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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**ARTICLES OF INCORPORATION  
OF  
ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.  
a Florida corporation not-for-profit**

I, the undersigned natural person competent to contract, acting as incorporator of a corporation not-for-profit under Chapter 617 of the Florida Statutes, hereby adopt the following Articles of Incorporation:

**ARTICLE I  
NAME**

The name of the corporation shall be ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.,

**ARTICLE II  
PRINCIPAL OFFICE**

The principal office and mailing address of the Association shall be 28000 Spanish Wells Drive, Bonita Springs, FL 33923-6686.

**ARTICLE III  
PURPOSES**

1. The purposes and objects of the Association are such as are authorized under Chapter 617 of the Florida Statutes and include providing for the maintenance, preservation, administration and management of Island Marina to which reference is made in the Declaration of Covenants and Restrictions of Island Marina (the "Declaration"), a document recorded or which will be recorded in the office of the Clerk of the Circuit Court of Collier County, Florida.

2. The Association is organized and operated solely for administrative and managerial purposes. It is not intended that the Association show any net earnings, but no part of any net earnings that do occur shall inure to the benefit of any private shareholder except as otherwise herein provided to distributions or dissolutions. Except as otherwise herein provided as to distributions or dissolutions, the Association shall make no distributions of income to its shareholders, directors or officers.

**ARTICLE IV  
STOCK**

The Association shall have two classes of stock representing equitable ownership in the Association, as follows:

1. Class A Stock: There shall be authorized 79 shares of Class A voting stock, par value \$0.10 per share, one for each boat slip at Island Marina developed by Island Marina, Inc., a Florida corporation, the developer of Island Marina (the "Developer"). Each owner of a boat slip in the Marina shall be and be required to be the owner of a share of Class A stock. Each Class A share shall be identified with a particular boat slip, in connection with which it shall be sold and transferred. Ownership of a share of Class A stock shall carry with it the rights appurtenant to ownership of Units in the Marina described in the Declaration. Developer shall initially hold SEVENTY-NINE (79) of the

shares of Class A stock and shall transfer such stock in conjunction with transfers of boat slips at Island Marina for such consideration as Developer shall deem appropriate. Each share of Class A stock shall be entitled to one vote on matters properly put before the stockholders.

2. Class B Stock: There shall be authorized EIGHTY (80) shares of Class B voting stock, par value \$0.10 per share. Island Marina shall be the initial holder of all the shares of Class B stock. Each share of Class B stock shall be entitled to one vote on matters properly put before the Membership; provided, however, that at such time as ONE HUNDRED PERCENT (100%) of the Boat Slips in Island Marina and ONE HUNDRED PERCENT (100%) of the shares of Class A stock are transferred to persons other than Developer, the Class B stock shall terminate and shall have no further voting or other rights.

**ARTICLE V  
INCORPORATOR**

The name and address of the incorporator is:

<u>Name</u>	<u>Address</u>
Kenneth R. Johnson	3001 Tamiami Trail, North, #400 Naples, Florida 33940

**ARTICLE VI  
BOARD OF DIRECTORS**

1. The affairs of the Association shall be managed by a Board of Directors. The number of Directors shall be determined by the By-Laws but in no case shall be less than three and, in the absence of a specific number being designated by the By-Laws, the number of Directors on the Board of Directors shall be THREE (3). The Directors need not be stockholders in the Association. The Directors shall be elected by the stockholders as more fully described in the Association's By-Laws.

2. The names and addresses of the members of the first Board of Directors, who shall hold office until their successors are elected and have qualified or until removed, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
David A. McArdle	28000 Spanish Wells Drive Bonita Springs, FL 33923-6686
Richard B. Kepley	28000 Spanish Wells Drive Bonita Springs, FL 33923-6686
Joanna D. Boze	28000 Spanish Wells Drive Bonita Springs, FL 33923-6686

**ARTICLE VII**  
**OFFICERS**

The affairs of the Association shall be administered by the officers designated in the By-Laws. The officers shall be elected by the Board of Directors as provided in the By-Laws. The names and addresses of the officers who shall serve until the first election of officers are as follows:

<u>NAME</u>	<u>ADDRESS</u>
David A. McArdle, President	28000 Spanish Wells Drive Bonita Springs, FL 33923-6686
Richard B. Kepley, Vice President/Treasurer	28000 Spanish Wells Drive Bonita Springs, FL 33923-6686
Joanna D. Boze, Secretary	28000 Spanish Wells Drive Bonita Springs, FL 33923-6686

**ARTICLE VIII**  
**INDEMNIFICATION**

Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding or any settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred, if the director or officer acted in good faith and in a manner he believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

**ARTICLE IX**  
**BY-LAWS**

The first By-Laws of the Association shall be adopted by the Board of Directors and may be altered, amended or rescinded by the Board of Directors or the stockholders of the Association in the manner provided therein.

**ARTICLE X**  
**AMENDMENTS TO ARTICLES**

Amendments to these Articles of Incorporation may be proposed by at least one-third of the directors or by stockholders entitled to exercise at least one-third of the then authorized voting power. Amendments may be adopted by the affirmative vote of those stockholders exercising not less than SIXTY PERCENT (60%) of the total voting power of the outstanding stock of the Association. Additional requirements concerning proposal and adoption of amendments to the Articles of Incorporation shall be set forth in the By-Laws.

ARTICLE XI  
POWERS OF CORPORATION

In addition to powers otherwise specified herein, to promote the health, safety and welfare of the members of the Association, the Association may:

1. Exercise all of the powers and perform all of the duties of the Association as set forth in the Declaration and in the By-Laws, as those documents may from time to time be amended.
2. Determine, levy, collect and enforce payment by any lawful means of all assessments for common charges and pay such common charges as the same shall become due.
3. Engage the services of a professional management agent and delegate to such agent any of the powers or duties granted to the Association under the Declaration or By-Laws other than: the power to engage or discharge such agent; the power to adopt, amend and repeal the provisions hereof, or of the Declaration, By-Laws or Rules and Regulations of the Association; and to engage in activities which will actively foster, promote and advance the common ownership interests of the stockholders.
4. Take and hold by lease, gift, purchase, grant, license, devise or bequest any property, real or personal, including any unit in the Marina, borrow money and mortgage any such property to finance the acquisition thereof on the vote of stockholders exceeding not less than SIXTY PERCENT (60%) of the total voting power of outstanding shares, and transfer, lease and convey any such property.
5. Dedicate or otherwise transfer all or any portion of the Association's rights in common areas to any municipality, public agency, authority or utility on the approval of SIXTY PERCENT (60%) of the total voting power of the outstanding shares of stock.
6. Have and exercise any and all rights, privileges and powers which may be held or exercised by corporations not for profit generally under Chapter 617 of the Florida Statutes.

ARTICLE XII  
DISSOLUTION

The Association may be dissolved after termination of the Declaration as follows: On dissolution, the assets of the corporation shall be divided among the Class A stockholders in proportion to the relative fair market value of the Class A shares at the date of original issuance of such shares, as determined in the reasonable discretion of the Board of Directors or, on approval of stockholders exceeding not less than SIXTY PERCENT (60%) of the total voting power of the outstanding shares of stock, dedicated to an appropriate municipality, public agency or authority to be used for purposes similar to those for which the corporation is organized. In the event such dedication is not accepted, such assets shall be conveyed or assigned to any nonprofit corporation, association or other organization devoted to purposes similar to those for which this corporation is organized.

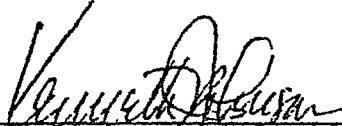
ARTICLE XIII  
TERM

The term of the Association shall be perpetual.

ARTICLE XIV  
REGISTERED AGENT

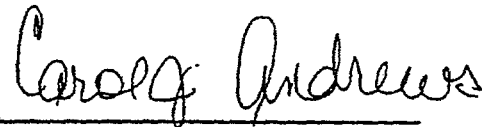
The initial registered agent of this not-for-profit corporation is KENNETH R. JOHNSON with offices at c/o Cummings & Lockwood, 3001 Tamiami Trail North, Naples, Florida 33940. The initial registered office is c/o Cummings & Lockwood, 3001 Tamiami Trail North, Naples, Florida 33940.

Executed in Naples, Florida, on January, 26, 1996.

  
KENNETH R. JOHNSON  
Sole Incorporator

STATE OF FLORIDA  
COUNTY OF COLLIER

ACKNOWLEDGED BEFORE ME on this 26<sup>th</sup> day of January, 1996, by KENNETH R. JOHNSON (X) who is personally known to me or (    ) who produced his driver's license as identification.




Notary Public  
State of Florida at Large  
My Commission Expires:

OFFICIAL NOTARY SEAL  
CAROL J ANDREWS  
NOTARY PUBLIC STATE OF FLORIDA  
COMMISSION NO. CC429000  
MY COMMISSION EXP. DEC. 22, 1998

(Notary Seal)

ACCEPTANCE OF REGISTERED AGENT

I, KENNETH R. JOHNSON, having been designated to act as registered agent for Island Marina Boat Slip Owners Association, Inc., hereby on behalf of such corporation agree to act in such capacity.



KENNETH R. JOHNSON

Date: January, 26, 1996

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SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

**EXHIBIT E**

**By-laws**

**BYLAWS  
OF  
ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.**

**ARTICLE I  
IDENTITY**

These are the Bylaws of Island Marina Boat Slip Owners Association, Inc. (the "Association"), a corporation not-for-profit existing under the laws of the State of Florida, organized for the purpose of administering that certain Marina Unit located with the condominium known as Marina Bay Club of Naples, a Condominium (the "Condominium") located in Collier County, Florida.

1.01 Principal office. The principal office of the Association shall be located at 28000 Spanish Wells Drive, Bonita Springs, FL 33923-6686, or at such other place as may be designated by the board.

1.02 Fiscal year. The fiscal year of the Association shall be the calendar year.

1.03 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida," the words "corporation not for profit" and the year of incorporation.

1.04 Definitions. For convenience, these Bylaws shall be referred to as the "Bylaws"; the Articles of Incorporation of the Association as the "Articles"; the Declaration of Covenants and Restrictions for Island Marina as the "Declaration"; the Declaration of Condominium for the Condominium as the "Declaration of Condominium"; "Members" shall mean the Boat Slip Owners as defined in the Declaration; and "Board" shall mean the board of directors of the Association. The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in the Declaration and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires.

**ARTICLE II  
MEETINGS OF MEMBERS AND VOTING**

2.01 Annual Meeting. The annual meeting of the Members shall be held on the first Monday in March or on such other date and at the place and time as determined by the Board from time to time, provided that there shall be an annual meeting every calendar year and no later than thirteen (13) months after the last annual meeting. The purpose of the meeting shall be to elect directors and to transact any other business authorized to be transacted by the Members.

2.02 Special meetings. Special meetings of the Members shall be held at such places as are provided for annual meetings and may be called by the president or by a majority of the Board, and must be called by the president or secretary on receipt of a written request from



members holding at least ten percent (10%) of the voting interests. Requests for a meeting by the Members shall state the purpose for the meeting and business conducted at any special meeting shall be limited to the matters stated in the notice.

2.03 Notice of annual meeting. Written notice of the annual meeting shall be given to each Member at least fourteen (14) days and not more than sixty (60) days before the meeting and shall be posted in a conspicuous place within the Marina Unit at least fourteen (14) days prior to the annual meeting.

2.04 Notice of special meetings, generally. Except as modified by the specific requirements for certain meetings as set out in these Bylaws, notice of special meetings, generally, shall state the place, day and hour of the meeting and the purpose or purposes for which the meeting is called. The notice shall be given to all Members not less than ten (10) or more than sixty (60) days before the date of the meeting. A copy of the notice of a special meeting shall be posted in a conspicuous place within the Marina Unit at least ten (10) days before the meeting.

2.05 Notice of budget meeting. The Board shall mail a notice of the meeting and a copy of the proposed annual budget to the Members not less than thirty (30) days before the meeting at which the Board will consider the budget.

2.06 Notice of meeting to consider excessive budget. If a budget adopted by the Board requires assessment against the Members for any calendar year exceeding one hundred fifteen percent (115%) of assessment for the preceding year, the Board, on written application of Members holding not less than ten percent (10%) of the voting interests, shall call a special meeting of the Members within not more than thirty (30) days and not less than ten (10) days after written notice to each Member.

