DECLARATION OF COVENANTS, CONDITIONS AND EASEMENTS

FOR

CANOPY WALK MARINA

THIS DECLARATION OF COVENANTS, CONDITIONS AND EASEMENTS FOR CANOPY WALK MARINA (this "Marina Declaration") is made this 12th day of October, 2004 by, Centex Homes, a Nevada general partnership, d/b/a Wexford Coastal Properties ("Declarant"), whose address is 1064 Greenwood Boulevard, Suite 200, Lake Mary, Florida 32746. Capitalized terms not specifically defined in this preamble shall have the meaning set forth in Article 1 below:

WHEREAS, Declarant is the developer of that certain planned condominium located in Flagler County, Florida known as Canopy Walk (the "Condominium");

WHEREAS, Declarant is also the owner of certain real property (the "Marina Land"), as more particularly described on Exhibit "A," attached hereto and incorporated herein by this reference, as contained within a federal right-of-way for the Intracoastal Waterway in favor of the United States Army Corps of Engineers, and located adjacent to the Condominium;

WHEREAS, the Declarant intends to convey the Main Dock to the Canopy Walk Condominium Association, Inc. (the "Condominium Association") to enable all Unit Owners to have access to the Main Dock, subject to the terms and conditions set forth in this Marina Declaration and in the deed conveying the Main Dock from the Declarant to the Condominium Association; and

WHEREAS, Declarant intends to convey the remainder of the improvements and personal property (excluding the Main Dock) situated on the Marina Land to Canopy Walk Marina Association, Inc. (the "Marina Association"), which will operate a private watercraft docking facility for the exclusive use and enjoyment of those Unit Owners within the Condominium who obtain a Slip, and their family members, tenants and guests;

WHEREAS, the Marina Facilities shall be subject to the Permits that Declarant has procured to allow construction of the Marina Facilities and to all present and future applicable laws, ordinances, rules, regulations, and orders of the United States Government, the State of Florida, the County of Flagler, Florida, and the City of Palm Coast, Florida, and such other government entities exercising lawful jurisdiction.

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NOW THEREFORE, Declarant submits to this Marina Declaration all of the Marina Land described in Exhibit "A" for the purpose of establishing the Condominium Association's responsibilities related to the Main Dock and creating the Marina Association to govern use of the remainder of the Marina Facilities, including the Slips and Exclusive Common Area. Declarant further declares that, subject to the Permits, the Marina Land shall be held, sold, transferred, conveyed, used, occupied, mortgaged or otherwise encumbered subject to the terms of this Marina Declaration. This Marina Declaration shall run with title to and shall be binding on all Persons (subject to the rights and jurisdiction of any governmental entity, such as the United States Army Corps of Engineers and the Florida Department of Environmental Protection) having any right, title, or interest in all or any portion of the Marina Land, their respective heirs, legal representatives, successors, successors-in-title, and assigns, and shall inure to the benefit of each and every Member.

ARTICLE 1. DEFINITIONS

The terms in this Marina Declaration and in the exhibits to this Marina Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Articles" means the Articles of Incorporation of Canopy Walk Marina Association, Inc., as filed with the Secretary of State of the State of Florida, as they may be amended and supplemented from time to time.

1.2 "Board" means the governing body of the Canopy Walk Marina Association, Inc., selected as provided in the By-Laws and serving as the board of directors under Florida corporate law.

1.3 "By-Laws" means the By-Laws of the Canopy Walk Marina Association, Inc., attached hereto as Exhibit "B," as they may be amended and supplemented from time to time.

1.4 "Common Area" means all real and personal property, including, without limitation, easements and licenses, which the Marina Association owns, leases or holds possessory or use rights in for the common use, benefit, and enjoyment of the Members.

1.5 "Common Expenses" means the actual and estimated expenses incurred, or anticipated to be incurred, by the Marina Association for the general benefit of the Members pursuant to this Declaration, including any reasonable reserve, as the Board may find necessary and/or appropriate pursuant to the Governing Documents.

1.6 "Condominium Association" means the Canopy Walk Association, Inc., a Florida non-profit corporation, its successors or assigns.

1.7 "Condominium Declaration" means the Declaration of Condominium of Canopy Walk, a Condominium, filed and recorded on December 11, 2003, in Book 1019, Page 189, in the Public Records of Flagler County, Florida, as amended and supplemented from time to time.

1.8 "Days" means calendar days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.9 "Declarant" means Centex Homes, a Nevada general partnership, d/b/a Centex Destination Properties, or any successor, successor-in-title, or assign who holds or takes title to any
portion of the Marina Land described on Exhibit "A" for the purpose of development and/or sale and that is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, however, there shall be only one (1) Person entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

1.10 "Dockmaster" means the person(s) engaged by the Marina Association to manage and oversee the usage of that portion of the Marina Facilities maintained by the Marina Association pursuant to this Marina Declaration and the Permits.

1.11 "Exclusive Common Area" means certain real and personal property, including, without limitation, easements and licenses, which the Marina Association owns, leases or holds possessory or use rights in intended for the exclusive use of one (1) or more, but less than all, Slip Grantees, as more particularly described in Section 2.3.

1.12 "Finger Dock" means the dock structure perpendicular to and attached to the marginal pier of the Main Dock and adjacent to the length of a Slip.

1.13 "Governing Documents" means this Marina Declaration, the By-Laws, the Permits, Articles, rules and regulations as may be adopted by the Marina Association from time to time, and all additional covenants governing any portion of the Marina Facilities, as each may be supplemented and amended from time to time.

1.14 "Main Dock" means the marginal pier that is perpendicular to the Finger Docks, the access walkways connecting the marginal pier to land, the gazebo and the pilings attached to the Main Dock. The Slips, Finger Docks, Slip Pilings and all other portion of the Marina Facilities shall not be part of the Main Dock. The Main Dock shall include the upland improvements of the Marina Facilities, including without limitation, (i) stairwells from the embankment to the beach, (ii) rip rap, (iii) any retaining wall, and (iv) the beach.

1.15 "Majority" means those votes, Members or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

1.16 "Marina Association" means the Canopy Walk Marina Association, Inc., a Florida non-profit corporation, its successors or assigns.

1.17 "Marina Facilities" means the Marina Land described on Exhibit "A" and all improvements and personal property situated thereon.

1.18 "Member" means a member of the Marina Association.

1.19 "Mortgage" means any mortgage, deed of trust, deed to secure debt, or any other form of security instrument secured by use rights to the Slip.

1.20 "Mortgagor" means a beneficiary or holder of a Mortgage, provided that a Mortgagor shall be deemed a Member if, during the Mortgagor's period of possession of the Slip, the Slip is utilized.

1.21 "Permits" means collectively (a) City of Palm Coast Development Order No. SP-MAJ-04-01, dated March 2, 2004; (b) the State Programmatic General Permit issued by the Florida Department of Environmental Protection, Permit No. 18-209587-001-EL, as modified by Modification No. 18-209587-002-EM, dated April 10, 2006; (c) Department of the Army Permit No. SAJ-2002-3535 issued by
the U.S. Army Engineer District, Jacksonville, dated January 14, 2004; (d) that certain letter agreement between Declarant and the Flagler Audubon Society and the Flagler Greenway Task Force, dated November 25, 2003; and (e) such other permits related to ownership, operation and/or use of the Marina Facilities, as each may be amended and supplemented from time-to-time.

1.22 “Person” means an individual, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

1.23 “Public Records” means the public records of Flagler County, Florida, or such other place which is designated as the official location for recording of deeds and similar documents affecting title and interests in real property.

1.24 “Qualified Unit Owner” means a Unit Owner that is a member in good standing of the Condominium Association pursuant to the criteria established by Section 2.4 of this Mariana Declaration, as such criteria may be supplemented and amended by the Mariana Association from time to time.

1.25 “Slip” means the area of space bounded by the innermost edges (i.e., closest to the Slip) of the Main Dock, the Finger Dock and the Slip Pilings, such that no part of the Main Dock, the Finger Dock or the Slip Pilings shall be part of the Slip. The Slip boundaries shall not extend beyond the length of the Finger Dock. A diagram showing the Main Dock, representative Finger Docks and typical Slips is attached hereto as Exhibit “C.” The lower boundary of a Slip shall be the surfaces of that portion of the land lying beneath the Slip. The boat lift that services a Slip and the Exclusive Common Area assigned to the Slip pursuant to Section 2.3 shall be an appurtenance to the Slip. The term Slip shall also refer to the easement rights pursuant to which the Slip Grantee has the exclusive right to use and occupy the Slip.

1.26 “Slip Agreement” means the “Agreement and Easement for Slip Use Rights” executed by each Slip Grantee that reserves such Slip for the exclusive use of the Slip Grantee and its tenants, guests and invitees.

1.27 “Slip Grantee” or “Grantee” means the Person granted exclusive use and enjoyment of a Slip pursuant to the terms of a Slip Agreement. Each Slip Grantee must be a Member of both the Mariana Association and the Condominium Association.

1.28 “Slip Pilings” means the pilings located opposite the Finger Docks that are used to contain watercraft within the Slip and are not attached to the Main Dock, Finger Docks, or connecting walkways.

1.29 “Subsequent Purchaser” means the subsequent purchaser of a Slip Grantee’s Unit that acquires the use rights of the Slip at the closing of the transfer of the Unit.

1.30 “Supplemental Declaration” means an instrument filed in the Public Records which subjects additional property to this Mariana Declaration, designates Exclusive Common Area, and/or imposes, expressly or by reference, additional restrictions and/or obligations on the property described in such instrument.

