

This is a generic Proprietary Agreement that defines and governs the use of certain properties in Snug Harbor, especially those on the water. When purchasing a property, the Agreement must be conveyed to the new owner who is responsible for the specific use restrictions and covenants described within it.



SNUG HARBOR

Proprietary Agreement



MC CORMICK AND HENDERSON, INC., CHICAGO

This Agreement, dated theday of.....

19.., by and between SNUG HARBOR CORPORATION, a corporation organized and existing under the laws of the State of Florida (hereinafter called the "Corporation"), THE PROPRIETOR'S ASSOCIATION, a corporation organized and existing under the laws of the State of Illinois as one not for pecuniary profit (hereinafter called the "Association"), and

.....
.....

of
(hereinafter called the "Proprietor"),

WITNESSETH THAT

WHEREAS, the Corporation acquired a tract of land situated in Martin County, Florida, subsequently subdivided a part thereof, may hereafter subdivide additional parts thereof, and may hereafter acquire and subdivide additional land; and

WHEREAS, certain persons have paid and it is intended that other persons will pay various sums of money to the Corporation for the purpose of acquiring the right, title, and interest acquired by them in parcels of said land under agreements substantially similar in form to this agreement, such agreements being hereinafter sometimes called "Proprietary Agreements" and such right, title, and interest acquired thereunder by such persons being hereinafter sometimes called a "Proprietary Interest"; and

WHEREAS, the Proprietor has paid to the Corporation a sum of money for the purpose of acquiring a Proprietary Interest in the following described premises, to-wit:

Lot in Blockaccording to the plat recorded by Snug Harbor Corporation in Plat Book page..... of the Public Records of Martin County, Florida, together

with all riparian rights, accretions, and appurtenances belonging or appertaining to said land;

and

WHEREAS, the Association was organized to encourage and promote social intercourse among the persons who hold Proprietary Interests in such land situated in Martin County, Florida, as has been or shall hereafter be subdivided by the Corporation; and to further said purpose the parties hereto desire that such land be preserved as a restricted residential area until January 1, 1975.

Now, THEREFORE, for and in consideration of the mutual covenants hereinafter contained and the benefits to be derived therefrom, it is agreed by and between the parties hereto as follows:

ARTICLE I.

PROPRIETARY INTEREST

SECTION 1. The Corporation shall and it does hereby lease and demise the above described premises to the Proprietor, to have and to hold the same for residential purposes and not otherwise by the Proprietor and his immediate family, except as hereinafter provided, during a term commencing on the date of this agreement and ending on January 1, 1975, unless said term shall be sooner terminated by the termination of this agreement as hereinafter provided.

SECTION 2. On January 1, 1975, provided that this agreement is then in force and effect, the Corporation shall convey said premises to the Proprietor by general warranty deed, in fee simple, subject only to the following:

- (a) Restrictive covenants of record, if any.
- (b) Easements of record for public utilities, if any.
- (c) Any state of facts that an accurate survey may show.

(d) Acts done or suffered to be done by the Proprietor and all persons claiming by, through or under him.

(e) Any building and zoning restrictions and ordinances adopted by any city, town, village, or other governmental authority.

(f) General taxes, special taxes, special assessments, and water or other public utility charges or taxes payable after the date hereof.

(g) Any mortgage or trust deed executed and delivered pursuant to ARTICLE III.

SECTION 3. Upon written demand by the Association, executed and delivered pursuant to authority granted by the holders of at least two-thirds of the memberships in the Association through an appropriate resolution to that effect adopted at a meeting called for that purpose, or in case (a) the Association shall have ceased to carry on or shall have abandoned the objects and purposes for which it was organized; (b) the Association shall have ceased to maintain its

organization; or (c) the Association shall have failed to continue as a corporation in good standing under the laws of the State of Illinois, then, in any such case, upon written demand by the Proprietor, the Corporation shall forthwith convey said premises to the Proprietor by general warranty deed, in fee simple, subject only to the matters and things set forth in Section 2 of this ARTICLE I.

SECTION 4. The Corporation shall not cause or permit the fee simple title to said premises to be subjected or subordinated to any easements or restrictive covenants without first obtaining either the written consent of the Association or the written consent of the Proprietor.