2.07 Notice of meeting to consider recall of directors. A special meeting of the Members to recall a director may be called by Members holding at least ten percent (10%) of the voting interests giving notice of the meeting as required for a special meeting of the Members.

2.08 Notice of meeting to elect directors. Notice of a special meeting to elect a director or directors from Members other than the developer shall be given not less than thirty (30) days nor more than forty (40) days before the meeting. The meeting may be called and notice given by any Member if the Association fails to do so.

2.09 Quorum. A quorum at meetings of Members shall consist of persons entitled to cast, either in person or by proxy, a majority of the votes of entitled to be cast by all Members. Absentee ballots may not be counted in determining a quorum.

2.10 Voting. Number of votes. In any meeting of Members, the Unit Owners shall be entitled to cast one (1) vote for each Boat Slip owned. The vote of a Boat Slip is not divisible. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum is present shall be binding on all Members for all purposes unless Florida statutory law, the Declaration, the Articles, or these Bylaws require a larger proportion of vote, in which case that larger proportion shall control.

2.11 Membership-designation of voting member. Persons or entities shall become Members of the Association on the acquisition of a Boat Slip in the manner provided in the Declaration. Membership shall be terminated when a person or entity no longer owns a Boat Slip. If a Boat Slip is owned by more than one person, any record owner of the Boat Slip may vote in person or by proxy, provided that there shall be no more than one vote per Boat Slip. In the case of conflict among the owners of a Boat Slip, the vote for that Boat Slip shall not be counted as to the matter under consideration in which the conflict arose, and whether the conflict appears by vote in person or by proxy. Ballots may be cast for Boat Slips owned by corporations or partnerships by a president, vice president, a partner, or any person designated in a written certificate filed with the secretary of the Association and signed by a president or vice president of a corporation or a partner of a partnership.

2.12 Proxies; Powers of Attorney. Votes may be cast in person or by proxy. Each proxy shall set forth specifically the name of the person voting by proxy, the name of the person authorized to vote the proxy and the date the proxy was given. Each proxy shall contain the date, time and place of the meeting for which the proxy is given. If the proxy is a limited proxy, it shall set forth those items that the holder of the proxy may vote and the manner in which the vote is to be cast. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given, and it may be revoked at any time at the pleasure of the Member executing it. If the proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in place of such proxy holder; if such provision is not made, substitution is not authorized. The proxy shall be signed by the Member or Members (if more than one) or by the appropriate officer or partner of a corporation or partnership or other designated person mentioned in §2.11, or the duly authorized attorney-in-fact of that person or persons; provided, the power of attorney is filed with the secretary of the Association before or at the meeting for which the proxy is given. A person holding a power-of-attorney from a Member, properly executed and granting such authority, may designate himself or another person as proxy to vote on behalf of that Member so long as the instrument appointing the proxy complies with the requirements of this §2.12 and the person so designated is not precluded by these Bylaws from acting as a proxy.

2.13 Adjourned meetings. If any meeting of Members cannot be organized because a quorum is not present, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. The time and place to which the meeting is adjourned shall be announced at the meeting at which the adjournment is taken and a notice shall be posted in a conspicuous place within the Marina Unit at least forty-eight (48) hours prior to the meeting.

2.14 Proof of Service and Waiver of notice. All notices of meetings shall be in writing, and served either personally or by first class mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at the address last furnished to the Association, with postage for notice of any special meeting, by whomever called, shall be an obligation of the Association. An officer of the Association shall provide an affidavit, to be included in the official records of the Association, affirming that a notice of any meeting of

the Association was mailed or hand delivered, in accordance with the provisions of the Act and these bylaws, to each member of the Association at the address last furnished to the association. Members may waive their right to receive notice of any meeting, whether annual or special, by a writing signed by them to that effect. The waiver shall be filed with the secretary of the Association either before, at, or after the meeting for which the waiver is given.

2.15 Action by members without a meeting. Members may take action by written agreement without a meeting, on matters for which action by written agreement without meetings is expressly allowed by the applicable bylaws, the Declaration or any statute which provides for such action, as long as written notice is given to the Members or waived by the Members in the manner prescribed elsewhere in these bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these bylaws. The decision of a majority of the Members, or a larger proportion of the votes as otherwise may be required by the Act, the Declaration, the Articles or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership, provided a quorum submits a response. The notice shall set forth a time period within which responses must be made by the Members.

2.16 Minutes of meetings. The minutes of all meetings of Members shall be reduced to writing within thirty (30) days after the meeting and kept in a book available for inspection by Members or their authorized representatives, and directors at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven (7) years. Members and their authorized representatives shall have the right to make or obtain copies of the minutes and other official records of the Association, for a reasonable charge.

2.17 Order of business. The order of business at annual meetings of members and as far as practical at other meetings of Members, shall be:

- (A) Call to order
- (B) Election of a chairman of the meeting, unless the president or Vice president is present, in which case he shall preside
- (C) Calling of the roll, certifying of proxies, determination of a quorum
- (D) Proof of notice of the meeting or waiver of notice
- (E) Reading and disposal of any unapproved minutes
- (F) Reports of officers
- (G) Reports of committees
- (H) Appointment of inspectors of election
- (I) Determination of number of directors

- (J) Election of directors
- (K) Unfinished business
- (L) New business
- (M) Adjournment

2.18 Actions specifically requiring Unit Owner votes. The following actions require approval by the Members and may not be taken by the Board acting alone:

- (A) Amendments to the Declaration affecting the Marina Unit, except those made by the developer recording a certificate of surveyor.
- (B) Purchase of land or recreation lease.
- (C) Cancellation of certain grants or reservations made by the Declaration, a lease or other document and any contract made by the Association before the transfer of control of the Association from the developer to Members other than the developer.
- (D) Exercise of Option to purchase recreational or other commonly used facilities lease.
- (E) Waive the Collection of Reserves, or to provide for less than adequate reserves.
- (F) Recall of directors.
- (G) Other matters specifically pertaining to the Marina Unit contained in the Declaration, the Articles or these Bylaws that specifically require a vote of the Members.

### **ARTICLE III** **DIRECTORS**

3.01 Numbers and qualifications. The affairs of the Association shall be managed initially by a Board of three (3) directors selected by the Developer. When Members other than the Developer are entitled to elect a majority of directors, the Board shall be composed of any odd number of directors that the Members may decide. The number of directors, however shall never be less than three (3). Other than those selected by the Developer, directors must be either Members, officers of a corporate Boat Slip Owner, or partners of a partnership Boat Slip Owner, or beneficiaries of a trustee Boat Slip Owner. No director (except those selected by the Developer) shall continue to serve on the Board after ceasing to be a Boat Slip Owner.

3.02 Elections of directors. Directors shall be elected at the annual meeting of Members by a plurality of the votes cast. Each voter shall be entitled to cast the number of votes for as many nominees as there are vacancies to be filled. There shall be no cumulative voting. Not less than sixty (60) days before the annual meeting of the Members, a nominating committee of five (5) Members shall be appointed by the Board and the committee shall nominate one (1) person for each directorship to be filled. Nominations for additional directorships created at the meeting shall be made at the meeting. Other nominations also may be made at the meeting.

3.03 Term. Each director's term of service shall extend until the next annual meeting of the Members and thereafter until a successor is duly elected and qualified or until removed in the manner provided in §3.05. The Members, however, at any annual meeting after the developer has relinquished control of the Association and in order to provide a continuity of experience, may vote to create classes of directorships having a term of not more than three (3) years so that a system of staggered terms will be initiated.

3.04 Vacancies. Vacancies on the Board created by any reason, recall of directors and elections shall be subject to the following provisions:

- (a) Directors elected or appointed by Boat Slip Owners other than the Developer shall be subject to recall only by Boat Slip Owners other than the Developer. Voting interests owned or controlled by the Developer shall not vote in such recall, whether in person or by proxy. For purposes of establishing percentages of voting interests and for establishing a quorum only boat slip owned by Boat Slip Owners other than the Developer shall be counted.
- (b) Directors elected or appointed by the Developer shall be subject to recall only by the Developer. Voting interests owned or controlled by Boat Slip Owners other than the Developer shall not vote in such recall, whether in person or by proxy. For purposes of establishing percentages of voting interests and for establishing a quorum only boat slips owned by the Developer shall be counted.

3.05 Removal. Any director, except those selected by the Developer, may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all Members. Any vacancy on the board of directors thus created shall be filled by the Members of the Association at the same meeting. If more than a single director is subject to recall, there shall be a separate vote on the question to remove each director.

3.06 Disqualification and resignation. Any director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the secretary. The resignation shall take effect on receipt by the secretary, unless it states differently. Any director elected by the Members who is absent from more than three (3) consecutive regular meetings of the Board, unless excused by resolution of the Board, shall be deemed to have resigned from the Board automatically, effective when accepted by the Board. Any director

Member more than sixty (60) days delinquent in the payment of an assessment shall be deemed to have resigned from the Board, effective when the resignation is accepted by the Board.

3.07 Organizational meetings. The organizational meeting of a newly elected Board shall be held within ten (10) days of their election at a place and time that shall be fixed by the directors at the meeting at which they were elected and without further notice.

3.08 Regular meetings. The Board may establish a schedule of regular meetings to be held at a time and place as a majority of the directors shall determine from time to time. Notice of regular meetings, however, shall be given to each director personally or by mail, telephone or telegraph, at least three (3) days before the day named for the meeting with the notice of each meeting posted conspicuously within the Marina Unit at least forty-eight (48) hours before the meeting, except in an emergency.

3.09 Special meetings. Special meetings of the Board may be called by the president and, in the absence of the president, by the vice president, and must be called by the secretary at the written request of a majority of the Board. Notice of the meeting shall be given personally or by mail telephone or telegraph. The notice shall state the time, place and purpose of the meeting and shall be transmitted not less than three (3) days before the meeting. A copy of the notice of any special meeting shall be posted conspicuously within the Marina Unit at least forty-eight (48) hours before the meeting, except in an emergency.

3.10 Waiver of Notice. Any director may waive notice of a meeting before, at or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any director at a meeting shall constitute a waiver of notice of the meeting, except when such director's attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.11 Quorum. A quorum at the meeting of the directors shall consist of a majority of the entire Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of directors is required by the Florida statutory law, the Articles or by these Bylaws.

3.12 Adjourned meetings. If there is less than a quorum present at any meeting of the Board, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted. A copy of the notice of any adjourned meeting shall be posted conspicuously on the condominium property at least forty-eight (48) hours before the meeting.

3.13 No Proxy. There shall be no voting by proxy at any meeting of the Board.

3.14 Joinder in meeting by approval of minutes. A director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that director for the purpose of determining a quorum.

3.15 Meeting open to members. Meetings of the Board shall be open to all members to attend and observe. No member, however, shall be entitled to participate in the meeting unless specifically invited to do so by the Board. Notice of any meeting in which assessments against members are to be considered for any reason shall specifically contain a statement that assessments will be considered and set out the nature of the assessments.

3.16 Presiding officer. The presiding officer at Board meetings shall be the president or, in his absence, the vice president, and in his absence, the directors present shall designate any other director present to preside.

3.17 Minutes of meeting. The minutes of all meetings of the Board of Directors shall be reduced to writing within thirty (30) days after the meeting and kept in a book available for inspection by Members or their authorized representatives, and directors at any reasonable time. The minutes shall be retained by the Association for a period of not less than seven (7) years. Members and their authorized representatives shall have the right to make or obtain copies of the minutes and other official records of the Association, for a reasonable charge.

3.18 Executive committee. The Board, by resolution, may appoint an executive committee to consist of three (3) or more directors. The executive committee shall have and may exercise all of the powers of the Board in the management of the business and affairs of the Association during the intervals between the meetings of the Board insofar as may be permitted by law. The executive committee, however, shall not have the power to:

- (A) Determine the Common Expenses;
- (B) Determine the assessments payable by the Members to meet the Common Expenses;
- (C) Adopt or amend rules and regulations covering the details of the operation and use of the Marina Unit;
- (D) Purchase, lease or otherwise acquire Boat Slips in the name of the Association;
- (E) Approve any actions or proposals required by the Florida statutory law, the Declaration, the Articles or these Bylaws to be approved by Members; or
- (F) Fill vacancies on the Board.

Meetings of the executive committee shall be open to members.