1.31 “Unit” means a residential unit at the Condominium as defined by Section 4.33 of the Condominium Declaration.

1.32 “Unit Owner” means the owner of a Unit, as defined by Section 4.34 of the Condominium Declaration.
ARTICLE 2. PROPERTY RIGHTS

2.1 Conveyance of Main Dock to the Condominium Association. The Declarant shall convey the Main Dock to the Condominium Association as "Association Property" as such term is defined in the Condominium Declaration. The cost of the maintenance, repair, operation and replacement of the Main Dock shall be a "Common Expense" of the Condominium Association (as such term is defined in the Condominium Declaration). The conveyance of the Main Dock to the Condominium Association shall be subject to the following terms and conditions, which shall run with title to the property:

(a) the Condominium Association shall not take any actions that materially adversely affect the rights of the Marina Association and/or the Members (who shall also be members of the Condominium Association) and/or their tenants, invitees and/or guests to utilize the Main Dock to access the Slips and Exclusive Common Area or to otherwise use their Slip and watercraft, and an easement is hereby reserved for the benefit of such parties to access the Slips and Exclusive Common Area by utilizing the Main Dock;

(b) nothing in the conveyance shall extend any easement to the Condominium Association to allow it, or its members, invitees, tenants, or guests, to access any Slip or Exclusive Common Area;

(c) the Condominium Association shall accept all obligations and duties set forth in this Marina Declaration, including, without limitation, maintenance responsibilities set forth in Section 5.3 and the insurance obligations of the Condominium Association as set forth in Section 6.1; and

(d) the Marina Association may perform dredging under the Main Dock as necessary or appropriate to service the Slips, although the dredging costs shall be borne by the Marina Association;

(e) the Marina Association shall be entitled to utilize the "Office Space Lease" defined and discussed in Section 12.6 of the Condominium Declaration; and

(f) the Marina Association and the Condominium Association shall divide costs expended for the benefit of the Marina Facilities. The Marina Association and the Condominium Association shall endeavor to cooperate to effectuate the efficient maintenance, repair and replacement of the Marina Facilities and shall, as necessary and/or appropriate, enter into agreements to share the costs and responsibilities associated with such items. The officers of the respective associations shall endeavor to meet at least once annually to discuss maintenance and governance issues of the Marina Facilities. If expenses are not easily allocable between the Condominium Association and the Marina Association, the Marina Association's share of the expenses shall be determined by multiplying the amount of the expense by a fraction in which the numerator is the surface area of all Finger Docks and the denominator is the combined surface area of the Finger Docks and the Main Dock. By way of example and not limitation, the property taxes assessed upon the Marina Facilities may be divided in this manner, if the parcels are not separately assessed.

2.2 Common Area. The Common Area shall be any portion of the Marina Facilities remaining after excluding: (a) the Main Dock; (b) the Exclusive Common Area designated in Section 2.3 below; (c) the Slips; and (d) the docks, lifts and other personal property of the Slip Grantee. Every Member shall have a right and no exclusive easement to use any portion of the Common Area, subject to:
2.3 Exclusive Common Area.

(a) **Finger Dock, Slip Piling and Dock Box Designation.** Each Finger Dock and Slip Piling is hereby assigned as Exclusive Common Area for the use of those Slip Grantee(s) possessing the Slip(s) immediately adjacent to the Finger Dock or Slip Piling, as applicable, and to their tenants, guests and invitees. Additionally, the dock boxes (and the water and electricity outlets contained therein) shall be the Exclusive Common Area of the Slip adjacent to the dock box. Use of the Exclusive Common Area shall be subject to: (i) the right of the Board to suspend the right of any Slip Grantee to use the Exclusive Common Area pursuant to Section 4.2; (ii) any restrictions or limitations contained in the deed of conveyance of the Exclusive Common Area from the Declarant to the Marina Association; and (iii) any conditions and restrictions contained in the Slip Agreement conveying the Slip to the Slip Grantee.

(b) **Assessments.** Expenses associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed as a Common Expense unless such expenses result from the negligent or wrongful acts or omissions of a Slip Grantee, its tenants, guests and invitees, in which event a Specific Assessment shall be levied against such Slip Grantee as provided in Section 8.9 (b).

(c) **Designations.** Prior to termination of the Class "B" Membership, any future designations of Exclusive Common Area to a particular Slip(s) shall be accomplished through a Supplemental Declaration filed by the Declarant. After termination of the Class "B" Membership, Exclusive Common Area may be reassigned only upon approval of the Board, each Slip Grantee affected by such reassignment, and a vote of sixty-seven percent (67%) of the total Class "A" votes in the Marina Association. Any such reassignment of Exclusive Common Area shall be set forth in a Supplemental Declaration executed by the Board and the Slip Grantees affected by the designation.

2.4 Transfer of a Slip, Slip as Appurtenance. A Slip Grantee may not sell, transfer or assign its rights in the Slip Agreement except to a Subsequent Purchaser or a Qualified Unit Owner. The transferring Slip Grantee shall notify the Marina Association prior to any proposed Slip transfer. Any sale, transfer, or assignment of the rights to a Slip shall be subject to the terms, covenants, conditions, restrictions, easements, charges and liens as stated in the Governing Documents and the Permits. The transferring Slip Grantee shall pay any outstanding assessments and charges prior to the transfer of the Slip. Each Slip transferee, within ten (10) Days following the transfer, shall notify the Board, in writing, of the transfer and include a copy of the executed and recorded Slip Agreement with such notice. Each transfer of the Slip shall occur using the template form of the Slip Agreement initially used by the Declarant to transfer the Slip to the initial Slip Grantee or a variation of the same approved by the Declarant. The Board, at its discretion, may adopt a new Slip Agreement template following the termination of the Class "B" Membership, provided that such template complies with the Governing Documents and the Permits.

The transfer of the Slip to a Subsequent Purchaser shall occur at the closing of the sale of the Unit. Prior to the transfer of the Slip to a Qualified Unit Owner, the Marina Association may verify with the Condominium Association that the proposed transferee is not delinquent in the payment of any
assessments due to the Condominium Association, that such transferee's Unit is not subject to any lien by the Condominium Association and to such other matters as the Marina Association may request. The proposed transferee shall be deemed to have authorized the Condominium Association to cooperate with the Marina Association in this verification process. Prior to the transfer of the Slip to a Qualified Unit Owner, the Marina Association shall approve such transfer, and evidence its consent thereto by execution of a consent instrument or by execution of the document evidencing transfer of the Slip. The Marina Association shall not withhold its consent or evidence thereof unless the Marina Association determines that the proposed transferee is delinquent in the payment of any assessments due to the Condominium Association or that such transferee’s Unit is subject to any lien by the Condominium Association.

If a Slip Grantee transfers its Unit without transferring the Slip, the Slip Grantee’s right to use the Slip shall terminate. However, the Slip Grantee shall remain obligated to pay assessments levied against the Slip until the Slip has been transferred to a Qualified Unit Owner. Neither Declarant nor the Marina Association shall be obligated to acquire the Slip or to assist in any way with the resale of a Slip.

The rights of a Slip Grantee in and to the Slip constitute an appurtenance to the Unit and in the case of a transfer to a Qualified Unit Owner, shall constitute an appurtenance to the unit owned by the Qualified Unit Owner.

2.5 Leasing of a Slip. A Slip may be leased or licensed only to a Qualified Unit Owner or to the tenant of the Member’s Unit during the term of such tenant’s occupancy of the Unit.

2.6 Water and Electric Utilities. Water and electric services are available to the Slips through utility connections at the dock boxes. The conduits supplying water and electricity shall be Common Area that is the responsibility of the Marina Association. Responsibility for payment of charges associated with each service shall be as follows:

(a) Water. All water consumption by the Slip Grantees will be measured by one meter. Water usage charges shall be assessed equally among all Slip Grantees as part of the General Assessment. Notwithstanding the foregoing, should the Board determine that certain Slip Grantees are using excessive amounts of water, the Marina Association may levy the estimated cost of the excessive use against the applicable Slip Grantee(s) as a Specific Assessment. No Slip Grantee shall be entitled to a reduction in water usage assessments because of non-use of limited use of the Slip or the water supply.

(b) Electricity. Separate meters at each dock box shall measure electricity usage. Each Slip Grantee shall be responsible for payment of electricity charges to the service provider. Each Slip Grantee acknowledges that electricity utilized for light fixtures located on the dock box adjacent to the Slip and illuminating the Main Dock shall be measured on the Slip Grantee’s meter and paid by the Slip Grantee.

The Marina Association reserves the right, without the obligation, to implement one meter to measure all electricity usage by the Slip Grantees. In such event, the Board shall notify the Members of the effective date of such implementation, and electricity charges (including, without limitation, those relating to the light fixtures located on the dock boxes and which illuminate the Main Dock) shall be assessed equally among all Slip Grantees as part of the General Assessment. Notwithstanding the foregoing, should the Board determine that certain Slip Grantees are using excessive amounts of electricity, the Marina Association may levy the estimated cost of the excessive use against the Member or the Member’s Slip as a Specific Assessment. No Slip Grantee shall be entitled to a reduction in electricity assessments because of non-use or limited use of the Slip.
ARTICLE 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Slip Grantee shall be a Member of the Marina Association. No Person shall be a Member of the Marina Association unless such Person is a member of the Condominium Association. All Members shall be subject to the terms and conditions of the terms and conditions of the Governing Documents and Permits. The rights of a Member which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Member, or by any individual designated from time to time by the Member in a written instrument provided to the secretary of the Marina Association.

