Parcel or Residential Unit redeemed, free from any claim or right of any mortgagee, his heirs or assigns or the mortgagor, and every person or concern claiming by, through or under him or it.

Nothing herein contained in this Declaration shall preclude a bank, savings bank, savings and loan association, insurance company, real estate investment trust, or any other recognized lending institution from owning a mortgage on any Parcel or Residential Unit, the Common Areas, the Marina, the Marina Facilities, the Golf Course, the Golf Club Facilities, the Utility Parcel or on the Sales Center Parcel. Such bank, savings bank, savings and loan association, insurance company, real estate investment trust, or other recognized lending institution shall have an unrestricted, absolute right to take title to the Parcel or Residential Unit, Common Areas, Marina, Marina Facilities, Golf Course, Golf Club Facilities, Utility Parcel or the Sales Center Parcel in settlement and satisfaction of said mortgage or to foreclose the mortgage in accordance with the terms thereof and the laws of the State of Florida, and to bid upon said Parcel or Residential Unit, Common Areas, Marina, Marina Facilities, Golf Course, Golf Club Facilities, Utility Parcel or the Sales Center Parcel at the foreclosure sale, provided said bank, savings bank, savings and loan association, insurance company, real estate investment trust or other recognized lending institution owning said mortgage shall give to its mortgagor, the Developer, its successors or assigns, and the Association written notice by certified mail of the said default at least thirty (30) days prior to the institution of foreclosure proceedings. Should the Developer, its successors or assigns, the Association, the Marina Owner, the Golf Club, or Sailfish Point Utility Corporation fail to purchase said Parcel or Residential Unit, Common Areas, Marina, Marina Facilities, Golf Course, Golf Club Facilities, Utility Parcel or the Sales Center Parcel together with any costs incident thereto from such mortgagee or fail to redeem said mortgage, then and in that event, the mortgagee taking title on said foreclosure sale or taking title in lieu of foreclosure sale, may acquire said Parcel or Residential Unit, Common Areas, Marina, Marina Facilities, Golf Course, Golf Club Facilities, Utility Parcel and Sales Center Parcel and occupy the same. However said mortgagee may not resell the same until it has complied with the restriction limiting ownership of said property to approved Members of the Association.

All individuals and private business entities, other than the holder of an Institutional First Mortgage, intending to hold and holding any mortgage or other lien on any Parcel or Residential Unit, Common Areas, Marina, Marina Facilities, Golf Course, Golf Club Facilities, Utility Parcel and Sales Center Parcel shall comply with this Section. In addition thereto, all such individuals and private business entities, other than the holder of an Institutional First Mortgage, intending to hold a mortgage or other security interest in any Parcel or Residential Unit shall be required to secure prior written approval from the Board prior to the time that said individual or entity takes said mortgage or security interest.

The lien for assessments granted to the Association in Articles VI and VII shall be effective from and after the time of recording in the Public Records of Martin County, Florida, a Claim of Lien stating the description of the Parcel or Residential Unit, Golf Course, Golf Club Facilities, Marina, Marina Facilities, Utility Parcel or Sales Center Parcel encumbered thereby, the name of the record owner, the amount due, and the date when due. The lien shall continue in effect until all sums secured by said Claim of Lien as herein provided shall have been fully paid. Such Claims of Lien shall include only assessments which are due and payable when the Claim of Lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. 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.

The lien granted to the Association in Article VI may be foreclosed in the same manner as real estate mortgages may be foreclosed in the State of Florida. In any suit for the foreclosure of said lien, the Association shall be entitled to the appointment of a receiver for said Parcel or Residential Unit, Golf Course, Golf Club Facilities, Marina, Marina Facilities, Utility Parcel or Sales Center Parcel without notice to the owner of said Parcel or Residential Unit, Golf Course, Golf Club Facilities, Marina, Marina Facilities, Utility Parcel or Sales Center Parcel. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien.

In the event a Residential Unit, Parcel, the Golf Course, the Golf Club Facilities, the Marina, the Marina Facilities, the Utility Parcel or the Sales Center Parcel is to be leased, sold, or mortgaged at the time that payment of any assessment against said Parcel, Residential Unit, the Golf Course, the Golf Club Facilities, the Marina, the Marina Facilities, the Utility Parcel or the Sales Center Parcel is delinquent, whether or not a Claim of Lien has been recorded by the Association, then the proceeds of such transaction shall be applied by the lessee, purchaser or mortgagee first to payment of any Institutional First Mortgage, then to payment of the delinquent assessments or any installments thereof due to the Association, and thereafter to the Owner of any such Residential Unit or Parcel, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation or the Developer who is responsible for payment of such delinquent assessment.

The Association shall have the right to withhold consent to any sale, lease, mortgage or other transfer where there is a deficiency or delinquency existing as to an assessment or installment due to the Association or to any Condominium Association. The Association shall also have the right to withhold its consent to any sale, lease, mortgage or other transfer until the Owner of the Residential Unit pays all delinquent assessments, together with charges owed to the Marina Owner, or unless the prospective buyer of the Residential Unit pays such assessments, costs and charges. Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its

enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of a suit at law to attempt to effect collection of any sum then remaining owing to it.

Section 3. NON-COMPLIANCE WITH PRIOR APPROVAL OF TRANSFER:

Any deed or conveyance, lease, mortgage, or other transfer, direct or indirect, in violation of the terms of this Declaration shall cause such conveyance of transfer to be voidable by the Association. Upon the occurrence of said violation, the Association shall have the right to purchase the Parcel or Residential Unit conveyed or transferred, which right may be exercised at any time by serving notice in writing upon any such grantee, transferee or mortgagee notifying him or it that the Association elects to purchase the title to the whole of the conveyed premises, or the mortgage at the price paid, or for the amount loaned by such grantee or mortgagee, plus costs, penalties and premiums, if any. Within thirty (30) days from serving said notice, the said grantee or other transferee shall promptly convey the title to the whole of such Parcel or Residential Unit or the mortgage to the Association upon the terms and conditions of the initial sale or transfer to the said grantee or transferee or for the amount of lien secured by the mortgage. The grantee or other transferee shall thereupon lose all of his or its right, title and interest in and to the whole of the conveyed or transferred Parcel or Residential Unit or the mortgage thereon and to the improvements and fixtures thereon, and the Association shall have the right of entry to the conveyed Parcel or Residential Unit, without such entry constituting a trespass.

Section 4. ASSOCIATION'S RIGHT OF FIRST REFUSAL: In the event the Owner of any Parcel or Residential Unit desires to sell the same, together with its improvements, if any, the Parcel or Residential Unit shall be first offered for sale to the Association, by notice which shall be given by the Owner, at the same price at which the Owner has agreed to convey such realty and personalty to be to a bona fide contract purchaser. Should the Association fail or refuse, within fifteen (15) days after receipt of such notice, to exercise its right to purchase such Parcel or Residential Unit at the price and on the terms at which it has been agreed to be sold, then the Owner shall have the right to sell said Parcel or Residential Unit, subject to each and every restriction, limitation, condition and agreement herein contained. At the time of notifying the Association of its right to exercise the right of first refusal granted herein, each Owner shall notify the Association of the name of the prospective purchaser, his residence address and his business affiliations. The Association shall be entitled to investigate and shall investigate the prospective purchaser in accordance with Article V, Section 2 of this Declaration.

At such time as the Association accepts the prospective purchaser for membership in the Association and thereby waives the right of first refusal granted to the Association in this Section, the Association shall cause to be recorded in the Public Records of Martin County a written waiver of the right of first refusal as to the particular Parcel or Residential Unit, but only as to the conveyance to the prospective purchaser who the Association has accepted for membership.

Section 5. APPROVAL OF TRANSFER UPON DEATH: In the event a deceased Owner bequeaths the ownership of his Parcel or Residential Unit to some designated person or persons other than his surviving spouse, or if some other person is designated by such decedent's legal representative to receive the ownership of the Parcel or Residential Unit, or in the event under the laws of descent and distribution of the State of Florida, a Parcel or Residential Unit descends to some person or persons other than the surviving spouse of the deceased Owner, the legatee or devisee shall petition the Association for approval of the transfer of the Parcel or Residential Unit. The Board shall, within fifteen (15) days of receipt of proper evidence of the death and request for approval

of transfer accept or reject the request for approval of transfer. If the Board shall consent, ownership of the Parcel or Residential Unit may be transferred to the person or persons so designated, who shall thereupon be considered by the Association to be the Owner(s) of the Parcel or Residential Unit, subject to the provisions of the Declaration, any Supplementary Declaration, the Articles of Incorporation and Bylaws of the Association, and applicable Declaration of Condominium or Declaration of Cluster Covenants.

If, however, the Board shall refuse to consent, then the Association shall be given the opportunity during sixty (60) days next after the expiration of the fifteen (15) day period for consideration of approval by the Board as aforesaid, to purchase for cash, or to furnish a cash purchaser for the Parcel or Residential Unit at the then fair market value thereof as may be agreed upon by the parties or the value arrived at by a bona fide appraisal in the event of a dispute. In the event the parties are unable to agree to the fair market value of the Parcel or Residential Unit, then each shall be entitled to have an appraiser. The two appraisers shall then select a third appraiser. The fair market value of the Parcel or Residential Unit, as agreed to by the three appraisers, shall be the amount for which the Association shall purchase the Parcel or Residential Unit. If the three appraisers shall fail to agree as to fair market value, then the fair market value shall be deemed to be the average of the three. Failure of the Association to purchase within the schedule set forth herein shall constitute an acceptance of the legatee or devisee.

ARTICLE XI

PROHIBITED ACTIVITIES

Section 1. **GENERAL:** Nothing shall be done on or in any Parcel or Residential Unit which may be or may become an annoyance to the Association or to any of its Members. In the event of any question as to what may be or may become an annoyance, such question shall be submitted to the Association for a decision in writing. The decision of the Association shall be final.