3.19 Compensation. Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties.

3.20 Order of business. The order of business at meetings of directors shall be:

- (A) Calling of the roll
- (B) Proof of notice of meeting or waiver of notice
- (C) Reading and disposal of any unapproved minutes
- (D) Reports of officers and committees
- (E) Election of officers
- (F) Unfinished business
- (G) New business
- (H) Adjournment

3.21 Election of directors by Members. The rights of Members other than the developer to serve as directors and the rights of the Developer to representation on the Board shall be as follows:

- (A) When Members other than the Developer own ten percent (10%) or more of the Boat Slips that will be operated ultimately by the Association, they shall be entitled to elect no less than one-third (1/3rd) of the directors.
- (B) The Developer shall be entitled to elect a majority of the directors as long as the Developer holds for sale in the ordinary course of business at least ten percent (10%) of the Boat Slips that ultimately will be operated by the Association.
- (C) When Members other than the Developer own one hundred percent (100%) of the Boat Slips that will be operated ultimately by the Association, they shall be entitled to elect all of the directors.
- (D) Within sixty (60) days after the Members other than the Developer are entitled to elect a director or directors, the Association shall call, and give notice of a special meeting of the Members to elect directors not less than thirty (30) days nor more than forty (40) days prior to the meeting. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.
- (E) Either before or not more than forty (40) days after the time that Members other than the developer elect a majority of the directors, the developer shall relinquish control of the Association and the Members shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Members and of the Association held or controlled by the Developer.



- (F) Nothing contained in this §3.21 shall be deemed to prevent the developer from transferring control of the Association to Members other than the developer before the occurrence of the events described in this section.

3.22 Failure to elect director quorum. If the Association or the Board fails to fill vacancies on the Board sufficient to constitute a quorum, any Member, may apply to the circuit court within whose jurisdiction the Marina Unit is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed in the Florida Statutes. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all the powers and duties of a duly constituted Board and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

#### **ARTICLE IV POWERS AND DUTIES OF THE BOARD**

4.01 Powers and duties. All of the powers and duties of the Association existing under the Florida Statutes, the Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board, or its duly authorized agents, contractors or employees, subject only to the approval by Members when that approval is specifically required. The powers and duties of the Board shall include, but shall not be limited to, the following:

- (A) To manage the Marina Unit.
- (B) To contract, sue or be sued. After control of the Association is obtained by Members other than the developer, the Association may institute, maintain, settle or appeal actions or hearings in its name on behalf of all Members concerning matters of common interest, including but not limited to commonly used facilities and the Submerged Land Lease. The statute of limitations for any actions in law or equity that the Association may have shall not begin to run until the Members have elected a majority of the directors.
- (C) To enter upon all Marina Unit property during reasonable hours as necessary for the maintenance, repair or replacement of any Association property or for making emergency repairs necessary to prevent damage to the common elements or to another Boat Slip.
- (D) To make and collect assessments.
- (E) To negotiate and to enter into renewal lease(s), or amendments or modifications to the existing Submerged Land Lease with the State of Florida.
- (F) To assert and foreclose liens for unpaid assessments. The Association has a lien on each Boat Slip for any unpaid assessments with interest and for reasonable attorneys' fees incurred in the collection of the assessment or enforcement of the

lien. It also has the power to purchase the Boat Slip at the foreclosure sale and to hold, lease, mortgage or convey it.

- (G) To purchase Boat Slips. In addition to its right to purchase Boat Slips at a lien foreclosure sale, the Association generally has the power to purchase Boat Slips and to acquire, hold, lease, mortgage and convey them.
- (H) To modify easements. The Association, without the joinder of any Member, may modify or move any easement for ingress and egress or for utilities purposes if the easement constitutes part of common area of the Marina Unit.
- (I) To purchase land or leases. Any land or lease may be purchased by the Association on the approval of the Boat Slip Owners of seventy-five percent (75%) of the Boat Slips.
- (J) To authorize certain amendments. If there is an omission or error pertaining solely to the Marina Unit in the Declaration or other document required by law to establish the Condominium, an amendment to the Declaration correcting that error may be approved as provided by law. This procedure for amendment cannot be used if such an amendment would materially or adversely affect property rights of Members, or the Condominium unit owners, unless the affected Members consent in writing.
- (K) To adopt rules and regulations. The Association may adopt reasonable rules and regulations for the use of the common areas of the Marina Unit, and recreational facilities serving the Boat Slip Owners.
- (L) To maintain accounting records.
- (M) To obtain insurance. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association and the improvements located within the Marina Unit.
- (N) To furnish annual financial reports to Members.
- (O) To give notice of liability exposure. If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all Members, who shall have the right to intervene and defend.
- (P) To provide certificates of unpaid assessment. Any Member, mortgagee or other record Lienholder has the right to require from the Association a certificate showing the amount of unpaid assessments respecting the Member's Boat Slip.
- (Q) To pay any annual fees due to the State of Florida, including but not limited to, rental payments due under the Submerged Land Lease, or any renewal(s) or extension(s) thereof.

- (R) To maintain records of Boat Slip Owners and any tenants.
- (S) To contract for management of the Marina Unit.
- (T) To pay taxes or assessments against the Marina Unit or the Association.
- (U) To pay costs of utilities services.
- (V) To employ personnel. The Association may employ and dismiss personnel as necessary for the maintenance and operation of the Marina Unit and may retain those professional services that are required for those purposes.
- (W) To levy fines. The Board may levy fines against a Boat Slip Owner.
- (X) To authorize private use of common areas of the Marina Unit. The Board may authorize Members or others to use portions of the common areas of the Marina Unit (including, but not limited to any clubhouse facility located within the boundaries of the Marina Unit) for private parties and gatherings, for which reasonable charges may be imposed.
- (Y) To repair or reconstruct improvements located within the Marina Unit.

## **ARTICLE V** **OFFICERS**

5.01 Executive officers. The executive officers of the Association shall be a president, who shall be a director, a vice president, who shall be a director, a treasurer, a secretary and an assistant secretary. The officers shall be elected annually by the Board and may be removed without cause at any meeting by a vote of a majority of all of the directors. A person may hold more than one office except that the president may not also be the secretary or assistant secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board from time to time shall elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.02 President. The president shall be the chief executive officer of the Association, with all of the powers and duties that usually are vested in the office of the president of an Association, including but not limited to the power to appoint committees from among the Members to assist in the conduct of the affairs of the Association. The president shall preside at all meetings of the Board.

5.03 Vice President. The vice president shall exercise the powers and perform the duties of the president in the absence or disability of the president, and shall assist the president and exercise those other powers and perform those other duties as shall be prescribed by the directors.

5.04 Secretary. The secretary shall keep the minutes of all proceedings of the Board and the Members; attend to the serving of all notices to the members and directors and other notices required by law; have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed; keep the records of the Association, except those of the treasurer; and perform all other duties incident to the office of the secretary of an Association and as may be required by the directors or the president.

5.05 Treasurer. The treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times; submit a treasurer's report to the Board at reasonable intervals; and perform all other duties incident to the office of treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by the Board.

5.06 Compensation. The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a director as an employee of the Association or preclude the contracting with a director for the management of the Marina Unit.

## ARTICLE VI FISCAL MANAGEMENT

6.01 Board adoption of budget. The Board shall adopt a budget for the common expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least forty-five (45) days before the end of each fiscal year.

6.02 Budget requirements. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- (A) Administration of the Association
- (B) Management fees
- (C) Maintenance
- (D) Rent under the Submerged Land Lease or any renewal(s) or extension(s) thereof
- (E) Taxes on association property
- (F) Taxes on leased areas
- (G) Insurance

- (H) Security provisions
- (I) Other expenses
- (J) Operating capital
- (K) Any fees payable to the Division of Florida Land Sales and Condominiums
- (L) Reserve accounts for capital expenditures and deferred maintenance, including, but not limited to, dock replacement, painting and pavement resurfacing.

6.03 Notice of budget meeting. The Board shall mail a meeting notice and copies of the proposed annual budget to the Members not less than thirty (30) days before the meeting at which the budget will be considered. The meeting shall be open to all the Members.

6.04 Member rejection of excessive budget. If a budget adopted by the Board requires assessment against the Members in any fiscal year exceeding one hundred fifteen percent (115%) of the assessment for the previous year, the Board, on written application of Members holding at least ten percent (10%) of the voting interests, shall call a special meeting of the members within thirty (30) days as above provided in §2.5. At the special meeting, Members shall consider and enact a budget by not less than a majority vote of all Members. Provisions for reasonable reserves for repair or replacement of the Association Property shall be excluded from the computation in determining whether assessments exceed one hundred fifteen percent (115%) of similar assessments in the previous year.

6.05 Alternative budget adoption by members. At its option, for any fiscal year, the Board may propose a budget to the Members at a meeting of Members or in writing. If the proposed budget is approved by the Members at the meeting or by a majority of all Members in writing, the budget shall be adopted.

6.06 Budget restraints on developer. As long as the developer is in control of the Board, the Board shall not impose an assessment for any year greater than one hundred fifteen percent (115%) of the previous year's assessment without approval of a majority of all Members other than the Developer.

6.07 Accounting records and reports. The Association shall maintain accounting records in Lee or Collier County, Florida, according to good accounting practices. The records shall be open to inspection by Members or their authorized representatives at reasonable times. The records shall include, but are not limited to: (a) a record of all receipts and expenditures and (b) an account for each Boat Slip, designating the name and current mailing address of the owner, the amount of each assessment, the dates and amounts in which the assessments come due, the amount paid on the account and the balance due.

6.08 Depository. The depository of the Association shall be those banks or savings and loan associations, state or federal, located in Florida, as shall be designated from time to time by

the Board and in which the money for the Association shall be deposited. Withdrawal of money from those accounts shall be only by checks or other withdrawal instruments signed by those persons as are authorized by the Board.

6.09 Fidelity bonding. Any person who controls or disburses funds of the Association shall be bonded by a fidelity bond in the principal sum of not less than ten thousand dollars (\$10,000). The cost of bonding shall be at the expense of the Association, unless otherwise provided by contract between the Association and an independent management company.

6.10 Annual election of income reporting method. The Board shall make a determination annually, based on competent advice, the method for reporting association's income to the Internal Revenue Service, according to which method of reporting shall best serve the interests of the Association for the reporting period under consideration.

## **ARTICLE VII**

### **ASSESSMENTS AND COLLECTION**

7.01 Assessments generally. Assessments shall be made against the Members quarterly. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. The assessment funds shall be collected against members in the proportions provided in the Articles. Each member's share of common expenses of the Association shall be in the same proportion as his ownership interest in the common elements of the Marina Unit, which shall be a fraction, the numerator of which is one and the denominator of which is the number of Boat Slips in the Marina Unit. Assessments shall be levied against a Boat Slip either monthly, quarterly or semi-annually, as from time to time established by the board of directors of the Association.

7.02 Emergency assessments. Assessments for common expenses of emergencies that cannot be paid from the annual assessment for common expenses shall be made by the Board thirty (30) days after written notice to the Members. These assessments shall be paid at the times and in the manner that the Board may require in the notice of assessment.

7.03 Assessment for charges. Charges by the Association against Members for other than common expenses shall be payable in advance. Charges for other than common expenses may be made only after approval of the Member to be charged or when expressly provided for in the Declaration or other Condominium documents. These charges may include, without limitation, charges for the use of the Association Property or recreation areas, maintenance services furnished at the expense of a Member and other services furnished for the benefit of a Member.

7.04 Liability for assessments. Each Member regardless of how title is acquired, shall be liable for all assessments coming due during the term of ownership. The Member and any grantee of the Member in a voluntary conveyance shall be jointly and severally liable for all unpaid assessments due and payable up to the time of the voluntary conveyance. A first

mortgagee who acquires title by foreclosure or deed in lieu of foreclosure, however, shall not be liable for unpaid assessments of previous Boat Slip Owners unless those assessments are evidenced by a lien recorded before the foreclosed mortgage. The liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the Boat Slip for which the assessments are made.

7.05 Assessments, amended budget. If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

7.06 Collection: Interest, application of payment. Assessments and installments on them, if not paid within ten (10) days after the date due, shall bear interest at the rate of eighteen percent (18%) per year until paid. All assessment payments shall be applied first to interest and then to the assessment payment due. Interest charges for non payment of Assessments are not a late fee, fine or other penalty and such charges shall be calculated over the actual period of deficiency.

7.07 Lien for assessment. The Association has a lien on each Boat Slip for any unpaid assessments with interest and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the Boat Slip is located for a period of one (1) year, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien includes those assessments that are due at the time the lien is recorded and all unpaid assessments, interest, costs and attorney's fees which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. The lien is subordinate to any mortgage on the Boat Slip recorded before it.

