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**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR PELICAN REEF MARINA**

THIS DECLARATION ("Declaration") made this 27th day of February, 2004, by PELICAN REEF MARINA, L.L.C., a Florida limited liability corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described below, situated, lying and being in St. Johns County, Florida ("the Real Property"); and

WHEREAS, such real property is subject to the Declarations of Covenants and Restrictions for Pelican Reef Subdivision recorded in Official Records 937, page 198, of the public records of St. Johns County, Florida ("the Subdivision Covenants and Restrictions");

WHEREAS, in Section 2.24 of the Subdivision Covenants and Restrictions the developer reserved the right to construct a marina on the Real Property and to rent or sell boat slips in such marina; and

WHEREAS, the developer of Pelican Reef has assigned its rights under Section 2.24 of the Subdivision Covenants and Restrictions to Declarant;

WHEREAS, to create and facilitate the use of the marina, Declarant desires to place additional covenants and restrictions of record as to the Real Property and to limit the use of the Real Property and appurtenances as set forth in this Declaration; and

WHEREAS, Declarant deems it desirable to create a not-for-profit corporation to manage the Real Property and appurtenances and to maintain and administer all the Marina Improvements as defined below to administer and enforce the easements, covenants, conditions, licenses, restrictions and limitations set forth in this Declaration and to collect and disburse the assessments created under this Declaration.

NOW, THEREFORE, Declarant hereby declares that the following described real property, situate, lying and being, in St. Johns County, Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF ("THE REAL PROPERTY") THE PROPERTY IS ALSO DESCRIBED AS A PART OF PARCEL "B", PELICAN REEF, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 25, PAGES 87 THROUGH 91 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

shall be held, sold and conveyed, subject to the following easements, covenants, conditions and restrictions, all of which are for the purpose of protecting the value and desirability of, and which, shall be covenants and restrictions to run with the Real Property and binding on all parties having any right, title or interest in the Real Property described above or any part thereof, their heirs,

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successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE 1: DEFINITIONS

Unless the context expressly requires otherwise, the words defined below, whenever used in this Declaration shall have the following meanings:

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Marina Association as amended from time to time.

1.2 "Dock" shall mean and refer to the dock presently located on the Real Property, as depicted on Exhibit "B". The term "dock" shall not include the pier or boat slips to be constructed by Declarant adjacent to the Dock.

1.3 "Board of Directors" or "Board" shall mean and refer to the board of directors of the Association.

1.4 "Boat Lift" shall mean and refer to a boat lift and related equipment serving a Boat Slip.

1.5 "Boat Slip" shall mean and refer to an individual boat slip within the Pelican Reef Marina and shall include the Boat Lift serving such Boat Slip unless otherwise specified. The Boat Slips are identified on Exhibit "B".

1.6 "By-Laws" shall mean and refer to the By-laws of the Association as amended from time to time.

1.7 "Common Expenses" shall mean and refer to those items of expense for which the Association is or may be responsible under this Declaration and those additional items of expense approved by the Owners in the manner set forth in the Declaration, the Articles or the By-laws.

1.9 "Declarant" shall mean and refer to Pelican Reef Marina, L.L.C., a Florida limited liability corporation its successors and assigns, but does not include an Owner who has acquired an Interest for his personal use.

1.10 "Easement Agreement" shall mean and refer to that certain easement agreement between the Marina LLC and the Pelican Reef Homeowners' Association, Inc, which grants the Homeowners' Association the right to use the Dock and the Parking Lot defined below.

1.11 "Homeowners' Association" shall mean and refer to the Pelican Reef Homeowners' Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

1.12 "Institutional Mortgagee" shall mean and refer to the owner and holder of a first mortgage encumbering an Interest, which owner shall be either a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, federal or state agency, the Federal National Mortgage Association, or the Developer.

1.13 "Interest" shall mean and refer to an undivided one- seventeenth share of the fee simple title to the Real Property and all improvements thereon and appurtenances thereto.

1.14 "Lot" shall mean and refer to a Lot in Pelican Reef subdivision as defined in the Declaration of Covenants and Restrictions for Pelican Reef Subdivision recorded in Official Records 937, page 198, public records of St. Johns County, Florida, as amended from time to time.

1.16 "Marina Association" shall mean and refer to Pelican Reef Marina Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

1.17 "Marina Improvements" shall mean and refer to the Parking Lot, Dock, Pier, Boat Slips, and all other improvements to the Real Property and all personal property of the Marina Association.

1.18 "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of an Interest, but shall not include those holding title merely as security for performance of an obligation.

1.19 "Parking Lot" shall mean and refer to the parking lot and driveway to be constructed by Declarant on the Real Property.

1.20 "Pelican Reef" shall mean and refer to Pelican Reef subdivision as per plat recorded in Map Book 25, pages 87 through 91, of the public records of St. Johns County, Florida.

1.21 "Pelican Reef Marina" or "Marina" shall mean and refer collectively to the Dock, Pier, Boat Slips, and other improvements shown on Exhibit "B".

1.22 "Real Property" shall mean and refer to that certain real property described on Exhibit A, together with improvements thereon and any additional contiguous property made subject to this Declaration.

1.23 "Vessel" shall mean and refer to any watercraft brought into the Marina by an Owner, his tenants, guests, or invitees.

ARTICLE 2: OWNERSHIP AND PROPERTY RIGHTS

2.1 Interests.

BY PURCHASING AN INTEREST, AN OWNER SHALL ACQUIRE AN UNDIVIDED ONE-SEVENTEENTH (1/17TH) SHARE OF THE REAL PROPERTY DESCRIBED ON EXHIBIT "A" AS A TENANT IN COMMON WITH OTHER OWNERS OF INTERESTS. OWNERS OF INTERESTS SHALL HAVE THE RIGHT TO USE THE BOAT SLIP DESIGNATED IN THE OWNER'S DEED. OWNERS SHALL NOT ACQUIRE OWNERSHIP OF INDIVIDUAL BOAT SLIPS. THE REAL PROPERTY WILL BE IMPROVED WITH A PARKING LOT, AND THE OWNERS' INTERESTS IN THE REAL PROPERTY WILL BE SUBJECT TO THE RIGHT OF ALL MEMBERS OF THE PELICAN REEF HOMEOWNERS' ASSOCIATION, INC., TO USE SUCH PARKING LOT AND TO USE THE DOCK PORTION OF THE MARINA.

The Owners shall own the Real Property as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the Owners. As more particularly set forth below, the Owners shall have the right to use the Parking Lot and Dock in common with the other Owners of Interests and with the members of the Homeowners' Association. Additionally, each Owner will be entitled to the exclusive use of one Boat Slip, subject to the terms and conditions of this Declaration and all applicable governmental laws, permits, and regulations.

