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Sharon R. Bock, CLERK & COMPTROLLER
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Prepared by and return to:

William G. Capko, Esquire
Lewis, Longman & Walker, P.A.
515 North Flagler Drive
Suite 1500
West Palm Beach, Florida

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**DECLARATION OF CONSENT TO JURISDICTION OF
BANYAN CAY COMMUNITY DEVELOPMENT DISTRICT
AND TO IMPOSITION OF SPECIAL ASSESSMENTS**

The undersigned being duly authorized representatives of Banyan Cay Dev. LLC, a Delaware limited liability company, Banyan Cay Villas, LLC, a Delaware limited liability company and Banyan Cay Resort & Golf, LLC, a Delaware limited liability company, (collectively, the "Landowner"), as the owner of all of the land described on **Exhibit A** attached hereto and located in the Banyan Cay Community Development District and made a part hereof, intending that it and its respective successors in interest shall be legally bound by this Declaration, hereby declare, acknowledge and agree as follows:

1. Banyan Cay Community Development District (the "District") is, and has been at all times on and after January 28, 2019, a legally created, duly organized and validly existing community development district under the provision of Florida Statutes, Chapter 190, as amended (the "Act"). Without limiting the generality of the foregoing, the Landowner agrees and acknowledges that: (a) City of West Palm Beach, Florida Ordinance No. 4823-19 establishing the District has become effective in compliance with all applicable requirements of law; and (b) the members of the Board of Supervisors of the District (the "Supervisors") have at all times had the authority to serve in their respective capacities and had the authority and right to authorize, approve, and undertake all actions of the District approved and undertaken from January 28, 2019, to and including the date of this Declaration.

2. The Landowner on its behalf and any successors and assigns thereof hereby confirms and agrees that Resolutions 2019-26 and 2018-27, each adopted by the District's Board of Supervisors on May 21, 2019 and Resolution 2019-28, adopted by the District's Board of Supervisors on July 9, 2019 (collectively, the "Assessment Resolutions") imposing the Special Assessments against the land described on **Exhibit A** attached hereto were duly adopted by the Board of Supervisors of the District, and all proceedings undertaken by the District with respect the Assessment Resolutions have been in accordance with applicable Florida law, that the District has taken all action necessary to levy and impose the Special Assessments, and the Special Assessments are legal, valid and binding first liens upon the property against which such Special Assessments are made, coequal with the lien of all state, county, district and municipal taxes, superior in dignity to all other liens, titles and claims, until paid.

3. The Landowner on its behalf and any successors and assigns thereof hereby waives the right granted in Chapter 170.09, *Florida Statutes*, to prepay the Special Assessments

without interest within thirty (30) days after the improvements are completed, in consideration of the rights granted by the District to prepay the Special Assessments in full or in part at any time, but with interest, under the circumstances set forth in the resolutions of the District levying the Special Assessments.

4. The Landowner, on its behalf and any successors and assigns thereof hereby agree to make any "true up" payments required in connection with the land described on Exhibit A hereto and referred to in the Master Special Assessment Methodology Report for Banyan Cay Community Development District (Phase One Assessment Area) dated May 21, 2019, as amended and supplemented, and in the Assessment Resolutions.

5. The Landowner hereby expressly acknowledges, represents and agrees that (i) the Special Assessments, the Assessment Resolutions, and the terms of the financing documents related to the District's issuance of its Special Assessment Bonds, Series 2020 (Phase One Assessment Area) or securing payment thereof (the "Financing Documents") are valid and binding obligations enforceable in accordance with their terms; (ii) the Landowner has no claims or offsets whatsoever against, or defenses or counterclaims whatsoever to, payments of the Special Assessments and Financing Documents (and the Landowner hereby expressly waives any such claims, offsets, defenses or counterclaims); and (iii) the Landowner expressly waives and relinquishes any argument, claim or defense that foreclosure proceedings cannot be commenced until one (1) year after the date of the Landowner's default and agrees that, immediate use of remedies in Chapter 170, *Florida Statutes*, is an appropriate and available remedy, notwithstanding the provisions of Section 190.026, *Florida Statutes*.

6. The Declaration shall represent a lien of record for purposes of Chapter 197 of the *Florida Statutes*, including, without limitation, Section 197.573. Other information regarding the Assessments is available from the District, whose address is 2501A Burns Road, Palm Beach Gardens, Florida 33410.