7.08 Collection: suit, notice. The Association may bring an action to foreclose any lien for assessment in the manner that a mortgage of real property is foreclosed. It also may bring an action to recover a money judgment for the unpaid assessment without waiving any claim of lien. The Association shall give notice to the Unit Owner of its intention to foreclose its lien at least thirty (30) days before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the Member or by certified mail, return receipt requested, addressed to the Member.

## ARTICLE VIII ASSOCIATION CONTRACTS

8.01 Fair and reasonable, cancellation. Any contract made by the Association before the Members assume control from the Developer must be fair and reasonable. All contracts for the operation, maintenance or management of the Association or property serving the Members, made by the Association, whether before or after assumption of control of the Association by the Members, must not be in conflict with the powers and duties of the Association or the rights of

the Members. Contracts made by the Association before the Members assume control may be canceled by the Members after assumption of control in the manner and under the circumstances as provided in the Act.

8.02 Vending equipment. The Developer may obligate the Association under lease agreements or other contractual arrangements for vending equipment. The leases or agreements for the vending equipment may not be subject to cancellation by Members other than the developer if the vending equipment leases or agreements contain certain provisions as prescribed by the Condominium Act.

8.03 Escalation clauses prohibited. No management contract entered into by the Association shall contain an escalation clause, since they have been declared to be against the public policy of the State of Florida.

8.04 Maintenance and management contracts. Written contracts for operation, maintenance and management entered into by the Association must contain certain elements in order to be valid and enforceable. These include, but are not limited to:

- (A) Specification of the services, obligations and responsibilities of the service provider.
- (B) Specification of costs for services performed.
- (C) An indication of frequency of performance of services.
- (D) Specification of minimum number of personnel to provide the services contracted for.
- (E) The disclosure of any financial or ownership interest that the Developer has in the service provider, if the Developer is in control of the Association.

## ARTICLE IX ROSTER OF MEMBERS AND MORTGAGEES

9.01 Rosters. Each Member shall file with the Association a copy of the deed or other instrument showing such Member's ownership of a Boat Slip, together with a copy of any mortgage on the Boat Slip and any satisfaction of that mortgage. The Association shall maintain these documents in a suitable binder for reference as required in the exercise of its powers and duties.



**ARTICLE X**  
**COMPLIANCE AND DEFAULT**

10.01 Violations, notice, actions. In the case of a violation (other than the nonpayment of an assessment) by a Member of any of the provisions of the Florida Statutes, the Declaration, the Articles, these Bylaws or any lawfully adopted rules and regulations, the Association by direction of the Board may transmit to the Member by United States Certified Mail, return receipt requested, a notice of the violation. If the violation shall continue for a period of thirty (30) days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. Thereafter, the Association, at its option, in addition to its right to impose fines under §4.24 of these Bylaws, may take the following actions:

- (A) File an action to recover for its damages on behalf of the Association or on behalf of other Members.
- (B) File an action for injunctive relief requiring the offending Member to take or desist from taking certain actions.
- (C) File an action for both damages and injunctive relief.

10.02 Member actions. Members may bring an action against the Association for damages, injunctive relief, or both, if the Association fails to comply with the provisions of law, the Declaration, the Articles, these Bylaws or the Rules and Regulations adopted by the Board.

10.03 Attorneys' fee. In any action brought pursuant to the provisions of §10.01, the prevailing party is entitled to recover reasonable attorneys' fees.

10.04 No waiver of rights. Neither a Member nor the Association may waive a provision of law if that waiver would adversely affect the rights of a Member or the purposes of the provision, except that Members or directors may waive notice of specific meetings in writing.

**ARTICLE XI**  
**ARBITRATION OF INTERNAL DISPUTES**

11.01 Arbitration. Internal disputes arising from the operation of the Marina Unit among Boat Slip Owners, the Association, their agents and assigns, may be resolved by voluntary binding arbitration. Each party to the dispute must first agree to the arbitration process and, in such case, the arbitrator's decision will be final. If judicial proceedings are taken after arbitration, the arbitrator's final decision will be admissible in evidence. Any party may seek enforcement of the arbitrator's final decision in a court of competent jurisdiction. Nothing in this article shall preclude any party from proceeding other than in the manner prescribed by Article X.

**ARTICLE XII**  
**LIABILITY SURVIVES MEMBERSHIP TERMINATION**

12.01 Liability. Termination of membership in the Association shall not relieve or release a former Member from liability or obligation incurred with respect to the Association Property or to the Association during the period of membership, nor impair any rights or remedies that the Association may have against the former Member arising out of such membership and the covenants and obligations in respect to that membership.

**ARTICLE XIII**  
**LIMITATIONS OF LIABILITY FOR USE OF COMMON ELEMENTS**

13.01 Limitations. Each Member may be personally liable for the acts of omissions of the Association relating to the use of the common areas of the Marina Unit. That liability shall be shared with other Members in the same proportions as their respective interests in the Association. No individual Member's liability shall exceed the value of such Member's Boat Slip. If more than one (1) Member is the owner of a Boat Slip, the liability of all such Members shall be joint and several but limited to the aggregate to the value of their Boat Slip.

**ARTICLE XIV**  
**RULES AND REGULATIONS**

14.01 Board may adopt. The Board may adopt and amend, from time to time, reasonable rules and regulations governing the conduct of meetings of the Board and the Members of the Association, the use and operation of the common areas of the Marina Unit, and recreational facilities serving the Boat Slip Owners.

14.02 Posting and furnishing copies. A copy of the rules and regulations adopted from time to time by the Board, and any amendments to existing rules and regulations, shall be posted in a conspicuous place within the Marina Unit and a copy furnished to each Member. No rule, regulation or amendment shall become effective until thirty (30) days after posting, except in the case of an emergency, in which case the rule or regulation or amendment shall become effective immediately on posting.

14.03 Limitations on authority. The Board may not unreasonably restrict the right of any Member to peaceably assemble or to invite public officers or candidates for public office to appear and speak within the common areas of the Marina Unit, and recreational facilities.

14.04 Reasonableness test. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of the health, happiness and comfort of the Members and shall be uniformly applied and enforced.

14.05 Fines. The Association shall not assess a fine against a Boat Slip Owner unless and until the following procedure has been completed:

- (A) The Association shall give notice to the party against whom the fine is sought to be levied not less than fourteen (14) days prior to a hearing on the matter. The notice shall give the date, time and place of the hearing; a statement of the alleged violation; and a short plain statement of the matters asserted by the Association.
- (B) The party against whom the fine is sought to be levied shall have an opportunity to respond to the allegations, to present evidence, to provide written or oral arguments on all issues involved, and to review, challenge and respond to any material considered by the Association.

**ARTICLE XV**  
**RESTRICTIONS ON USE, MAINTENANCE AND APPEARANCE**

15.01 Where contained. Restrictions on the use and maintenance and appearance of the Boat Slips shall be stated in the Declaration and no amendments or additions shall be contained elsewhere than in the Declaration as adopted by a vote of the Members of this Association in the manner prescribed elsewhere in these Bylaws.

15.02 Tests for validity of restrictions. Restrictions contained in the Declaration and any amendments duly adopted by a vote of the Members shall be valid and in the nature of covenants running with the land, unless it is shown that they are wholly arbitrary in their application, or violate public policy or abrogate some fundamental constitutional rights.

**ARTICLE XVI**  
**PRIORITIES IN CASE OF CONFLICT**

16.01 Priorities. In the event of conflict between or among the provisions of any of the following, the order of priorities shall be from the highest priority to the lowest as follows: (a) Florida Statutes; (b) the Declaration; (c) the Articles; (d) the Bylaws; and (e) the rules and regulations adopted by the Board.

**ARTICLE XVII**  
**INDEMNIFICATION**

17.01 Indemnification. Every person serving as an officer or director of the Association shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred and imposed in connection with any proceedings to which such person may be a party, or in which such person may become involved by reason of being or having been an officer or director of the Association, whether or not such person is an officer or director at the time the expenses are incurred. Any person serving as an officer or director shall not be indemnified if such person is adjudged guilty of gross negligence or willful misconduct or is adjudged to have breached their fiduciary duty to the Members of the Association. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first

secretary of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of Collier County, Florida.

- (E) Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW SECTION NUMBER FOR PRESENT TEXT."

19.02 Amendment by Implication. These Bylaws shall be deemed amended without any act of the Board or the Members, or any recording, in those particulars as may be required to make them consistent and in compliance with the provisions of Florida Statutes, as from time to time amended.


**ARTICLE XX  
NOTICES**

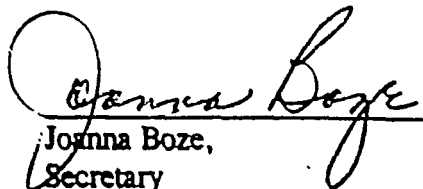
20.01 Notices. All notices required to be given by the Articles of Incorporation or these Bylaws shall be deemed properly delivered, unless otherwise provided by law when mailed to the Association's Registered Agent as last shown on the Records of the Secretary of State of Florida and to any Boat Slip Owner at such address as the Unit Owner shall have designated by written notice to the Association, by United States Certified Mail, Return Receipt Requested.

**ARTICLE XXI  
CONSTRUCTION**

21.01 Construction. Whenever the context permits or requires, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, the undersigned, hereby certify that the foregoing Bylaws were duly adopted by the Board of Directors of Island Marina Boat Slip Owners Association, Inc.

  
Richard B. Kopley,  
Vice President

  
Joanna Boze,  
Secretary

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
08/07/2006 at 12:38PM DWIGHT E. BROCK, CLERKREC FEE 27.00  
DOC-.70 .70  
COPIES 3.00

This instrument prepared by and return to:  
 Craig D. Varn, Esq.  
 FOWLER WHITE BOGGS BANKER, P.A.  
 101 N. Monroe Street  
 Suite 1090  
 (850) 681-0411  
 (850) 681-6036 (fax)

Retn:  
 ISLAND MARINA BOAT SLIP OWNERS  
 13115 VANDERBILT RD  
 NAPLES FL 34110

### QUIT CLAIM DEED

QUIT CLAIM DEED made this 15th day of May, 2006 between ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a non-profit Florida Corporation, as Grantor, whose address is 13105 Vanderbilt Road, Naples, Florida 34110, and BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, as Grantee.

### WITNESSETH:

THAT THE SAID GRANTOR, for and in consideration of a sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does remise, release and quitclaim to Grantee and Grantee's heirs and assigns forever all of Grantor's interest in the following described land located in Collier County, Florida:

A parcel of sovereign submerged land in Section 17, Township 48 South, Range 25 East, In Cocohatchee River, Collier County, containing 79,092 square feet, more or less, as is more particularly described below:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF SAID SECTION 17 AND THE CENTERLINE OF VANDERBILT DRIVE, NORTH 00°26'00" WEST 646.16 FEET; THENCE LEAVING SAID EAST LINE OF SECTION 17, SOUTH 89°53'18" WEST 50.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID VANDERBILT DRIVE; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, NORTH 00°26'00" WEST 358.20 FEET; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 89°34'00" WEST 72.25 FEET; THENCE SOUTH 41°11'03" WEST 155.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTH 48°48'37" EAST 43.41 FEET; THENCE SOUTH 48°38'49" WEST 236.40 FEET; THENCE SOUTH 49°38'25" WEST 22.40 FEET; THENCE SOUTH 47°36'58" WEST 14.14 FEET; THENCE SOUTH 57°10'54" WEST 32.31 FEET; THENCE SOUTH 54°54'08" WEST 5.35 FEET; THENCE SOUTH 74°55'51" WEST 3.34 FEET; THENCE NORTH 68°43'32" WEST 6.94 FEET; THENCE SOUTH 77°59'33" WEST 14.81 FEET; THENCE SOUTH 89°49'53" WEST 17.55 FEET; THENCE NORTH 87°57'42" WEST 14.04 FEET; THENCE SOUTH 87°21'36" WEST 18.28 FEET; THENCE NORTH 79°34'42" WEST 21.74 FEET; THENCE SOUTH 86°17'16" WEST 5.79 FEET; THENCE NORTH 64°51'47" WEST 8.97 FEET; THENCE NORTH 60°19'17" WEST 16.64 FEET; THENCE NORTH 44°01'34" WEST 15.60 FEET;