2.2 **Boat Slips.** Appurtenant to each Interest shall be the exclusive right to use the Boat Slip designated in the deed conveying such Interest. The Boat Slips are numbered 1 through 17 as shown on Exhibit "A". The exclusive right to use a Boat Slip shall be conveyed by a deed conveying an undivided one-seventeenth (1/17th) interest in the Real Property, "together with the exclusive right to use Boat Slip No. ___ as described in Declaration of Covenants and Restrictions for Pelican Reef Marina recorded in Official Records 2148, page 484, of the of the public records of St. Johns County, Florida." Notwithstanding anything to the contrary in this Declaration, only the Owner of the exclusive right to use a Boat Slip, as set forth in such Owners' deed, or such Owner's tenant, shall have the right to use and enjoy such Boat Slip. By acceptance of a deed to an Interest, each Owner agrees not to interfere with the other Owners' exclusive rights granted by this Section. Either the Marina Association or an Owner, or both, shall have the right to enforce this Section by an action for injunctive relief.

2.3 Marina Improvements. The Marina Improvements consist of all improvements located on the Real Property, including without limitation the Dock, Boat Slips, and Parking Lot. All Marina Improvements, other than the Boat Slips, are intended for the common use and enjoyment of the Owners and their guests, lessees or invitees to the extent permitted by the Board of Directors of the Marina Association, subject to any rules and regulations adopted by the Marina Association, all use rights reserved by Declarant herein or prior to conveying any land to the Marina Association, and the terms and conditions of this Declaration and the Easement Agreement defined below.

2.4 Restrictions on Owners' Rights. Every Owner and every guest, tenant, and invitee of such Owner shall have a right of enjoyment in and to the Real Property and Marina Improvements which shall be appurtenant to and shall pass with the title to every Interest, subject to the following provisions:

2.4.1 The exclusive right of an Owner to use the Boat Slip designated in such Owner's deed as described in Section 2.2.

2.4.2 The provisions of this Declaration, the Easement Agreement, the rules and regulations of the Marina Association, and any prior use rights granted in the Real Property or Marina Improvements.

2.4.3 The right of the Marina Association to suspend an Owner's voting rights and right to use the Marina Improvements for any period during which any Assessment against his Interest remains unpaid.

2.4.4 The right of the Board of Directors, without further consent from Owners or their Mortgagees, to grant an easement over all or any part of the Real Property or Marina Improvements to any governmental entity, public agency, authority or utility company for the purpose of providing utility service to the Real Property or the Marina and the right of the Board to acquire, extend, modify, terminate or abandon such easement.

2.4.5 The right of the Board of Directors to adopt reasonable rules and regulations pertaining to the use of the Real Property and Marina Improvements.

2.4.6 The right of the Declarant or the Marina Association to authorize other persons to enter upon or use the Real Property or Marina Improvements for uses not inconsistent with the Owners' rights therein.

2.4.7 The right of members of the Homeowners' Association to use the Dock and Parking Lot.

2.4.8 The terms and conditions of all applicable governmental permits and ordinances; including without limitation DEP Permits No. 55-130717-001-EI; 55-130717-001-ES; and 55-130717-002-EM; 55-130717-003-EM; and 55-130717-004-EM and the terms and conditions set forth in the Order to Approve Conservation Overlay Zone Development issued by the City of St. Augustine, Case No. 2002-2244.

2.5 Qualifications for Ownership of Interests. The Marina is intended to be available for the exclusive use of the Declarant and residents of Pelican Reef. Accordingly, Interests must at all times be owned by Declarant or Owners of Lots in Pelican Reef, or persons holding title as security for the performance of an obligation (the latter of which shall not have the right to use the Marina). No Interest may be owned by, conveyed to or purchased by anyone other than Declarant or the record owner of a Lot in Pelican Reef, whether by public or private sale. The intent of this paragraph is to maintain the private community nature of the Marina.

2.5.1 Suspension of Use Rights. During any period of time in which an Interest or part thereof is owned by any person or entity other than the Declarant or the owner of a Lot, the rights of such person or entity to use the Marina shall be automatically suspended. By acceptance of a deed conveying an Interest, each Owner agrees that in the event such Owner sells or is otherwise

divested of title to his Lot but still owns his Interest, such Owner shall immediately remove or cause to be removed all Vessels from his Boat Slip and refrain from further use of the Boat Slip. The Marina Association shall have the right to seek injunctive relief to enforce this paragraph, in addition to any other remedies available to it, and the prevailing party in any action to enforce this paragraph shall be entitled to recover reasonable attorneys' fees and court costs at all levels of the proceedings.

2.5.2 Declarant's Right to Repurchase Interests of Non-resident Owners.

2.5.2.1 The use of the Marina by non-resident Owners is discouraged. In the case of an Owner of an Interest whose Lot in Pelican Reef in unimproved, Declarant shall have the right, but no obligation, to repurchase such Owner's Interest on the terms and conditions set forth below if, upon the expiration of 18 months following the date the deed to such Owner's Interest is recorded in the public records of St. Johns County, Florida, such Owner has not commenced construction of a residence on his Lot or, if construction has commenced within the 18-month period, if such Owner fails to diligently pursue construction thereafter. For purposes of this paragraph, construction will be deemed commenced if plans for the residence have been approved by the appropriate committee of the Homeowners' Association, a building permit has been issued for the residence, and the construction of horizontal improvements has commenced. Any delays in construction for more than thirty days in duration, barring acts of God or severe shortages of materials or labor, shall be deemed a failure to diligently pursue construction.

2.5.2.2 If an Owner fails to commence and diligently pursue construction of a residence in Pelican Reef within the limit set forth above, the Declarant shall have the right (but no obligation) to repurchase such Owner's Interest for an amount that is equal to the amount paid by Owner for the Interest or the current fair market value of the Interest, whichever is less. In the event the Interest is encumbered by a mortgage, the mortgagee shall permit Declarant to assume the mortgage.

2.5.2.3 In the event an Owner owns more than one Lot, this section shall not apply as long as one of the Lots is improved with a residence during the time period set forth above.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Every Owner of an Interest, including Declarant shall be a member of the Marina Association. Membership shall be appurtenant to and may not be separated from ownership of an Interest.

3.2 The Marina Association shall have two (2) classes of voting members as follows:

3.2.1 Class "A" members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each Interest owned. When more than one (1) person holds an interest in an Interest, or in the case of an Interest that is owned by a corporation or other legal entity, all the owners thereof shall be collectively entitled to the vote assigned to such Interest and such owners shall, in writing, designate an individual who shall be entitled to cast the vote on behalf of the owners of such Interest. In no event shall more than one (1) vote be cast with respect to any Interest owned by Class "A" members.

3.2.2 Class "B" member shall be Declarant, which shall be entitled to exercise three (3) votes for each Interest owned. The Class B membership shall cease and be converted to Class A membership the earlier of fifteen (15) years following the date of conveyance of the first Interest; or at such time as the Declarant, in its sole discretion, elects to terminate the Class B membership.

Notwithstanding the foregoing, the Declarant shall be entitled to elect at least one (1) member of the Board of Directors as long as Declarant holds for sale in the ordinary course of business at least one Interest.

ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE MARINA ASSOCIATION

4.1 The Marina Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof to the extent it deems advisable, as well as such other personnel as the Marina Association shall deem to be necessary or advisable for the proper operation of the Marina Association, whether such personnel are furnished or retained directly by the Marina Association or by any person or entity with whom it contracts. The Marina Association may obtain and pay for legal, accounting and management services necessary or desirable in connection with its obligations hereunder or the enforcement of this Declaration.

4.2 The Marina Association shall hold and own the Marina Improvements and may acquire or dispose of the same by sale, grant of easement or otherwise make agreements with respect to the Marina Improvements subject to the restrictions and provisions of this Declaration, the Articles and By-Laws. The Marina Association shall, at all times, pay the real property ad valorem taxes and assessments, if any, assessed against the Real Property and Marina Improvements and any other governmental liens which may be assessed against the Marina Improvements, unless the taxes for such Marina Improvements are assessed against each Owner as a part of the tax assessment for each Owner's Interest, and any such taxes, assessments and liens shall be a Common Expense.

4.3 The Marina Association shall obtain such fidelity bonds as it deems necessary or that may be required by any Institutional Mortgagee for all persons responsible for handling money. Such bonds shall be in such amounts as the Board deems necessary or convenient or may be required by a mortgagee.

4.4 The Marina Association shall manage and maintain the Real Property and Marina Improvements.

4.5 The Marina Association shall interpret and enforce the provisions of this Declaration and, in connection therewith, collect and expend the assessments permitted herein for such purposes.

4.6 The Marina Association may exercise any of the rights and privileges expressly granted in this Declaration, the Articles and By-Laws, the laws governing not-for-profit corporations, and every other right and privilege reasonably to be implied from the existence of any right or privilege granted herein or reasonably necessary to effectuate any right or privilege granted herein.

ARTICLE 5: USE OF REAL PROPERTY AND MARINA IMPROVEMENTS

The use of the Real Property and Marina Improvements shall be in accordance with the following provisions (for purposes of interpreting these provisions, the term "Owner" shall also mean and refer to an Owner's tenant):

5.1 Real Property and Marina Improvements Generally. The following restrictions apply to the Real Property and the Parking Lot, Dock, Pier, and Boat Slips:

5.1.1 Conduct. The Board shall have the right to regulate all activities within the Marina and on the Real Property, including without limitation parking on the Parking Lot and the operation of Vessels within the Marina. No nuisances or activities that are the source of annoyance to Owners or which interfere with the peaceful and proper use of the Marina Improvements shall be allowed. No unlawful use shall be made of the Real Property or Marina Improvements, and all laws, zoning ordinances, and regulations of governmental authorities having jurisdiction over the Marina Improvements shall be observed.

5.1.2 Rules and Regulations. In addition to the restrictions contained in this Declaration, the Marina Association may adopt and amend reasonable rules and regulations concerning the use of the Real Property and Marina Improvements in the manner provided by its Bylaws.

5.1.3 Commercial Activities. The Real Property and Marina Improvements may only be used by residents of Pelican Reef and their social guests for recreational activities. No

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commercial activities of any kind may be carried out within the Real Property or Marina Improvements (including without limitation any time-share or similar Vessel- or Boat Slip-sharing arrangements), and no commercial vehicles or Vessels shall be kept within the Marina or on the Real Property by any Owner. This section shall not apply to Declarant.

5.2 Marina Generally. The following restrictions apply to the use of the Dock, Pier, and Boat Slips:

5.2.1 Compliance with Permits and Ordinances. Use of the Marina shall at all times be in compliance with all applicable governmental permits and ordinances; including without limitation DEP Permits No. 55-130717-001-EI; 55-130717-001-ES; and 55-130717-002-EM; 55-130717-003-EM; and 55-130717-004-EM and the terms and conditions set forth in the Order to Approve Conservation Overlay Zone Development issued by the City of St. Augustine, Case No. 2002-2244.

5.2.2 Repair Activities. Boat maintenance or repair activities requiring the removal of a Vessel or major portions thereof (including without limitation the engine) from the water shall be prohibited except as necessary in an emergency or to prevent the sinking of the Vessel. Minor repairs and maintenance that will not cause or contribute to the release of water pollutants may be performed by Owners or qualified marine mechanics.

5.2.3 Vessels. No person may live aboard any Vessel in the Marina. A person shall be deemed to live aboard a Vessel if he inhabits the Vessel for two or more consecutive days or for more than seven days within a 30-day period. All Vessels must be fully operable, seaworthy, and equipped with all safety equipment and licensed and registered as required by any applicable local, state or federal regulation; provided, however, that an Owner or Member may be excused from compliance with this requirement for a period of time not to exceed fourteen days in duration while his Vessel is being repaired. The use of Vessels and the Marina must at all times be in compliance with this Declaration and the rules and regulations adopted from time to time by the Board. The Board shall have the right but no obligation to prohibit any Vessel from the Marina for purely aesthetic reasons. All Vessels must be registered with the Marina Association, and such registration shall include the size and type of Vessel, owner's name, the name, telephone number, and address of a local emergency contact person, and any other information reasonably requested by the Marina Association. In the case of a Vessel owned by a corporation or other legal entity, the Owner must furnish evidence satisfactory to the Board that the owner of a Lot has a majority ownership interest in such entity. Vessels owned on a time-share or similar basis may not be brought into the Marina.

5.2.4 Mooring. Each Owner is responsible for properly mooring his Vessel in accordance with the practices of good seamanship and this Declaration.

5.2.5 Compliance with Weather Advisories. Each Owner shall follow any and all safety precautions that may be issued by the Marina Association, the National Weather Service, the National Hurricane Center, the U.S. Coast Guard, or any other governmental agency. Each Owner shall be responsible for preparing his Boat Slip and securing or removing his Vessel in the event of inclement weather, and shall remove his Vessel from the Marina in the event a hurricane warning is issued for the St. Johns County area. Each Owner must file with the Marina Association the name, address, and telephone number of a firm or individual who will be responsible for securing or removing his Vessel in such Owner's absence.

5.2.6 Declarant's Use of Marina. Until Declarant has closed the sale of all Interests, neither the Owners nor the Marina Association shall interfere with the sale of Interests by Declarant or with Declarant's use of the Marina. The Declarant may make such use of the Boat Slips appurtenant to unsold Interests and the Marina Improvements as may facilitate the sale of such unsold Interests, including without limitation the maintenance of a sales office, the showing of the Marina, and the display of signs.

5.2.7 Rights of Entry. Each Owner by acceptance of a deed to his Interest grants the Marina Association the following rights of entry, and agrees to indemnify the Marina

Association against and hold it harmless from any losses, claims, or damages arising in whole or in part out of any action taken by the Marina Association, or any failure of the Marina Association to take action, pursuant to this Section 5.2.7:

5.2.7.1 For Inspection. The Marina Association shall have the right to enter any Vessel in the Marina to determine its seaworthiness and compliance with this Declaration and the rules and regulations adopted by the Marina Association, provided such entry shall be at reasonable times and with reasonable advance notice. The Marina Association shall have the right, but not the obligation, to remove any Vessel that does not comply with this Declaration or the rules and regulations.