Section 2. **PARKING OF COMMERCIAL VEHICLES:** The use of any driveway or parking area which is in front of, adjacent to or part of any Parcel or Residential Unit as a habitual parking place for commercial vehicles is prohibited. Unless actual services are being rendered to the Residential Unit, no commercial vehicle may be parked adjacent to any Parcel or Residential Unit for more than twelve (12) consecutive hours in any thirty-six (36) hour period or such vehicle shall be deemed to be habitually parked. The term "Commercial Vehicles" shall include all automobiles, trucks, and vehicular equipment including station wagons, which bear signs or shall have printed on the sides of same a reference to any commercial undertaking or enterprise, but shall not include any vehicle used by the Developer or Builders in construction on the Sailfish Point Property. The habitual violation of the parking regulations set forth in this Paragraph shall be deemed a violation of the use and annoyance restrictions of this Declaration.

Section 3. **ANIMALS:** In accordance with rules and regulations which the Board may adopt, other than aquariums, one dog and cat per Residential Unit, no animals shall be kept on any property in Sailfish Point except as expressly permitted by the Association, provided, however, that the Association has the absolute authority to prohibit any animal on Sailfish Point.

Section 4. **COMMERCIAL ACTIVITIES:** No drilling, mining, manufacturing, trade, business, commerce, industry, profession or other

occupation whatsoever shall be conducted or carried on upon any Parcel or Residential Unit or any part thereof, or in any structure or improvement located thereon, except as to those uses made by a Builder approved in writing by the Developer, or by the Developer on property owned by Developer, and except as to the Marina, the Marina Facilities, the Golf Course, the Golf Club Facilities, the Common Areas including the Country Club, and the Utility Parcel. No noxious or offensive trade or activity shall be carried on or upon any building site nor shall anything be done thereon which may be or become an annoyance to the neighborhood.

Section 5. MOBILE HOMES, BOATS: The keeping of a mobile home or travel trailer, either with or without wheels, on any part of Sailfish Point, is prohibited. Notwithstanding the foregoing, the Developer may maintain a mobile home, travel trailer, or trailer on Sailfish Point Property which it or the Association owns. A builder who has been approved in writing by the Developer may maintain a mobile home or travel trailer on Sailfish Point Property, other than that owned by a Member, which is adjacent to any Parcel or Residential Unit on which such builder is actively engaged in performing construction services. Other than a registered, licensed and inspected automobile, no boat or other vehicle may be maintained, stored, or kept on any part of Sailfish Point unless it is housed completely within a structure or docked at a dock which has been architecturally approved in writing in accordance with the provisions of this Declaration. Notwithstanding the foregoing, boats may be stored on trailers at the Marina or Marina Facilities.

ARTICLE XII

REMEDIES, WAIVER AND SEVERABILITY

Section 1. REMEDIES FOR VIOLATIONS: Violation or breach of any condition, restriction or covenant herein contained or contained in any Supplementary Declaration of Protective Covenants and Restrictions, as provided in Article II of this Declaration, shall give the Developer and/or Association and/or the Owner(s), jointly and severally, in addition to all other remedies, the right to proceed at law or in equity to compel compliance with the terms of said conditions, restrictions or covenants, and/or to prevent the violation or breach of any of them. The expense of such litigation shall be borne by the then Owner of the Parcel or Residential Unit which is the subject of the litigation, or by the Golf Club, Marina Owner, Sailfish Point Utility Corporation, or the Developer provided such proceeding results in a finding that such Owner, Golf Club, Marina Owner, Sailfish Point Utility Corporation or the Developer was in violation of this Declaration or a part thereof. Expenses of litigation shall include, but not be limited to, reasonable attorney's fees incurred by Developer and/or the Association in seeking such enforcement.

The Board may impose a fine or penalty on any Member who does damage to the Common Areas, or may charge such Member for all expenses incurred by the Association to repair or replace the Common Areas. The Board may also impose a fine or penalty, may restrict a Member's use of the Country Club, or may charge a Member for expenses incurred for repair to the Country Club if any Member causes damage to the Country Club. For the purpose of this paragraph, whenever a family member, guest or invitee of a Member causes such damage to the Common Areas including the Country Club, the Member shall be deemed to have caused such damage. Any fine, penalty, charge or restriction on use of the Country Club may be imposed by the Association only in compliance with Section 5 of this Article.

In addition to the foregoing right, the Developer and/or Association shall have the right, whenever there shall have been built on

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any Parcel or Residential Unit any structure or improvement which is in violation of these restrictions, to enter in and upon the said Parcel or Residential Unit where such violation exists and summarily to abate or remove the same at the sole expense of Owner. Entry and abatement may be made only after the Association has complied with the requirements of Section 5 of this Article. If the Association determines that a violation of these restrictions exists, entry and abatement or removal shall not be deemed a trespass.

The Board shall have the authority to impose fines upon any Member, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation or the Developer who violates the terms of this Declaration and any Supplementary Declaration, as same may be established in accordance with Article II hereof. The imposition of fines shall only be made in accordance with the terms of Section 5 of this Article.

The invalidation by any court of any of the conditions or restrictions contained herein shall in no way affect any of the other conditions or restrictions which shall remain in full force and effect.

In the event of breach of any of the covenants and restrictions contained in Articles VIII, IX and XI, after compliance with the requirements of Section 5 of this Article, in addition to all other remedies provided herein, the Association shall be entitled to purchase any Parcel or Residential Unit from any Owner violating said covenants and restrictions at the same price paid by said Owner for said Parcel or Residential Unit, exclusive of the value of any improvements which have not been approved in writing by the Association.

Section 2. RESTRICTIONS ARE COVENANTS RUNNING WITH THE LAND: The agreements, covenants, and conditions set forth in this Declaration shall constitute an easement and servitude in and upon the lands to which same pertain and they shall run with the land and shall inure to the benefit of and be enforceable by the Developer, the Association, the Marina Owner, the Golf Club, the Owner(s), and/or Sailfish Point Utility Corporation.

This Declaration shall remain in full force and effect for a period of fifteen (15) years from the date hereof, at which time it shall automatically extend for successive periods of ten (10) years each unless the Members agree to change the Declaration in whole or in part, as evidenced by an instrument signed by all Members or their legally or duly appointed representatives agreeing to such change and recorded in the Martin County Public Records. In order to change this Declaration, there shall be required a vote of three-fourths (3/4) of the votes of the Members entitled to vote, the number of which votes shall be determined in accordance with Article V hereof and which vote shall be taken no later than two (2) years prior to any natural expiration date.

Section 3. WAIVER AND FAILURE TO ENFORCE: Each and all of the covenants, conditions, restrictions and agreements contained herein shall be deemed and construed to be continuing. The extinguishment of any right or power herein contained shall not impair or affect any of the covenants, conditions, restrictions or agreements so far as any future or other breach is concerned. Failure to enforce any building restriction, covenant, condition, obligation, reservation, right, power or charge herein before or hereinafter contained, however long continued, shall in no event be deemed a waiver of the right to enforce such covenant as to the breach or violation. Failure to enforce same shall not give rise to any liability on the part of the Developer, the Association, the Golf Club, the Marina Owner and/or Sailfish Point Utility Corporation with respect to parties aggrieved by such failure.

Section 4. SEVERABILITY: Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. PROCEDURE TO BE FOLLOWED IN THE EVENT OF VIOLATION OF CERTAIN COVENANTS OF THIS DECLARATION: The Association shall not impose a fine, suspend voting or infringe upon any other rights of a Member for the violation of the terms and covenants of this Declaration, any Supplementary Declaration or any rules or regulations which may be promulgated by the Association unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the Member allegedly in violation which shall specify:

- (i) The alleged violation;
- (ii) The action required to abate the violation; and
- (iii) A time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and hearing if the violation is not continuing.

(b) Notice. At any time within twelve months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board or its delegate shall serve the Member allegedly in violation with written notice of a hearing to be held by the Board or its delegate in executive session. The notice shall specify:

- (i) The nature of the alleged violation;
- (ii) The time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;
- (iii) An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and
- (iv) The proposed sanction to be imposed.

(c) Hearing. The hearing shall be held in executive session pursuant to the notice and shall afford the Member reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if the copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the Member allegedly in violation appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(d) Appeal. In the event the Board's delegate administers the above referred to hearing, the Member found to be in violation shall have the right to appeal the decision of the delegate to the Board. To perfect this right, a written notice of appeal must be received by the President or Secretary of the Association within thirty days after the hearing date.

Every Declaration of Condominium and Declaration of Cluster Covenants shall provide for similar procedures.

ARTICLE XIII

DEVELOPER'S RIGHTS AND VETO POWER

Section 1. DEVELOPER'S RIGHTS: The Developer hereby reserves to itself, and the grantee of any Parcel or Residential Unit hereby agrees, by acceptance of a deed of conveyance thereto, that the Developer shall have the following rights, so long as the Developer owns any property in Sailfish Point, including Property owned by the Developer as the result of any reconveyance of Sailfish Point Property, or until the Developer causes to be recorded a Certificate of Termination of Interest in Sailfish Point, which Certificate terminates any and all right, title, interest and obligation of the Developer in Sailfish Point:

- (a) The right to replat, vacate or withdraw any area of any platted area from the property subject to this Declaration, provided that the Developer owns all property which is subject to the plat. The invalidization or unenforceability of this right shall in no way affect the enforceability of the other covenants and restrictions contained in this Article, this Declaration or any Supplementary Declaration. Any such invalidization and unenforceability shall cause this reservation of right to be void.
- (b) The right to dispense pesticides throughout the Sailfish Point Property;
- (c) The right to retain legal and equitable title to the Golf Course, the Golf Club Facilities, the Marina, the Marina Facilities, the Utility Parcel, and the Sales Center Parcel, or to sell, lease or otherwise convey all or any part of its interest in the Sales Center Parcel and to demolish, alter or modify in whole or in part, any improvements on the Sales Center Parcel;
- (d) The right to establish easements for itself over any property in Sailfish Point which is owned by the Developer;
- (e) The right to convey, in whole or in part, any easements granted in favor of the Developer, as created in this Declaration or as recorded in the Public Records of Martin County, Florida, which pertain to Sailfish Point;
- (f) Until all Residential Units erected on a Parcel are conveyed to Owners, the right to approve any Declaration of Condominium or Declaration of Cluster Covenants, any amendment(s) thereto and any corporate documents related to any Condominium Association;
- (g) The right to maintain Parcels and Residential Units if the Association fails to do so;
- (h) The right to purchase any Parcel or Residential Unit which is in violation of Articles VIII, IX and XI herein;
- (i) The right to erect or grant to a Builder the right to erect temporary buildings on any property in Sailfish Point which is owned by the

Developer or title to which has been granted by the Developer to a Builder;

(j) The right to maintain an easement, for construction staging purposes, across any Lot or Parcel;

(k) The right to alter and amend the Planned Unit Development Zoning Agreement which is described in Article I, Section 14 of this Declaration provided that approval from all governmental agencies having jurisdiction over such Agreement has been obtained;

(l) The right to alter, amend, approve, dispose of, and designate the plan and facilities which provide water and wastewater treatment service and irrigation service to Sailfish Point, provided that approval from all governmental agencies having jurisdiction over same has been obtained;

(m) The right to maintain a sales office in Sailfish Point and to erect signs and to conduct sales throughout Sailfish Point;

(n) The right to establish the security system in Sailfish Point;

(o) The right to appoint the members of the Architectural Review Committee for such time as the Developer owns any property in Sailfish Point.