SECTION 5. The Corporation shall construct roads, and plant trees along the same, adjoining said premises and connecting the same with an outlet to a public road.

ARTICLE II.

MEMBERSHIP IN THE ASSOCIATION

SECTION 1. The Association shall and it does hereby allocate to this agreement and grant to and confer upon the Proprietor a membership in the Association.

SECTION 2. A membership in the Association shall be allocated to each Proprietary Agreement and only one such membership shall exist for each such Proprietary Agreement in force and effect.

SECTION 3. The membership in the Association shall be composed only of the memberships allocated to the respective Proprietary Agreements and each such membership shall entitle the holder or holders of the Proprietary Interest under the Proprietary Agreement to which it is allocated to one vote on each matter submitted to the members of the Association.

SECTION 4. A membership in the Association shall be assignable and transferable but only in conjunction with the assignment or transfer of the Proprietary Agreement to which it is allocated, and the assignment or transfer of any such Proprietary Agreement shall *ipso facto* assign or transfer the membership in the Association allocated thereto, it being understood that the holder or holders of the Proprietary Interest under each Proprietary Agreement shall likewise at all times be the holder or holders of the membership in the Association allocated thereto.

SECTION 5. A membership in the Association shall terminate upon the termination of the Proprietary Agreement to which it is allocated.

SECTION 6. The Association may adopt such by-laws, rules, and regulations, and may amend, alter, or repeal the same, from time to time, in such manner and to such extent, as it may determine; the Proprietor shall at all times abide by and comply with all such by-laws, rules, and regulations; provided, however, that the Association shall not adopt any by-law, rule, or regulation inconsistent with any of the provisions of this agreement.

ARTICLE III.

MORTGAGES.

SECTION 1. The Corporation shall, with the written approval of the Association, execute and deliver any mortgage, mortgages, trust deed, or trust deeds conveying or creating a lien upon said premises and the improvements thereon as the Proprietor may in writing direct, as security for any bona fide debt or loan of the Proprietor which may be contracted or incurred for an amount not in excess of sixty per cent

(60%) of the then value of said premises and the improvements thereon, such mortgage or trust deed to contain a provision expressly exempting the Corporation from any personal liability thereunder or under the indebtedness and charges thereby secured.

SECTION 2. This agreement, the Proprietor's Proprietary Interest, and the right, title, and interest of the Proprietor and all persons claiming by, through, or under him in or to said premises and all improvements thereon, shall at all times and under all circumstances be and remain subject and subordinate to the lien of each and all such mortgages and trust deeds executed and delivered pursuant to this ARTICLE III, and subject and subordinate to the indebtedness and charges secured thereby.

ARTICLE IV.

ASSIGNMENTS

SECTION 1. The Proprietor shall not assign or transfer, or attempt to assign or transfer this agreement or his Proprietary Interest, or permit the same to be assigned or transferred by operation of law, nor shall the Proprietor lease or sublease all or any part of said premises or the improvements thereon, without in each case first obtaining the consent in writing of the Association to the proposed assignment, transfer, leasing or subleasing; provided, however, that it shall not be necessary to secure such consent to the assignment and transfer of this agreement and such Proprietary Interest taking effect upon, as a consequence of, or by reason of the death of the Proprietor.

SECTION 2. No assignment or transfer of this agreement or of the Proprietor's Proprietary Interest shall be valid unless and until such assignee or transferee shall file with

the Association an instrument in writing whereby such assignee or transferee expressly accepts such assignment or transfer and agrees to assume and be bound by all of the covenants of the Proprietor herein contained and all of the obligations of the Proprietor thereafter accruing hereunder.

SECTION 3. Any attempted assignment or transfer of this agreement, or of the Proprietor's Proprietary Interest, and any attempted leasing or subleasing of said premises or the improvements thereon in violation of the provisions contained in this agreement, shall be void, and shall not vest in such assignee, transferee, lessee, or sublessee any right, title, or interest thereunder or in said premises or improvements thereon.

SECTION 4. In case the required consent shall have been obtained as to any assignment or transfer of this agreement and of the Proprietor's Proprietary Interest, or to the leasing or subleasing of said premises or improvements thereon, there shall be no further assignment, transfer, leasing or subleasing without in each case obtaining such consent, and any such assignee, transferee, lessee, or sublessee shall be subject to and bound by the same restrictions, terms, and conditions as to future assignments, transfers, leasings, and subleasings.