3.2 Voting.

The Marina Association shall have two (2) classes of membership, Class “A” and Class “B.”

(a) Class “A.” Class “A” Members shall be all Slip Grantees except the Class “B” Member, if any. Each Class “A” Member shall have one (1) equal vote for each Slip in which he or she holds the interest required for membership under Section 3.1; provided, however, there shall be only one (1) vote per Slip.

(b) Class “B.” The sole Class “B” Member shall be the Declarant. The Class “B” Member may appoint a Majority of the members of the Board of Directors until the first to occur of the following:

(i) December 31, 2014; or

(ii) when, in its discretion, the Class “B” Member so determines and voluntarily relinquishes such right.

At such time, the Class “B” membership shall terminate, and the Declarant shall be a Class “A” Member entitled to Class “A” votes for each Slip which it possesses.

3.3 Exercise of Voting Rights. If a Slip has more than one Slip Grantee, the vote for such Slip shall be exercised as the co-Slip Grantees determine among themselves and advise the secretary of the Marina Association in writing prior to the vote being taken. Absent such advice, the Slip’s vote shall be suspended if more than one Person seeks to exercise it. No vote shall be exercised on behalf of any Slip if any assessment for such Slip is delinquent.

ARTICLE 4. RIGHTS AND OBLIGATIONS OF THE MARINA ASSOCIATION

4.1 Function of Marina Association. The Marina Association shall be the entity responsible for (i) management, maintenance, operation and control of the Common Area of the Marina Association; (ii) maintaining compliance with and renewing the Permits; (iii) enforcing the terms of this Marina Declaration; and (iv) promulgating reasonable rules regulating use of the portion of the Marina Facilities conveyed to the Marina Association, as the Board may adopt from time to time. The Marina Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Florida.

4.2 Enforcement. The Board may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in the By-Laws. Such sanctions may include, without limitation:
(a) imposing monetary fines which shall constitute a lien upon the Slip of the violator;

(b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

(c) suspending a Member's right to vote; and

(d) suspending any Member's (and anyone claiming through or under the Member) right to use the Common Area, the Slip, or the Exclusive Common Area.

In the event that any tenant, guest or invitee of a Slip Grantee violates the Governing Documents, the Board may sanction such tenant, guest or invitee and/or such Slip Grantee. If a fine is imposed, the fine may first be assessed against a tenant, guest or invitee; provided however, if the fine is not paid by a tenant, guest or invitee within the time period set by the Board, the Slip Grantee shall pay the fine upon notice from the Board.

In addition, the Board may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the removal of watercraft that is in violation of the Governing Documents, the correction of any maintenance issues, or the cure of any other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws. The Marina Association may levy Specific Assessments to cover all costs incurred to bring a Slip, a boat lift and/or the Exclusive Common Area assigned to a Slip into compliance with the terms of the Governing Documents and/or to exercise other rights established in the Governing Documents.

The Marina Association may elect to enforce any provision of the Governing Documents by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Marina Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Marina Association to enforce the provisions of the Governing Documents, if the Marina Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys' fees, court costs, and other legal fees incurred in such action.

The Marina Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Marina Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right of the Marina Association to enforce such provision under any circumstances or prevent the Marina Association from enforcing any other covenant, restriction or rule.

The Marina Association, by contract or other agreement, may enforce county, city, state and federal ordinances, if applicable, and permit local and other governments to enforce ordinances applicable to the Marina Association's portion of the Marina Facilities for the benefit of the Marina Association and its Members.
4.3 **Implied Rights; Board Authority.** The Marina Association may exercise any right and/or privilege given to it expressly by this Marina Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, all rights and powers of the Marina Association may be exercised by the Board without a vote of the membership.

4.4 **Indemnification.** The Marina Association shall indemnify every officer, director and committee member against all damages, liabilities, and expenses, including, without limitation, reasonable attorneys fees, court costs, and other legal fees incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles and Florida law.

The officers, directors, and committee members shall not be liable for any mistakes of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Marina Association (except to the extent that such officers, directors or committee members may also be Members of the Marina Association). The Marina Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Marina Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**ARTICLE 5. MAINTENANCE**

5.1 **Marina Association's Responsibility.** The Marina Association shall maintain and keep in good condition, order and repair, consistent with the Governing Documents, federal, state and local laws and regulations and the Permits, that portion of the Marina Facilities conveyed to the Marina Association, which shall include, but need not be limited to:

(a) all Common Area and Exclusive Common Area;

(b) all equipment and other personal property of the Marina Association, including, without limitation, the navigational post, lights, buoys, reflectors (as required by the Permits), and signs;

(c) all waterways within the Marina Facilities, including but not limited to providing for dredging activities underneath all or any portion of the Marina Facilities as may be necessary from time to time. All such dredging activity shall not interfere with navigation of the Intracoastal Waterway located adjacent to the Marina Facilities. The Marina Association shall be responsible for performing all dredging even though some dredging may occur under the Main Dock. Additionally, dredging shall be a Common Expense even though certain Slips may require more extensive or frequent dredging than other Slips; and

(d) such additional property included within the Marina Association's portion of the Marina Facilities as dictated by this Marina Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereto entered into by the Marina Association.
Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area and Exclusive Common Area shall be a Common Expense to be allocated among all Members without prejudice to the right of the Marina Association to seek reimbursement from the Member(s) of, or other Persons responsible for, certain portions of the Marina Facilities pursuant to the Governing Documents, any recorded covenants, or any agreements with the Member(s) thereof.

Pursuant to Section 11.2 below, the Declarant has reserved, for itself and for the Marina Association, the right to make inspections of the Slips and the Exclusive Common Area in order to ensure compliance with the Governing Documents and the Permits. Such inspections may be conducted by the Marina Association as part of its responsibilities under this Section.

If the Marina Association fails to perform its maintenance responsibilities hereunder or to comply with the Permits, the Declarant, after not less than ten (10) Days' notice and opportunity for the Marina Association to cure, may, but shall not be obligated to, cause such maintenance to be performed. The Declarant, in such event, shall be entitled to reimbursement from the Marina Association, or alternatively, from each Slip Grantee for all costs incurred.

5.2 Member's Responsibility. Each Member shall be responsible for and keep in good order and repair such Member's personal property used in connection with the Slip (including, without limitation, the boat lift and the watercraft moored at the Slip) in a manner consistent with the Governing Documents and the Permits unless such responsibility is otherwise assumed by or assigned to the Marina Association. In addition to any other enforcement rights, if Member(s) fail to perform their responsibility, the Marina Association may perform the same and assess all costs incurred by the Marina Association against the Member(s) or the Member's Slip(s) as a Specific Assessment. The Marina Association shall afford the Member(s) at least ten (10) Days' notice and an opportunity to cure prior to entry, except when entry is required due to an emergency situation. Entry under this Section shall not constitute a trespass.

5.3 Condominium Association's Responsibility. The Declarant shall convey the Main Dock to the Condominium Association, and the Condominium Association shall maintain and keep the Main Dock, including, without limitation, the gazebo, all light fixtures at the Main Dock (but not on the dock boxes), and all structural elements in good condition, order, and repair, consistent with the Governing Documents, federal state and local laws and regulations, and the Permits. Notwithstanding anything to the contrary contained herein, the Condominium Association shall remain responsible for all dredging and for other maintenance of the remainder of the Marina Facilities (excluding the Main Dock) as directed by the Permits.

If the Condominium Association fails to perform its maintenance responsibilities hereunder or to comply with this Marina Declaration or the Permits, then the Marina Association or the Declarant may, upon not less than ten (10) Days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Condominium Association for all costs incurred.

5.4 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary and/or appropriate. All maintenance shall be performed in a manner consistent with all Governing Documents. Neither the Marina Association, the Condominium Association, nor any Member shall be liable for any damage or injury occurring on, or
arising out of the condition of property which such party does not own or possess, except to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE 6. INSURANCE AND CASUALTY LOSSES

6.1 Condominium Association Insurance.

(a) Required Coverages. Subject to the requirement of contribution from the Marina Association set forth in Section 6.5, the Condominium Association, acting through its board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Casualty insurance covering all of the Marina Facilities (whether owned by the Condominium Association or the Marina Association) in an amount sufficient to cover the full replacement cost of the insured property and improvements, but excluding improvements to be insured by the Slip Grantees pursuant to Section 6.3. Such insurance shall include or afford protection against loss or damage by fire or other hazards covered by standard extended coverage or other perils of endorsement and such other risks of a similar nature or dissimilar nature as are or shall be customarily covered with respect to structures and improvements similar in construction and location; and

(ii) Commercial general liability insurance on the Marina Facilities, insuring the Condominium Association, the Marina Association and their members for damage or injury caused by the negligence of the Condominium Association, the Marina Association and/or any of their members, employees, agents, or contractors while acting on their behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars ($1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Condominium Association shall obtain such additional coverages or limits.

