Prepared by and Return-to: Ansbacher & Schneider, P.A. 5150 Belfort Road, Building 100 Jacksonville, Florida 32256

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2955 HANT/EY KD # 108

THIRD AMENDMENT to

DECLARATION OF COVENANTS AND RESTRICTIONS for CARTESIAN POINTE **CARTESIAN POINTE**

This Third Amendment to the Declaration of Covenants and Restrictions for Cartesian Pointe (the ____, 2005 by Pointe Cartesian, L.L.C., a Florida "Declaration") is made as of the day of <u>lumit</u> limited liability company (the "Developer"). Capitalized terms shall be defined as set forth in the Declaration unless otherwise indicated herein.

STATEMENT OF FACTS

- Developer made the Declaration on April 29, 2003 and recorded the Declaration in Official Records Book 1134, page 1505, and recorded the First Amendment thereafter in Official Records Book 1284, page 1463, and the Second Amendment immediately preceding this instrument, all of the public records of Nassau County, Florida.
- Developer is the sole "Class B Member" of the "Association," as such terms are defined in the Declaration.
- Cartesian Pointe Unit 1 (as recorded in Plat Book 6 Pages 345-349 of the public records C. of Nassau County, Florida), Cartesian Pointe Unit 2 (as recorded in Plat Book 7 Pages 35-38 of the public records of Nassau County, Florida) and Cartesian Pointe Unit 3 (as recorded in Plat Book 7 Pages 124-127 of the public records of Nassau County, Florida) have been subjected to the Declaration as amended. Cartesian Pointe Unit 1, Cartesian Pointe Unit 2 and Cartesian Pointe Unit 3 shall collectively be referred to as Cartesian Pointe.
- Pursuant to Section 5.5 of the Declaration, the Developer granted to the Association and its successors, assigns, agents and contractors, a non-exclusive perpetual easement in, on, over and upon those portions of the Property as may be reasonably necessary for the purpose of maintaining the Common Area, or other portions of Property to be maintained by Association, in accordance with the requirements of this Declaration.
- The Upland Buffer(s) as shown by the plats of Cartesian Pointe (hereinafter collectively E. referred to as the "Required Upland Buffers"), are part of the Surface Water or Stormwater Management Systems as required by the St. Johns River Water Management District permit # 40-089-83223-1 for Cartesian Pointe ("Permit"). Section 5.4 of the Declaration requires the Association to maintain designated portions of the Property, in accordance with all permit requirements and conditions including without limitation all statutes, rules, regulations and requirements pertaining to surface water management, drainage, and water quality promulgated by the St. John's River Water Management District.
- The St. Johns River Water Management District Permit for Cartesian Pointe requires a conservation easement be granted to the St. Johns River Water Management District as part of the maintenance and operation of the Surface Water and Stormwater Management Systems by the Association.
- The Declaration requires the Association to act in compliance with the Permit and Section 12.5 provides that the Developer may amend the Declaration provided that all such amendments do not materially and adversely affect the value of any Lot or other building parcel located within the Property.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the Developer joined by the Association as the holder of the Permit hereby amends the Declaration to grant a conservation easement over the Required Upland Buffers by adding the following Section 5.6;

Conservation Easement. The St. Johns River Water Management District, a Section 5.6 public body existing under Chapter 373, Florida Statutes, having a mailing address at P. O. Box 1429, Palatka, Florida 32178-1429 ("Grantee"), is hereby granted a Conservation Easement over the Required

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Upland Buffers. This conservation easement is granted as a condition of permit # 40-089-83223-1 issued by Grantee, solely to off-set adverse impacts to natural resources, fish and wildlife, and wetland functions. Declarant and the Association (hereinafter collectively referred to as "Grantor" desire to preserve the Required Upland Buffers in its natural condition in perpetuity. Pursuant to the provisions of section 704.06, Florida Statutes, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Required Upland Buffers of the nature and character and to the extent hereinafter set forth (the "Conservation Easement"). Grantor fully warrants title to said Required Upland Buffers, and will warrant and defend the same against the lawful claims of all persons whomsoever.