(p) The right to conduct the development, marketing and sale of property in Sailfish Point owned by the Developer.

(q) The right to review any finding by the Board in connection with any application for membership and to accept any application for membership which has been rejected by the Board and to direct that such applicant become a Member upon the applicant becoming a fee simple record title holder of any Parcel or any Residential Unit. In the exercise of this right by the Developer, the Developer's findings shall become final and binding on the Members, the Board and on the Association.

(r) During the time Developer is engaged in construction on the Sailfish Point Property, the right to install and maintain a radio communications system.

Section 2. VETO POWER: The Developer hereby expressly reserves to itself, and any grantee of any Parcel or Residential Unit hereby agrees, by acceptance of a deed of conveyance thereto, that the Developer shall have the right to veto any or all of the following events so long as the Developer owns any part of the Sailfish Point Property, including Sailfish Point Property owned by the Developer as the result of any reconveyance of Sailfish Point Property, or until the Developer causes to be recorded a Certificate of Termination of Interest in Sailfish Point, which Certificate terminates any and all right, title interest and obligation of the Developer in Sailfish Point:

(a) Shoreline contour changes approved by the Association;

(b) Construction of boat slips approved by the Association;

- (c) Construction of any dune crossings approved by the Association;
- (d) Association approval which permits the conduct of any commercial enterprise in Sailfish Point;
- (e) Any or all Association budgets, annual or otherwise which constitute an increase or reduction of twenty percent over the prior year's budget;
- (f) Approval of any plans or specifications for any structure made by the Architectural Review Committee;
- (g) Attempted resubdivision of Sailfish Point, termination of any Condominium Association or Cluster Committee;
- (h) Attempted amendment of this Declaration, the Articles of Incorporation and Bylaws of the Association, any Supplementary Declaration of Protective Covenants and Restrictions established for any part of Sailfish Point, or the Planned Unit Development Zoning Agreement, as described in Article I, Section 14 herein;
- (i) Any management contracts entered into by the Association or the Board;
- (j) Any reduction made to the security system at Sailfish Point;
- (k) Attempted relocation of the sales center at Sailfish Point;
- (l) The creation of any special assessment districts within Sailfish Point;
- (m) Any assessment for capital improvements which are imposed by the Association on property owned by the Developer;
- (n) Any settlement of any claim made by the Association to collect upon any policy of casualty insurance which insures the Common Areas and the Country Club, and any settlement of any claim made by a Condominium Association or Cluster Committee to collect upon any policy of casualty insurance which insures Condominium Common Elements or Cluster Common Elements;
- (o) Any attempted dissolution of the Association by a vote of the Members of the Association and any attempted dissolution of any Condominium Association or Cluster Committee;
- (p) Any attempted cancellation or reduction of insurance coverage insuring all or any part of the Sailfish Point Property.

ARTICLE XIV

COVENANT FOR MARTIN COUNTY, FLORIDA

The Association shall not be dissolved nor shall it dispose of any Common Areas, by sale or otherwise, except to an organization con-

ceived and organized to own and maintain the Common Areas, without first receiving recorded approval from the Board of County Commissioners of Martin County, Florida (herein the "Board of Commissioners"). The Board of Commissioners, as a condition precedent to the dissolution or disposal of Common Areas by the Association, may require dedication of common open areas or utilities to the public, as deemed necessary.

In the event that the Association, or any successor organization, fails at any time to maintain the Common Areas in reasonable order and condition in accordance with the Development Plan, then the Board of Commissioners may serve written notice by certified mail, return receipt requested, upon such organization and upon each Owner and the Developer, which notice shall set forth the manner in which the Association or successor organization has failed to maintain the Common Areas in reasonable order and condition and shall demand that such failure be remedied within thirty (30) days of the sending of such notice or, in the alternative, that such Association or successor organization appear before the Board of Commissioners at a specified time, at least ten (10) days but not more than thirty (30) days after the sending of such notice, either to contest the alleged failure to maintain the Common Areas or to show cause why it cannot remedy such failure within the said thirty (30) day period. If such failure has not been remedied within the said thirty (30) day period or such longer period as the said Board of Commissioners may have allowed, then the Board, in order to preserve the taxable values of Sailfish Point and to prevent the Common Areas from becoming a public nuisance, shall hold a public hearing to consider the advisability of Martin County entering upon such Common Areas and maintaining them for a period of one (1) year. Notice of such hearing shall be sent by certified mail, return receipt requested, to the Association or successor organization involved, to each Owner and to the Developer, and shall be published one (1) time in a newspaper of general circulation published in Martin County, Florida. Such notice shall be sent and published at least fifteen (15) days in advance of the hearing. At such hearing, the Board of Commissioners may determine that it is or is not advisable for the County to enter upon such Common Areas, take non-exclusive possession of them and maintain them for one (1) year. Such entry, possession and maintenance, when followed in accordance with the above procedure shall not be deemed a trespass. Such entry, possession and maintenance shall not be construed to give to the public or Martin County any right to use the Common Areas. The Board may, upon public hearing, with notice given and published in the same manner as above, return possession and maintenance of such Common Areas to the Association, or successor organization, abandon such possession and maintenance, or continue such possession and maintenance for additional one (1) year periods. The cost of such maintenance by Martin County, mentioned above, shall be assessed ratably against the properties within the Sailfish Point that have a right to enjoyment of the Common Areas and shall become a charge or lien on said properties if not paid within thirty (30) days after receipt of a statement therefor.

ARTICLE XV

INSURANCE

Section 1. DEVELOPER AS NAMED INSURED: Any policy of insurance, of whatever nature, which insures any risk connected with the Sailfish Point Property shall provide that the Developer is a named insured along with any other named insured so long as the Developer owns any property in Sailfish Point.

Section 1. LOSS OR DAMAGE TO COMMON AREAS: In the event of loss or damage to Common Areas, which loss or damage is covered by insurance, the proceeds shall be paid to an insurance trustee to cover

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such loss or damage shall first be applied to the expenses of the trustee, or provision for payment made, then to the repair, replacement or reconstruction of Common Areas, and any remaining insurance proceeds shall then be prorated on an equal basis to all Owners.

If it appears that the insurance proceeds covering the loss or damage payable to the insurance trustee are not sufficient to pay for the repair, replacement or reconstruction of the loss or damage, or that the insurance proceeds, when collected, will not be sufficient, then the Board shall, based on reliable, detailed estimates obtained from competent, independent and qualified parties, determine the cost of repair, replacement or reconstruction of the Common Areas.

If the proceeds of said insurance are not sufficient to pay for the repair, replacement or reconstruction of any loss or damage to Common Areas and the Association shall levy and collect an assessment from the Owners. Said assessment, so collected from said Owners, shall be deposited with the insurance trustee, so that the sum on deposit with the insurance trustee shall be sufficient to completely pay for the repair, replacement or reconstruction of the Common Areas. The assessment to be levied and collected shall be equally apportioned among all Owners. If it is determined that the damage for which the proceeds are paid shall not be repaired, replaced, or reconstructed, any proceeds not used to repair, replace or reconstruct shall be distributed to the beneficial owners; remittances to Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Residential Unit and may be enforced by such mortgagee. There shall be no distribution of remaining proceeds until all debris, remains, and residue have been cleared and removed, and the property has been properly landscaped. In making distribution to Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Owners and their respective shares of the distribution.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. OWNER'S ACCEPTANCE OF COVENANTS, CONDITIONS AND RESTRICTIONS AFFECTING SAILFISH POINT: Every Owner, by virtue of his acceptance of the deed of conveyance to his Residential Unit and other parties by virtue of their occupancy or use of any part of the Sailfish Point Property, hereby approve all of the terms and conditions, duties and obligations contained in this Declaration, all Supplementary Declarations and in the Articles and Bylaws of the Association.

Section 2. INDEMNITY OF THE DIRECTORS OF THE BOARD: All Members of the Association and all members of the Golf Club, the Marina Owner and Sailfish Point Utility Corporation agree to indemnify and hold harmless each and every Director of the Board from any acts of misfeasance, malfeasance or nonfeasance which may occur in the performance of his duties as Director of such Board. This obligation shall be covered by directors and officers liability insurance, if available, which shall be funded as a common expense of the Members.

Section 3. AMENDMENT: Subject to the provisions of this Declaration, this Declaration may be amended at any time and from time to time upon a vote in favor of said amendment(s) by not less than three-quarters (3/4) of all votes, the number of which votes shall be determined in accordance with Article V, Section 3(a) of this Declaration. So long as the Developer is the Owner of any Parcel, Residential Unit or any Sailfish Point Property, the Developer's written consent must be obtained to any such amendment. Any such amendment shall be evidenced

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by an instrument executed by the duly authorized officers of the Association and recorded in the Public Records of Martin County, Florida.

Section 4. **DESTRUCTION OF ALL OR PART OF THE COMMON AREAS:** In the event all or more than fifty (50%) percent of the Common Areas is destroyed, the Association shall vote whether to rebuild same. There shall be required the vote of three-fourths (3/4) of the votes of all Members, determined in accordance with Article V hereof, in order to rebuild the Common Areas, if the cost to rebuild same exceeds fifty (50%) percent of the appraised value of such Common Areas prior to the total or partial destruction.

Section 5. **HEADINGS:** The headings contained herein are for ease of reference only, and do not constitute substantive provisions of this instrument.

Section 6. **CONDEMNATION:** In the event of the successful litigation of any action to condemn or take all or any part of the Common Areas or the Country Club which is made by any governmental entity, the Association shall be entitled to receive the proceeds of such condemnation and shall use or distribute such condemnation proceeds only in accordance with this Section.