SECTION 5. Whenever the Proprietor under the provisions hereof shall be entitled to assign or transfer this agreement and his Proprietary Interest, and shall have so assigned or transferred the same, and the assignee or transferee shall have delivered to the Association an instrument in writing assuming all the covenants herein contained and obligations thereafter accruing hereunder, then and in that event the Proprietor as assignor or transferor shall be forever released and discharged of any and all said covenants and obligations.

ARTICLE V.

BUILDING AND USE RESTRICTIONS AND COVENANTS

SECTION 1. The Proprietor shall not erect or construct, cause or permit to be erected or constructed, or cause or permit to remain or exist any building or structure of any character or description upon said premises in violation of any of the provisions of this Article V.

SECTION 2. The plans and specifications of any permanent building or other structure, prior to its being erected or constructed upon said premises, shall first be approved in writing by the Association.

SECTION 3. The building lines (only within which certain buildings and structures as herein provided shall be erected or constructed or permitted to remain or exist upon said premises) shall be as follows:

(a) A front building line on the waterfront as shown on the plat recorded January 21, 1946, by Snug Harbor Corporation in Plat Book No. 2 on Page of the Public Records of Martin County, Florida.

(b) A rear building line parallel to and fifty (50) feet distant from the boundary line of said premises adjacent to

(c) Side building lines parallel to and feet distant from the side boundary lines of said premises.

SECTION 4. No permanent building or part thereof, except the eaves and outside stairs thereof and except a boathouse, shall be erected or constructed, or permitted to remain or exist upon said premises beyond the building lines thereof.

SECTION 5. No fence or wall shall be erected or constructed, or be permitted to remain or exist upon said premises beyond the front building line thereof, provided, however, that this restriction shall not apply to hedges not exceeding four feet in height, shrubbery and trees.

SECTION 6. The permanent buildings on said premises shall be limited to a single family dwelling house, a guest house, a garage which may contain living quarters for servants, and a boathouse. Such guest house shall contain a total floor area not in excess of sixty per cent (60%) of the total floor area of the dwelling house. Such guest house and garage shall conform in architecture to the dwelling house and be attached thereto or situated between the dwelling house and the rear building line of said premises. Such boathouse shall not exceed one story in height nor a height of eighteen feet (18') above mean tide and shall be situated on the shore line of said premises.

SECTION 7. Said premises shall not be occupied for dwelling purposes until there shall be available for use in connection therewith a sewage disposal system approved by the Association. No septic tank shall be erected, constructed, or permitted to remain or exist upon said premises within fifty feet (50') of any public way or within twenty-five feet (25') of any boundary line of said premises.

SECTION 8. The Proprietor shall at all times keep said premises and all improvements thereon in good order and repair and in a sightly and clean condition.

SECTION 9. Said premises and the improvements thereon shall be occupied and used only for residential purposes and for no other purposes whatsoever, and specifically, but without limitation on the foregoing, no part of said premises shall be used or occupied for hospital, sanitarium, rest home, hotel, boarding house, or commercial purposes.

ARTICLE VI.

INDEMNITY

SECTION 1. The Proprietor shall at all times indemnify and save harmless the Corporation and the Association from every and all loss, cost, and liability whatsoever which may arise from or be claimed against the Corporation and/or the Association by any person or persons or any claimant for any injuries to person or property, or damage of whatsoever kind or character, where the injury or damage arises from the use and occupancy of said premises or the improvements thereon by the Proprietor, or those holding under the Proprietor, or arises either wholly or in part from any act or omission of the Proprietor, or of any member of the family of the Proprietor, or of any invited guest, servant, tenant, sub-tenant, or other person or persons claiming through or under the Proprietor, and any sums so expended or incurred

by the Corporation and/or the Association, together with all its costs, expenses, and reasonable attorneys' fees in connection therewith shall be payable to the Corporation and/or the Association on demand.

ARTICLE VII.

TERMINATION

SECTION 1. In case default shall be made by the Proprietor in the performance of any of the covenants, terms, and conditions of this agreement to be kept and performed by him, and any such default shall continue or not be remedied for a period of six (6) months after written demand by the Association, the Association shall have the option, exercisable at any time while such default continues or shall not have been remedied, to terminate this agreement by the payment to the Proprietor of cash in an amount determined in the manner provided in Section 4 of this Article VII.

