This instrument prepared by:
Robert B. Dunckel, Asst. City Attorney
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

DECLARATION OF COVENANTS RUNNING WITH THE LAND RESPECTING A CITY ISSUED DOCK PERMIT

THIS is a Declaration of Covenants Running with the Land Respecting a City issued Dock Permit (hereinafter, "Declaration") pursuant to City of Fort Lauderdale Code Section 8-144 is by and between:

NELSON FERNANDEZ and JASMIN FERNANDEZ, Husband and Wife whose mailing address is 1342 Ponce De Leon Drive, Fort Lauderdale, FL 33316 (hereinafter, "DECLARANTS")

and

CITY OF FORT LAUDERDALE, a Florida municipal corporation, whose address is 100 North Andrews Avenue, Fort Lauderdale, FL 33316-1302 (hereinafter, "CITY")

RECITALS:

A. The CITY on October 2, 2019 adopted on second reading Ordinance No. C-19-12 which amended CITY Code Section 8-144, entitled "Private Use of Public Property Abutting Waterways".

B. CITY Code Section 8-143, entitled " Rights of City on Property Abutting Public Waterways" provides, in part, that wherever a public street or thoroughfare is laid out or existing in the CITY abutting or touching a waterway open to the public use, the CITY, as Trustee for the public, has and owns the riparian rights appurtenant thereto and shall have the right to grant dock permits for the use of private persons to construct, use, maintain and repair docks, piers and wharves at such places, the use of which are governed by CITY Code Section 8-144.

C. DECLARANTS are vested with fee simple title to:

Parcel 1:

Lot 15 and the North 25 feet of Lot 14, Block 22, RESUBDIVISION IN BLOCK 22 - RIO VISTA ISLES, according to the map or plat thereof as recorded in Plat Book 23, Page 30, Public Records of Broward County, Florida, more particularly described as follows:

Lot 15 and a portion of Lot 14 more fully described as: Beginning at the Northwest corner of Lot 14; thence Easterly along the North boundary thereof a distance of 109.33 feet to the Northeast corner thereof; thence Southerly along the East boundary of said Lot 14 a distance of 25 feet to the mid-point of said East line; thence Westerly along a line parallel to the said North boundary of Lot 14 a distance of 109.30 feet to the mid-point of the West boundary of Lot 14; thence Northerly along the said West boundary a distance of 25 feet to the Point of Beginning.

Parcel 2:

All of Lot 21 and that portion of Lot 22 in Block 22, RESUBDIVISION IN BLOCK 22- RIO VISTA ISLES, according to the map or plat thereof as recorded in Plat Book 23, at Page 30, Public Records of Broward County, Florida, more particularly described as follows:

Beginning at the Northeasterly Corner of said Lot 21 and running thence Southerly along the Easterly Boundary line of said Lots 21 and 22, a distance of 75 feet to a point; thence Westerly a distance of 114.58 feet to the mid-point on the Easterly Boundary line of Lot 14 in said Block 22; thence Northerly along the Westerly Boundary line of said Lots 22 and 21 in said Block 22 a distance of 95 feet to the Northwesterly corner of said Lot 21; thence Easterly along the Northerly line of said Lot 21, a distance of 109.99 feet to the Point of Beginning.

Said lands lying, situate and being in Broward County, Florida.

Street Address:	1342 Ponce De Leon Drive/915 Cordova Road Fort Lauderdale, FL 33316
Property ID#	5042 11 18 0071 5042 11 19 0030

(hereinafter, "Property"]

by virtue of that certain Warranty Deed dated December 1, 2021, recorded under Broward County Instr # 117776010, which such Property is contiguous to a public street existing in the CITY abutting or touching a waterway open to the public and therefore comes within the jurisdiction of CITY Code Sections 8-143 and 8-144.

D. Prior to adoption of Ordinance No. C-19-12 amending CITY Code Section 8-144, Dock Permits were sometimes abandoned, terminated, expired or revoked and the CITY inherited

the expense of removal of such Dock and it was recognized that there was a need to require the Permit Holders (DECLARANTS herein) to provide security to cover the cost of maintenance and repair of the Dock and seawall and possible removal of the Dock, if needed, in the event of failure to do so on the part of the Permit Holder / DECLARANTS.

E. DECLARANTS, pursuant to City of Fort Lauderdale Code Section 8-144 applied for a Dock Permit for use of a Dock abutting a public right-of-way adjacent to their Property.