5.2.7.2 In Emergencies. In case of an emergency originating in or threatening any Boat Slip or Vessel, regardless of whether or not the Owner is present at the time of such emergency, the Marina Association shall have an immediate right, but no obligation, to enter any Boat Slip or Vessel or remove such Vessel for the purpose of remedying or abating the cause or effect of such emergency. To facilitate entry in the event of an emergency, the Marina Association may require Owners to provide the Marina Association with a key to all Vessels brought into the Marina.

5.2.7.3 For Maintenance of Marina. Whenever it is necessary to enter any Boat Slip to perform any maintenance or repair on the Marina, the Owner of each Boat Slip shall permit an agent of the Marina Association to enter a Boat Slip for such purposes, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

5.2.8 Refuse. All trash shall be properly disposed of in accordance with the rules and regulations of the Marina Association. No trash or refuse of any kind shall be dumped or deposited into the water. The cleaning of fish or other marine life shall be permitted only in areas designated by the Board and in accordance with the rules and regulations of the Marina Association.

5.2.9 Hazardous Waste. No hazardous or toxic materials (as such may be defined under any applicable law) may be stored, used, transported, or disposed of within the Marina, and any bilge water pumped into the waters in the vicinity of the Marina must be free of such materials. Discharge or release of oil or grease associated with vessel repairs and the discharge of paints or solvents associated with hull scraping, cleaning, and painting is specifically prohibited. The Marina Association shall have the right, but no obligation, to remove any hazardous or toxic materials from the Marina or any Vessel. Each Owner shall indemnify and hold harmless the Marina Association and Declarant from and against any liability, damages, or claims arising from a violation of this section. Nothing in this Section shall prohibit the proper use of petroleum products for the operation of a Vessel, or prohibit minor repairs and maintenance performed by Owners or qualified marine mechanics that will not cause or contribute to the release of water pollutants.

5.2.10 Sanitary Equipment. All Vessels must be equipped with such sanitary equipment, in operable condition, as may be required by any applicable law, ordinance, or regulation. All toilets on Vessels shall be U.S. Coast Guard-approved.

5.2.11 Swimming. Swimming is prohibited in the vicinity of the Marina, and the Marina may not be used for diving.

5.2.12 Insurance Requirements. Each Owner shall, at his expense, purchase and maintain property damage and public liability insurance on his Vessel in such amounts as may be specified by the Marina Association from time to time. Such insurance shall name the Marina Association and, as long as the Declarant holds an Interest for sale or lease, the Declarant, as additional insureds. All such insurance policies issued to individual Owners shall provide that the coverage afforded by such policies is in excess over the amount recoverable under any other policy covering the same loss without rights of subrogation against the Marina Association or Declarant.

Each Owner shall furnish the Marina Association with a copy of all such insurance policies.

5.3 Boat Slips. The following restrictions apply only to the Boat Slips:

5.3.1 Size of Vessels.

5.3.1.1 24-Foot Slips. No Vessel shall exceed 24 feet in length or weigh over 6,000 pounds.

5.3.1.2 32-Foot Slips. No Vessel shall exceed 32 feet in length or weigh over 12,000 pounds.

The maximum height of all Vessels (excluding masts and antennae), measured from the gunwale, shall be six feet.

5.3.2 Use and Occupancy. Each Boat Slip shall be used only by the Owner of the Interest to which such Boat Slip is appurtenant, or such Owner's tenant.

5.3.3 Leasing of Interests. During the five-year period commencing with the date this Declaration is recorded, only the Declarant may lease Interests. Thereafter, Interests may be leased by Owners, subject to the following restrictions (which shall not apply to Declarant):

5.3.3.1 The occupancy may be by no more than one (1) Vessel and must be for a minimum of six (6) months.

5.3.3.2 The privilege of leasing Interests is strictly granted to Owners who are the record owners of Lots in Pelican Reef, and shall be automatically revoked at such time as an Owner is divested of title to his Lot or Lots. All leases, other than those entered into by Declarant, must contain the following provision, and if any lease does not contain such provision, it shall be deemed a part of such lease:

The Declaration of Covenants and Restrictions for Pelican Reef Marina, which restricts the ownership and use of the Marina and individual Boat Slips, expressly prohibits the leasing of Boat Slips by persons who do not own a Lot in Pelican Reef. Tenant expressly acknowledges and agrees that in the event Landlord ceases to own at least one Lot in Pelican Reef, whether as the result of sale, foreclosure, or any other occurrence, this Lease shall automatically terminate and Tenant shall immediately remove all Vessels and other personal property from Landlord's Boat Slip and refrain from exercising any of Landlord's use rights to the Pelican Reef Marina. Provided, however, this paragraph shall not operate to terminate a lease if the Landlord's Interest is conveyed to the new owner of Landlord's Lot or to the owner of another Lot, and provided further that the Board may but shall have no obligation to suspend the operation of this paragraph for up to ninety (90) days, in its sole discretion.

5.3.3.3 Neither Interests nor Boat Slips may be leased, subleased, occupied, or used for or in connection with any time-sharing agreement, plan, or program. The term "time-sharing" shall be deemed to include, but not be limited to, any agreement, plan, program, or arrangement under which the right to use or occupy a Boat Slip or Vessel rotates or is shared among various persons or entities.

5.3.3.4 All leases must be in writing and a copy must be furnished to the Board.

Tenants under leases complying with this section shall have all use rights in the Marina Improvements available to other Owners and the use rights in the Boat Slip

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appurtenant to the leased Interest, and the tenant's landlord shall not have such rights. The lease of an Interest shall not release or discharge the Owner from compliance with this section or any other provisions of this Declaration.

5.3.4 Storage of Vessels. To avoid damage to Vessels and the Marina, all Vessels must be stored out of the water with the Boat Lift raised while not in use.

5.4 Dock. The following restrictions shall only apply to the Dock: The Dock may be used only by Owners and other members of the Homeowners' Association and their tenants, guests, and invitees for recreational purposes. No more than 12 Vessels may be moored at the Dock at any time (the number of Vessels in the Boat Slips shall not count toward this maximum), and no Vessel may be moored at the Dock overnight or on a permanent basis.

5.5 Parking Lot. The Parking Lot shall only be used by Owners and other members of the Homeowners' Association and their tenants, guests, and invitees for the parking of personal vehicles while visiting the Marina, aboard a Vessel, or while using recreational facilities that may be constructed on property located adjacent to the Property. Overnight parking is prohibited.