THENCE NORTH 43°52'33" WEST 33.44 FEET; THENCE NORTH 22°12'06" WEST 20.21 FEET; THENCE NORTH 21°59'50" WEST 8.48 FEET; THENCE NORTH 02°04'40" WEST 5.87 FEET; THENCE NORTH 11°23'41" WEST 21.10 FEET; THENCE NORTH 13°18'12" EAST 18.26 FEET; THENCE NORTH 05°39'02" EAST 14.04 FEET; THENCE NORTH 01°33'54" EAST 100.00 FEET; THENCE NORTH 04°25'39" EAST 20.02 FEET; THENCE NORTH 01°33'54" EAST 14.00 FEET; THENCE NORTH 04°43'17" EAST 21.20 FEET; THENCE NORTH 03°07'50" EAST 204.00 FEET; THENCE NORTH 07°12'58" EAST 14.04 FEET; THENCE NORTH 01°06'51" EAST 23.26 FEET; THENCE NORTH 04°15'31" EAST 14.04 FEET; THENCE NORTH 02°59'04" EAST 28.90 FEET; THENCE NORTH 13°38'41" EAST 14.04 FEET; THENCE NORTH 12°27'35" EAST 19.37 FEET; THENCE NORTH 20°01'22" EAST 14.87 FEET; THENCE NORTH 31°32'10" EAST 14.04 FEET; THENCE NORTH 25°28'45" EAST 34.45 FEET; THENCE NORTH 07°21'29" EAST 5.79 FEET; THENCE NORTH 36°12'55" EAST 8.97 FEET; THENCE NORTH 42°36'43" EAST 19.57 FEET; THENCE NORTH 75°49'46" EAST 16.83 FEET; THENCE NORTH 61°48'24" EAST 14.56 FEET; THENCE NORTH 35°59'29" EAST 11.95 FEET; THENCE NORTH 51°28'28" EAST 13.32 FEET; THENCE NORTH 47°32'54" EAST 14.04 FEET; THENCE NORTH 45°42'48" EAST 25.77 FEET; THENCE NORTH 41°41'21" EAST 14.56 FEET; THENCE NORTH 49°06'14" EAST 20.22 FEET; THENCE NORTH 27°29'43" EAST 5.71 FEET; THENCE NORTH 55°24'42" EAST 3.47 FEET; THENCE NORTH 85°47'47" EAST 6.35 FEET; THENCE NORTH 72°10'20" EAST 31.48 FEET; THENCE SOUTH 84°53'55" EAST 15.65 FEET; THENCE NORTH 80°45'51" EAST 30.00 FEET; THENCE NORTH 78°26'35" EAST 8.59 FEET; THENCE SOUTH 81°16'43" EAST 5.77 FEET; THENCE NORTH 80°28'50" EAST 16.19 FEET; THENCE SOUTH 87°30'57" EAST 11.29 FEET; THENCE SOUTH 87°40'09" EAST 14.04 FEET; THENCE NORTH 88°14'43" EAST 54.00 FEET; THENCE SOUTH 87°40'09" EAST 14.04 FEET; THENCE NORTH 88°14'43" EAST 65.42 FEET; THENCE SOUTH 00°19'05" EAST 80.18 FEET; THENCE SOUTH 89°40'55" WEST 262.00 FEET; THENCE SOUTH 44°09'46" WEST 175.19 FEET; THENCE SOUTH 00°26'00" EAST 545.11 FEET; THENCE NORTH 89°34'00" EAST 137.09 FEET; THENCE NORTH 41°11'03" EAST 245.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND

SAID PARCEL CONTAINING 79,092 SQUARE FEET OF LAND, MORE OR LESS; SUBJECT TO THE SOVEREIGNTY SUBMERGED LANDS LEASE RECORDED DECEMBER 27, 2001 IN O.R. BOOK 2951, PG 1429 OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

**THIS DOCUMENT PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION.**

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

Melvin R. Puttoff  
Signature: Witness One  
MELVIN R. PUTTOFF  
Printed Name: Witness One

Island Marina Boat Slip Owners  
Association, Inc.  
Signature: Thomas T. Halo  
Printed Name: THOMAS T. HALO  
Title: AUG 7, 2006

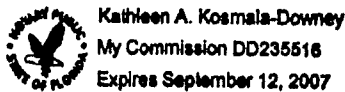
Marcie M Collins  
Signature: Witness Two  
MARCIIE M COLLINS  
Printed Name: Witness Two

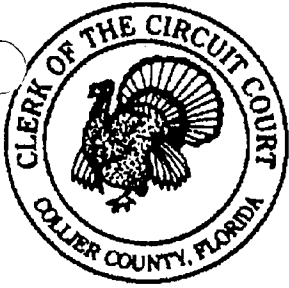
STATE OF FLORIDA  
COUNTY OF COLLIER

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 7th day of AUGUST, 2006, by THOMAS HALO, as PRESIDENT of Island Marina Boat Slip Owners Association, Inc., who is personally known to me or who produced \_\_\_\_\_ as identification.

(SEAL)

Kathleen A. Kosmala-Downey  
Notary Public - State of Florida  
KATHLEEN A. KOSMALA-DOWNEY  
Printed Name of Notary  
My Commission Expires: 9-12-07





County of Collier  
CLERK OF THE CIRCUIT COURT

COLLIER COUNTY COURTHOUSE  
3301 TAMiami TRAIL EAST  
P.O. BOX 413044  
NAPLES, FLORIDA 34101-3044

Dwight E. Brock  
Clerk

**ORIGINAL**

OFFICIAL RECEIPT  
When Validated

V#: 3922932 08/07/2006

CASH: 31.00  
CHANGE: .30-  
MC AMT PAID: 30.70

BY: GLORIA G  
DEPUTY CLERK

RECEIPT: **4926652**

NAME : ISLAND MARINA BOAT SLIP  
PAYOR: HALO THOMAS T  
FNC: GG: 1 DOCUMENTS

DOC TYP FILE ID BOOK PAGE  
DEED 3882799 4084 1432

DESCRIPTION	AMOUNT
RECORDING OF LEGAL INSTRUMENT	13.00
P.R.M.T.F. RECORDING FEE	2.00
STATE CLERK OF COURTS TRUST F INDEXING	12.00
DOCUMENTARY STAMPS - 70	.70
DOCUMENTARY STAMPS - 35	
INTANGIBLE TAX SALES COPIES	3.00
MISCELLANEOUS FEES	
INTANGIBLE PENALTY	
INTANGIBLE INTEREST	
DEPOSIT ACCOUNTS	
REFUNDS	

DEPT: RECORDING

TOTAL DUE: 30.70



R043  
~

ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

September 14, 2003

To: All Board Members

From: Mel Puthoff

Subject: Documents obtained from the Official Records of Collier County

On 09/11/03 I spent the afternoon at the Collier County Courthouse reviewing the recorded records of the Island Marina Boat Slip Owners Association.

Attached are copies of agreements that were not transferred to us from DCI Investments at our Turn-Over Meeting on January 8, 2002. They could not be found in our inventory of documents.

01/14/1997 2691264 OR: 2320 PG: 0700 thru PG: 0702  
First Amendment to Declaration (3 pages)  
Revision of permitted vessel beam width for Slip # 59 and Slip # 68.  
Width of 14 feet and 16.5 feet on these slips were exchanged.

01/14/1999 2465932 OR: 2537 PG: 3300 thru PG: 3302  
Second Amendment to Declaration (3 pages)  
Revision of Section 9.4 of the Declaration  
Lease Period revised from 3 months to a minimum of 6 months.

06/02/2001 2688846 OR: 2721 PG: 1295 thru PG: 1300  
Amendment to Declaration (6 pages)  
Revision of Maximum Vessel Draft for Slip # 41 and Slip # 74  
Maximum Vessel Draft of 3 feet and 4 feet on these slips were exchanged.

06/12/2001 2819627 OR: 2851 PG: 0216 thru PG: 0217  
Quick Claim Deed (2 pages)  
Deed transfer from Island Marina Inc. to IMBSOA.

The DECLARATION OF COVENANTS AND RESTRICTIONS of ISLAND MARINA document that we have on file at the Marina is as follows:

03/05/1996 2037430 OR: 2163 PG: 0001 thru PG: 0066  
Declaration of Covenants and Restrictions (66 pages)  
This document includes the Bylaws of IMBSOA.  
Every Slip Owner should have received a copy when slip was purchased.

Please contact me as soon as possible if you have information to the contrary.



Re: GODELITEH COLEMAN ET AL  
4001 TAMiami TRAIL NORTH #300  
NAPLES FL 34103

2191264 OR: 2320 PG: 0700

RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL  
06/06/97 at 09:03AM DWIGHT E. BROCK, CLERK

①

REC FILE

15.00

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS AND RESTRICTIONS  
ISLAND MARINA**

On this 14<sup>th</sup> day of May, 1997, ISLAND MARINA, INC., a Florida corporation ("Island Marina") the Declarant under that certain DECLARATION OF COVENANTS AND RESTRICTIONS ISLAND MARINA recorded in Official Records Book 2163, at Page 0001, of the Public Records of Collier County, Florida (the "Declaration"), for itself, its successors and assigns, hereby amends the Declaration as follows:

1. Island Marina, Inc., is the owner of Boat Slips 59 and 68, ISLAND MARINA, according to terms and provisions of the Declaration.
2. Boat Slip 68 is hereby deleted as one of the four (4) Boat Slips permitted to have a beam width of greater than 14 feet but less than 16.5 feet and Boat Slip 59 is hereby added as one of the four (4) Boat Slips permitted to have a beam width of greater than 14 feet but less than 16.5 feet.
3. Accordingly, the final paragraph of Table B to the Declaration is amended and restated as follows (Informational Note: ~~68~~ is designated as a deletion from original text and 59 is designated as an addition to original text):

**Vessel Beam:** As set forth in Paragraph 7.K. 2. of the Submerged Land Lease, 75 Slips shall be limited to vessels with beam widths of 14 feet or less, except that up to 6 of such slips may be used by multi-hulled vessels with beams greater than 14 feet, which have drafts of less than 3 feet; and no more than 4 slips shall be permitted to have beam widths of greater than 14 feet but not more than 16.5 feet. Boat Slips 65, 66, 67 and ~~68~~ 59 are the four slips presently permitted to have a vessel beam of up to 16.5 feet. No changes in the designation of 16.5 vessel beam slips shall be permitted without the permission of the Island Marina Harbormaster who shall maintain a ledger of such slips and of the slips permitted to have multi-hulled vessels with beam widths of greater than 14 feet. Further, in order to change such designation a notice must be recorded in the Public Records of Collier County, Florida which must be signed by the respective owners of the slip losing and gaining the 16.5 feet designation and by an officer of the Association.

4. ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., (the "Association") and each Member of the Association, who by acceptance and recordation of a Certificate of Ownership and acceptance of a Stock Certificate becomes an Owner and a Member of the Association, hereby agrees to the terms and conditions of this Amendment.

This Instrument Prepared By:

Kenneth R. Johnson, Esq.  
Goodlette, Coleman & Johnson, P.A.  
4001 Tamiami Trail North, Suite 300  
Naples, FL 34103


5. This Amendment is made by Declarant in accordance with all of the terms and provisions of the Declaration, including but limited to the provisions of Article 17.


6. **Parties Bound.** The restrictions and burdens imposed by this Amendment are intended to and shall constitute covenants running with Island Marina's leasehold interest in the land, and shall be binding upon Island Marina, the Association, their successors and assigns and upon all parties who presently are or may subsequently become Owners of Units in the Marina and their respective heirs, legal representatives, successors and assigns.

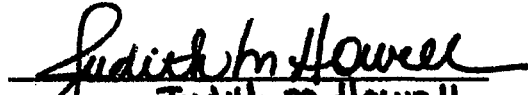
**IN WITNESS WHEREOF,** Island Marina and the Association have caused the foregoing Amendment to Declaration to be executed by its undersigned duly authorized officer on the date set forth above.

Signed, Sealed and Delivered  
In the Presence of:

**ISLAND MARINA, INC.**  
a Florida corporation

  
Print Name:           DONNA M. OWEN          


  
Richard B. Kepley, Vice President

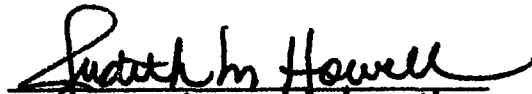
  
Print Name:           Judith M Howell          

Signed, Sealed and Delivered  
In the Presence of:

**ISLAND MARINA BOAT SLIP  
OWNERS ASSOCIATION, INC.**  
a Florida not for profit corporation

  
Print Name:           DONNA M. OWEN          

  
Richard B. Kepley, Vice President

  
Print Name:           Judith M. Howell

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me on this 14<sup>th</sup> day of May, 1997,  
by RICHARD B. KEPLEY, who is personally known to me, as Vice President of ISLAND  
MARINA, INC., a Florida corporation, on behalf of the corporation.