SECTION 2. Upon the death of the Proprietor the Association shall have the option, exercisable at any time within one year after the appointment and qualification of an executor under the Proprietor's will, administrator for his estate or other personal representative, to terminate this agreement by the payment to such executor, administrator, or other personal representative of cash in an amount determined in the manner provided in Section 4 of this ARTICLE VII, provided however:

(a) This Section 2 shall not apply in case the Proprietor is two or more persons as joint tenants with the right of survivorship until the death of the last survivor of such persons.

(b) This Section 2 shall not apply in case the spouse of the Proprietor succeeds to his Proprietary Interest on his death.

(c) In case the Executor under the Proprietor's will, the administrator of his estate, or other personal representative presents to the Association a proposed assignee of this agreement and the Proprietary Interest hereunder who is acceptable to the Association, then, upon the proper assignment hereof and the Proprietary Interest hereunder to such proposed assignee and the assumption by such assignee of all covenants herein contained and obligations thereafter accruing hereunder as provided in ARTICLE IV, this Section 2 shall no longer apply and said option shall cease.

SECTION 3. In case of the commencement of proceedings to foreclose any mortgage or trust deed of said premises, the Association shall have the option, exercisable at any time during the pendency of such proceedings, to terminate this agreement by the payment to the Proprietor of cash in an amount determined in the manner provided in Section 4 of this ARTICLE VII.

SECTION 4. The amount of cash payable by the Association in order to exercise any of its options to terminate this agreement at any time as provided in this ARTICLE VII, shall be equal to the sum of Dollars (\$.....) and the then fair value of all improvements on said premises minus the sum of the following:

- (a) The amount of all indebtedness, charges, and liabilities secured by any mortgage, trust deed, lien, or other encumbrance on or against said premises and/or said improvements.
- (b) The amount of all unpaid general taxes against said premises and/or said improvements for prior years, together with all interest, penalties, and costs.
- (c) An estimated amount of the general taxes for the current year against said premises and/or said improvements based on the last available general tax bill and prorated from January 1.

(d) The amount of all unpaid installments of special assessments and special taxes against said premises and/or said improvements due prior thereto together with all interest, penalties, and costs.

(e) The amount of all unpaid water taxes or charges and other public utility charges against said premises and/or said improvements due prior thereto.

SECTION 5. In case a dispute arises in respect to the amount required to be paid by the Association to exercise any of its options to terminate this agreement as provided in this ARTICLE VII, such dispute shall be submitted to three disinterested persons for arbitration, one to be selected by the Association, another to be selected by the Proprietor, and the third to be selected by the two so selected. The decision of the majority of said three persons so selected shall be conclusive and binding.

SECTION 6. This agreement shall terminate upon the conveyance of the fee simple title to said premises to the Proprietor as provided in ARTICLE I.

SECTION 7. In case this agreement shall be terminated by the exercise by the Association of an option to terminate it as in this ARTICLE VII provided, then the Proprietor's Proprietary Interest and all right, title, interest and estate of the Proprietor in and to said premises and all improvements thereon, and that of all persons claiming by, through or under him, shall cease, determine, and come to an end.

ARTICLE VIII.

MISCELLANEOUS

SECTION 1. The Proprietor shall pay and discharge when due and payable all and every general tax, special tax, special assessment, water rates or charges, dues and other imposi-

tions imposed upon said premises and improvements thereon or any part thereof by any governmental power or authority whatsoever.

SECTION 2. All Proprietary Agreements relating to lots in said subdivision shall contain substantially the same covenants, terms, and conditions as herein set forth, except that the building lines, building restrictions, and other provisions may vary where required to suit a particular case; provided, however, that the form of the Proprietary Agreement may be changed, altered, or amended from time to time with the consent of the holders of at least two-thirds of the memberships in the Association through an appropriate resolution to that effect adopted at a meeting called for that purpose. In case the form of the Proprietary Agreement shall be changed, altered, or amended in accordance herewith, the Proprietor and the Corporation shall, at the option of the Association and at its expense, exchange and surrender this agreement for and execute said new form of Proprietary Agreement upon tender thereof.