- (a) <u>Purpose</u>. The purpose of this Conservation Easement is to assure that the Property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property.
- (b) <u>Prohibited Uses</u>. Any activity on or use of the Property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
 - (i) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground,
 - (ii) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.
 - (iii) Removing or destroying trees, shrubs, or other vegetation except as provided in Subsection (v) below.
 - (iv) Excavating, dredging or removing loam₁ peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.
 - (v) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition. Notwithstanding the foregoing sentence, Grantor is authorized to maintain the Property as specifically authorized by the Permit, including the removal of any noxious or exotic invasive plant species and dead trees as authorized by the Permit or as otherwise approved in writing by the Grantee.
 - (vi) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
 - (vii) Acts or uses detrimental to such retention of land or water areas.
 - (viii) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
- (c) <u>Reserved Rights</u>. Grantor reserves unto itself, and its successors and assigns all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement.
- (d) <u>Rights Grantee</u>. To accomplish the purposes stated herein, Grantor conveys the following rights to Grantee:
 - (i) To enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.
 - (ii) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the restoration of areas or features of the Property that may be damaged by any activity inconsistent with this Conservation Easement.
- (e) <u>Grantee's Discretion</u>. Grantee may enforce the terms of this Conservation Easement at its discretion, but if Granter breaches any term of this Conservation Easement and Grantee does not exercise its rights under this Conservation Easement, Grantee's forbearance shall not be construed to be a waiver by Grantee of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.
- (f) <u>Grantee's Liability</u>. Grantor will assume all liability for any injury or damage to the person or property of third parties which may occur on the Property arising from Grantor's ownership of the Property. Neither Grantor, nor any person or entity claiming by or through Grantor, shall hold Grantee liable for any

damage or injury to person or personal property which may occur on the Property. Grantee's ownership or attempted enforcement of the rights granted hereby shall not subject Grantee to any liability for any damage or injury that may be suffered by any person on the Property or as a result of the condition of the Property, except, subject to Section 768.28, Florida Statutes (2002).

- (g) Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes beyond Grantor's control including, without limitation fire, flood, storm and earth movement, or from any necessary action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property or to persons resulting from such causes.
- (h) Recordation. Grantor shall record this Conservation Easement in timely fashion in the Official records of Nassau County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.
- (i) Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property.

Signatures appear on next page.

	IN WITNESS WHEREOF, the Developer has care executed the day and year first above written.	used this Third Amendment to the Declaration to be
	Signed, sealed and delivered in the presence of:	Pointe Cartesian, L.L.C., a Florida limited liability company
	Print Name > Shari D. Usher	By: Kenneth P. Kuester, its Managing Member "DEVELOPER" Address: 2175 West 18 th Street Jacksonville, Florida 32209
	STATE OF FLORIDA COUNTY OF DUVAL	
	The foregoing instrument was acknowledged before by Kenneth P. Kuester, Managing Member of Point on behalf of the entity, who is () personally kn License as identification. Pamela E Lloyd My Commission DD052667 Expires October 02, 2005	me this Luday of August, 2005 the Cartesian, L.L.C. a Florida limited liability company, when to me or () who has produced a Florida Driver Notary Public, State of Florida My Commission Expires: My Commission Number is:
	Signed, sealed and delivered in the presence of:	Cartesian Pointe Property Owners Association, Inc.,
(2mle Edled	a Florida not-for-profit corporation By:
	Print Name> Concla Cloyd Thai J. Usher Print Name> Shari D. Usher	Its President "DEVELOPER" Address:
	Than D. Usher	"DEVELOPER"
	Print Name > Shari D. Usher STATE OF FLORIDA COUNTY OF DUVAL The foregoing instrument was acknowledged before	"DEVELOPER"/ Address: a me this 2 Ms day of AutusT
	Print Name > Shari D. Usher STATE OF FLORIDA COUNTY OF DUVAL The foregoing instrument was acknowledged before	e me this day of day of
	Print Name > Shari D. Usher STATE OF FLORIDA COUNTY OF DUVAL The foregoing instrument was acknowledged before, 2005 byKenneth P. Khester Owners Association, Inc. a Florida corporation, on to me or () who has produced a Florida Driver Lice	e me this day of day of
	Print Name > Shari D. Usher STATE OF FLORIDA COUNTY OF DUVAL The foregoing instrument was acknowledged before	e me this day of day of

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CONSENT AND JOINDER OF MORTGAGEE

Fairfield Financial Services, Inc. ("Mortgagee") is the mortgagee under mortgage ("Mortgage") recorded in the public records of Nassau County, Florida in Official Records Book 1056 at Page 73. Mortgagee joins in this Third Amendment to Declaration of Covenants and Restrictions for Cartesian Pointe dated August 2.11 , 2005, to evidence its consent and joinder to the provisions hereof, and its intent that any security interests it may have be subordinated hereto. Mortgagee hereby agrees that any such security interests are subordinate and inferior to this Declaration.

Signed, sealed and delivered in the presence of: Common Common	Fairfield Financial Services, Inc. a Georgia corporation By: Paul W. Williams Executive Vice President
	e [CHECK ONE] • is personally known to me or

(Print Name)

(Print Name)

Notary Public, State Notary Public, Houston County, Georgia

My Commission ex Programmission Expires August 30, 2005