ARTICLE 6: MAINTENANCE, ALTERATIONS AND IMPROVEMENTS

Responsibility for the maintenance of the Real Property and Marina Improvements and restrictions upon its alterations and improvements shall be as follows:

6.1 Maintenance.

6.1.1 Marina Association. The Marina Association shall maintain the Real Property and shall maintain, repair, and replace at the Marina Association's expense all Marina Improvements, specifically including without limitation the Boat Slips (notwithstanding the fact that such Boat Slips are not used in common by all Owners), but specifically excluding the Boat Lifts. Provided, however, an Owner shall indemnify the Marina Association for such expense whether the repair or replacement is necessitated by the negligent or willful act of the Owner or his tenant, guest, or invitee, and the Marina Association is hereby authorized to levy a special assessment against such Owner's interest for the cost of such repair or replacement.

6.1.2 Owners. Each Owner shall at all times and at his sole expense maintain, repair and replace the Boat Lift serving his Boat Slip, his Vessel, and all personal property kept within or about his Boat Slip in a neat, attractive, operable, and safe condition, shall promptly perform all maintenance and repair on his Vessel and personal property which, if not performed, could result in loss or damage to the Marina or another Vessel, and shall be expressly responsible for the damages and liability resulting from his failure to do so. Each Owner shall promptly report to the Marina Association any defect or need for repairs for which the Marina Association is responsible.

6.2 Alterations and Improvements.

6.2.1 Marina Improvements. No Owner may make any structural or aesthetic additions or alterations to, or do anything that would jeopardize the safety or soundness of, any part of the Marina. The Marina Association may not make any structural or aesthetic additions or alterations to the Marina, other than routine items of maintenance and repair or replacement of existing components, without prior written approval of a majority of the Owners and, if Declarant holds one or more Boat Slips for sale or lease, the Declarant. No such alteration or improvement may materially interfere with the rights of an Owner to use his Boat Slip without such Owner's consent. The cost such alterations and improvements performed by the Marina Association shall be a Common Expense.

6.2.2 Notwithstanding the foregoing, an Owner may replace the Boat Lift serving his Boat Slip at such Owner's sole expense, provided the Owner obtains the Board's prior written approval of the proposed replacement Boat Lift. The Board's approval shall be exercised in its sole discretion. In approving or denying a proposed replacement Boat Lift, the Board shall take into consideration any requirements or conditions imposed by any governmental entity with jurisdiction

over the Marina, and may also take into account the proposed Boat Lift's capacity, appearance, harmony with the other Boat Lifts, quality of workmanship, and other factors, including purely aesthetic ones.

6.3 Enforcement and Right of Entry. In the event an Owner violates this Article 6, the Marina Association shall have the right to seek a judicial remedy to enforce compliance and shall also have the right but no obligation to take such action as necessary to remedy such violation, including without limitation the right to enter a Boat Slip or Vessel and make repairs without the consent of the Owner. Such Owner shall be responsible for all expenses incurred by the Marina Association to enforce compliance with this Article 6 and the Marina Association is hereby authorized to levy a special assessment against such Owner's interest for such expenses.

ARTICLE 7: COVENANT FOR MAINTENANCE ASSESSMENT

7.1 Declarant hereby covenants for each Interest in the Property and each Owner of an Interest is hereby deemed to covenant by acceptance of his deed for such Interest, whether or not it shall be so expressed in his deed, to pay to the Marina Association annual assessments and special assessments as defined in this article. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, late fees not to exceed \$20.00 per each month of delinquency and reasonable attorney's fees, shall be a charge on and a continuing lien on each Interest against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person or persons who owned the Interest at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.

7.2 The annual assessments levied by the Marina Association shall be paid either in monthly or quarterly installments and used exclusively to promote the health, safety, welfare, and recreation of Owners of Interests, for the improvement and maintenance of the Real Property and all Marina Improvements, for the administration of the Marina Association, for the establishment of a maintenance, repair and reserve account, for payment of taxes that may be assessed against and insurance maintained by the Marina Association on the Real Property and Marina Improvements, for payment of other Common Expenses authorized by this Declaration, and for such other purposes as are set forth or permitted in this Declaration, the Articles of Incorporation or By-laws.

7.3 In addition to the annual assessments authorized above, the Marina Association may levy in any assessment year a special assessment applicable to that year for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Marina Improvements or a capital improvement on the Real Property or to the Marina Improvements, for the purpose of collecting an Owner's share of repair or replacement expense pursuant to Section 6.1 or for such other purposes as may be approved by a majority vote of the members who are voting in person or by proxy at a meeting duly called for such purpose. Except as provided in Section 7.5, and in the case of special assessments for failure to comply with the provisions of this Declaration or as authorized by Article 6, the right of assessment for annual and special assessments authorized herein shall be equal and uniform for all Interests and each Owner's pro-rata share shall be one-seventeenth (1/17th).

7.4 The annual assessments authorized herein shall commence as to each Interest when the Interest is sold by the Declarant to a third party. The Board of Directors of the Marina Association shall prepare an annual budget for the Marina Association and shall establish the amount of the annual assessment against each Interest based on the annual budget at least sixty (60) days in advance of the annual assessment period. A copy of the annual budget and notice of the annual assessment shall be mailed to each member of the Marina Association at least sixty (60) days in advance of the annual assessment period. Within not less than fourteen (14) nor more than thirty (30) days after the mailing of the annual budget and notice of the annual assessment, the Marina Association shall hold a meeting of the members of the Marina Association for the purpose of ratifying the annual budget and annual assessment, which meeting may be held in conjunction with a meeting of the Homeowners' Association. The annual budget and annual assessment shall be

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deemed ratified unless, at such meeting, a majority of all members of the Marina Association reject the annual budget and annual assessment. In the event the annual budget is so rejected, the budget last prepared by the Board and ratified in the manner provided above shall remain in effect until such time as a subsequent budget is prepared by the Board and ratified in the manner provided above.

7.5 Notwithstanding any provision to the contrary herein, for so long as Declarant is a Class "B" member Declarant shall not be liable for either annual or special assessments so long as it funds any deficit in the operating expenses of the Marina Association. Provided further, the Declarant, in its sole discretion, may at any time commence paying assessments as to Interests owned by it and thereby automatically terminate its obligation to fund any deficit in the operating expenses of the Marina Association.

7.6 The Marina Association shall, on demand and for a reasonable charge, furnish to the Owner liable for any assessment a certificate in writing, signed by an officer of the Marina Association, setting forth whether the assessments against a specific Interest have been paid, and if not, the amounts owed therefore.

7.7 Any assessment not paid within thirty (30) days after the due date shall be deemed in default and such assessment together with interest from the due date at the highest rate allowed by law, late fees, and costs of collection thereof, including a reasonable attorney's fee at the trial and appellate level, shall become a continuing lien against the Interest against which such charges are assessed. The Marina Association may bring an action at law against the Owner personally obligated to pay same, or may foreclose the lien against the Interest as provided herein. The Marina Association shall have the right to record a Claim of Lien in the Public Records of St. Johns County, Florida, giving notice to all persons that the Marina Association is asserting a lien upon the Interest. The Claim of Lien shall state the description of the Interest, name of the record Owner thereof, the amount due and the due date thereof. Such Claim of Lien shall be signed and verified by an officer of the Marina Association and shall continue in effect until all sums secured by same have been fully paid. Upon full payment of the total amount due, the party making payment shall be entitled to a recordable Satisfaction of Lien. No Owner may waive or escape liability for the assessments provided for herein by abandonment of his Interest.