F. The DECLARANTS application for the Dock Permit was reviewed by the CITY's Marine Advisory Board ("Board") on April 7, 2022, and the Board recommended to the CITY Commission approval by a vote of 9 in favor to zero against.

G. The DECLARANTS' application for a Dock Permit pursuant to CITY Code Sec. 8-144 was reviewed by the CITY Commission on May 17, 2022, and a Dock Permit was granted pursuant to CITY Resolution No. 22-98.

H. Pursuant to CITY Code Section 8-144 (1) (a) ten (10) days prior to the CITY Commission's adoption of a Resolution granting the Dock Permit DECLARANTS are required to execute and deliver to the CITY a covenant running with the land to be recorded in the Public Records to provide security in the form of a potential Claim of Lien against the Property to cover the CITY's costs, if any, of maintenance, repair, reconstruction or timely removal of the Dock or seawall or both upon the failure of DECLARANTS to perform such obligations and to cover the CITY's costs in maintaining, repairing, reconstructing and/or removal of the Dock and appurtenances thereto upon the failure of the DECLARANTS to timely perform such obligation should it arise.

NOW, THEREFORE, in consideration of the foregoing, the DECLARANTS hereby agree, covenant and declare as follows and CITY accepts such Declaration:

1. **Recitals.** The foregoing Recitals and true and correct and are incorporated herein by reference.

2. **Obligation to Maintain, Repair, Reconstruct or Remove Dock and Appurtenances.** Prior to adoption of CITY Resolution No. 22-98 granting a Dock Permit, DECLARANTS have executed this Declaration and by virtue thereof DECLARANTS agree to be bound by the obligations, to the extent necessary, of maintenance, repair, reconstruct or removal of the Dock and appurtenances thereto, including seawall, and, to the extent necessary, timely removal of the Dock and appurtenances thereto, including seawall. Whether maintenance, repair or reconstruction or removal of the Dock and appurtenant seawall is necessary will be determined by the City Manager.

3. **Repair, Replace or Reconstruct in accordance with The Florida Building Code, City Engineering Standards and City Code Section 47-19.3 (f).** The DECLARANTS' obligation to repair, replace, reconstruct or maintain the Dock or adjacent seawall shall be performed in such a manner as to be compliant with the requirements of The Florida Building Code, CITY Engineering Standards and CITY Code Section 47-19.3 (f), entitled "Boat slips,

docks, boat davits, hoists and similar mooring structures" as well as other terms and conditions imposed by law or administrative regulations with jurisdiction over the subject matter or CITY Resolution No. 22-98 granting the Dock Permit.

4. **Failure to Maintain, Repair, Reconstruct or Remove Dock; Claim of Lien.** In the event DECLARANTS fail to either (i) timely perform the obligations, to the extent necessary, of maintenance, repair, reconstruction or removal of the Dock and appurtenances thereto, including seawall or (ii) timely perform the obligations, to the extent necessary, of removal of the Dock and appurtenances thereto, including seawall, or both (i) and (ii), and the CITY expends funds to perform such obligations, then DECLARANTS grant to and agree with the CITY that the CITY may file a Claim of Lien against the Property for the cost of the CITY performing such obligations in the face of DECLARANTS failure to so perform.

4.1. Interest on the Claim of Lien shall accrue on the unpaid amount at the rate of twelve percent (12.0 %) per annum, compounded monthly, but in no event shall interest exceed the highest amount allowed by Florida law.

4.2. The Lien shall be effective upon the recordation of the Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to CITY. The Lien may be foreclosed by CITY in the same manner as provided by law for foreclosure of mortgage liens. The Lien shall continue until payment to CITY of the amounts set forth in the Lien (at which time CITY shall record a satisfaction of such Lien).

4.3 DECLARANTS agree that it shall be liable for all costs associated with filing the Claim of Lien and foreclosure thereof including court costs and the CITY's reasonable attorneys' fees incurred in pursuit of the foreclosure of the Claim of Lien throughout the trial and all appellate court proceedings relative thereto.

4.4 DECLARANTS, for themselves and their successors in interest as to the Property, do hereby waive any rights to Homestead Exemption as granted by Article X, Section 4 of the Florida Constitution as to the Claim of Lien provided for herein.