In any condemnation action in which less than fifty (50%) percent of the then current fair market value of the Country Club is sought to be taken by the condemning authority, the proceeds of such condemnation action shall be used solely to construct improvements to the Country Club to replace the areas condemned. The replacement improvements shall, to the greatest extent possible, duplicate the function of the facilities condemned. In any condemnation action in which fifty (50%) percent or more of the then current fair market value of the Country Club is sought to be taken by the condemning authority, the decision whether to rebuild shall be put to a vote of the Members. Unless three-fourths (3/4) of the votes of all Members are cast against rebuilding, the proceeds of the condemnation action shall be used solely to construct improvements to the Country Club to replace the areas condemned. The replacement improvements shall, to the greatest extent possible, duplicate the function of the facilities condemned. In the event that three-fourths (3/4) of the votes of the Members are cast against rebuilding, the proceeds of the condemnation action shall be distributed among the members on a pro rata basis per Residential Unit, so that each Member shall receive a fractional share of the condemnation proceeds, the numerator of which fraction shall be one (1) and the denominator shall be the total number of residential housing units permitted in the Planned Unit Development Zoning Agreement described in Article I, Section 14 of this Declaration, together with any amendments thereto.

In any condemnation action in which all or any part of the roads in the Common Areas are sought to be taken, the proceeds of such condemnation action shall be used solely to rebuild such roads so as to provide access to each Residential Unit in Sailfish Point.

In the event that any governmental entity attempts to rezone all or any part of the Common Areas, including the Country Club, so that the use of such Common Areas as established herein is not permitted under the attempted rezoning, the Association shall be required to commence suit against the governmental entity alleging reverse condemnation. Any proceeds of such reverse condemnation action shall be used in accordance with the provisions of this Section.

Section 7. **ADDITIONAL USE RESTRICTIONS:** Additional use restrictions may be filed and imposed by the Developer in connection with the recordation of any plat affecting all or any part of Sailfish Point, provided the same are not inconsistent with the provisions hereof. Such additional restrictions may be incorporated in any Supplementary Declaration of Protective Covenants and Restrictions described in Article II of this Declaration and/or in such additional Declaration of Condominium

or Declaration of Cluster Covenants, as they may be from time to time recorded in the Public Records of Martin County, Florida.

Section 8. RESTRICTIONS PREVAIL OVER LESS STRINGENT GOVERNMENTAL REGULATIONS: Where these Covenants and Restrictions set minimum standards in excess of governmental building or zoning regulations, these Covenants and Restrictions shall prevail.

Section 9. EFFECTIVE DATE: This Declaration shall become effective upon its recordation in the Public Records of Martin County, Florida, and shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, Developer has caused this instrument to be executed in its name by its undersigned, duly authorized officers, and its corporate seal to be hereunto affixed, the day and year first above written.

Signed, sealed and delivered in the presence of:

D. B. [Signature]
Jessie M. Woods

SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida

By *[Signature]*
Doran T. Seaquist, Jr., President

(Corporate Seal)

Attest: *[Signature]*
Asst. Secretary



STATE OF FLORIDA)
COUNTY OF *Collier*) SS:

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to take acknowledgements, personally appeared Doran T. Seaquist, Jr. and *[Signature]* who are the President and *[Signature]* Secretary, respectively, of SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida, and acknowledged before me that they executed the foregoing Declaration of Covenants and Restrictions for Sailfish Point in the name of and on behalf of said corporation, affixing the corporate seal of said corporation thereto; that as such corporate officers they are duly authorized by said corporation to do so; and that the foregoing instrument is the act and deed of said corporation.

WITNESS my hand and official seal in the County and State aforesaid, this 25th day of January, 1980.

[Signature]
Notary Public, State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 10/17/77

These lands in Government Lots 1, 2, 3, 4, 5, 6, 7 and the area created by a Westerly Prolongation of the South line of the North 540' of said Government Lot 2 and the South line of said Government Lot 4, Section 8, Township 18 South, Range 42 East, and in Government Lot 1, Section 9, Township 18 South, Range 42 East, and in Government Lots 1, 2, and 3, Section 16, Township 18 South, Range 42 East; and in Government Lots 1, 2, 3, 4, 5, and 6, Section 17, Township 18 South, Range 42 East, lying within the boundaries of the following described perimeter, to-wit:

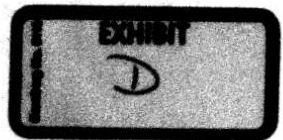
BEGINNING at the point of intersection of the South line of the North 540' of Government Lot 2, Section 8, Township 18 South, Range 42 East, and the waters of the Atlantic Ocean; thence run South 88° 06' 45" West along said South line of the North 540' of Government Lot 2, Section 8, Township 18 South, Range 42 East, a distance of 506.15 feet more or less, to a point in said South line of the said North 540' of Government Lot 2, Section 8, Township 18 South, Range 42 East, said point being monumented by an Iron Pipe filled with concrete and designated as T-1 by Map of Mean High Water Line Survey as approved December 16, 1977 by Department of Natural Resources of the State of Florida and filed for record in Official Record Book 434, Pages 701-718 (both inclusive), Public Records of Martin County, Florida; thence continue to run South 88° 06' 45" West along said South line of said North 540' a distance of 202 feet, more or less, to point of intersection with the waters of the Indian River; thence continue to run South 88° 06' 45" West along the Westerly projection of said South line of said North 540' of said Government Lot 2, to a point designated as T-2 by said Map of Survey of Mean High Water Line of public record as aforesaid; thence continue to run South 88° 06' 45" West along the said South line of the said North 540' and Westerly prolongation thereof, a distance of 1146.87' to a point; thence run South 7° 41' 33" West a distance of 105.24 feet; thence South 51° 40' 30" West a distance of 2,267.97 feet; thence run South 38° 07' 00" East a distance of 220.71 feet; thence run South 51° 33' 00" West a distance of 0.67 feet; thence run South 38° 07' 00" East a distance of 52.29 feet; thence run South 44° 30' 07" East a distance of 481.69 feet to point of intersection with the Mean High Water Line of waters of the Indian River as shown and established in Government Lot 5 of said Section 8, Township 18 South, Range 42 East by the said Map of Survey of Mean High Water Line of public record as aforesaid; thence from said point of intersection run generally Southerly and Easterly with the aforesaid established Mean High Water Line of waters of Indian River respectively in said Government Lot 5, Section 8, Township 18 South, Range 42 East, and in Government Lots 3, 4, 5, and 6, Section 17, Township 18 South, Range 42 East; thence continue to run generally Easterly with the aforesaid established Mean High Water Line of the waters of St. Lucia Inlet in Government Lot 3, Section 16, Township 18 South, Range 42 East, to point of confluence of the waters respectively of said St. Lucia Inlet and the Atlantic Ocean thence run generally Northerly with the aforesaid established Mean High Water Line of Atlantic Ocean in Government Lots 3, 2, and 1 of said Section 16, Township 18 South, Range 42 East, and in Government Lot 1 of Section 9, Township 18 South, Range 42 East, and in Government Lot 3 and Government Lot 2, Section 8, Township 18 South, Range 42 East to the point of beginning;

Exhibit "A" to
Declaration of Protective Covenants
and Restrictions for Sailfish Point

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Final
9/22/80

FIRST AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
FOR SAILFISH POINT



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EXHIBIT B
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DEFINITIONS

Section 29. "UTILITY PARCEL" shall mean and refer to all or any part of Parcel "C-1" of Plat No. 1A of Sailfish Point P.U.D. to be recorded concurrently with this First Amendment to Declaration and shall include, where the context so requires, all improvements thereon and appurtenances thereto.

Section 31. "MAINTENANCE FACILITY" shall mean and refer to all or any part of Parcel "C-2" of Plat No. 1A Sailfish Point P.U.D. to be recorded concurrently with this First Amendment to Declaration and shall include, where the context so requires, all improvements thereon and appurtenances thereto.

Section 32. "TELEPHONE FACILITY" shall mean and refer to all or any part of Parcel "C-3" of Plat No. 1A Sailfish Point P.U.D. to be recorded concurrently with this First Amendment to Declaration and shall include where the context so requires, all improvements thereon and appurtenances thereto.

ARTICLE III

PROPERTY RIGHTS

Section 5(a). "TITLE TO THE MAINTENANCE FACILITY": Developer reserves the option to retain title to the Maintenance Facility or to convey or lease any part or parts thereof. The grantee of any conveyance may be the Association, or the Golf Club, provided that the Maintenance Facility is subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 5(b). "TITLE TO THE TELEPHONE FACILITY": Developer reserves the option to retain title to the Telephone Facility or to convey or lease any part or parts thereof, or grant any easements or other interests therein. The grantee of any conveyance or easement may be the Association, any utility regulated by the Florida Public Service Commission or by Martin County, or any government entity, provided that the Telephone Facility is subject to the provisions of Article IX of this Declaration, as same may be amended.

Section 7. "GENERAL EASEMENTS":

- (d) Maintenance and repair. Those easements for maintenance and repair as set forth in Article VII, Section 11 of this Declaration are easements to enter over, through and upon all portions of Sailfish Point for the purpose of maintaining, repairing and replacing, including the construction of bulkheading, on Residential Units, the Common Areas, the Marina and Marina Facilities, the Golf Course and Golf Club Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, and the Sales Center Parcel.
- (e) Ingress and Egress for Parcels. An easement for ingress and egress from and to: each Lot and Parcel, the Common Areas,

Country Club, the Golf Course and Golf Club Facilities, the Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, and the Sales Center Parcel.

- (i) Helistop Easement. An easement to maintain and for ingress and egress from, whether by air or by surface transportation, the helistop which may be constructed on the Golf Course or Golf Club Facilities.

Section 8. ADDITIONAL BULKHEADING. The Developer reserves the right to increase the size of any waterfront Lot or Parcel by placing, constructing or affixing bulkheading attached or adjacent to the then-existing lot line of any Lot or Parcel. Such bulkheading may be placed, constructed or affixed without the consent of the Owner of the Lot or Parcel so improved and such Owner shall have no right to refuse the bulkheading. Upon the completion of the bulkheading improvements, Developer shall convey to the Owner of the Lot or Parcel so improved, fee simple title to the real property improved with the bulkhead; the waterside of said bulkhead shall, upon the recordation of the instrument effecting such conveyance, constitute the exterior lot line of the Lot or Parcel; and the Owner of said Lot or Parcel shall thereupon be solely responsible for the maintenance of such bulkhead in addition to those duties of the Owner established in Article VII, Section 2 hereof.