SECTION 3. The failure of the Association to insist in any one or more instances upon a strict performance of any of the covenants, terms, and conditions of this agreement, or to exercise any option herein contained, or the waiver of any breach, shall not be construed as a waiver of any succeeding breach or a relinquishment for the future of its option to terminate this agreement, but all such covenants, terms, conditions, and options shall continue and remain in full force and affect.

SECTION 4. The term "Proprietor" and all pronouns referring thereto shall be taken to include the masculine, feminine, or both, in the singular or plural as the case may be.

SECTION 5. All covenants, terms, and conditions in this agreement contained, shall extend and inure to and be binding upon the heirs, administrators, executors and assigns of the Proprietor, the same as if they were in every case named, and whenever in this agreement reference is made to the Proprietor, it shall be held to include and apply to his heirs, administrators, executors, or assigns, the same as if in each and every case so expressed, provided, however, that nothing in this Section shall be construed to permit the assignment or transfer of this agreement or any of the Proprietor's right, title, or interest hereunder except as hereinbefore provided.

SECTION 6. In case the Association causes to be organized a corporation to succeed SNUG HARBOR CORPORATION as the holder of the fee simple title to the lots in said subdivision with respect to which Proprietary Agreements shall have been entered into, then, upon the conveyance of said premises by general warranty deed in fee simple to such successor corporation, subject only to the matters and things set forth in Section 2, ARTICLE I, and the assumption by such successor corporation of all the covenants herein contained, SNUG HARBOR CORPORATION shall be released and discharged of any and all said covenants. Whenever in this agreement reference is made to the Corporation it shall be deemed to include and apply to such successor corporation the same as if in each and every case so expressed.

IN WITNESS WHEREOF, the Corporation has caused its corporate seal to be hereunto affixed and these presents to be executed by its president and attested by its secretary, pursuant to authority given by resolution duly passed by its board of directors; the Association has caused its corporate seal to be hereunto affixed and these presents to be executed by its president and attested by its secretary, pursuant to authority given by resolution duly passed by its board of directors; and the Proprietor has hereunto affixed his hand and seal, all as of the day and year first above written.

SNUG HARBOR CORPORATION

By *W.A. Appeneck*
.....
.....President

ATTEST:

C. J. Peterson
.....
.....Secretary

THE PROPRIETOR'S ASSOCIATION

By *W.A. Appeneck*
.....
.....President

ATTEST:

Helen E. Peters
.....
.....Secretary

.....(SEAL)
Robert M. Barnes
.....(SEAL)
Proprietor

Executed by the Proprietor in
the Presence of

Louise Peterson
.....
Maria Jane McTavres
.....

STATE OF Ill }
COUNTY OF Cook } SS.

I, L. A. Metzelder....., a Notary Public in and for said county in the state aforesaid, do hereby certify that W. A. Lippincott....., president of SNUG HARBOR CORPORATION, a Florida corporation, and

C. J. Peterson..... secretary of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such

..... president and secretary, respectively, appeared before me this day and acknowledged that they signed and delivered the said instrument as their own and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth, and that said

..... secretary then and there acknowledged that he has custody of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27 day of

June....., 1946.

L. A. Metzelder.....
Notary Public

STATE OF Illinois }
COUNTY OF Cook } SS.

I, H. C. Waether, a Notary Public in and for said county in the state aforesaid, do hereby certify that N. A. Lippinett, president of THE PROPRIETOR'S ASSOCIATION, an Illinois corporation, and Rollie C. Patten, secretary of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such president and secretary, respectively, appeared before me this day and acknowledged that they signed and delivered the said instrument as their own and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth, and that said secretary then and there acknowledged that he has custody of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28th day of June, 1916.

H. C. Waether
Notary Public

STATE OF
COUNTY OF SS.

I hereby certify that on this day before me personally
appeared Robert N. Bavier
to me known to be the persons described as the Proprietor
in and who executed the foregoing instrument, and they
acknowledge before me that they executed the same.

WITNESS my hand and official seal this 9th day of
July, 1946

Mildred C. Henning
.....
Notary Public

MILDRED C. HENNING
Notary Public, Westchester Co., N. Y.
Commission Expires March 30, 1948