5. **Discharge and Release of Claim of Lien.** In the event a Claim of Lien is recorded against the Property and the CITY is thereafter reimbursed for the costs underlying the Claim of Lien, then the CITY shall record a release, discharge or satisfaction of the Claim of Lien which as such release, discharge or satisfaction of the Claim of Lien may be executed by the City Manager. Further, upon payment of the amount of the Claim of Lien, the City shall release and discharge this Declaration and such release and discharge shall be executed by the City Manager and recorded by the CITY in the Public Records

6. **Expiration of Dock Permit.** Pursuant to the terms of CITY Code Section 8-144 (4) (b) and CITY Resolution No. 22-98 the Dock Permit expires upon (i) abandonment of the use of the Dock by DECLARANTS or (ii) recordation of the deed of conveyance transferring title to

the Property from DECLARANTS to a third party successor in interest or (iii) termination, expiration or revocation of the Dock Permit by the CITY Commission, whichever (i), (ii) or (iii) shall first occur, subject to the survivability of this Declaration which is intended to run with the Property and the DECLARANTS' obligation to have, to the extent necessary, as determined by the City Manager, timely maintained, repaired or removed the Dock and/or seawall. The Dock Permit granted by CITY Resolution No. 22-98 may be revoked by the CITY Commission for good cause shown upon at least ninety (90) days advance notice to the DECLARANTS and an opportunity for the DECLARANTS to be heard, or as otherwise provided in Resolution No. 22-98.

7. **Removal of Dock Upon Expiration of Dock Permit.** DECLARANTS agree that upon expiration of the Dock Permit as set forth above, the DECLARANTS shall be obligated to remove the Dock and appurtenances thereto no later than three (3) months after the termination, revocation or expiration of the Dock Permit, unless a Dock Permit is granted in a timely manner to DECLARANTS' contract purchaser/successor in interest to the Property as provided for herein and in CITY Code Sec. 8-144. DECLARANTS agree that the provisions of this Declaration shall be a continuing obligation that runs with the Property and survives expiration of the Dock Permit.

7.1. Either prior to or after expiration of the Dock Permit, an application for the Dock Permit at issue may be filed by a contract purchaser prior to obtaining fee simple title to the Property, provided, however, the granting of the Dock Permit will not be effective until such time as the conveyance of fee simple title to the Property has been recorded in the Public Records of Broward County, Florida.

8. **Discharge of Obligation to Remove Dock Upon Granting of Dock Permit to Successor Permit Holder.** DECLARANTS agree that in the event the Dock Permit is granted to a successor Permit Holder within the time proscribed in Paragraph 7 above, then the obligation to remove the dock and all appurtenances thereto shall be discharged as to DECLARANTS' predecessor in title and a release and discharge of the Declaration shall be executed by the City Manager and recorded by the CITY in the Public Records of Broward County, Florida at the expense of the DECLARANTS' predecessor in interest.

9. **Release and Discharge of Declaration**. DECLARANTS agree that in the event (i) the Dock and all or all appurtenances thereto are removed within the three (3) month period as set forth above or (ii) the Dock Permit is granted to the contract purchaser for the Property within the three (3) month period as set forth above, then this Declaration shall be released and discharged by the CITY as to the DECLARANTS' predecessor in title to the Property and the City Manager is authorized to execute such release or discharge and it shall be recorded by the CITY in the Public Records of Broward County, Florida at the expense of the DECLARANTS' predecessor in title to the Property.

10. **Indemnification.** DECLARANTS hereby agree to protect, defend, indemnify and hold harmless the CITY, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses including attorney's fees or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of DECLARANTS pursuant to CITY Code Section 8-144

and the Resolution granting the Dock Permit herein (collectively, "Claims"), conditions contained therein, the location, construction, repair, removal, demolition, maintenance, use or occupancy of the Dock and Dock Area, or the breach or default by DECLARANTS of any covenant or provision of Resolution granting the DECLARANTS the Dock Permit and the use of the Dock Area, except for any occurrence arising out of or resulting from the intentional torts or gross negligence of the CITY, its officers, agents or employees.

10.1. This indemnification pertains to the Claims arising from acts or omissions within the Dock Area or the Dock, as defined in CITY Resolution 22-98, and does not include Claims arising from acts or omissions within the Public Swale Area, as defined in CITY Resolution No. 22-98. Without limiting the foregoing, any and all such Claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation, operation, maintenance, repair or restoration of the Dock or Dock Area, is included in the indemnity.