ARTICLE IV

ASSOCIATION NETWORK

Section 1. ASSOCIATION. The Developer has caused to be incorporated a corporation known as SAILFISH POINT PROPERTY OWNERS' AND COUNTRY CLUB ASSOCIATION, INC., a Florida corporation not for profit, in accordance with the Articles of Incorporation of which a copy is attached to the Declaration and made a part thereof as Exhibit "B", and the Bylaws, a copy of which is attached to the Declaration and made a part thereof as Exhibit "C". The Association has not been formed, organized or incorporated in such a manner to qualify for a tax exempt status under any provision of the Internal Revenue Code. The Association shall have the duties imposed in the Articles of Incorporation of said Association. This Association is or will become vested with primary authority and control over all Common Areas and is or will become the owner of all real or personal property known as the Common Areas, including the Country Club. The Association is the organization with the sole responsibility to make and collect assessments from all Members, the Developer, the Builder, the Golf Club, the owner(s) of the Maintenance Facility and the Telephone Facility, and the Marina Owner, which assessments will be made in accordance with Article VI. Assessments will be used solely for the purposes described in Article VI. The Association may also make and collect charges for maintenance services against any Owner, the Developer, the Owner(s) of the Golf Club Facilities, and Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, and the Sales Center Parcel as more fully set forth in Article VII of this Declaration. The charges levied by the Association are separate, apart, and in addition to any initiation fees, membership dues, charges or assessments which may be made or charged by the Marina Owner, the Golf Club, Sailfish Point Utility Corporation, any Condominium Association, or any Cluster Committee to or against its or their shareholders and/or members, and/or users. The Association shall have the right to a lien for the charges and assessments to which it is entitled in accordance with Article VI of this Declaration.

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the Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, or property in Sailfish Point owned by the Developer.

ARTICLE VII

DUTIES

Section 7(a). MAINTENANCE BY THE OWNER(S) OF THE MAINTENANCE FACILITY AND THE TELEPHONE FACILITY: The Developer or whichever entity owns the Maintenance Facility and the Telephone Facility shall be responsible for the maintenance, repair and replacement of the Maintenance Facility and for the maintenance, repair and replacement of the Telephone Facility, or any improvements, fixtures or appurtenances located thereon.

Section 9. EXTERIOR MAINTENANCE BY THE ASSOCIATION: In addition to maintenance upon the Common Areas and the Country Club, the Association may provide exterior maintenance service to and upon any structure located on any Parcel or Residential Unit, the Golf Club Facilities and Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, the Sales Center Parcel, and any property in Sailfish Point owned by the Developer provided such exterior maintenance is, in the opinion of the Board, required, including without limitation: paint; repairs; roof repair and replacement; installation of gutters, downspouts and exterior building surfaces; yard clean-up; installation, repair and replacement of bulkhead Lots, which the Owner thereof shall have no right to refuse; maintenance of the Golf Course; bulkheading, dredging, and otherwise maintaining the Marina and Marina Facilities. In addition, the Association may provide maintenance to the landscaping, sprinklers, trees, shrubs, grass, pools, walks, private drives, shorelines and streets, Owners' irrigation systems, and provide maintenance to other exterior improvements. To the extent such maintenance is provided in a satisfactory manner by a Condominium Association or a Cluster Committee, the Golf Club, the Marina Owner, the owner(s) of the Maintenance Facility and the Telephone Facility, any Owner, Sailfish Point Utility Corporation, or by the Developer for any part of Sailfish Point, such maintenance shall not be duplicated by the Association.

The provision of any exterior maintenance services by the Association to any Parcel, any Residential Unit, the Golf Club Facilities, the Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, the Sales Center Parcel and/or any property in Sailfish Point owned by the Developer shall not be deemed to constitute and does not constitute an acceptance of the ongoing responsibility to maintain such property or the ownership of such property. At such time as the Association renders such exterior maintenance service, it shall do so at the sole expense of the Owner, Golf Club, Marina Owner, Sailfish Point Utility Corporation, the owner(s) of the Maintenance Facility and the Telephone Facility, or the Developer for which services such Owner, Golf Club, Marina Owner, Sailfish Point Utility Corporation, the owner(s) of the Maintenance Facility and the Telephone Facility, or the Developer shall be assessed in accordance with this Article, which assessment shall be separate, apart and in addition to any assessment imposed in connection with Article VI of this Declaration.

The cost of such maintenance may be assessed against an Owner, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation, the owner(s) of the Maintenance Facility and the Telephone Facility, the Developer or against such Parcel, Residential Units, Golf Club Facilities and Golf Course, Marina and Marina Facilities, Utility Parcel, the

Maintenance Facility, the Telephone Facility, or property in Sailfish Point owned by the Developer, which in the opinion of the Association, benefit from same. Such maintenance costs may also be assessed against all Condominium Units in any particular area of Sailfish Point to the extent that such maintenance is required to be performed upon the Condominium Common Elements of such area, or may be assessed against all Single Family Attached Units established on a particular Parcel, all of which Single Family Attached Units are subject to a Declaration of Cluster Covenants, to the extent that such maintenance is required to be performed upon the Cluster Common Elements. The assessment shall be proportioned upon the Parcels and Residential Units, Golf Club Facilities and Golf Course, Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, or property in Sailfish Point owned by the Developer, involved in the manner determined to be appropriate by the Association. This exterior maintenance assessment shall be separate, apart and in addition to any annual or special assessments. Any such exterior maintenance assessments shall be a lien on the Parcel or the Residential Unit, Golf Club Facilities and Golf Course, Marina and Marina Facilities, Utility Parcel, the Maintenance Facility, the Telephone Facility, or Sailfish Point Property which is owned by the Developer and which is the subject of the maintenance assessment, shall be a personal obligation of the Owner and shall become due and payable in all respects, together with interest, charges, penalties and labor fees as provided by the Board. Fees for cost of collection of said assessment, including reasonable attorneys' fees, shall be subordinate to any Institutional First Mortgage on such property.

Section 10. ACCESS AT REASONABLE HOURS: Except in the case of emergency when no notice is required, for the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agent or employees, shall have the right, after five (5) day's written notice to the Owner, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation, the owner(s) of the Maintenance Facility and the Telephone Facility or the Developer to enter upon any Parcel or the exterior of any Residential Unit, the Golf Club Facilities, and the Golf Course, the Marina and the Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, and/or Sailfish Point Property owned by the Developer which is the subject of the maintenance assessment at reasonable hours on any date except on Sunday. Said notice shall be delivered in person or mailed to the Owner, the Golf Club, the Marina Owner, Sailfish Point Utility Corporation, the owner(s) of the Maintenance Facility and the Telephone Facility, or the Developer, by certified mail, return receipt requested. The notice shall be deemed given when mailed.

Section 11. EASEMENT FOR EXTERIOR MAINTENANCE: The Association is hereby granted a non-exclusive easement to enter upon any Parcel or Lot, the Golf Club Facilities, the Golf Course, the Marina and Marina Facilities, the Utility Parcel, the Maintenance Facility, the Telephone Facility, the Sales Center Parcel and any property in Sailfish Point owned by the Developer in order to provide exterior maintenance service to and upon any structures located on or upon any of said enumerated properties in accordance with the terms of this Article.

ARTICLE VIII

**ARCHITECTURAL REVIEW AND REQUIRED
COMMENCEMENT OF CONSTRUCTION**

Section 6. DOCKS, WATERFRONT CONSTRUCTION, BOATS, DUNE CROSSINGS AND SHORE CONTOURS: The only docks permitted to be erected or maintained on Sailfish Point Property are those docks which are constructed pursuant to applicable permit, and in accordance with the terms

538378

FOURTH AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
FOR SAILFISH POINT

622 PAGE 199

which bear the same Article, Section or subparagraph number or designation. All other terms of the Declaration and the First, Second and Third Amendments to Declaration not changed by this Fourth Amendment to Declaration are hereby reaffirmed. It is the intent of the Members of the Association that the terms of this Fourth Amendment to Declaration shall be effective as of, and relate back to the date of, the filing of the Declaration within the Public Records of Martin County, Florida.

ARTICLE XVI

GENERAL PROVISIONS

Section 3. AMENDMENT: Subject to the provisions of this Declaration, this Declaration may be amended at any time and from time to time upon a vote in favor of said amendment(s) by not less than three-quarters (3/4) of all votes, the number of which votes shall be determined in accordance with Article V, Section 3(a) of this Declaration. Notwithstanding the foregoing, Supplementary Declarations may be amended at any time and from time to time by an affirmative vote in favor of said amendment by a majority of those Directors present at a meeting of the Board at which a quorum is present. So long as the Developer is the Owner of any Parcel, Residential Unit or any Sailfish Point Property, the Developer's written consent must be obtained to any such amendment described in this Section. Any such amendment shall be evidenced by an instrument executed by the duly authorized officers of the Association and recorded in the Public Records of Martin County, Florida.

IN WITNESS WHEREOF, the Association has caused this instrument to be executed in its name by its undersigned, duly authorized officers, and its corporate seal to be hereunto affixed, the day and year first above written.