6.2 Marina Association Insurance. The Marina Association shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(ii) Directors and officers liability coverage; and

(iii) Fidelity insurance covering all Persons responsible for handling Marina Association funds in an amount determined by the Board's best business judgment but not less than an amount equal to one-sixth (1/6th) of the annual General Assessments on all Slips plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

6.3 Members' Insurance. Each Member, by virtue of obtaining a Slip, covenants and agrees with all other Members and the Marina Association to obtain and maintain in full force and effect all risk hazard insurance covering the Boat Lift serving, and watercraft moored at, the Slip and other personal property owned by the Member at the Marina Facilities in the amount of the replacement cost thereof (except that insurance for the replacement cost of the watercraft shall not be mandatory) together with
comprehensive liability insurance described below in connection with the use and enjoyment by Member, and Member’s invitees, heirs, personal representatives, successors and assigns, of the Slip, the Marina Facilities, and Member’s watercraft. Each Member shall cause the Condominium Association, the Marina Association, and their successors and assigns, to be named as additional insureds and shall provide copies of the certificates of insurance to the Condominium Association and the Marina Association. Each Member shall indemnify, defend and hold Marina Association harmless from and against any and all liability, claims, demands, fines, expenses and costs including, without limitation, reasonable attorneys fees, court costs, and other legal fees arising out of or in connection with the use and enjoyment by Member and Member’s tenants, guests, invitees, heirs, personal representatives, successors and assigns, of Marina Facilities.

Each Member shall, at Member’s cost and expense, obtain and maintain in full force and effect comprehensive liability insurance in connection with the use and operation of the Slip and the watercraft which is kept at the Slip. Such comprehensive liability insurance shall be at least in the amount of $100,000 per occurrence and shall name the Condominium Association and the Marina Association as additional insureds. Member shall provide copies of the certificates of insurance to the Marina Association prior to the Member or any tenant of the Member placing a watercraft within the Slip and thereafter upon renewal of such insurance.

6.4 Limitation of Liability. Notwithstanding the duty of the Marina Association and the Condominium Association to maintain and repair portions of the Marina Facilities, neither the Condominium Association, its board of directors, the Marina Association, the Board, their successors or assigns, nor any officer or director or committee member, employee, shall be liable to any Slip Grantee or any tenant, invitee or guest of a Slip Grantee for any injury or damage sustained at the Marina Facilities or for any injury or damage caused by the negligence or misconduct of any Slip Grantees or their family members, guests, invitees, agents, servants, contractors or lessees, whether such loss occurs at the Marina Facilities or individual vessels.

Each Slip Grantee, by executing a Slip Agreement, and any other Person having an interest in or right to use any portion of the Marina Facilities, by virtue of accepting such interest or right to use, shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands, and causes of action against the Condominium Association or the Marina Association arising from or connected with any matter for which the liability of the Condominium Association or the Marina Association has been disclaimed under this Section.

6.5 Insurance Allocation. The Marina Association shall contribute to the Condominium Association to cover its proportionate share of the insurance costs as determined by the calculation set forth in Section 2.1(f) above. This contribution shall be made in a manner consistent with the payment schedule of the insurance premium by the Condominium Association. Payment shall be due from the Marina Association no later than the effective date of such insurance policy, and the Marina Association shall assess the Slip Grantees for the Marina Association’s share as part of the General Assessment.

ARTICLE 7. ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation by Declarant.

(a) Declarant shall have the unilateral right to subject additional property to the provisions of this Marina Declaration and the jurisdiction of the Marina Association until twenty (20) years after the recording of this Marina Declaration in the Public Records. Such annexation shall be accomplished by filing a Supplemental Declaration executed by the Declarant in the Public Records, which instrument
shall specifically reference this Marina Declaration and subject the property described therein to the terms of this Marina Declaration. Such action shall not require the consent of any party other than the record owner of the property being submitted (if not the Declarant).

(b) Declarant may assign the right to annex property, and in such event the assignee of such right shall be substituted for the Declarant only for purposes of clause (a) above. Nothing in this Marina Declaration shall be construed to require Declarant or any successor to annex or develop any additional property in any manner whatsoever.

7.2 Withdrawal of Property. As long as the Declarant has the right to annex additional property pursuant to Section 7.1 above, Declarant may withdraw any property which has been subjected to the terms of this Marina Declaration provided such withdrawal is allowed by the Fermit. If the property to be withdrawn is or includes a Slip, then the Declarant must obtain the consent of the Slip Grantee(s) of the Slip(s) to be withdrawn.

7.3 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Marina Facilities to additional covenants and easements. Such additional covenants and easements shall be set forth in a Supplemental Declaration and shall require the written consent of the Slip Grantee or owner of any property that is encumbered by the additional covenants. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Marina Declaration as it applies to the subject property for such purposes as deemed appropriate in the Declarant's sole discretion.

ARTICLE 8. ASSESSMENTS

8.1 Creation of Assessments. The Marina Association is authorized to levy assessments against each Member and the Member’s Slip(s), in amounts determined from time to time by the Board. Each Member, by execution of a Slip Agreement, covenants and agrees to pay all assessments charged to the Slip by the Marina Association.

8.2 Types of Assessments. There shall be three (3) types of assessments: (a) General Assessments which shall be assessed against all Members equally and used to fund Common Expenses for the general benefit of all Members; (b) Specific Assessments which shall be assessed against those Members that benefit from such assessment and which funds shall be used to fund expenses for the benefit of such assessed Members; and (c) Special Assessments to fund expenses for unbudgeted expenses or expenses in excess of budgeted expenses.

8.3 Lien for Assessments. All assessments and other charges, together with interest (at a rate not to exceed the highest rate allowed by Florida law), late charges, costs of collection, and reasonable attorneys fees, court costs, and other legal fees, shall be a charge and continuing lien upon each Slip against which the assessment or charge is made until paid. All assessments, and other charges, together with interest, late charges, costs of collection, and reasonable attorneys fees, court costs, and other legal fees shall also be the personal obligation of the Member. Upon a transfer of a Slip, the transferee shall be jointly and severally liable with the transferor or any assessments and other charges due at the time of conveyance until such time as liabilities arising prior to the transfer have been satisfied.

The lien that is granted to the Marina Association may be foreclosed in the Circuit or County court in and for Flagler County, Florida. The Board may take such action as it deems necessary to collect assessments, surcharges and other charges by either an in personam action against the Slip Grantee responsible for payment of such assessments and other charges or by suit on the lien and foreclosure, or
both, and may settle and compromise the same if it is in the best interest of the Marina Association. Liens for assessments may be foreclosed by suit brought in the name of the Marina Association in a like manner as a foreclosure of a lien upon a lot under Chapter 720 of the Florida Statutes. The Marina Association may bid on the Slip at the foreclosure sale and the Marina Association may acquire, hold, lease, encumber and grant easement and use rights to any Slip so acquired in accordance with this Marina Declaration. Upon the foreclosure of a Slip, the former Member's membership in the Marina Association shall be deemed resigned to the Marina Association. Suit to recover a money judgment for unpaid Assessments, late charges, interest, costs, and attorneys fees, court costs, and other legal fees shall be maintainable without foreclosing or waiving the lien securing the same. Where a Mortgagor obtains title pursuant to foreclosure of the mortgage or deed in lieu of foreclosure, the Mortgagor shall not be personally liable for assessments against such Slip which became due prior to such acquisition of the Slip by the Mortgagor.

8.4 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Slip on the date which the Slip is conveyed to a Slip Grantee other than the Declarant or the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual General Assessment levied on each Slip shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Slip and shall be due and payable at closing of the transfer of the Slip to the Member.

8.5 No Waiver. No Member may waive or otherwise become exempt from liability for assessments by non-use of any or all of the Marina Facilities. The obligation to pay assessments is a separate and independent covenant on the part of each Member. No diminution, abatement or set-off shall be claimed or allowed.

8.6 Payment of Assessments. Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may impose special requirements for Members with a history of delinquent payment. Unless the Board otherwise provides, the General Assessment shall be due and payable in advance on the first day of each fiscal year. Special Assessments and Specific Assessments shall be payable on or before the date specified in the notice of the Special Assessment or Specific Assessment. If any Member is delinquent in paying any assessments or other charges levied upon the Slip, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) day following the due date unless otherwise specified by Board resolution.

8.7 Computation of General Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.10. Additionally, if the Slips are not separately assessed real estate parcels, then the Marina Association shall collect the taxes assessed against the Slips and Exclusive Common Area as a Common Expense.

General Assessments shall be levied equally against all Slips regardless of the size or other variables that may differentiate one Slip from another Slip. The assessment rate shall be set at a level which is reasonably expected to produce total income for the Marina Association equal to the total budgeted Common Expenses, including any reserves. In determining the level of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Marina Association, including any surplus from prior years.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Member at least thirty (30) Days prior to the beginning of the fiscal year for
which it is to be effective. Such budget and assessment shall become effective unless disapproved at a
meeting by Members holding at least sixty-seven percent (67%) of the total votes in the Marina
Association. There shall be no obligation to call a meeting for the purpose of considering the budget
except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which
petition must be presented to the Board within twenty (20) Days after the date of the notice of
assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become
effective until after such meeting is held, provided such assessments shall be retroactive to the original
effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or if the Board fails for any reason to determine the budget
for any year, then until such time as a budget is determined, the budget in effect for the immediately
preceding year shall continue for the current year. In such event or if the budget proves inadequate for
any reason, the Board may prepare a revised budget for the remainder of the fiscal year. The Board shall
send a copy of the revised budget to each Member at least thirty (30) Days prior to its becoming effective.
The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.8 Special Assessments. In addition to other authorized assessments the Marina
Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses
in excess of those budgeted. Any such Special Assessment may be levied against all Members, if such
assessment is for Common Expenses, or against the Members to be specifically benefited by the
assessment. Special Assessments shall be allocated equally among all Slips subject to such Special
Assessment. Any Special Assessment shall become effective unless disapproved at a meeting by
Members holding at least sixty-seven percent (67%) of the total votes allocated to Slips which will be
subject to such Special Assessment. There shall be no obligation by the Board to call a meeting for the
purpose of considering any Special Assessment except on petition of the Members as provided for special
meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within twenty (20)
Days after the date of the notice of such Special Assessment.