7.8 The assessment lien provided for herein shall be subordinate to the lien of any first mortgage. No sale or transfer shall relieve such Interest from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE 8: EASEMENTS

8.1 **Utility Easements.** For so long as Declarant is a Class "B" member, Declarant reserves the right without further consent from any other Interest Owners to grant to any public utility company, municipality or other governmental unit, or water or sewage company an easement over the Real Property and Marina Improvements. Any purchaser by accepting a deed to any Interest does thereby waive any claim for damages against Declarant, its successors or assigns incurred by the construction, maintenance and repair of said utilities, or on account of temporary or other inconvenience caused thereby.

8.2 **Easement Agreement.** The Pelican Reef Homeowners' Association, Inc., has a perpetual non-exclusive easement for ingress, egress, and parking over the Parking Lot and a perpetual non-exclusive easement for recreational purposes over and across the Dock. This easement provides that the Homeowners' Association shall be responsible for the cost of maintaining and insuring the Dock.

ARTICLE 9: INSURANCE

9.1 The Marina Association shall procure and maintain casualty, flood, and liability insurance on the Real Property and the Marina Improvements and insurance or fidelity bonding of all persons who control contract or disburse funds of the Marina Association. The cost of such insurance shall be a Common Expense. The Homeowners' Association shall reimburse the Marina Association one hundred percent (100%) of the cost of insurance premiums attributable to the Dock.

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All such insurance policies shall be purchased by the Marina Association for the benefit of the Marina Association and the Owners and their mortgagees, as their interests may appear, and provision shall be made for the issuance of certificates or mortgagee endorsements to the mortgagees of Owners. Each Owner, by acceptance of a deed conveying an Interest, hereby appoints the Marina Association or any Insurance Trustee designated by the Marina Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, collecting and disposing of the proceeds thereof, negotiating losses and executing releases of liability, executing all documentation, and the performance of all other acts necessary to accomplish such purpose.

9.2 Insurance Trustee. The Marina Association may name as an insured, on behalf of the Marina Association, the Marina Association's authorized representative (the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance and to perform other functions as are necessary to accomplish this purpose

9.3 Casualty Coverage. The Marina and all buildings and improvements constructed on the Real Property are to be insured in an amount equal to the maximum insurable replacement value, excluding land, foundation and excavation costs, as determined annually by the Board of Directors, and all such insurance must be obtained, if possible, from the same company. Such coverage shall, at a minimum, provide protection against:

9.3.1 Loss or damage by fire and other hazards covered by a standard extended coverage endorsement.

9.3.2 Flood disaster insurance, if the Property located in an area which has been officially identified by the Secretary of Housing and Urban Development as having special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP). Such policy shall be in a form which meets the criteria set forth in the most current guidelines on the subject issued by the Federal Insurance Administration and shall, at minimum, provide coverage in an amount equal to the lesser of:

9.3.2.1 The maximum coverage available under the NFIP for the Marina and all other improvements and insurable property located on the Real Property the extent that such improvements and other insurable property are within an area having special flood hazards; or

9.3.2.2 One hundred percent (100%) of the current "replacement cost" of the Marina and all other such improvements and insurable property within such area.

9.3.3 Such other risks as from time to time shall be customarily covered with respect to improvements similar in construction, location and use, including, but not limited to, vandalism and malicious mischief and all perils normally covered by the "all-risk" endorsement.

9.3.4 If available, the policy shall include a construction cost endorsement (such as a demolition cost endorsement, a contingent liability from operation of building laws endorsement, and an increased cost of construction endorsement) if the improvements on the Real Property are subject to a construction code provision that would become operative and require changes to undamaged portions of such improvements thereby imposing significant costs in the event of partial destruction of the improvements by an insured hazard. The deductible may not exceed \$5,000.00 except for damage caused by wind storm, in which event the deductible may be greater.

In addition, such policies shall include an "agreed amount endorsement" and, if available, an "inflation guard endorsement".

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9.4 Officers and Agents. The Marina Association shall maintain adequate insurance or fidelity bonding of all persons who control, contract or disburse funds of the Marina Association, including without limitation those individuals authorized to sign checks on behalf of the Marina Association and the president, secretary and treasurer of the Marina Association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the Marina Association or its management agent at any one time.

9.5 Premiums. Premiums for insurance policies purchased by the Marina Association pursuant to this section shall be paid by the Marina Association and shall be a Common Expense.

9.6 Proceeds. All insurance policies purchased by the Marina Association under this Section shall be for the benefit of the Marina Association and the owners and mortgagees of Interests, and shall provide that all proceeds covering casualty losses shall be paid to the Marina Association or to the Insurance Trustee designated by the Marina Association as provided herein. Each Owner shall have a one-seventeenth (1/17th) share in such proceeds.

9.7 Marina Association as Agent. The Marina Association is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Marina Association.

9.8 Owner's Obligations. Each Owner shall, at his expense, purchase public liability insurance to protect himself against claims due to accidents within his Boat Slip or Vessel, and casualty insurance on his Vessel and other items of personal property stored or maintained in his Boat Slip. All such insurance policies issued to individual Owners shall provide that the coverage afforded by such policies is in excess over the amount recoverable under any other policy covering the same loss without rights of subrogation against the Marina Association.

9.9 Qualifications of Insurance Carrier. The Marina Association shall use generally acceptable insurance carriers.

9.10 Escrow for Insurance Premiums. Any Institutional First Mortgagee holding a mortgage upon an Interest shall have the right to cause the Marina Association to create and maintain an escrow account in the Marina Association's name for the purpose of assuring the availability of funds with which to pay premium or premiums due from time to time on casualty insurance policy or policies which the Marina Association is required to keep in existence, it being understood that the Marina Association shall deposit in an escrow depository satisfactory to such Institutional First Mortgagee or Institutional First Mortgagees a monthly sum equal to one-twelfth (1/12th) of the annual amount of such insurance expense, and to contribute such other sum as may be required therefor, so that there shall be on deposit in said escrow account, at least one (1) month prior to the due date for payment of such premium or premiums, a sum which will be sufficient to make full payment therefor. Such escrowed funds shall not be commingled with any other funds of the Marina Association.

Should the Marina Association fail to pay such premiums when due, or should the Marina Association fail to comply with other reasonable insurance requirements imposed by an Institutional Mortgagee then said Institutional Mortgagee shall have the right at its option to order and advance such sums as are required to maintain or procure such insurance, and to the extent of the monies so advanced, plus interest thereon at the highest legal rate. Said Mortgagee shall be subrogated to the Assessments and lien rights of the Marina Association as against individual Owners for the payment of such items of Common Expense.