DONNA M. OWEN  
My Comm Exp. 10/13/98  
Bonded By Service Ins  
No. CC413076  
 Personally Known     Other I.D.

Donna M. Owen  
Notary Public  
Print Name: DONNA M. OWEN  
State of Florida at Large  
My Commission Expires: 10/13/98

(Notary Seal)

STATE OF FLORIDA  
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me on this \_\_\_ day of May, 1997,  
by RICHARD B. KEPLEY, who is personally known to me, as Vice President of ISLAND  
MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a Florida corporation, on behalf of the  
corporation.



DONNA M. OWEN  
My Comm Exp. 10/13/98  
Bonded By Service Ins  
No. CC413076  
 Personally Known     Other I.D.

Donna M. Owen  
Notary Public  
Print Name: DONNA M. OWEN  
State of Florida at Large  
My Commission Expires: 10/13/98

(Notary Seal)

2465932 OR: 2537 PG: 3300

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
04/21/1999 at 01:45PM DWIGHT H. BROCK, CLERK  
RHC FEE 15.00

This Instrument Prepared By/Return to:  
Mary A. Marnell, Esquire  
Ruden, McClosky, Smith, Schuster & Russell, P.A.  
5150 No. Tamiami Trail, Suite 602  
Naples, Florida 34103  
(941) 659-1100

Retn:  
RUDEN MCCLOSKEY ET AL  
5150 N TAMAMI TR #602  
NAPLES FL 34103

**SECOND AMENDMENT  
TO THE DECLARATION OF COVENANTS AND RESTRICTIONS  
ISLAND MARINA**

On this 14th day of JANUARY, 1999, ISLAND MARINA, INC., a Florida corporation, ("Island Marina"), the Declarant under that certain DECLARATION OF COVENANTS AND RESTRICTIONS FOR ISLAND MARINA recorded in Official Records Book 2163, at Page 0001, of the Public Records of Collier County, Florida (the "Declaration"), as amended to date, for itself, its successors and assigns, with the consent and joinder of ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a Florida corporation, hereby amends the Declaration as follows:

1. Section 9.4 of the Declaration is hereby amended to read as follows:

"After approval by the Association, Units may be leased by Owners, provided the use is only by the sublessee and his or her family, servants, and guests. No lease shall be for a period of less than six (6) months. All leases shall be on a form approved by the Association. Any Rules and Regulations promulgated by the Association shall be deemed to contain the provisions of this Section 9.4."

IN WITNESS WHEREOF, this instrument was executed the day and year first above written.

ISLAND MARINA, INC.  
a Florida corporation

By: *David A. McArdle*

Printed Name: DAVID A. MCARDLE

Its: PRESIDENT

(CORPORATE SEAL)

*Thomas J. Kelly*  
Witness Signature  
THOMAS J. KELLY  
Printed Name of Witness  
Theresa N. Robinson  
Witness Signature  
Theresa N. Robinson  
Printed Name of Witness

ISLAND MARINA BOAT SLIP  
OWNERS ASSOCIATION, INC.  
a Florida corporation

By: *Richard B. Kepley*

Printed Name: RICHARD B. KEPLEY

Its: Vice President

(CORPORATE SEAL)

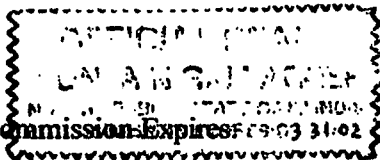
*Donna M. Owen*  
Witness Signature  
DONNA M. OWEN  
Printed Name of Witness  
Judith M. Howell  
Witness Signature  
Judith M. Howell  
Printed Name of Witness

*Judy S. [Signature]*  
(CORPORATE SEAL)

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF Masco Kane )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by David A. McArdle, the President of ISLAND MARINA, INC., a Florida corporation, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 14<sup>th</sup> day of January, 1999.



Jonja N. Gallagher  
Notary Public  
Jonja N. Gallagher  
Typed, printed or stamped name of Notary Public

STATE OF FLORIDA )  
 ) SS:  
COUNTY OF COLLEER )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by RICHARD B KEPLEY, the Vice President of ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a Florida corporation, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 4<sup>th</sup> day of February, 1999.

Donna M. Owen  
Notary Public  
**DONNA M. OWEN**  
Typed, printed or stamped name of Notary Public

My Commission Expires:  
Oct 13, 2002



Refr:

GOODLETTE COLMAN ET AL  
4001 TAMIANI TRAIL NORTH #300  
NAPLES FL 34103

2688846 OR: 2721 PG: 1295

RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL  
09/13/2000 at 03:26PM DWIGHT H. BROCK, CLERK

RHC PNB

20.50

**AMENDMENT TO  
DECLARATION OF COVENANTS AND RESTRICTIONS  
ISLAND MARINA**

On this 2<sup>nd</sup> day of June, 2000, **ISLAND MARINA, INC.**, a Florida corporation ("Island Marina"), as the declarant (the "Declarant") under that certain Declaration of Covenants and Restrictions for Island Marina recorded in Official Records Book 2163, at Page 0001, of the Public Records of Collier County, Florida (the "Declaration"), for itself, its successors and assigns, hereby amends the Declaration as follows:

1. Island Marina is the owner of Boat Slips 41 and 74. **ISLAND MARINA** (the "Marina"), according to the terms and provisions of the Declaration.

2. The Maximum Vessel Draft permitted for Boat Slip 41 is hereby changed from 4.0 feet to 3.0 feet and the Maximum Vessel Draft permitted for Boat Slip 74 is hereby changed from 3.0 feet to 4.0 feet.

3. Accordingly, Table B to the Declaration is amended and re-stated as set forth on Exhibit "A" attached hereto and made a part hereof by reference (Informational Note: ~~3.0~~ is designated as a deletion from original text and 4.0 is designated as an addition to original text).

4. **ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.** (the "Association") and each Member of the Association, who by acceptance and recordation of a Certificate of Ownership and acceptance of a Stock Certificate becomes an Owner and a Member of the Association, hereby agrees to the terms and conditions of this Amendment.

5. This Amendment is made by Declarant in accordance with all of the terms and provisions of the Declaration, including but limited to the provisions of Article 17.

6. **Parties Bound.** The restrictions and burdens imposed by this Amendment are intended to and shall constitute covenants running with Island Marina's leasehold interest in the land, and shall be binding upon Island Marina, the Association, and their respective successors and assigns and upon all parties who presently are or may subsequently become Owners of Units in the Marina and their respective heirs, legal representatives, successors and assigns.

This Instrument Prepared By:

**Kenneth R. Johnson, Esq.**  
Goodlette, Coleman, & Johnson, P.A.  
4001 Tamiami Trail North, Suite 300  
Naples, FL 34103


C:\KRW\Island Marina  
Amendment2  
Declaration of Restrictions




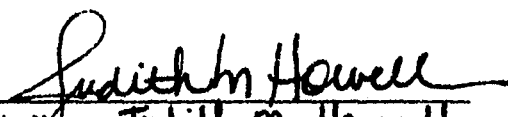
IN WITNESS WHEREOF, Island Marina and the Association have caused the foregoing Amendment to Declaration to be executed by its undersigned duly authorized officer on the date set forth above.

Signed, Sealed and Delivered  
in the Presence of:

ISLAND MARINA, INC.,  
a Florida corporation

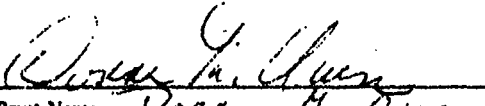
  
Print Name: Donna M. Owen


By:   
Richard B. Kepley,  
Vice President

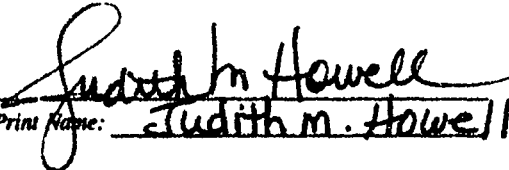
  
Print Name: Judith M. Howell

Signed, Sealed and Delivered  
in the presence of:

ISLAND MARINA BOAT SLIP  
OWNERS ASSOCIATION, INC.,  
a Florida not for profit corporation

  
Print Name: Donna M. Owen

By:   
Richard B. Kepley,  
Vice President

  
Print Name: Judith M. Howell

STATE OF FLORIDA  
COUNTY OF COLLIER

THE FOREGOING INSTRUMENT was acknowledged before me on this 2<sup>nd</sup> day of June, 2000, by RICHARD B. KEPLEY, who is personally known to me, as a Vice President of ISLAND MARINA, INC., a Florida corporation, on behalf of the corporation.

Donna M. Owen  
Notary Public  
Print Name: Donna M. Owen  
State of Florida at Large  
My Commission Expires: 10/13/02

(Notary Seal)

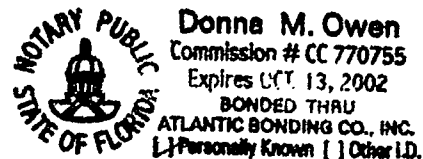


STATE OF FLORIDA  
COUNTY OF COLLIER

THE FOREGOING INSTRUMENT was acknowledged before me on this 2<sup>nd</sup> day of June, 2000, by RICHARD B. KEPLEY, who is personally known to me, as a Vice President of ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a Florida corporation, on behalf of the corporation.

Donna M. Owen  
Notary Public  
Print Name: Donna M. Owen  
State of Florida at Large  
My Commission Expires: 10/13/02

(Notary Seal)



## EXHIBIT "A"

Table of Permitted Boat Slip  
Length and Vessel Draft

Boat Slip	Slip Length (as permitted by Florida Submerged Land Lease No. 111000635)	Maximum Vessel Draft
1	34	3.0
2	34	3.0
3	34	3.0
4	34	3.0
5	34	3.0
6	34	3.0
7	34	3.0
8	34	3.0
9	34	3.0
10	34	3.0
11	34	3.0
12	34	3.0
13	34	3.0
14	34	3.0
15	34	3.0
16	34	3.0
17	35	3.0
18	37	3.0
19	42	3.0
20	40	3.0
21	41	3.0
22	42	3.0
23	51	4.0
24	54	4.5
25	54	4.5
26	54	4.5
27	54	4.5
28	52	4.5
29	45	4.0

<b>Boat Slip</b>	<b>Slip Length</b> <i>(as permitted by Florida Submerged Land Lease No. 111000635)</i>	<b>Maximum Vessel Draft</b>
30	44	4.0
31	44	4.0
32	44	4.0
33	44	4.0
34	44	4.0
35	44	4.0
36	44	4.0
37	43	4.0
38	43	4.0
39	42	4.0
40	42	4.0
41	42	<del>4.0</del> 3.0
42	42	3.0
43	42	3.0
44	42	3.0
45	42	3.0
46	42	3.0
47	42	3.0
48	42	3.0
49	42	3.0
50	42	3.0
51	42	3.0
52	41	3.0
53	43	4.0
54	44	4.0
55	49	4.0
56	50	4.0
57	54	4.5
58	53	4.5
59	57	4.5
60	60	4.5
61	50	4.0

<b>Boat Slip</b>	<b>Slip Length</b> (as permitted by Florida Submerged Land Lease No. 111000635)	<b>Maximum Vessel Draft</b>
62	46	4.0
63	48	4.0
64	49	4.0
65	53	4.5
66	57	4.5
67	60	4.5
68	60	4.5
69	55	4.5
70	48	4.0
71	44	4.0
72	42	4.0
73	41	3.0
74	40	<del>3.0</del> 4.0
75	40	3.0
76	40	3.0
77	40	3.0
78	39	3.0
79	39	3.0

Vessel Drafts shall be measured as the deepest draft of each Vessel with the motor fully extended.