8.9 Specific Assessments. The Marina Association shall have the power to levy Specific
Assessments against a particular Slip or Slips as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits,
items, or services to the Slip(s) or a Member’s Exclusive Common Area upon request of the Member
pursuant to a list of special services which the Board may from time to time authorize to be offered to
Members, which assessments may be levied in advance of the provision of the requested benefit, item or
service as a deposit against charges to be incurred by the Slip Grantee;

(b) to cover the costs associated with maintenance, repair or replacement of any portion
of the Marina Facilities in instances where the maintenance, repair or replacement was necessitated by
negligent acts or omissions of the Slip Grantee, its tenants, guests, and invitees;

(c) to cover all costs incurred in bringing the Slip(s) or Exclusive Common Area into
compliance with the terms of the Governing Documents or Permits; and

(d) to cover costs incurred as a consequence of the conduct of the Member or its tenants or
guests, their agents, contractors, employees, or licensees. In addition, fines levied by the Marina
Association pursuant to Section 4.7 shall constitute Specific Assessments.

8.10 Reserve Budget. The Board, in its sole discretion, annually prepare reserve budgets
for general purposes which take into account the dredging and the replacement costs and periodic
maintenance requirements of the Exclusive Common Area. The Board shall include in the general budget reserve amounts sufficient to meet the projected needs of the Marina Association.

8.11 Capitalization of Association. Upon acquisition of a Slip by the initial Slip Grantee from the Declarant, a contribution shall be made by the initial Slip Grantee to the working capital of the Marina Association in an amount equal to Three Hundred Dollars ($300.00). This amount, which may be used by the Marina Association to satisfy any obligations or to be placed into a reserve fund, shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Marina Association at closing of the transfer of the Slip to the first Slip Grantee.

ARTICLE 9. SLIP IMPROVEMENT STANDARDS

9.1 Compliance. All improvements installed on any portion of the Marina Facilities shall be approved by the Board prior to commencement of installation and designed and built in accordance with the Governing Documents, the Permits and applicable federal, state and local laws and regulations. The Marina Association shall have no authority to grant any variance from the requirements of the Permits and applicable federal, state and local laws and regulations.

9.2 Member Improvements. A Member may, at its cost and expense, and only with the prior written approval of the Marina Association, install, erect or construct and/or maintain certain improvements affecting the Member’s Slip and/or the adjacent Finger Dock, provided that such improvements shall comply with the approval process implemented by the Board and the specifications required by the Board, which specifications shall be consistent with the Permits.

Each Member acknowledges that a boat lift for the benefit of the Slip has been installed by the Declarant and shall be the personal property of each Slipp Grantee. The Declarant makes no warranty of merchantability, fitness for a particular purpose, or otherwise related to the boat lift. All future costs to maintain, repair and replace the boat lift serving the Slip shall be the responsibility of the Member, and its successors and assigns. The installation of replacement boat lifts shall require the approval of the Marina Association, including approval as to the type of boat lift to be installed.

Each Member acknowledges that a dock box with electric and water utility connections has been installed by the Declarant. The Declarant makes no warranty of merchantability, fitness for a particular purpose, or otherwise related to the dock box. Future costs to provide routine maintenance, repair, or replacement to the dock box shall be the responsibility of the Marina Association, but the costs of repair or replacement to a dock box caused by the negligent acts or omissions of a Slip Grantee or its tenants, guests and invitees shall be assessed the Slip Grantee as a Specific Assessment. The dock box shall remain in its current location unless otherwise approved by the Marina Association.

Except as provided herein, no Slip Grantee shall make any addition, alteration or improvements to its Slip, the Common Area or the Exclusive Common Area, and no fence, wall, gate, barrier, or other structure or improvement may be erected, installed, maintained upon the Slip or the Exclusive Common Area.

9.3 Completion of Improvements. Upon commencement construction of any approved improvement by a Member, such Member shall diligently continue construction of the improvement. Unless the Board provides otherwise, all construction must be completed within forty-eight (48) hours after its commencement. The Member constructing any approved improvement shall be responsible for the maintenance, repair, and replacement of such improvement.
9.4 **No Waiver of Future Approvals.** Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.5 **Limitation of Liability.** Neither Declarant, the Marina Association nor the Board shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved improvements on or to any Slip or Exclusive Common Area.

9.6 **Enforcement.** Declarant or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter any Slip or the Exclusive Common Area to inspect for the purpose of ascertaining whether any improvement is in violation of the Governing Documents. Any improvement made in violation of the same shall be deemed nonconforming. Upon written notice from the Board, a Member shall, at Member’s own cost and expense, remove such improvement and restore the property to substantially the same condition as existed prior to the commencement of the nonconforming work. Should a Member fail to remove and restore the property as required, any authorized agent of Declarant or the Board shall have the right to enter the Slip and/or the Exclusive Common Area, remove the violation, restore the property to substantially the same condition as previously existed and assess the cost of such action against the Member's Slip as a Specific Assessment. Entry for such purposes and in compliance with this Section shall not constitute a trespass.

**ARTICLE 10. USE OF MARINA FACILITIES**

10.1 **General.** Use of the Marina Facilities shall be subject to the Governing Documents and the Permits. Neither the Declarant nor the Marina Association shall have any duty or obligation to apply for any modification of any of the Permits at any time. Each Member shall maintain his or her Slip and vessel in a neat and orderly condition and shall not allow trash or debris to accumulate or to be carried by the wind or otherwise scattered within the Marina Facilities.

10.2 **Use Restrictions.** In addition to any other use restrictions on the Marina Facilities set forth herein in the other Governing Documents, or in the Permits, use of the Marina Facilities shall be subject to the following provisions:

(a) Liveboards are prohibited. The specific criteria for this prohibition shall be set forth in the rules and regulations of the Marina Association, provided that such criteria shall be no less restrictive than the standards established by the Permits;

(b) The installation or operation of a sewage pump-out facility or the discharge of sewerage at the Marina Facilities is prohibited; each Slip Grantee, as a member of the Condominium Association, and tenants, invitees, and/or guests may utilize the restroom facilities at the clubhouse of the Condominium;

(c) No fueling facility shall be installed or operated within the Marina Facilities without the prior consent of the Declarant and without an amendment to those Permits and agreements that currently prohibit such fueling facilities;

(d) No sign of any kind shall be permitted on any Slip or vessel without the prior consent of the Board and the Declarant, except that signs installed by the Declarant shall not require Board approval;
(e) No boat repair facilities shall be installed or operated on any structure on the Marina Facilities. Boat maintenance or repair activities requiring removal of a vessel from the water, or removal of any major portion of the vessel (including the engine) is prohibited except where removal is necessitated by emergency conditions which have resulted in or could result the sinking of a vessel. Hull cleaning, hull painting, and any discharges or release of oils or greases associated with engine and hydraulic repairs and related metal based bottom paints associated with hull scraping, cleaning and painting are specifically prohibited. Minor repairs and boat maintenance that will not cause or contribute to the release of pollutants into the waters and which are performed by Members or qualified marine mechanics, may be permitted by the Board;

(f) Watercraft berthed in a Slip shall not exceed twenty-five (25) feet in length unless the Permits are later amended to provide for longer watercraft and the Marina Association approves the mooring of such longer watercraft;

(g) No Slips, Exclusive Common Area or watercraft moored at the Slips shall be used for any commercial purposes, except for Slips, Exclusive Common Area and/or watercraft controlled by the Declarant;

(h) No in-water construction activities within the Marina Facilities shall be performed by any Person other than the Declarant or the Marina Association or their employees, contractors, agents or designees without the express written consent of the Board. Any in-water construction activities shall be conducted in compliance with the terms of the Permits;

(i) No fires, barbecues or other dangerous activities will be permitted in, on, or at the Marina Facilities at any time.

(j) No recreational swimming or diving shall occur within the Marina Facilities. Children under 14 years of age shall be supervised by an adult when at the Marina Facilities. The Condominium Association or the Marina Association, as applicable, may impose a more restrictive requirement regarding children at the Marina Facilities.

(k) Pets shall be kept under control at all times while within the Marina Facilities. Dogs must be leashed at all times. All pet excrement shall be cleaned and immediately disposed of in a proper trash receptacle;

(l) Garbage and trash must be disposed of in enclosed containers. No discharges shall be allowed in the waters of the Marina Facilities, including, without limitation, the discharge of sewage or dumping of bilge water containing oil or other petroleum products, paint, varnish, debris, or any other such items into the waters at the Marina Facilities.

(m) All persons shall comply with all of the requirements of all applicable governmental authorities with respect to the occupancy and use of the Marina Facilities;

(n) Fishing is not authorized from any Finger Dock unless both of the Slip Grantees of the Slip(s) adjacent to the Finger Dock consent. The Condominium Association or the Marina Association, as applicable, may impose additional restrictions on fishing activities through their respective rules and regulations. All permitted fishing activities shall be conducted in a clean and sanitary manner. The bleeding and/or cleaning of fish within the Marina Facilities is prohibited; and
(o) No personal property may be stored, placed, kept or maintained at the Marina Facilities except in the dock boxes provided for such purpose.