ARTICLE 10: CONDEMNATION AND TOTAL OR PARTIAL LOSS OR DESTRUCTION.

10.1 Condemnation Award. The Marina Association shall represent the Owners in the condemnation proceedings or in negotiations, settlements, and agreements with the condemning

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authority for acquisition of the Real Property or Marina Improvements, or part thereof, by the condemning authority. Each Owner hereby appoints the Marina Association as attorney-in-fact for such purpose. In the event of a taking or acquisition of part of all of the Marina Improvements by a condemning authority, the award or proceeds of settlement shall be payable to the Marina Association, or any trustee, to be held in trust for Owners and their first mortgage holders as their interests may appear.

10.2 Reconstruction or Repair after Casualty or Condemnation. In the event of loss, damage, or destruction sustained by the Dock, the Dock shall be repaired unless the Marina is to be terminated in accordance with Section 10.2.2 and Section 11. In the event of loss, damage, or destruction sustained by the Boat Slips or Pier, the following provisions shall apply:

10.2.1 "Substantial Loss." Substantial loss, damage, or destruction as the term is herein used shall mean any loss, damage, or destruction sustained which renders more than fifty percent (50%) of the Boat Slips permanently unusable, or which renders the Dock unusable for access to the Boat Slips, and shall also mean and refer to the revocation, expiration, or other permanent loss of the right to construct and maintain the Dock or Boat Slips by any governmental agency with jurisdiction over the Marina. If Substantial Loss shall be sustained as a result of casualty, the Marina shall be terminated in accordance with Section 11 unless the owners of two-thirds (2/3) of the Interests and a majority of the holders of first mortgages on Interests agree in writing that the damaged property shall be repaired or reconstructed, unless repair or reconstruction is required as a condition of payment under any policy of casualty insurance covering such loss. If Substantial Loss shall be sustained as a result of the revocation, expiration, or other permanent loss of the right to construct or maintain the Dock or Boat Slips, the Marina shall be terminated.

10.2.2 Less than Substantial Loss. In the event damage sustained to the improvements is less than substantial as defined above, such damage shall be repaired unless all of the Owners and first mortgage holders agree to terminate the Marina in accordance with the procedure set forth in Section 11. Any repair and restoration on account of physical damage shall restore the Marina Improvements to substantially the same condition as existed prior to the casualty, must be substantially in accordance with the plans and specifications for the construction of the original improvements, and shall be commenced and completed as expeditiously as reasonably possible. In no event shall any reconstruction or repair change the relative locations and approximate dimensions of the Boat Slips unless an appropriate amendment be made to this Declaration.

The Board of Directors may determine that it is in the best interests of the Marina Association to pay the insurance proceeds into a construction fund to be administered by its Directors. The Board of Directors shall not be required to cause such insurance proceeds to be made available to the Marina Association prior to completion of any necessary restoration, repairs, or reconstruction, unless arrangements are made by the Marina Association to satisfactorily assure that such restoration, repairs, and reconstruction shall be completed. Such assurances may consist of, without limitation, obtaining a construction loan from other sources obtaining a binding contract with a contractor or contractors to perform the necessary restoration, repairs and reconstructions or the furnishing of performance and payment bonds. The first mortgagees which are named as payees upon the draft issued by the insurance carrier shall endorse the draft and deliver the same to the Marina Association.

Where physical damage has been sustained to the Marina and the insurance proceeds have not been paid into a construction loan fund as provided in this section, and where a restoration, repair, or reconstruction has not been commenced, an Institutional Mortgagee who has commenced foreclosure proceedings upon a mortgage encumbering an Interest shall be entitled to receive that portion of the insurance proceeds apportioned to said Interest

10.3 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Marina Association, or if at any time during the reconstruction and repair the funds for payment of the costs thereof are insufficient, all Owners may be assessed in sufficient amounts to provide funds to pay the estimated costs in proportion to the Owner's Interest in the Real Property.

10.4 Time. Unless it is determined in accordance with this Declaration that the Marina is not to be reconstructed after Substantial Loss, or if the Owners agree that the Declaration is to be terminated in accordance with the procedure set forth in Article 11, the Marina Association shall cause the Marina Improvements to be repaired or reconstructed within one year from the date of loss.

ARTICLE 11: TERMINATION

11.1 Grounds for Termination. This Declaration may only be terminated:

11.1.1 In the event the Owners determine that the Marina Improvements shall not be reconstructed after a Substantial Loss as provided in Article 10; or

11.1.2 By the approval, in writing, by a vote of the Owners of at least fifteen (15) of the Interests and by all Institutional First Mortgagees.

11.2 Procedure.

11.2.1 Upon the occurrence of one of the grounds for termination set forth in Section 11.1, the president and secretary of the Marina Association shall execute a certificate certifying the facts effecting the termination ("the Certificate of Termination"), which shall become effective upon being recorded in the public records of St. Johns County, Florida.

11.2.2 Immediately after the recording of the Certificate of Termination, each Owner shall convey his Interest to the Marina Association by warranty deed. The Marina Association shall have the right to enforce such conveyance by specific performance. The Marina Association shall then convey the Real Property and Marina Improvements to the Homeowners' Association upon such terms as may be determined by the Board of Directors. Upon the sale of the Real Property and Marina Improvements, the costs of such conveyance, of liquidating the Marina Association, and of operating the Marina up to the time of distribution of the proceeds to the Owners ("the Termination Costs") shall be paid out of the net proceeds, if any, of such conveyance. If the net proceeds of the sale are insufficient to pay the Termination Costs, the Marina Association may use other assets of the Marina Association (including without limitation insurance proceeds or funds in reserve accounts) to pay the Termination Costs. The remaining assets of the Marina Association shall be distributed to the Owners as follows:

11.2.2.1 Payment of Proceeds to the Homeowners' Association.

The portion of the insurance proceeds representing loss of or damage to the Dock shall be paid to the Homeowners' Association.

11.2.2.2 Determination of Distributive Share. The Distributive Share of each Owner in the assets of the Marina Association, subject to the provisions of this section, shall be one-seventeenth (1/17).

11.2.2.3 Payment of Liens. Upon determination of each Owner's Distributive Share, the Marina Association shall pay out of each Owner's Distributive Share all mortgages, assessments, and other liens encumbering said Owner's Interest in accordance with their priority, and upon such payment all mortgagees, the Marina Association, and lienors shall execute and record satisfactions or releases of their liens against said Interests, regardless of whether the same are paid in full.

11.2.2.4 Payment to Owners. Thereupon, the Directors shall proceed to liquidate and dissolve the Marina Association and distribute the remaining portion of each Distributive Share, if any, to the record Owner or Owners entitled thereto.

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11.2.2.4 Allocation of Shares. If more than one person has an interest in an Interest, the Marina Association shall pay the remaining Distributive Share allocable to such Interest to the various Owners of such Interest, excepting that if there is a dispute as to the validity, priority, or amount of mortgages or liens encumbering an Interest, then payment shall be made to the Owner or Owners and the owners and holders of the mortgages encumbering such Interest.