Vessel Beam: As set forth in Paragraph 7.K. 2. of the Submerged Land Lease, 75 Slips shall be limited to vessels with beam widths of 14 feet or less, except that up to 6 of such slips may be used by multi-hulled vessels with beams greater than 14 feet, which have drafts of less than 3 feet; and no more than 4 slips shall be permitted to have beam widths of greater than 14 feet but not more than 16.5 feet. Boat Slips 65, 66, 67 and 59 are the four slips presently permitted to have a vessel beam of up to 16.5 feet. No changes in the designation of 16.5 vessel beam slips shall be permitted without the permission of the Island Marina Harbormaster who shall maintain a ledger of such slips and of the slips permitted to have multi-hulled vessels with beam widths of greater than 14 feet. Further, in order to change such designation a notice must be recorded in the Public Records of Collier County, Florida which must be signed by the respective owners of the slip losing and gaining the 16.5 feet designation and by an officer of the Association.

RRC FEE	10.50
DOC-.70	.70
MISC	1.00

Retn:  
GOODLETTE COLEMAN ET AL  
4001 TAMiami TRAIL NORTH #300  
NAPLES FL 34103

**QUIT CLAIM DEED**

**THIS DEED**, is made on this 12<sup>th</sup> day of June, 2001, between **ISLAND MARINA, INC.**, a Florida corporation, Grantor and **ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.**, a Florida corporation not-for-profit, Grantee, whose post office address is: 13105 Vanderbilt Road, Naples, Florida 34110.

The Grantor, in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration paid by the Grantee to the Grantor, the receipt and sufficiency of which is hereby acknowledged, hereby convey, assign and quit-claim to Grantee and Grantee's heirs, successors and assigns forever, the following described real property in Collier County, Florida:

The **MARINA UNIT**, of **MARINA BAY CLUB OF NAPLES**, a condominium, according to the Declaration of Condominium therefor, recorded in Official Records Book 1619, at Page 1422, as amended, of the Public Records of Collier County, Florida, (*Collier County Tax Folio No. 5962000166.3*);

**LESS AND EXCEPT**: the right to possession of Boat Slip Nos. 1, 2, 6, and 10 of **ISLAND MARINA**, according to the **DECLARATION OF COVENANTS AND RESTRICTIONS FOR ISLAND MARINA**, recorded in Official Records Book 2163, at Page 0001, of the Public Records of Collier County, Florida, which is specifically reserved and retained by Grantor; and

**SUBJECT TO**: real estate taxes for the year of 2001 and subsequent years; easements, restrictions and reservations of record, including but not limited to: (i) the terms and conditions of that certain Modified Sovereignty Submerged Lands Lease between Grantor, as Lessee and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as Lessor recorded February 1, 1996, in Official Records Book 2144, at Page 1792, of the Public Records of Collier County, Florida; (ii) all of the terms, provisions, covenants, conditions and options contained in, and the rights and easements established by, the Declaration of Condominium for Marina Bay Club of Naples, a Condominium, as recorded in O.R. Book 1619, at Page 1422, of the Public Records of Collier County, Florida, as amended; and (iii) all possessory rights of the record owners of Boat Slip Nos. 3 through 5, 7 through 9, and 11 through 79, of **ISLAND MARINA**, according to the **DECLARATION OF COVENANTS AND RESTRICTIONS FOR ISLAND MARINA**, recorded in Official Records Book 2163, at Page 0001, of the Public Records of Collier County, Florida.

**THE PURPOSE OF THIS INSTRUMENT** is to convey to Grantee all of Grantor's right, title and interest in the subject Property (*less and except the right to possess Boat Dock Nos. 1, 7, 9 and 80 of Island Marina as specifically listed hereinabove*) in connection with the developer's turn-over of control of Island Marina Boat Slip Owners Association, Inc., to its Members.

This Instrument Prepared By:

Kenneth R. Johnson, Esq.  
Goodlette, Coleman & Johnson, P.A.  
4001 Tamiami Trail North, Suite 300  
Naples, FL 34103

To have and to hold the same, together with all the hereditaments and appurtenances thereunto belonging or in anywise appertaining, to the Grantee, and Grantee's heirs, successors and assigns.

IN WITNESS WHEREOF, the undersigned Grantor has duly executed and delivered this instrument as of the day and year first above written.

Signed, Sealed and Delivered  
in the Presence of:

ISLAND MARINA, INC.,  
a Florida corporation

*Anna M. Ruchel*  
Print Name: Anna M. Ruchel

By: *David A. McArdle*  
David A. McArdle,  
President

*Philip Held*  
Print Name: Philip Held

Attest: *Thomas J. Kelly*  
Thomas J. Kelly,  
Secretary

(Corporate Seal)

STATE OF ILLINOIS  
COUNTY OF KANE

THE FOREGOING INSTRUMENT was acknowledged before me on this 12<sup>th</sup> day of June, 2001, by DAVID A. McARDLE and THOMAS J. KELLY, () who are personally known to me or () who produced their respective driver's license as identification, as President and Secretary, respectively, of ISLAND MARINA, INC., a Florida corporation on behalf of the corporation.



*Sonja N. Gallagher*  
Notary Public  
State of Illinois  
Print Name: Sonja N. Gallagher  
My Commission Expires: ( )

(Notary Seal)

3805022 OR: 4002 PG: 0684

RBC FEB 44.00

Retn:  
GRANT FRIDKIN ET AL  
5551 RIDGEWOOD DR #501  
NAPLES FL 34108

RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL  
03/21/2006 at 10:56AM DWIGHT E. BROCK, CLERK

AMENDMENT TO DECLARATION OF  
COVENANTS AND RESTRICTIONS ISLAND MARINA

R043

This Amendment to Declaration of Covenants and Restrictions Island Marina is made and executed as of this 15 day of FEBRUARY, 2006 by Island Marina Boat Slip Owners Association, Inc., a Florida non-profit corporation (the "Association") for the purpose of amending that certain Declaration of Covenants and Restrictions Island Marina dated March 5, 1996 and recorded in Official Records Book 2163, at Page 1, of the Public Records of Collier County, Florida (the "Declaration").

BACKGROUND

A. The Association is charged with managing the Marina and the declarant under the Declaration, Island Marina, Inc., a Florida corporation ("Island Marina") no longer owns any Boat Slips or Units in the Marina and has relinquished control of the Association to Members other than itself; and

B. Accordingly, amendment of the Declaration is governed by the provisions of section 17 of the Declaration other than sub-section 17.3; and

C. The Members of the Association by more than two-thirds of the aggregate number of the Class A Members of the Association, and being of the only existing class of Members in view of the fact that Island Marina as the Class B Member is no longer applicable, have approved this Amendment; and

D. The amendments herein have been made in order to clarify and reconcile inconsistencies in certain documentation and in order to insure that the Submerged Land Lease and the value that is represented by and inherent in it, is preserved and protected by the benefit of the Members and Owners and that applicable rules and regulations of the State of Florida pertinent to the Submerged Land Lease are implemented and that the procedures followed by the Association are in compliance therewith.

NOW THEREFOR, in consideration of the premises the Declaration is hereby amended in the following respects:

1. All capitalized terms used herein have the meaning given to them in the Declaration unless defined otherwise herein.

2. **6. Section 6 of the Declaration is modified to add sub-section 6.4 thereto as follows:**

"6.4 Notwithstanding any of the other provision of this section 6 or any other provisions of this Declaration, ownership of, or transfer of the leasehold interest in any Boat Slip does not in any manner confer any right to use or occupy the Boat Slip whatsoever unless and



until any such transfer has been first approved by the Association in writing, and all other requirements applicable thereto have been satisfied, including but not limited to, the payment of any and all applicable fees, rents and taxes and all required and applicable documentation pertaining thereto has been executed to the satisfaction of the Association.”

**3. Paragraph 11 is modified by adding the following as new numbered subparagraph 11.1(d):**

“(d) Overriding Provision: It is recognized that the primary value inherent in a Boat Slip or a Unit is the ability to moor a vessel within a Boat Slip, most of which are located on the Submerged Land that is subject to and governed by the terms of the Submerged Land Lease. It is recognized that the terms of the Submerged Land Lease are and must be paramount in all respects and that as and when the Submerged Land Lease may from, time to time, be modified, extended, renewed or replaced with a new lease and/or as legislation is adopted by the State of Florida and rules and regulations are promulgated by the applicable agencies of the State of Florida that requirements applicable to the continuation and operation of the facilities located on the Submerged Land Lease may from, time to time, need to be changed. Accordingly, the transfer in any manner, lease, sub-lease, license or sub-license or any other equivalent assignment or instrument permitting the use or occupancy of a Boat Slip or Unit must be done in strict conformity with applicable requirements of the State of Florida as pertains to the Submerged Land Lease. In this regard no transfer, lease, assignment, license, sub-lease, or sub-license or other grant of the right of use shall be permitted or is binding, valid, or enforceable unless and until (i) it is approved by the Association in writing; (ii) any and all applicable fees, charges, assessments, and taxes are remitted to the Association for further remittance to the State of Florida; (iii) any other applicable requirements are complied with; and (iv) and all appropriate and required documentation promulgated by the Association in conformity with the requirements of a Submerged Land Lease and/or requirements of the State of Florida is first executed by the parties to any such transaction. Furthermore, it is recognized that the Submerged Land Lease places limitations on the number of Boat Slips that may from, time to time, or at any time be utilized by such persons as also own a unit in the adjoining Marina Bay Club of Naples, a condominium (the “Condominium”). Accordingly, if and to the extent that (i) the Owner of any Unit within the Marina, or any other person as has a vessel that occupies a Boat Slip within a Unit in the Marina, who is not initially the Owner of a unit in the Condominium comes to later acquire ownership of a unit in the Condominium and (ii) such acquisition should cause the number of Boat Slip vessel occupants within the Marina to exceed the number that are permitted under the terms of the Submerged Land Lease then such affected Unit and Boat Slip Owner or occupant will be required to immediately and promptly forthwith remove his vessel from the applicable Boat Slip so as to prevent the terms and conditions of the Submerged Land Lease from being violated thereby.”

**4. Section 11.2(b) is modified by adding sub-section 3 thereto as follows:**

“(3) Overriding Provision: Notwithstanding the provisions of sub-sections 1 and 2 above, the Association is not required to approve any sale, lease or other transfer, license, sub-lease or sub-license if approval is contrary to (i) the other requirements of this Declaration, (ii) the requirements, conditions and restrictions applicable to the Marina in accordance with the

terms of the Submerged Land Lease or (iii) applicable rules, regulations or statutes of the State of Florida.”

5. **Sub-section 11.3 of the Declaration is modified by adding a sub-section (c) as follows:**

“11.3(c) Overriding Provision: Notwithstanding the other provision of this section 11.3, the Association is not required to enter into or consummate an agreement to purchase the Unit or provide a purchaser that has been approved by the Association who will purchase the Unit in the event that the disapproval of a sale, lease or other transfer, sub-lease or sub-license is by reason of the determination of the Association that to give approval would be contrary to the terms and conditions of the Submerged Land Lease, applicable statutes, rules and regulations promulgated by the State of Florida and/or the refusal by the transferee, lessee, licensee, sub-license, or sub-licensee to execute documentation required to conform and/or to remit and pay applicable fees, taxes and other items.”

6. **Section 17 of the Declaration is modified by adding the following sentence to sub-section 17.2 thereof:**

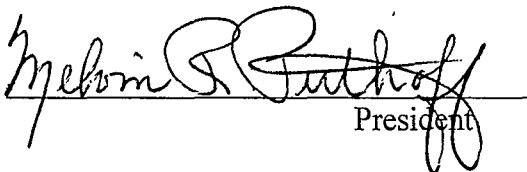
“Notwithstanding the provisions of this section 17.2, any amendment to this Declaration for the purpose of restricting transferability or the appurtenant rights to a Unit in respect to use and/or transfer of the right to make use of a Boat Slip that is made for the purpose of conformity with requirements of Florida law and applicable rules and regulations and/or conformity to the requirements of the Submerged Land Lease will not be deemed to materially alter the transferability or materially alter appurtenance to the Unit and shall be deemed to be beneficial.”

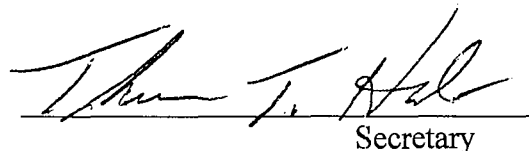
7. **Section 8.9 of the Declaration is modified to add the following:**

“In addition to the sums described in (1), (2) and (3) above, the lien shall also secure payment of any advances that may be made by the Association for the payment of any rent, sales taxes and other sums due to the State of Florida in respect to any transfer, sale, lease, sublease, license or sublicense of a Boat Slip that are required to be paid by the parties to any such transaction. Any advances so made and secured are due and payable forthwith on demand with interest from the date advanced at maximum lawful rate.