10.3 Manatee Protections. The Marina Association shall comply with the obligations set forth by the Permits relating to the protection of manatees as required by the Permits and federal, state and local laws and regulations. Costs incurred by the Marina Association in connection with providing manatee protections shall be a Common Expense.

(a) Manatee exclusion devices consisting of bars or gratings spaced no more than eight (8) inches apart shall be maintained over the accessible end(s) of all culverts or pipes within the Marina Facilities having a diameter greater than eighteen (18) inches. The maintenance of these bars or gratings by the Marina Association shall be required for any submerged or partially submerged pipes or culverts that may be accessible to manatees during any tidal phase.

(b) If not already implemented by the Declarant, the Marina Association shall implement and maintain a manatee educational program, approved by the Bureau of Protected Species Management, which shall include, but not be limited to, permanent signs and manatee educational brochures and pamphlets, which materials shall be made available at all times within a centralized display located within the Marina Facilities or in the office space leased by the Marina Association at the clubhouse at the Condominium.

10.4 Watercraft Approval. Each vessel that is brought or kept within the Marina Facilities or any of the Slips first shall be approved by the Marina Association. No such approval of the watercraft by the Marina Association shall be deemed any representation that such watercraft is seaworthy or safe or in compliance with the Permits. As part of the approval process, each Slip tenant, or the invitee, tenant or guest owning the vessel that is to be moored at the Slip, shall provide the Board with information about the vessel as requested by the Board, including, without limitation, a recent photograph of the vessel, proof of such vessel’s ownership, the vessel’s length and width, model, make, name, and registration numbers. Proof of a minimum of $100,000 of liability insurance on the vessel and the years of experience of the vessel’s operator shall also be provided.

10.5 Nuisance. Each Member shall be responsible to prevent his or her Slip, boat lift, Exclusive Common Area, and vessel from becoming unclean, unsightly, unsanitary or a health hazard. No noxious or offensive activity shall occur within the Marina Facilities or on a vessel, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using the Marina Facilities.

ARTICLE 11. EASEMENTS

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Marina Association and the Members, and their successors or assigns.

11.1 Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself, the Marina Association, and the designees of each to enter upon, in, over, under and across any portion of the Marina Facilities, inclusive of the Exclusive Common Area and Slips, for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Marina Association’s officers, committee Members, agents, employees including but not limited to the Dockmaster, and managers of the Marina Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the
performance of their duties. Except in emergencies, entry of a Slip shall be only during reasonable hours and after notice to the Member possessing the easement and use rights of the applicable Slip. This easement includes, but is not limited to, the right to enter the Slip to cure any condition which may increase the possibility of fire, erosion, immediate risk of personal injury, or other hazard if Member fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any watercraft without permission of the Member, except in emergency circumstances. Such entry shall not constitute a trespass.

11.2 Easements for Maintenance and Enforcement. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant rights and easements for itself and for the Marina Association, and the designees of each to enter all portions of the Marina Facilities, including all Exclusive Common Area and Slips but excluding the interior of any watercraft, to (i) perform its maintenance responsibilities under the Governing Documents and the Permits, including, without limitation, to provide dredging of the Marina Facilities, and (ii) make inspections to ensure compliance with the Governing Documents and the Permits. Except in emergencies, entry onto Exclusive Common Area or a Slip shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to each Member's enjoyment of his or her Slip, and any damage caused by the Marina Association or its employees, agents and designees shall be repaired by the Marina Association at its expense. All Slip Grantees shall be responsible for removing watercraft from the Marina during all times when requested by the Declarant or by the Board, including during times when dredging is to occur at the Marina Facilities. The Board may remove any watercraft, without liability to the Slip Grantee or to the owner of the vessel, when necessitated for the Marina Association to provide maintenance of the Marina Facilities, including, without limitation, any dredging activities.

The Marina Association may also enter any Slip, excluding the interior of any watercraft, to abate or remove, using such measures as may be reasonably necessary, any structure, item or condition which violates the Governing Documents or the Permits. This right shall include the right to remove the vessel from the Slip where such action is permitted pursuant to the terms of this Marina Declaration.

Any such removal under this Section 11.2 shall be at the Slip Grantee's expense and may be assessed as a Specific Assessment.

11.3 Easements for Utilities.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself and for the Marina Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Marina Facilities to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing lights, signage and other such items; and all utilities, including, but not limited to, water and electricity, and utility meters; and an easement for access of pedestrian traffic over, across, and through the Marina Facilities, as necessary, to exercise the easements described above.

(b) Declarant may assign to the local water supplier, electric company or other such utility, the easements set forth herein across the Marina Facilities for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(c) Any damage resulting from the exercise of the easements described in subsections (a) and (b) of this Section promptly shall be repaired by, and at the expense of, the Person exercising the
easement. The exercise of these easements shall permit unreasonable interference with the use of any Slip, and except in an emergency, entry onto any Slip shall be made only after reasonable notice to the Member.

11.4 Liability for Use of Easements. No Slip Grantee shall have a claim or cause of action against the Declarant, the Marina Association, their successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder, except in cases of willful or wanton misconduct.

11.5 Costs. All costs incurred, including reasonable attorneys fees, court costs, and other legal fees incurred by the Declarant or the Marina Association in the exercise of the easements set forth in this Marina Declaration, may be assessed against the applicable Slip Grantee as a Specific Assessment. Entry under the provisions of this Article shall not constitute a trespass, and the Declarant, the Marina Association and the Board shall not be responsible for any liability or damages that occur resulting from the entering, towing or removal of the vessel from the Slip or the Marina Facilities.

ARTICLE 12. DECLARANT'S RIGHTS

12.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Marina Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Marina Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

12.2 Development and Sales. For as long as the Declarant may add additional property to this Marina Declaration pursuant to Section 7.1, the Declarant may maintain and carry on the Marina Facilities such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Marina Facilities and/or the construction of the Marina Facilities or marketing of the Slips or Units. The Declarant and its authorized representatives shall have easements over the Marina Facilities for access, ingress and egress to such activities. Additionally, the Declarant shall be permitted to maintain, until such time as Declarant conveys all Slips, one or more slips for use as display models for marketing purposes.

ARTICLE 13. GENERAL PROVISIONS

13.1 Duration. The covenants and restrictions of this Marina Declaration shall run with and bind all of the Marina Facilities, and shall inure to the benefit of and shall be enforceable by the Marina Association, its respective legal representatives, heirs, successors, and assigns, and to the extent applicable, by the Condominium Association, its respective legal representatives, heirs, successors and assigns. In the case of the expiration of this Marina Declaration by the operation of law, this Marina Declaration shall automatically be extended for successive periods of twenty (20) years. Every Member or holder of any interest (including, without limitation, a security interest) in any property subject to this Marina Declaration, by accepting a conveyance of use rights to any portion of the Marina Facilities, agrees that the covenants and restrictions of this Marina Declaration shall be extended and renewed as provided in this Section.

13.2 Amendment. This Marina Declaration may be amended by the Declarant for any purpose so long as the Declarant owns has the unilateral right to subject additional property to this Marina Declaration pursuant to Section 7.1. Thereafter, this Marina Declaration may be amended upon the
recommendation of the Board and subsequent approval of the Members by the affirmative vote of at least 67% of the Members authorized to vote.

13.3 **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

13.4 **Grants.** This Marina Declaration, and the easements created herein shall be and constitute covenants running with the Marina Land. The grants and reservations of easements in this Marina Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Marina Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted or reserved in this Marina Declaration.

13.5 **Non-Merger.** Notwithstanding the fact that Declarant is the current owner of the Marina Land, it is the express intention of Declarant that the easements established in this Marina Declaration for the benefit of the Marina Land and shall not merge into the interest of Slips transferred by Declarant or its successor, but that the estates of the Declarant and the Slip Grantees shall remain as separate and distinct estates. Any transfer or conveyance of all or a portion of the Marina Land shall be subject to the terms and provisions of this Marina Declaration, regardless of whether the instrument of conveyance refers to this Marina Declaration.

13.6 **Perpetuities.** If any of the covenants, conditions, restrictions, or other provisions of this Marina Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

13.7 **Disclosure.**

Because the real property under the Marina Facilities (including, without limitation, the Slip) is within a federal right of way in favor of the United States Army Corps of Engineers for the Intracoastal Waterway, this Marina Declaration shall be subject to terms of the Department of Army Permit and the other Permits. Grantor makes no representation or warranty that the permits will provide for perpetual existence of the Marina Facilities or that the permits will not be otherwise modified. Each Slip Grantee, through execution of a Slip Agreement, shall accept the risk that any or all of the permits could be revoked, in which event all Slip Grantees would be deprived of all uses of the Slip, either temporarily or permanently. Declarant’s interest in the Marina Facilities was obtained by quitclaim deed and Declarant makes no warranty related to title of the land containing the Marina Facilities. No Slip Grantee shall be entitled to any refund of consideration tendered for the Slip or the rights granted to purchaser in the Slip Agreement under any circumstances.
IN WITNESS WHEREOF, Developer has caused these presents to be duly executed this 19th day of October, 2004.