THE DECLARATIONS, ACKNOWLEDGEMENTS AND AGREEMENTS CONTAINED HEREIN SHALL RUN WITH THE LAND DESCRIBED IN EXHIBIT A HERETO AND SHALL BE BINDING ON THE LANDOWNER AS SET FORTH ABOVE AND ON ALL PERSONS (INCLUDING CORPORATIONS, ASSOCIATIONS, TRUSTS, AND OTHER LEGAL ENTITIES) TAKING TITLE TO ALL OR ANY PART OF THE LAND, AND THEIR SUCCESSORS IN INTEREST, WHETHER OR NOT THE LAND IS PLATTED AT SUCH TIME. BY TAKING SUCH TITLE, SUCH PERSON SHALL BE DEEMED TO HAVE CONSENTED AND AGREED TO THE PROVISIONS OF THIS DECLARATION TO THE SAME EXTENT AS IF THEY HAD EXECUTED IT AND BY TAKING SUCH TITLE, SUCH PERSONS SHALL BE ESTOPPED FROM CONTESTING, IN COURT OR OTHERWISE, TO THE VALIDITY, LEGALITY AND ENFORCEABILITY OF THIS DECLARATION.

[SIGNATURES ON FOLLOWING PAGE]

Dated as of December 17, 2020.

WITNESSES:

BANYAN CAY DEV. LLC, a Delaware limited liability company

By: DJG Dev. LLC, a Florida limited liability company, its manager

Richard G. Cherry
Print Name: Richard G. Cherry

Domenic J. Gatto, Jr.
By: Domenic J. Gatto, Jr.,
its sole member and manager

Jackie Oliveira
Print Name: Jackie Oliveira

STATE OF FLORIDA)
)SS
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10th day of December, 2020, by Domenic J. Gatto, Jr., the sole member and manager of DJG Dev. LLC, a Florida limited liability company, the manager of Banyan Cay Dev. LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

[Notary Seal]



Jackie Oliveira
Notary Public, State of Florida
JACKIE OLIVEIRA
Name typed, printed or stamped
My Commission Expires:

WITNESSES:

BANYAN CAY VILLAS, LLC, a Delaware limited liability company

By: DJG Dev. LLC, a Florida limited liability company, its manager

Robert G. Cherry
Print Name: Robert G. Cherry

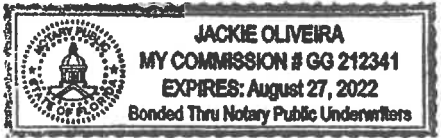
Domenic J. Gatto, Jr.
By: Domenic J. Gatto, Jr.,
its sole member and manager

Jackie Oliveira
Print Name: Jackie Oliveira

STATE OF FLORIDA)
)SS
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10th day of December, 2020, by Domenic J. Gatto, Jr., the sole member and manager of DJG Dev. LLC, a Florida limited liability company, the manager of Banyan Cay Villas, LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

[Notary Seal]



Jackie Oliveira
Notary Public, State of Florida
JACKIE OLIVEIRA
Name typed, printed or stamped
My Commission Expires:

WITNESSES:

BANYAN CAY RESORT & GOLF, LLC, a Delaware limited liability company

By: DJG Dev. LLC, a Florida limited liability company, its manager

Robert G. Cherry
Print Name: Robert G. Cherry

[Signature]
By: Domenic J. Gatto, Jr., its sole member and manager

Jackie Oliveira
Print Name: Jackie Oliveira

STATE OF FLORIDA)
)SS
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10th day of December, 2020, by Domenic J. Gatto, Jr., the sole member and manager of DJG Dev. LLC, a Florida limited liability company, the manager of Banyan Cay Resort & Golf, LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or has produced _____ as identification.

[Notary Seal]



Jackie Oliveira
Notary Public, State of Florida
JACKIE OLIVEIRA
Name typed, printed or stamped
My Commission Expires:

EXHIBIT A

All of the Banyan Cay Resort Plat (the “**Plat**”), as recorded in Plat Book 125, Page 114, but specifically excluding Tracts MF, R, LK1 and LK2 of the Plat and specifically including Tract L1 of the Plat, which Tract was replatted in the Banyan Cay Resort Replat of Tract L1, recorded in Plat Book 127, Page 18 of the Public Records of Palm Beach County, FL.



STATE OF FLORIDA • PALM BEACH COUNTY

I hereby certify that the foregoing is a true copy of the record in my office with redactions, if any as required by law.

THIS 21 DAY OF December, 2020

SHARON R. BOCK
CLERK & COMPTROLLER

By *Jim Mease*
DEPUTY CLERK