SAILFISH POINT PROPERTY OWNERS' AND COUNTRY CLUB ASSOCIATION, INC.,
A Florida corporation Not-for-Profit

Signed, sealed and delivered in the presence of:

Diana J. Wilkinson
Paul C. May

By: Joe L. Krchnak
Joe L. Krchnak, President
Attest: Thomas J. Palmieri
Thomas J. Palmieri
Secretary

STATE OF FLORIDA)
) SS: 622 PAGE 201
COUNTY OF PALM BEACH)

I HEREBY CERTIFY, that on this day, before me, an officer duly authorized to take acknowledgments, personally appeared Joe L. Krchnak and Thomas J. Palmieri, who are the President and Secretary, respectively, of SAILFISH POINT PROPERTY OWNERS' AND COUNTRY CLUB ASSOCIATION, INC., a Florida corporation not-for-profit, and they acknowledged before me that they executed the foregoing Fourth Amendment to the Declaration of Protective Covenants and Restrictions for Sailfish Point in the name of and on behalf of said corporation, affixing the corporate seal of said corporation thereto; and that as such corporate

499526

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this 28th day of December, 1983, by SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida (hereinafter, the "Grantor"), and delivered to SAILFISH POINT UTILITY CORPORATION, a Delaware corporation qualified to do business in the State of Florida, whose mailing address is: 6929 S.E. South Marina Way, Stuart, Florida 33494 (hereinafter, the "Grantee");

("Grantor" and "Grantee" are used for singular or plural, and shall include their successors and assigns whenever the context so admits or requires);

WITNESSETH:

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration to it in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and sold to Grantee forever the following described two parcels of real estate lying and being in Martin County, Florida, to-wit:

SEE ATTACHED EXHIBIT "A"

THIS CONVEYANCE IS SUBJECT TO THE FOLLOWING AS TO PARCEL NOS. ONE AND TWO:

1. All taxes, levies and assessments levied and assessed for 1983 and subsequent years;
2. Covenants and conditions imposed by that certain Planned Unit Development Zoning Agreement between Grantor and Martin County, dated January 9, 1979, and recorded in Official Records Book 463 at Page 1143, as same has been or may hereafter be amended by instruments recorded in the Public Records of Martin County, Florida;
3. Covenants, conditions and easements imposed by the Declaration of Protective Covenants and Restrictions for Sailfish Point, dated January 25, 1980, and recorded in Official Records Book 488 at Page 2058, as same has been or may hereafter be amended by instruments recorded in the Public Records of Martin County, Florida;
4. Restrictions, reservations and utility easements of record;
5. That certain Purchase Money Mortgage, of even date herewith, from Grantee in favor of Grantor.

This instrument prepared by:

Paul E. Sklansky, Esq.
4440 P.C.A. Boulevard, Suite 601
Palm Beach Gardens, Florida 33410

3 8 0 8 4
STATE OF FLORIDA
DOCUMENTARY STAMP TAX
DEPT. OF REVENUE
DEC 30 1983
900.00

3 8 0 8 5
STATE OF FLORIDA
DOCUMENTARY STAMP TAX
DEPT. OF REVENUE
DEC 30 1983
900.00

EXHIBIT
E

3 8 0 8 6
STATE OF FLORIDA
DOCUMENTARY STAMP TAX
DEPT. OF REVENUE
DEC 30 1983
380.35

3 8 0 8 7
STATE OF FLORIDA
DOCUMENTARY STAMP TAX
DEPT. OF REVENUE
DEC 30 1983
900.00

AS TO PARCEL NO. ONE

The terms and provisions of Plat No. 1-A, Sailfish Point P.U.D., recorded in Plat Book 8, at Page 47 of the Public Records of Martin County, Florida, together with the covenants and conditions imposed by the Supplementary Declaration of Protective Covenants and Restrictions for Plat No. 1-A Sailfish Point P.U.D. dated January 23, 1981, recorded in Official Records Book 513 at Page 1125 of the Public Records of Martin County, Florida, and as same may be further amended from time to time;

AS TO PARCEL NO. TWO

The terms and provisions of Plat No. 6, Sailfish Point P.U.D., recorded in Plat Book 8, at Page 90 of the Public Records of Martin County, Florida, together with the covenants and conditions imposed by the Supplementary Declaration of Protective Covenants and Restrictions for Plat No. 6 Sailfish Point P.U.D. dated January 13, 1982, recorded in Official Records Book 536 at Page 2346 of the Public Records of Martin County, Florida, and as same may be further amended from time to time;

Grantor further conveys to Grantee such improvements on Parcel No. One and Parcel No. Two as are appurtenant to the land so as to become real property.

IN WITNESS WHEREOF, Grantor has hereunto set its hand and seal the day and year first above written.

WITNESSETH:

[Handwritten Signature]
[Handwritten Signature]

SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida

By: [Handwritten Signature]
Doran T. Seaquist, Jr.
President

Attest: [Handwritten Signature]
Thomas J. Palmieri
Assistant Secretary



(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

The foregoing Special Warranty Deed was acknowledged before me this 28th day of December, 1983 by Doran T. Seaquist, Jr. and Thomas J. Palmieri, the President and Assistant Secretary, respectively, of SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida, on behalf of the corporation.

[Handwritten Signature]
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

5574L
12/19/83

Notary Public, State of Florida
My Commission Expires April 5, 1985
Bound by the Notary Public, Inc.

ACKNOWLEDGEMENT AND ACCEPTANCE BY GRANTEE

Grantee, by acceptance of this Deed, acknowledges that the property conveyed hereby is improved for the uses and purposes of management and operation by Grantee of a water utility system and a waste water system and treatment plant and that this conveyance is subject in every respect to: the applicable terms, conditions and covenants of the Declaration of Protective Covenants and Restrictions for Sailfish Point, and the Supplementary Declaration of Protective Covenants and Restrictions for Plat No. 1-A Sailfish Point P.U.D., and, the Supplementary Declaration of Protective Covenants and Restrictions for Plat No. 6 Sailfish Point P.U.D., as they have been and may in the future be amended (the "Property Owners' Association Documents") and all other matters set forth in the foregoing Special Warranty Deed, all of which have been reviewed and examined by Grantee. Grantee further acknowledges that each and every term and provision of the aforesaid Property Owners' Association Documents and the foregoing Special Warranty Deed, are essential to the successful operation and management of the property being developed pursuant to the Planned Unit Development Zoning Agreement in general, and the property conveyed to Grantee in said Deed in particular, and in the best interests of and for the benefit of all Owners in Sailfish Point. Grantee covenants and agrees within its operating authority so to do and in accordance with applicable regulations, to operate and maintain the property conveyed for the uses and purposes of rendering the specified utility services in the territory of Sailfish Point Planned Unit Development; and to abide by each and every provision of the aforesaid Property Owners' Association Documents; Grantee hereby ratifies, confirms and approves all of the terms and provisions thereof and agrees that the lien rights described in the Property Owners' Association Documents shall encumber the property being conveyed by the foregoing Warranty Deed for the Grantee's obligation for its pro rata share of all assessments and charges properly levied by the Property Owners' Association, which Grantee hereby expressly assumes and agrees to pay.

IN WITNESS WHEREOF, the Grantee has caused this Acknowledgement and Acceptance by Grantee to be executed by its undersigned duly authorized officers on this 28th day of November, 1983.

WITNESSETH:

Edmond Kaye Smith
Barbara Smith

GRANTEE: SAILFISH POINT UTILITY CORPORATION a Delaware corporation, qualified to do business in the State of Florida

By: *Joe L. Krchnak*
Joe L. Krchnak
Vice President

Attest: *Paul E. Sklansky*
Paul E. Sklansky
Assistant Secretary

(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

The foregoing Acknowledgement and Acceptance by Grantee was acknowledged before me this 28th day of November, 1983, by Joe L. Krchnak and Paul E. Sklansky, the Vice President and Assistant Secretary, respectively, of SAILFISH POINT UTILITY CORPORATION, A Delaware corporation qualified to do business in the State of Florida, on behalf of the corporation.

L.R. 590 PAGE 150
E.C.K.

Virginia R. Alford
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

5574L
12/27/83

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES SEP 23 1985
BOWDLE FROM GENERAL 1165. UNRECORDED

EXHIBIT "A"
TO
SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

Parcel No. One (The Utility Parcel)

Parcel C-1, Plat No. 1-A SAILFISH POINT P.U.D., according to the Plat thereof, as recorded in Plat Book 8, Page 47, of the Public Records of Martin County, Florida, and

Parcel No. Two (The Effluent Tank Parcel)

A portion of Parcel No. 1, Plat No. 6 SAILFISH POINT P.U.D., more particularly described as:

A parcel of land lying in fractional Section 8, Township 38 South, Range 42 East, also lying within Golf Course Parcel Number "I" as shown on Plat Number 6, Sailfish Point, P.U.D., recorded in Plat Book 8, page 90 of the Public Records of Martin County, Florida. Said parcel being more particularly described as follows:

From the Southeast corner of said fractional Section 8, bear N 88°57'00" W, along the South line of said fractional Section 8, a distance of 1463.29 feet; thence N 1°03'00" E, a distance of 1610.88 feet to the Point of Beginning of the herein described parcel of land; thence N 23°45'36" W, a distance of 217.00 feet; thence N 66°14'24" E, a distance of 197.26 feet; thence S 23°45'36" E, a distance of 217.00 feet; thence S 66°14'24" W, a distance of 197.26 feet to the Point of Beginning of the herein described parcel of land.

Together with: 1) all easements and appurtenances to Parcel No. One and Parcel No. Two; and 2) all mains, lines, meters, pumps, and equipment appurtenant thereto which are located off the Lands but within Sailfish Point.