10.2. DECLARANTS further agree to investigate, handle, respond to, provide defense for, and defend any such Claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and DECLARANTS shall assume and defend not only itself but also the CITY in connection with any Claims and any such defense shall be at no cost or expense whatsoever to CITY, provided that the CITY (exercisable by the CITY's Risk Manager) shall retain the right to select counsel of its own choosing. The indemnification obligations set forth herein shall survive termination of the Dock Permit through release or discharge of this Declaration pursuant to Paragraphs 8 or 9 of this Declaration and shall continue for a period coincident with the statute of limitations period applicable to the offending act, omission or default during the term of this Declaration.

11. **Interpretation of Declaration; Severability.** This Declaration shall be construed in accordance with the laws of the State of Florida and Code of Ordinances of the City of Fort Lauderdale. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, by a court of competent jurisdiction, the remainder of this Declaration shall not be affected thereby. Rather, this Declaration is to be enforced to the extent permitted by law. The captions, headings and title of this Declaration are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Declaration is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Declaration, unless otherwise expressly provided. The terms and words used in this Declaration, regardless of the number or gender in which they are used, are deemed to include any other number and other gender as the context requires.

12. **Venue.** Any controversies or legal problems arising out of this Declaration and any action involving the enforcement or interpretation of any rights or obligations hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida. To that end, DECLARANTS expressly waive whatever other privilege to venue it may otherwise have.

13. **Declaration Runs with The Property**. DECLARANTS, for themselves and their successors and assigns as to the Property agree and grant that the covenants of this Declaration and the covenants permitting a Claim of Lien to be filed against the Property upon certain terms and conditions shall run with the Property.

14. **Effective Date**. This Declaration shall not be effective until such time as (i) a certified copy of the Resolution granting the Dock Permit has been recorded in the Public Records of Broward County, Florida by the CITY at the expense of DECLARANT, (ii) together with a copy of this Declaration, and (iii) a copy of the recorded Resolution and recorded Declaration is filed with the CITY's Office of Marine Facilities.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, this DECLARATION OF COVENANTS has been duly signed and sealed by the Declarant on or as of the day and year first above written.

WITNESSES:

Nordone

Jody Nordone
Print Name

Nordone

Jody Nordone
Print Name

DECLARANTS:

NELSON FERNANDEZ, a married man

Nelson Fernandez

JASMIN FERNANDEZ, a married woman

Jasmin Fernandez

STATE OF FLORIDA:
COUNTY OF BROWARD:
The foregoing instrument was acknowledged before me by means of ☑ physical presence or □ online notarization, this 2 day of May, 2022, by NELSON FERNANDEZ.

Josefina Flores
Signature of Notary Public, State of Florida

Josefina Flores
Name of Notary Typed, Printed or Stamped

JOSEFINA JANET FLORES
Notary Public - State of Florida
Commission # HH 102985
My Comm. Expires Mar 31, 2025
Bonded through National Notary Assn.

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced _____

STATE OF FLORIDA:
COUNTY OF BROWARD:
The foregoing instrument was acknowledged before me by means of ☑ physical presence or □ online notarization, this 2 day of May, 2022, by JASMIN FERNANDEZ.

Josefina Flores
Signature of Notary Public, State of Florida

Josefina Flores
Name of Notary Typed, Printed or Stamped

JOSEFINA JANET FLORES
Notary Public - State of Florida
Commission # HH 102985
My Comm. Expires Mar 31, 2025
Bonded through National Notary Assn.

Personally Known ✓ OR Produced Identification _____

Type of Identification Produced _____

AS TO CITY

WITNESSES:

CITY OF FORT LAUDERDALE, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA

_____

_____
[Witness type or print name]

By: _____
Dean J. Trantalis, Mayor

_____

_____
[Witness type or print name]

By: _____
Christopher J. Lagerbloom, ICMA-CM
City Manager

ATTEST:

_____
David R. Soloman,
City Clerk

Approved as to form:

By_____
Alain E. Boileau, City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of □ physical presence or □ online, this ____ day of _____, 2022, by DEAN J. TRANTALIS, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida on behalf of the City of Fort Lauderdale.

_____
Notary Public, State of Florida

_____
Name of Notary Typed, Printed or Stamped

Personally Known_____ OR Produced Identification_____

Type of Identification Produced _____

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this by means of □ physical presence or □ online, this ____ day of _____, 2022 by CHRISTOPHER J. LAGERBLOOM, ICMA-CM, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida on behalf of the City of Fort Lauderdale.

_____
Notary Public, State of Florida

_____
Name of Notary Typed, Printed or Stamped

Personally Known_____ OR Produced Identification_____

Type of Identification Produced _____