WITNESSES:

CENTEX HOMES, d/b/a CENTEX DESTINATION PROPERTIES, a Nevada general partnership

BY: CENTEX REAL ESTATE CORPORATION,
a Nevada corporation
    Its: Managing General Partner

By: JOHN P. LENIHAN, Division President

(CORPORATE SEAL)

STATE OF FLORIDA
Seminole COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this 19th day of October, 2004, by JOHN P. LENIHAN, a Division President of CENTEX REAL ESTATE CORPORATION, a Nevada corporation on behalf of the corporation, as the General Partner of CENTEX HOMES, a Nevada general partnership, d/b/a Centex Destination Properties, who is personally known to me. He affixed thereto the seal of the corporation.

My Commission Expires:

DIANA C. GARCIA
Notary Public

Printed Name of Notary Public
EXHIBIT "A"

Land Submitted to this Marina Declaration

[To be inserted]
EXHIBIT "A"

Land Submitted to this Marinas Declaration

A PARCEL OF LAND BEING A PORTION OF THE RIGHT-OF-WAY OF THE INTRACOASTAL WATERWAY (500'W/Y) RECORDED IN MAP BOOK 4, PAGES 1 THROUGH 8 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF GOVERNMENT SECTION 38, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A DISTANCE OF 1815.92 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY (500'W/Y), SAID NORTH RIGHT-OF-WAY LINE BEING COMMON AS THE SOUTHERLY BOUNDARY LINE OF LAND RECORDED IN OFFICIAL RECORDS BOOK 550, PAGES 1828 THROUGH 1870, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE DEPARTING SAD EAST LINES OF SECTION 38 NORTH 64°40'00" EAST ALONG SAID COMMON LINE A DISTANCE OF 330.30 FEET TO A POINT ON THE WESTERN RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY (500'W/Y), THENCE CONTINUE NORTH 64°40'00" EAST A DISTANCE OF 137.09 FEET TO A POINT ON THE MEAN HIGH-WATER LINE OF THE INTRACOASTAL WATERWAY SAID POINT BEING THE SOUTHEAST CORNER OF LAND RECORDED IN OFFICIAL RECORDS BOOK 550, PAGES 1828 THROUGH 1870, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION, THENCE DEPARTING ST JOE CANAL NORTH 21°34'53" WEST ALONG THE EASTERN BOUNDARY LINE OF LAND RECORDED IN OFFICIAL RECORDS BOOK 550, PAGES 1828 THROUGH 1870, A DISTANCE OF 638.25 FEET, THENCE NORTH 18°07'31" WEST A DISTANCE OF 150.15 FEET, THENCE NORTH 17°45'07" WEST A DISTANCE OF 112.86 FEET, THENCE NORTH 15°07'11" WEST A DISTANCE OF 210.83 FEET, THENCE NORTH 20°07'01" WEST A DISTANCE OF 151.27 FEET, THENCE DEPARTING EASTERN BOUNDARY LINE AND MEAN HIGH WATER LINE NORTH 70°44'06" EAST A DISTANCE OF 95.03 FEET TO A POINT ON THE CENTER OF THE RIGHT-OF-WAY OF THE INTRACOASTAL WATERWAY (500'W/Y), THENCE SOUTH 19°13'11" EAST ALONG SAID CENTER OF THE INTRACOASTAL WATERWAY RIGHT-OF-WAY A DISTANCE OF 386.81 FEET, THENCE SOUTH 22°37'11" EAST A DISTANCE OF 308.26 FEET, THENCE DEPARTING SAID CENTER OF RIGHT-OF-WAY SOUTH 89°32'46" WEST A DISTANCE OF 83.84 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 2.2 ACRES MORE OR LESS.

TOGETHER WITH

A PARCEL OF LAND BEING A PORTION OF THE RIGHT-OF-WAY OF THE INTRACOASTAL WATERWAY (500'W/Y) RECORDED IN MAP BOOK 4, PAGES 1 THROUGH 4, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, Lying Within Government Section 38, Township 11 South, Range 31 East, Flagler County, Florida, Being More Particularly Described As Follows:

A POINT OF REFERENCE BEING THE SOUTHWEST CORNER OF GOVERNMENT SECTION 38, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A DISTANCE OF 1815.92 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY (500'W/Y), SAID NORTH RIGHT-OF-WAY LINE BEING COMMON AS THE SOUTHERLY BOUNDARY LINE OF LAND RECORDED IN OFFICIAL RECORDS BOOK 550, PAGES 1828 THROUGH 1870, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, THENCE DEPARTING SAD EAST LINES OF SECTION 38 NORTH 64°40'00" EAST ALONG SAID COMMON LINE A DISTANCE OF 330.30 FEET TO A POINT ON THE WESTERN RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY (500'W/Y), THENCE CONTINUE NORTH 64°40'00" EAST A DISTANCE OF 137.09 FEET TO A POINT ON THE MEAN HIGH-WATER LINE OF THE INTRACOASTAL WATERWAY (500'W/Y), THENCE DEPARTING SAD EAST LINES OF LAND RECORDED IN OFFICIAL RECORDS BOOK 550, PAGES 1828 THROUGH 1870, A DISTANCE OF 638.25 FEET, THENCE NORTH 18°07'31" WEST A DISTANCE OF 150.15 FEET, THENCE NORTH 17°45'07" WEST A DISTANCE OF 112.86 FEET, THENCE NORTH 15°07'11" WEST A DISTANCE OF 210.83 FEET, THENCE NORTH 20°07'01" WEST A DISTANCE OF 151.27 FEET, THENCE DEPARTING EASTERN BOUNDARY LINE AND MEAN HIGH WATER LINE NORTH 70°44'06" EAST A DISTANCE OF 95.03 FEET TO A POINT ON THE CENTER OF THE RIGHT-OF-WAY OF THE INTRACOASTAL WATERWAY (500'W/Y), THENCE SOUTH 19°13'11" EAST ALONG SAID CENTER OF THE INTRACOASTAL WATERWAY RIGHT-OF-WAY A DISTANCE OF 386.81 FEET, THENCE SOUTH 22°37'11" EAST A DISTANCE OF 308.26 FEET, THENCE DEPARTING SAID CENTER OF RIGHT-OF-WAY SOUTH 89°32'46" WEST A DISTANCE OF 83.84 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINING 0.9163 ACRES MORE OR LESS.

AT:15563v6
EXHIBIT "B"

By-Laws of the Canopy Walk Marina Association, Inc.
BY-LAWS

OF

CANOPY WALK MARINA ASSOCIATION, INC.
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BY-LAWS
OF
CANOPY WALK MARINA ASSOCIATION, INC.

ARTICLE 14. NAME, PRINCIPAL OFFICE, AND DEFINITIONS

14.1 Name. The name of the corporation is Canopy Walk Marina Association, Inc. (the
"Marina Association"), a Florida nonprofit corporation.

14.2 Principal Office. The principal office of the Marina Association shall be at 445
Douglas Avenue, Suite 1805, Altamonte Springs, Florida 32714. The Marina Association may
have such other offices, either within or outside the State of Florida, as the Board of Directors
may determine or as the affairs of the Marina Association may require.

14.3 Definitions. The words used in these By-Laws shall be given their normal,
commonly understood definitions. Capitalized terms shall have the same meaning as set forth in
that Declaration of Covenants, Conditions and Easements for Canopy Walk Marina filed in the
Public Records, as it may be amended (the "Declaration"), unless the context indicates
otherwise.

ARTICLE 15. MARINA ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING,
PROXIES

15.1 Membership. The Marina Association shall have two (2) classes of membership,
Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining
to membership are incorporated by this reference.

15.2 Place of Meetings. Meetings of the Marina Association shall be held at the
principal office of the Marina Association or at such other suitable place convenient to the
Members as the Board may designate. Meetings may be held by means of telephone conference,
video conference or similar communications equipment, by means of which all persons
participating in the meeting can converse with each other. Participation by one of these methods
shall constitute presence in person at such meeting.

15.3 Annual Meetings. The first meeting of the Marina Association, whether a regular
or special meeting, shall be held within one (1) year from the date of incorporation of the Marina
Association. Subsequent regular meetings shall be held annually on a date and at a time set by
the Board.

15.4 Special Meetings. The president may call special meetings. In addition, it shall be
the duty of the president to call a special meeting within thirty (30) Days if so directed by
resolution of the Board or upon a petition signed by Members holding at least sixty percent
(60%) of the total Class "A" Votes in the Marina Association or upon written request of the
Declarant.
15.5 Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor more than twenty (20) Days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

15.6 Waiver of Notice. Waiver of notice of a meeting of the Marina Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Marina Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof, unless a specific objection as to the lack of proper notice is given at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

15.7 Adjournment of Meetings. If any meeting of the Marina Association cannot be held because a quorum is not present, Members or their proxies holding a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than twenty (20) Days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.5.

15.8 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access.

15.9 Proxies. At all meetings of the Members, each Member may cast its votes in person (if a corporation, partnership, limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Florida law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. Every proxy shall be in writing specifying the Slip(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Marina Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Slip for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person,
or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

15.10 Quorum. The presence, in person or by proxy, of sixty percent (60%) of the Class "A" votes entitled to be cast shall constitute a quorum at all meetings of the Marina Association.

If a quorum is present at a duly called or held meeting, business may be continued until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

15.11 Conduct of Meetings. The president shall preside over all meetings of the Marina Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

15.12 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Marina Association may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be signed within sixty (60) Days after receipt of the earliest dated consent, dated and delivered to the Marina Association at its principal place of business in the State of Florida. Such consents shall be filed with the minutes of the Marina Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) Days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

ARTICLE 16. BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

16.1 Governing Body; Composition. The affairs of the Marina Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be eligible Members. No Member shall be eligible to serve as a director if any assessment for such Member's Unit is delinquent. In the case of a Member that is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Marina Association signed by such Member, provided that no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as representatives of the Class "B" Member or the Declarant.