11.3 Effect of Termination. After the Termination Certificate has been recorded, all Owners have conveyed their Interests to the Marina Association, and the Marina Association has conveyed all of the property to a purchaser, the title to said property shall thereafter be free and clear of all restrictions, reservations, covenants, conditions, and easements set forth in this Declaration and the purchaser and subsequent grantees of any of said property shall receive title to said lands free and clear thereof. Termination of this Declaration shall not terminate the rights of the Homeowners' Association, under the Easement Agreement described in Section 1.10, and any conveyance of the Property shall be subject to such Easement Agreement unless the Easement Agreement is terminated in accordance with its terms.

11.4 Amendments. Notwithstanding anything to the contrary contained in this Declaration, this section concerning termination cannot be amended without the consent of the Owners of at least fifteen (15) Interests.

ARTICLE 12: GENERAL PROVISIONS

12.1 Enforcement of these restrictions by the Declarant or any Owner shall be by proceedings at law or in equity against any person violating or attempting to violate any covenant or restriction either to restrain the violation or to recover damages, or both. The prevailing party in any such action shall be entitled to recover reasonable attorney's fees and court costs at all levels of the proceeding.

12.2 Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any of the other provisions hereof, which shall remain in full force and effect.

12.3 For so long as Class "B" membership exists, Declarant shall have the right to amend this Declaration, without the consent of the other Owners, provided that any amendment which materially alters the configuration or size of a Boat Slip must be approved in writing by the Owner of the Interest to which such Boat Slip is appurtenant.

12.4 In addition to the rights of the Declarant provided for in Section 12.3 hereof, and except as provided in Section 11.4, the Marina Association may amend or alter this Declaration or any part thereof, provided such amendment is approved by the vote of seventy-five percent (75%) of the Class "A" members and, as long as Class "B" membership exists, by the Declarant.

12.5 Any failure of the Declarant, the Marina Association or Interest Owners, their successors or assigns to promptly enforce any of the restrictions or covenants contained herein, shall not be deemed a waiver of the right to do so thereafter.

12.6 Notwithstanding any other term or condition contained in this Declaration, the Declarant shall have the right to transact upon the Real Property and Marina Improvements any business necessary to effect the sale of Interests including, but not limited to, the right to maintain signs, staff employees and locate a sales trailer on the Real Property.

12.7 All rights reserved herein by the Declarant shall be fully assignable and transferable.

12.8 These covenants and restrictions shall run with the land and shall be binding on all parties and all persons claiming through, by or under them until December 31, 2023. After said date,

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said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the Owners of at least 15 of the Interests has been recorded agreeing to change or terminate said covenants in whole or in part.

IN WITNESS WHEREOF, the undersigned Declarant has affixed its hand and seal on this ___ day of February, 2004.

Signed, sealed and delivered in the presence of:

PELICAN REEF MARINA, L.L.C., a Florida limited liability corporation

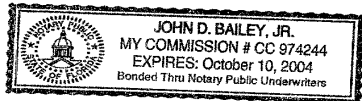
By: Paul J. Thompson
Paul J. Thompson
Its managing member

Melinda M. Bergborn
Witness Melinda M. Bergborn
(type or print name)

John D. Bailey Jr
Witness John D. Bailey Jr
(type or print name)

STATE OF FLORIDA
COUNTY OF ST. JOHNS

FEB, 2004, by Paul J. Thompson, the managing member of Pelican Reef Marina, L.L.C., a Florida limited liability corporation, on behalf of the corporation, who () is personally known to me or () has produced driver's license no. _____ as identification.



John D. Bailey Jr
Signature of Notary

(Name of Notary Typed, Printed or Stamped)
Commission Number:
My Commission Expires: _____

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Exhibit "A"

A PORTION OF PARCEL "B", PELICAN REEF, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 25, PAGES 87 THROUGH 91, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCE THE NORTHEAST CORNER OF SAID PARCEL "B"; THENCE SOUTH 48 DEGREES 13 MINUTES 38 SECONDS WEST, ALONG THE WEST RIGHT OF WAY LINE OF PELICAN REEF DRIVE (A 50 FOOT WIDE RIGHT OF WAY) 54.10 FEET; THENCE SOUTH 20 DEGREES 39 MINUTES 57 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 8.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 20 DEGREES 39 MINUTES 57 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, 55.37 FEET; THENCE SOUTH 07 DEGREES 36 MINUTES 26 SECONDS EAST, ALONG SAID RIGHT OF WAY LINE, 142.81 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "B"; THENCE NORTH 67 DEGREES 10 MINUTES 00 SECONDS WEST, ALONG THE SOUTH LINE OF SAID PARCEL "B", 93.01 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "B"; THENCE NORTH 32 DEGREES 26 MINUTES 16 SECONDS EAST, ALONG THE WEST LINE OF SAID PARCEL "B", 115.66 FEET; THENCE NORTH 11 DEGREES 30 MINUTES 38 SECONDS EAST, ALONG LAST SAID EAST LINE, 76.50 FEET; THENCE SOUTH 71 DEGREES 54 MINUTES 24 SECONDS EAST 49.31 FEET TO THE POINT OF BEGINNING.

CONTAINING 11,144 SQUARE FEET MORE OR LESS.

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JOINDER AND CONSENT

COMPASS BANK, the owner and holder of a mortgage upon certain real property lying on the following-described lands:

See Exhibit "A"

by virtue of Mortgage and Security Agreement ("Mortgage") recorded in Official Records 2148, page 468, of the public records of St. Johns County, Florida, hereby joins in and consents to the Declaration of Covenants and Restrictions for Pelican Reef Marina and consents to the subordination of the lien of its Mortgage to the terms of the Declaration.

DATED this 27 day of FEB, 2004

Signed, sealed and delivered
in the presence of:

COMPASS BANK

Witness: Melinda M. Bergom
(Name) Melinda M. Bergom

By: Philip R. Webb
Philip R. Webb
Its Vice President

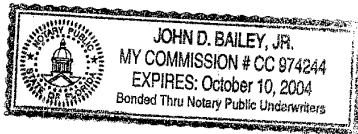
Witness: John D. Bailey Jr
(Name) JOHN D. BAILEY JR

(SEAL)

STATE OF FLORIDA
COUNTY OF ~~DUVAL~~ ST. JOHNS

THE FOREGOING instrument was acknowledged before me this 27 day of FEB, 2004, by Philip R. Webb as Vice President of Compass Bank, on behalf of the bank, who is personally known to me or has produced _____ as identification.

John D. Bailey Jr
Notary Public



(name of notary, typed/printed)
My commission number: _____
My commission expires: _____

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Exhibit "A"

A PORTION OF PARCEL "B", PELICAN REEF, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 25, PAGES 87 THROUGH 91, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

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CONTAINING 11,144 SQUARE FEET MORE OR LESS.