5574L
12/29/83

BOOK 590 PAGE 151

REC'D
1983 DEC 30 AM 11:51

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT is effective the 1st day of October, 1983, and is made by SAILFISH POINT UTILITY CORPORATION, a Delaware corporation qualified to do business in the State of Florida (hereinafter, the "Mortgagor"), and delivered to SAILFISH POINT, INC., a Delaware corporation qualified to do business in the State of Florida (hereinafter, the "Mortgagee");

WITNESSETH:

That for divers good and valuable consideration, and also in consideration of the aggregate sum named in the promissory note hereinafter described, Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Mortgagee, its successors and assigns, in fee simple, all that certain tract of land of which Mortgagor is now seized and possessed, situate in Martin County, Florida, and legally described as follows (hereinafter referred to as the "Lands"):

SEE ATTACHED EXHIBIT "A"

TOGETHER WITH all and singular the following:

All structures, improvements, fixtures and tangible personal property now or at any time hereafter located, made appurtenant to, placed upon or used on or in connection with the Lands;

All right, title and interest of Mortgagor in and to the After Acquired Property; Mortgagee's interest in the After Acquired Property shall arise immediately at the time that the After Acquired Property is acquired, released, constructed, assembled, or placed upon the Land, and no further mortgage, conveyance, assignment, security interest, or financing statement or any other act by Mortgagor or Mortgagee shall be necessary or required in order to establish Mortgagee's interest in the After Acquired Property; the After Acquired Property shall become subject to the lien of this Mortgage as fully and completely and with the same effect as though it were now owned by Mortgagor and were specifically described in this paragraph;

All plats, plans, specifications, working drawings, maps, surveys, studies and reports related to the operation or improvement to the Sailfish Point Utility Corporation, in which Mortgagor now has or may hereafter acquire an interest; all applications for and permits or approvals issued or granted by Sailfish Point Property Owners' and Country Club Association, Inc. (hereinafter, the "Association"), or by any governmental entity; all building material and equipment now or hereafter placed upon and intended to be installed or placed on the Land;

All sums, rents, issues, profits, accounts, chattel paper, instruments, general intangibles and other obligations of any kind now or hereafter existing, arising out of or in connection with Mortgagor's sale or lease of goods or rendering of services, or arising in connection with the use of the Mortgaged Property and all rights now or hereafter existing in and to all security agreements, leases and other contracts securing or otherwise relating to any such accounts, chattel paper, instruments, general intangibles or obligations;

This instrument prepared by:

Paul E. Sklansky, Esq.
4440 P.C.A. Boulevard, Suite 601
Palm Beach Gardens, Florida 33410

RECEIVED \$ 1772.52 IN PAYMENT OF TAXES
DUE ON CLASS "C" INTANGIBLE PERSONAL
PROPERTY, PURSUANT TO CHAPTER 134, ACTS OF
1971 LOUISE V. ISAACS, Clerk Circuit Court
As Agent for MARTIN COUNTY, FLORIDA

By
DEPUTY CLERK



L.P.
L.L.K.

All awards or payments, including interest thereon and the right to receive same, as a result of (i) the exercise of the right of eminent domain, (ii) the alteration of the grade of any street, or (iii) any other injury to, taking of, or decrease in the value of the Mortgaged Property, or any part thereof, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment and of the reasonable attorneys fees, costs and disbursements incurred by Mortgagee in connection with the collection of such awards or payments; and

TO HAVE AND TO HOLD the same (hereinafter, collectively, the "Mortgaged Property") unto Mortgagee in fee simple forever.

PROVIDED ALWAYS and these presents are upon the express condition that this conveyance is made to secure the due, prompt and complete observance, performance and discharge of each and every obligation of Mortgagor contained in the Note, as hereinafter defined and described in Article I; and further

PROVIDED ALWAYS and these presents are upon the express condition that this conveyance is made to secure the due, prompt and complete observance, performance and discharge of each and every obligation of Mortgagor, as hereinafter defined and described in Article I.

AND Mortgagor covenants with Mortgagee, its successors and assigns, as follows:

ARTICLE I

Interpretation

Unless the subject matter or context of a provision is inconsistent or unless a contrary meaning is expressly provided, the following terms shall have the following meanings:

1.01 "Sailfish Point" means that real property situate in Martin County, Florida, which is being developed in accordance with the P.U.D. Agreement (as hereinafter defined);

1.02 "P.U.D. Agreement" means the Planned Unit Development Zoning Agreement by and between Mortgagee and Martin County, Florida, a political subdivision of the State of Florida, dated January 9, 1979, and recorded in Official Records Book 463, at Page 1143, of the Public Records of Martin County, Florida, as same has heretofore and may hereafter be amended;

1.03 "Lands" means the Utility Parcel and the Effluent Tank Parcel collectively;

1.03 (a) "Utility Parcel" means that parcel of real property within Sailfish Point which Mortgagee has improved to provide water and sewer service to Sailfish Point, the legal description of which is set forth in attached Exhibit A;

1.03 (b) "Effluent Tank Parcel" means that parcel of real property within Sailfish Point the legal description of which is set forth in Exhibit A and which has been improved by the construction of an effluent tank;

1.04 "Utility Facilities" means those improvements which have been or will be erected by Seller on the Lands, and those mains, lines, meters, pumps, and equipment appurtenant thereto which are located off the Lands but within Sailfish Point as more particularly described in that schedule attached hereto as Exhibit 2;

1.05 "Personal Property" means all furniture, fixtures, furnishings, appliances, equipment, supplies, and other tangible personal property and assets which are not real property which are or shall be located on the Lands or associated therewith for the proper operation of the Utility Facilities, all of which shall be sold and delivered by Seller to Buyer pursuant to the terms of this Agreement.

1.06 "After Acquired Property" means all extensions, improvements, betterments, renewals, substitutes, replacements of, and all additions and appurtenances to, the Utility Parcel, the Effluent Tank Parcel, and the Utility Facilities, or the Personal Property as hereafter acquired by or released to Mortgagor or constructed, assembled or placed by Mortgagor or by Mortgagee for the benefit of Mortgagor thereon, and all conversions of the security constituted thereby;

1.07 "Association" means Sailfish Point Property Owners' and Country Club Association, Inc., a Florida corporation not for profit;

1.08 "Declaration" means the Declaration of Protective Covenants and Restrictions for Sailfish Point dated January 25, 1980, and recorded in Official Records Book 488, at Page 2058, of the Public Records of Martin County, Florida, as same has heretofore and may hereafter be amended;

1.09 "Note" means that certain promissory note of even date herewith executed by Mortgagor to the order of Mortgagee, evidencing an original principal amount of Eight Hundred Eighty Six Thousand, Two Hundred Sixty and NO/100 DOLLARS (\$886,260.00), bearing interest at the rate of eleven percent per annum until maturity;

1.10 "Articles of Incorporation" means the Articles of Incorporation of Mortgagor;

1.11 "Bylaws" means the Bylaws of Mortgagor;

1.12 "Event of Default" shall have that meaning attributed to it in Article III herein, and in the Promissory Note.

ARTICLE II

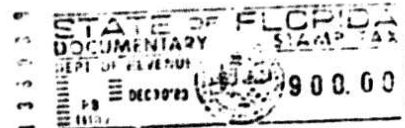
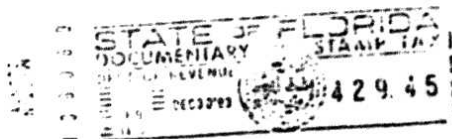
Covenants of Mortgagor

Mortgagor further covenants as follows:

2.01 Mortgagor is indefeasibly seized of the Lands in fee simple and owns same free and clear of liens and claims. It shall be lawful for Mortgagee, its successors and assigns, at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Mortgaged Property. Mortgagor shall make such further assurances to perfect the fee simple title to the Lands in Mortgagee, its successors and assigns, as may be reasonably required. Mortgagor will defend the same against the lawful claims of all persons whomever.

2.02 Mortgagor shall pay the principal and interest (if any) and other sums of money payable by virtue of the Note.

2.03 Mortgagor shall pay all taxes, assessments, levies, liabilities, inspection and permit fees, charges for utility service to the Mortgaged Property, obligations and encumbrances of every nature on the Mortgaged Property, whether levied, imposed or charged by a governmental entity, the Association or by a public or private utility providing service to the Mortgaged Property. If such taxes, assessments, levies, liabilities, fees, charges, obligations or encumbrances have not been paid prior to the delinquency thereof, Mortgagee, its successors and assigns, may, at any time, pay the same without waiving or affecting the option to foreclose or to elect any right hereunder. Every payment so made shall bear interest from the date thereof at the rate of fifteen percent (15%) per annum. Mortgagor shall promptly pay any lawful claims of mechanics, materialmen, laborers, the Association and others which, if unpaid, might permit the creation of a lien on the Mortgaged Property.



2.04 Mortgagor shall perform, comply with and abide by each and every stipulation, agreement and covenant of Mortgagor to be observed and performed as set forth in the: (i) Note; (ii) Declaration; (iii) Articles of Incorporation; (iv) Bylaws; and (v) such other instruments which have been or may be placed of record by Mortgagee to effect and regulate the orderly development of Sailfish Point in accordance with the P.U.D. Agreement.

2.05 Mortgagor shall immediately inform Mortgagee upon obtaining knowledge that any portion of the Mortgaged Property is sought to be taken through the exercise of the power of eminent domain or condemnation. Mortgagee shall be entitled to participate in any condemnation proceedings. The proceeds of any award made in such proceedings shall be paid to Mortgagee. Any such proceeds which shall exceed the unpaid balance of principal, together with accrued and unpaid interest (if any), owing under the Note shall be paid to Mortgagor.

2.06 Mortgagor will not permit, commit, or suffer any waste, impairment or deterioration of the Mortgaged Property.

2.07 Mortgagor will, at its own cost and expense, do and execute each and every further act or instrument which Mortgagee may from time to time require for the purpose of better assuring and confirming unto Mortgagee the Mortgaged Property and Mortgagor's due, prompt and complete performance of each and every obligation of Mortgagor arising hereunder or referenced to herein, including, but not limited to, executing and delivering to Mortgagee such further assurances, mortgages, conveyances, assignments or financing statements as Mortgagee may require for the purpose of expressly and specifically subjecting all personal property and the After Acquired Property to the lien of the Mortgage.

2.08 Mortgagor shall keep, at its principal place of business, all records concerning the Mortgaged Property and will permit Mortgagee to inspect and make copies of such records.

2.09 Mortgagor shall properly conduct the business of owning and managing a water and sewer facility and shall collect, at its own expense, all amounts due or to become due Mortgagor pursuant to the conduct of said business.

2.10 Mortgagor shall not sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Mortgaged Property, nor shall Mortgagor create or suffer to exist any lien, security interest or other charge or encumbrance on or with respect to the Mortgaged Property.

2.11 Upon the occurrence of any Event of Default, Mortgagor shall, upon request of Mortgagee, vacate and surrender possession of the Mortgaged Property to Mortgagee or any receiver.

ARTICLE III

Events of Default

The occurrence of any one of the following shall constitute an Event of Default under this Mortgage:

3.01 Mortgagor's failure to make any required payment of principal or interest or any other sum (if any) owing under the Note, provided said payment shall have been due and payable under the terms of the Note and that Mortgagor shall have received fifteen (15) days written notice of said failure;

3.02 Mortgagor's breach of any of its covenants or obligations arising hereunder, provided Mortgagor shall have received fifteen (15) days written notice of said breach;

3.03 Mortgagor's breach of any of its covenants or obligations arising under: (i) the Note, provided Mortgagor shall have received fifteen (15) days written notice of said breach; (ii) the Declaration; and (iii) the Articles of Incorporation and the Bylaws, provided Mortgagor shall have failed to cure said breach under (ii) and (iii) within a reasonable time after written notice thereof;

3.04 Mortgagor's attempt to take any action which is in contravention of the Articles of Incorporation and Bylaws of Mortgagor;

3.05 Subjection of all or any part of the Mortgaged Property to attachment, levy of execution or other judicial process;

3.06 Issuance of a notice of tax lien or the proceedings in connection with the enforcement of a tax lien against the Mortgagor or the failure of Mortgagor to pay, withhold, collect or remit any tax or tax deficiency when assessed or due; or

3.07 If at any time, in the sole opinion of Mortgagee, there should occur any material adverse change in the financial condition, properties or operations of Mortgagor.