16.2 Number of Directors. The Board shall consist of three (3) directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three (3) directors appointed by the Class "B" Member as provided in Section 3.3. After the termination of the Class "B" membership, the Board may, by resolution, increase or decrease the number of directors.

16.3 Directors During Class "B" Membership. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall
serve at the pleasure of the Class "B" Member for so long as the Class "B" membership exists. Directors appointed by or serving as representatives of the Class "B" Member or the Declarant shall not be subject to the qualifications for directors set forth in Section 3.1.

16.4 Nomination and Election Procedures.

(a) Nomination of Directors. Nominations shall be permitted from the floor at a meeting of the Marina Association. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Directors appointed by or serving as representatives of the Class "B" Member or the Declarant shall not be subject to these nomination requirements.

(b) Election Procedures. Each Member may cast the vote(s) assigned to his or her Slip(s) for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

16.5 Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) At the first Marina Association annual meeting occurring after the termination of the Class "B" membership, or whenever the Class "B" Member earlier determines, the directors appointed by the Declarant shall resign and an election shall be held. Three (3) directors shall be elected by the Members.

Upon the expiration of the term of office of each director elected by the Members, the Members entitled to elect such director shall elect a successor to serve a term of two (2) years. The directors elected by the Members shall hold office until their respective successors have been elected.

16.6 Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by Members representing a Majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the spouse, relative, officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Marina Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected director, or the adoption of a Board resolution increasing the number of directors, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members entitled to fill such directorship may elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a
successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

B. Meetings.

16.7 Organizational Meetings. Within thirty (30) Days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

16.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one (1) such meeting shall be held during each year.

16.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two (2) directors.

16.10 Notice. Notice of a regular meeting shall be communicated to directors not less than four (4) Days prior to the meeting. Notice of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) electronic mail or e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be sent to the address at which a director has the right to be served notice or, if a director has not designated an address, to the address at which the director is actually located as shown on the records of the Manager Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, electronic mail, or e-mail shall be deemed communicated when delivered, telephoned, telecopied, electronically mailed, e-mailed, or given to the telegraph company.

16.11 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.
16.12 Participation in Meetings. Members of the Board may participate in a meeting of
the Board by means of telephone conference, video conference or similar communications
equipment, by means of which all persons participating in the meeting can converse with each
other. Participation in a meeting pursuant to this Section shall constitute presence in person at
such meeting.

16.13 Quorum of Board of Directors. At all meetings of the Board, a Majority of the
directors shall constitute a quorum for the transaction of business, and the votes of a Majority of
the directors present at a meeting at which a quorum is present shall constitute the decision of the
Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at
which a quorum is initially present may continue to transact business, notwithstanding the
withdrawal of directors, if any action taken is approved by at least a Majority of the required
quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not
present, a Majority of the directors present at such meeting may adjourn the meeting to a time
not less than four (4) nor more than twenty (20) Days from the date of the original meeting. At
the reconvened meeting, if a quorum is present, any business which might have been transacted
at the meeting originally called may be transacted without further notice.

16.14 Compensation. Directors shall not receive any compensation from the Marina
Association for acting as such unless approved by Members holding a Majority of the total Class
"A" votes in the Marina Association at a regular or special meeting of the Marina Association.
Any director may be reimbursed for expenses incurred on behalf of the Marina Association upon
approval of a Majority of the other directors. Nothing hereby shall prohibit the Marina
Association from compensating a director, or any entity with which a director is affiliated, for
services or supplies furnished to the Marina Association in a capacity other than as a director
pursuant to a contract or agreement with the Marina Association, provided that such director's
interest was made known to the Board prior to entering into such contract and such contract was
approved by a Majority of the Board of Directors, excluding the interested director.

16.15 Conduct of Meetings. The president shall preside over all meetings of the Board,
and the secretary shall keep a minute book of Board meetings, recording all Board resolutions
and all transactions and proceedings occurring at such meetings. In the case of a tie vote on a
motion or resolution before the Board, the motion or resolution is considered lost.

16.16 Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings
of the Board shall be open to all Members, but attendees other than directors may not participate
in any discussion or deliberation unless permission to speak is requested on an attendee's behalf
by a director. In such case, the president may limit the time any individual may speak.
Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in
executive session, and exclude persons other than directors, to discuss matters of a sensitive
nature, including but not limited to pending or threatened litigation and personnel matters.

16.17 Action Without a Formal Meeting. Any action to be taken at a meeting of the
directors or any action that may be taken at a meeting of the directors may be taken without a
meeting if a consent in writing setting forth the action so taken, is signed by all of the directors,
and such consent shall have the same force and effect as a unanimous vote.
C. Powers and Duties.

16.18 Powers. The Board shall have all of the powers and duties necessary for the administration of the Marina Association's affairs and for performing all responsibilities and exercising all rights of the Marina Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or Florida law do not direct to be done and exercised exclusively by the membership generally.

16.19 Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Member's share of the Common Expenses;

(b) levying and collecting such assessments from the Members;

(c) providing for the operation, care, upkeep, and maintenance of the areas required by the Declaration;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Marina Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Marina Association in a bank depository which it shall approve and using such funds to operate the Marina Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Marina Association and designating the signatories required;

(h) contracting for repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Marina Association in accordance with the Governing Documents;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the costs of all services rendered to the Marina Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Marina Association;
(m) making available to any Member, current copies of the Governing Documents and all other books, records, and financial statements of the Marina Association as provided in Section 6.4;

(n) providing maintenance and undertaking other actions necessary in order to comply with the Permits and other governmental restrictions;

(o) permitting utility suppliers to use portions of the Common Area or Exclusive Common Area reasonably necessary to the ongoing development or operation of the Marina Facilities; and

(p) indemnifying a director, officer, or former director or officer of the Marina Association to the extent such indemnity is required or permitted under Florida law or the Governing Documents.

16.20 Management. The Board may employ for the Marina Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager’s assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

16.21 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls shall conform to generally accepted accounting principles;

(c) cash accounts of the Marina Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Marina Association, whether in the form of commissions, finder’s fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Marina Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Marina Association shall be disclosed promptly to the Board; and

(f) an annual financial report shall be made available to all Members within one hundred twenty (120) Days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis as the Board determines.
16.22 Borrowing. The Marina Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Marina Association for that fiscal year, the Board shall obtain the approval of Members holding at least sixty-seven percent (67%) of the total votes allocated to Lots prior to borrowing such money.

16.23 Right to Contract. The Marina Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with the Condominium Association or with other such entities. No such agreements shall violate the Permits or allow for use of the Marina Facilities by Persons not permitted by the Governing Documents.

16.24 Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board within fifteen (15) Days of the notice, and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) Days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) Day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) Day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board may impose a sanction without further notice to the violator. The Board may adopt a schedule of sanctions for violations of the Governing Documents.

(b) Hearing. If a hearing is requested within the allotted fifteen (15) Day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

(c) Appeal. The decision of the Board at the hearing shall be final.

ARTICLE 17. OFFICERS

17.1 Officers. The officers of the Marina Association shall be a president and a secretary. The president shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers,
including one or more assistant secretaries, a treasurer and one or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

17.2 Election and Term of Office. The Board shall elect the officers of the Marina Association at the first meeting of the Board following each election of new directors. Such officers shall serve until their successors are elected.

17.3 Removal and Vacancies. The Board may remove any officer at any time in its sole discretion with or without cause and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

17.4 Powers and Duties. The officers of the Marina Association shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Marina Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a management company. The secretary shall be responsible for preparing minutes of meetings of the Marina Association and the Board and for authenticating records of the Marina Association.

17.5 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

17.6 Execution of Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Marina Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

17.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

ARTICLE 18. MISCELLANEOUS

18.1 Fiscal Year. The fiscal year of the Marina Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

18.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert’s Rules of Order Newly Revised (current edition) shall govern the conduct of Marina Association proceedings when not in conflict with Florida law, the Articles of Incorporation, the Declaration, or these By-Laws.

18.3 Conflicts. If there are conflicts between the provisions of Florida law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Florida law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.
18.4 Books and Records.

(a) **Inspection by Members and Mortgagors.** The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Slip, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Slip: the Declaration, By-Laws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Marina Association, and the minutes of meetings of the Members and the Board. The Board shall provide for such inspection to take place at the office of the Marina Association, which may include the office of the Marina Association’s management agent, if any, or at such other place within the Marina Facilities as the Board shall designate during normal business hours.

(b) **Rules for Inspection.** The Board may establish rules with respect to:

(i) notice to be given to the custodian of the records;
(ii) hours and days of the week when such an inspection may be made; and
(iii) payment of the cost of reproducing copies of documents requested.

(c) **Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Marina Association and the physical properties owned or controlled by the Marina Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Marina Association.

18.5 Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Slip of such Member; or

(b) if to the Marina Association, the Board, or the managing agent, at the principal office of the Marina Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Marina Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

18.6 Amendment.

(a) **By Declarant.** Until termination of the Class “B” membership, the Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; or (ii) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect any Member’s interest to any Slip unless the Member shall consent thereto in writing. In addition, until termination of the Class “B” membership, the
Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) **By Members.** Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Marina Association, and, until termination of the Class "B" membership, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) **Validity and Effective Date.** Any amendment to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If a Member consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.
EXHIBIT "C"

DIAGRAM DEPICTING TYPICAL SLIP