3.08 If at any time, Mortgagor shall cease to operate the encumbered property for the use and purpose of rendering water and sewer utility service throughout Sailfish Point, or in such additional areas as the Utility may hereafter be authorized to serve.

ARTICLE IV

Rights and Remedies

Upon the occurrence of any Event of Default, Mortgagee shall have the following cumulative rights and remedies, any of which Mortgagee may exercise singularly or in conjunction with any one or more remedies:

4.01 Mortgagee may declare the entire principal owing under the Note, together with any interest thereon, to be due and payable immediately.

4.02 Mortgagee shall be entitled, without the necessity of notice to Mortgagor, to the appointment by a court of competent jurisdiction of a receiver to take possession of and protect the Mortgaged Property, or any part thereof, to operate same and to collect the rents, royalties, issues, profits, revenue, income, fees, dues, assessments and other benefits therefrom.

4.03 Mortgagee, or its agent or receiver may, without notice to Mortgagor and without releasing Mortgagor from any obligations hereunder: (i) make any payment or do any act which Mortgagor has failed to make or do; (ii) enter upon and take possession of the Mortgaged Property, or any parts thereof; (iii) improve the Mortgaged Property. Any of the actions referred to in this Section 4.03 shall be made solely for the account of Mortgagor and any expenses and obligations incurred by Mortgagee in taking such actions shall constitute and remain an expense of Mortgagor.

4.04 In the event of any sale of all or part of the Mortgaged Property under or by virtue of this Article IV, Mortgagee shall apply the proceeds of such sale as follows:

FIRST: to the payment of the costs and expenses of the sale, including reasonable compensation for Mortgagee, its agents and counsel, together with interest at the rate of default established under the Note, all advances made by Mortgagee hereunder, and all costs incurred by Mortgagee by reason of the Event of Default;

SECOND: to the payment of any and all sums expended hereunder not then repaid, with accrued interest at the rate of default established under the Note, and all other sums required to be paid by Mortgagor pursuant to any provisions of this Mortgage and the Note;

THIRD: to the payment of the whole amount then due, owing or unpaid under the Note, for principal together with all accrued interest at the rate of default established in the Note; and

FOURTH: the remainder, if any, to the person or persons legally entitled thereto.

4.05 In the event ownership of all or any portion of the Mortgaged Property becomes vested in any entity other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor in interest with reference to this Mortgage and the indebtedness secured hereby in the same manner as Mortgagee has dealt with Mortgagor, without discharging Mortgagor's liability hereunder or under the Note.

4.06 No remedy conferred herein or in the Note is intended to be exclusive of any other remedy. The remedies provided for herein shall be cumulative and shall be in addition to those provided in the Note. No delay or omission by Mortgagee in exercising any right or power shall impair such future exercise of any right or power nor shall such delay or omission be construed to be a waiver of any Event of Default.

ARTICLE V

Miscellaneous Provisions

5.01 Any written notice required to be given hereunder shall be deemed given when same has been deposited in the United States mail and sent via postage prepaid certified or registered mail, addressed to Mortgagor and Mortgagee at such addresses as Mortgagor and Mortgagee may require.

5.02 All of the provisions, covenants and agreements contained in this Mortgage and in the Note shall, until such time as a satisfaction of this Mortgage is placed of public record, bind the land and further shall bind and inure to the benefit of Mortgagor and Mortgagee, and the successors and permitted assigns of Mortgagor and the successors in trust, endorsees, transferees, successors and assigns of Mortgagee.

5.03 The declaration that any one or more of the provisions contained herein or in the Note is, for any reason, invalid, illegal or unenforceable shall not affect any other provisions of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

5.04 All agreements between Mortgagor and Mortgagee are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds owing under the Note, acceleration of maturity of unpaid principal balance thereof, or otherwise, shall the amount paid or agreed to be paid to the holder of the Note for the use or forbearance of money exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstance whatsoever, fulfillment of any provision of the Note, the Mortgage, or any other agreement referred to herein, shall involve transcending the limit of the interest prescribed by law which a court of competent jurisdiction may deem applicable, then ipso facto, the obligations to be fulfilled shall be reduced to the limit of interest prescribed by law. If, from any circumstance, Mortgagor shall ever receive as interest an amount which would exceed the highest lawful rate of interest permissible under applicable usury laws, such amount which would be excessive interest shall be applied to a reduction of the unpaid principal balance due under the Note and not to the payment of interest. This provision shall control every other provision of all agreements between Mortgagor and Mortgagee.

5.05 This Mortgage shall, pursuant to the Uniform Commercial Code as applied in the State of Florida, constitute a security agreement and shall create a security interest in the fixtures and chattels and articles of personal property that make a part of the Mortgaged Property in favor of Mortgagee. In the event of foreclosure, Mortgagee may, at its option, sell, or otherwise dispose of any personal property included in the Mortgaged Property by public or private proceedings, separate from the sale of the real property, in accordance with the provisions of the Uniform Commercial Code, and Mortgagee may with respect to such personal property exercise any other rights or remedies of a secured party under the Uniform Commercial Code.

5.06 This Mortgage shall be governed by and construed under the laws of the State of Florida.

5.07 This is a purchase money mortgage given by Mortgagor to Mortgagee to secure the unpaid balance of the purchase price for the Mortgaged Property.

5.08 Mortgagee agrees that it will limit its remedy for an alleged default under this Mortgage or the Note to an action or actions against the Mortgaged Property and that it will not bring or maintain any action or suit for a deficiency judgment on the Note against Mortgagor, the right to bring or maintain any such action for a deficiency judgment on the Note being hereby expressly waived.

IN WITNESS WHEREOF, Mortgagor has hereunto set its hand and seal the day and year first above written.

MORTGAGOR: SAILFISH POINT UTILITY CORPORATION, a Delaware corporation qualified to do business in the State of Florida

Attest: Paul E. Sklansky
Paul E. Sklansky
Assistant Secretary

By: Joe L. Krchnak
Joe L. Krchnak
Vice President

(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

The foregoing Mortgage was acknowledged before me this 28th day of December, 1983 by Joe L. Krchnak and Paul E. Sklansky, the Vice President and Assistant Secretary, respectively of SAILFISH POINT UTILITY CORPORATION, a Delaware corporation qualified to do business in the State of Florida, on behalf of the corporation.

Debra J. Kay Stojil
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

Notary Public, State of Florida
My Commission Expires April 5, 1985
Bonded thru the State Insurance Dept.

5593L
12/19/83

THIRD: to the payment of the whole amount then due, owing or unpaid under the Note, for principal together with all accrued interest at the rate of default established in the Note; and

FOURTH: the remainder, if any, to the person or persons legally entitled thereto.

4.05 In the event ownership of all or any portion of the Mortgaged Property becomes vested in any entity other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor in interest with reference to this Mortgage and the indebtedness secured hereby in the same manner as Mortgagee has dealt with Mortgagor, without discharging Mortgagor's liability hereunder or under the Note.

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ARTICLE V

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IN WITNESS WHEREOF, Mortgagor has hereunto set its hand and seal the day and year first above written.

MORTGAGOR: SAILFISH POINT UTILITY CORPORATION, a Delaware corporation qualified to do business in the State of Florida

Attest: Paul E. Sklansky
Assistant Secretary

By Joe L. Krchnak
Vice President

(Corporate Seal)

STATE OF FLORIDA)
) SS
COUNTY OF PALM BEACH)

The foregoing Mortgage was acknowledged before me this 28th day of December, 1983 by Joe L. Krchnak and Paul E. Sklansky, the Vice President and Assistant Secretary, respectively of SAILFISH POINT UTILITY CORPORATION, a Delaware corporation qualified to do business in the State of Florida, on behalf of the corporation.

Richard J. Layton
NOTARY PUBLIC
State of Florida at Large

My Commission Expires:

Notary Public, State of Florida
My Commission Expires April 5, 1985
P.O. Box 1100, Fort Lauderdale, FL 33301

5593L
12/19/83

EXHIBIT "A"
TO
MORTGAGE AND SECURITY AGREEMENT

LEGAL DESCRIPTION

Parcel No. One (The Utility Parcel)

Parcel C-1, Plat No. 1-A SAILFISH POINT P.U.D., according to the Plat thereof, as recorded in Plat Book 8, Page 47, of the Public Records of Martin County, Florida, and

Parcel No. Two (The Effluent Tank Parcel)

A portion of Parcel No. 1, Plat No. 6 SAILFISH POINT P.U.D., more particularly described as:

A parcel of land lying in fractional Section 8, Township 38 South, Range 42 East, also lying within Golf Course Parcel Number "I" as shown on Plat Number 6, Sailfish Point, a P.U.D., recorded in Plat Book 8, page 90 of the Public Records of Martin County, Florida. Said parcel being more particularly described as follows:

From the Southeast corner of said fractional Section 8, bear N 86°57'00" W, along the South line of said fractional Section 8, a distance of 1463.29 feet; thence N 1°03'00" E, a distance of 1610.88 feet to the Point of Beginning of the herein described parcel of land; thence N 23°45'36" W, a distance of 217.00 feet; thence N 66°14'24" E, a distance of 197.26 feet; thence S 23°45'36" E, a distance of 217.00 feet; thence S 66°14'24" W, a distance of 197.26 feet to the Point of Beginning of the herein described parcel of land.

Together with: 1) all easements and appurtenances to Parcel No. One and Parcel No. Two; and 2) all mains, lines, meters, pumps, and equipment appurtenant thereto which are located off the Lands but within Sailfish Point.

RECORDED
MAY 11 1983

DEC 30 AM 11:51

1983
DEC 30
11:51
B.C.