This Amendment was approved by the board of directors of the Association and by the required number of Boat Slip Owners.

Separately attached hereto is an Amendment to the Bylaws of Island Marina Boat Owners Association, Inc.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary

**AMENDMENT TO BYLAWS  
FOR  
ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.**

R043

These amendments to the Bylaws of Island Marina Boat Slip Owners Association, Inc., a Florida non-profit corporation (the "Association") has been adopted by the (i) not less than 67% of the Board of Directors and (ii) not less than 67% of the Members of the Association.

1. The second sentence of section 3.01 is replaced with the following:

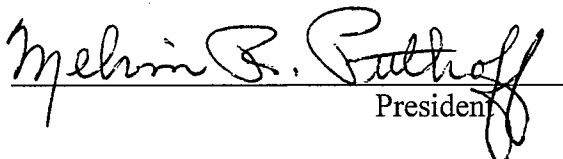
"Directors must be either members or officers, managers, or partners of members that are legal entities or trustees or beneficiaries of trusts that are members."

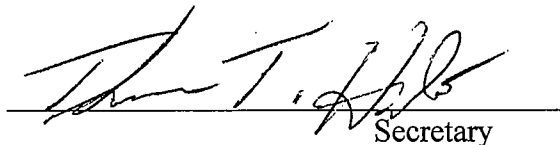
2. Sections 4.01K and 14.01 are each amended to add the following to each:

"The Board may also adopt, from time to time, rules and regulations concerning (i) the use, rental, transfer, operation and other activities concerning the Boat Slips to the extent necessary to insure compliance with all applicable laws, regulations, permits, the existing or future Submerged Land Leases, the collection and remittance of rent and other payments, including but not limited to sales taxes, respecting the rental, leasing, licensing, sublicensing or any other use arrangement respecting the Boat Slips, and the terms and required content of documents effecting the use and transfer of the right to use Boat Slips and (ii) health, safety, protection and welfare of Boat Slips, vessels moored within them, and the occupants thereof."

3. Section 15.01 is deleted.
4. Section 15.02 is renamed as section 15.01.
5. Section 19.01(C) is amended to delete the phrase "Condominium Act or"
6. Section 19.01(E) is deleted.

These amendments were adopted by written consent from the specified percentages of Directors and Members voting.

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Secretary

STATE OF FLORIDA )  
 )  
COUNTY OF COLLIER ) §§:

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 15 day of FEBRUARY, 2006, by MELVIN POTHOFF, as President of Island Marina Boat Slip Owners Association, Inc., a Florida not for profit corporation, who is personally known to me or who produced \_\_\_\_\_ as identification.

*Kathleen A. Kosmala-Downey*  
KATHLEEN A. KOSMALA-DOWNEY  
Notary Public - State of Florida

(SEAL)



Kathleen A. Kosmala-Downey  
My Commission DD235516  
Expires September 12, 2007

KATHLEEN A. KOSMALA-DOWNEY  
Printed Name of Notary  
My Commission Expires: 9-12-07

STATE OF FLORIDA )  
 )  
COUNTY OF COLLIER ) §§:

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 15 day of FEBRUARY, 2006, by THOMAS HALO, as Secretary of Island Marina Boat Slip Owners Association, Inc., a Florida not for profit corporation, who is personally known to me or who produced \_\_\_\_\_ as identification.

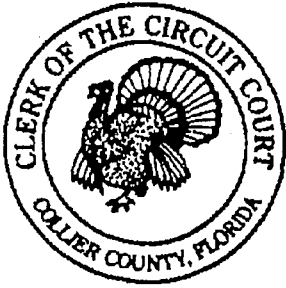
*Kathleen Kosmala-Downey*  
KATHLEEN KOSMALA-DOWNEY  
Notary Public - State of Florida

(SEAL)



Kathleen A. Kosmala-Downey  
My Commission DD235516  
Expires September 12, 2007

KATHLEEN KOSMALA-DOWNEY  
Printed Name of Notary  
My Commission Expires:



County of Collier  
CLERK OF THE CIRCUIT COURT

COLLIER COUNTY COURTHOUSE  
3301 TAMiami TRAIL EAST  
P.O. BOX 413044  
NAPLES, FLORIDA 34101-3044

COPY

Dwight E. Brock  
Clerk

ORIGINAL

OFFICIAL RECEIPT  
When Validated

VN: 3807152 03/21/2006

CHECK: 44.00  
MC AMT PAID: 44.00

BY: NANCY SM  
DEPUTY CLERK

RECEIPT: 4808191

NAME : GRANT FRIDKIN ET AL  
PAYOR: GRANT FRIDKIN ET AL  
REFNC: NV: 1 DOCUMENTS

DOC TYP FILE ID BOOK PAGE  
AMEND 3805022 4002 0684

DESCRIPTION	AMOUNT
RECORDING OF LEGAL INSTRUMENT	21.00
P.R.M.T.F. RECORDING FEE	3.00
STATE CLERK OF COURTS TRUST F INDEXING	20.00
DOCUMENTARY STAMPS - 70	
DOCUMENTARY STAMPS - 35	
INTANGIBLE TAX SALES COPIES	
MISCELLANEOUS FEES	
INTANGIBLE PENALTY	
INTANGIBLE INTEREST	
DEPOSIT ACCOUNTS	
REFUNDS	

DEPT: RECORDING

TOTAL DUE: 44.00



GRANT, FRIDKIN, PEARSON, ATHAN & CROWN, P.A.

Pelican Bay Corporate Centre  
5551 Ridgewood Drive, Suite 501  
Naples, Florida 34108-2719

Tel 239.514.1000  
Fax 239.514.0377  
www.gfpac.com

RICHARD C. GRANT  
Board Certified Real Estate Attorney

239.514.1000 Ext. 202  
rgrant@gfpac.com

April 10, 2006

Mr. Charles Bristol  
Island Marina's Boat Slip Owners Association, Inc.  
13105 Vanderbilt Drive, Unit 910  
Naples, FL 34110

**Re: Recorded Documents Island Marina**

Dear Charlie:

Herewith enclosed is the original recorded Amendment to Declaration of Covenants and Restrictions Island Marina for your records.

Very truly yours,

Richard C. Grant

RCG/trf  
Enclosure

wd\_rea\Island Marina\Review\Bristol-ltr2

RECORDED in OFFICIAL RECORDS of COLLIER COUNTY, FL  
08/07/2006 at 12:38PM DWIGHT B. BROCK, CLERKREC FEE 27.00  
DOC-.70 .70  
COPIES 3.00

This instrument prepared by and return to:  
 Craig D. Varn, Esq.  
 FOWLER WHITE BOGGS BANKER, P.A.  
 101 N. Monroe Street  
 Suite 1090  
 (850) 681-0411  
 (850) 681-6036 (fax)

Retn:  
 ISLAND MARINA BOAT SLIP OWNERS  
 13115 VANDERBILT RD  
 NAPLES FL 34110

### QUIT CLAIM DEED

QUIT CLAIM DEED made this 15th day of May, 2006 between ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a non-profit Florida Corporation, as Grantor, whose address is 13105 Vanderbilt Road, Naples, Florida 34110, and BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, as Grantee.

#### WITNESSETH:

THAT THE SAID GRANTOR, for and in consideration of a sum of Ten and 00/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does remise, release and quitclaim to Grantee and Grantee's heirs and assigns forever all of Grantor's interest in the following described land located in Collier County, Florida:

A parcel of sovereign submerged land in Section 17, Township 48 South, Range 25 East, In Cocohatchee River, Collier County, containing 79,092 square feet, more or less, as is more particularly described below:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF SAID SECTION 17 AND THE CENTERLINE OF VANDERBILT DRIVE, NORTH 00°26'00" WEST 646.16 FEET; THENCE LEAVING SAID EAST LINE OF SECTION 17, SOUTH 89°53'18" WEST 50.00 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID VANDERBILT DRIVE; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, NORTH 00°26'00" WEST 358.20 FEET; THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 89°34'00" WEST 72.25 FEET; THENCE SOUTH 41°11'03" WEST 155.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTH 48°48'37" EAST 43.41 FEET; THENCE SOUTH 48°38'49" WEST 236.40 FEET; THENCE SOUTH 49°38'25" WEST 22.40 FEET; THENCE SOUTH 47°36'58" WEST 14.14 FEET; THENCE SOUTH 57°10'54" WEST 32.31 FEET; THENCE SOUTH 54°54'08" WEST 5.35 FEET; THENCE SOUTH 74°55'51" WEST 3.34 FEET; THENCE NORTH 68°43'32" WEST 6.94 FEET; THENCE SOUTH 77°59'33" WEST 14.81 FEET; THENCE SOUTH 89°49'53" WEST 17.55 FEET; THENCE NORTH 87°57'42" WEST 14.04 FEET; THENCE SOUTH 87°21'36" WEST 18.28 FEET; THENCE NORTH 79°34'42" WEST 21.74 FEET; THENCE SOUTH 86°17'16" WEST 5.79 FEET; THENCE NORTH 64°51'47" WEST 8.97 FEET; THENCE NORTH 60°19'17" WEST 16.64 FEET; THENCE NORTH 44°01'34" WEST 15.60 FEET;

THENCE NORTH 43°52'33" WEST 33.44 FEET; THENCE NORTH 22°12'06" WEST 20.21 FEET; THENCE NORTH 21°59'50" WEST 8.48 FEET; THENCE NORTH 02°04'40" WEST 5.87 FEET; THENCE NORTH 11°23'41" WEST 21.10 FEET; THENCE NORTH 13°18'12" EAST 18.26 FEET; THENCE NORTH 05°39'02" EAST 14.04 FEET; THENCE NORTH 01°33'54" EAST 100.00 FEET; THENCE NORTH 04°25'39" EAST 20.02 FEET; THENCE NORTH 01°33'54" EAST 14.00 FEET; THENCE NORTH 04°43'17" EAST 21.20 FEET; THENCE NORTH 03°07'50" EAST 204.00 FEET; THENCE NORTH 07°12'58" EAST 14.04 FEET; THENCE NORTH 01°06'51" EAST 23.26 FEET; THENCE NORTH 04°15'31" EAST 14.04 FEET; THENCE NORTH 02°59'04" EAST 28.90 FEET; THENCE NORTH 13°38'41" EAST 14.04 FEET; THENCE NORTH 12°27'35" EAST 19.37 FEET; THENCE NORTH 20°01'22" EAST 14.87 FEET; THENCE NORTH 31°32'10" EAST 14.04 FEET; THENCE NORTH 25°28'45" EAST 34.45 FEET; THENCE NORTH 07°21'29" EAST 5.79 FEET; THENCE NORTH 36°12'55" EAST 8.97 FEET; THENCE NORTH 42°36'43" EAST 19.57 FEET; THENCE NORTH 75°49'46" EAST 16.83 FEET; THENCE NORTH 61°48'24" EAST 14.56 FEET; THENCE NORTH 35°59'29" EAST 11.95 FEET; THENCE NORTH 51°28'28" EAST 13.32 FEET; THENCE NORTH 47°32'54" EAST 14.04 FEET; THENCE NORTH 45°42'48" EAST 25.77 FEET; THENCE NORTH 41°41'21" EAST 14.56 FEET; THENCE NORTH 49°06'14" EAST 20.22 FEET; THENCE NORTH 27°29'43" EAST 5.71 FEET; THENCE NORTH 55°24'42" EAST 3.47 FEET; THENCE NORTH 85°47'47" EAST 6.35 FEET; THENCE NORTH 72°10'20" EAST 31.48 FEET; THENCE SOUTH 84°53'55" EAST 15.65 FEET; THENCE NORTH 80°45'51" EAST 30.00 FEET; THENCE NORTH 78°26'35" EAST 8.59 FEET; THENCE SOUTH 81°16'43" EAST 5.77 FEET; THENCE NORTH 80°28'50" EAST 16.19 FEET; THENCE SOUTH 87°30'57" EAST 11.29 FEET; THENCE SOUTH 87°40'09" EAST 14.04 FEET; THENCE NORTH 88°14'43" EAST 54.00 FEET; THENCE SOUTH 87°40'09" EAST 14.04 FEET; THENCE NORTH 88°14'43" EAST 65.42 FEET; THENCE SOUTH 00°19'05" EAST 80.18 FEET; THENCE SOUTH 89°40'55" WEST 262.00 FEET; THENCE SOUTH 44°09'46" WEST 175.19 FEET; THENCE SOUTH 00°26'00" EAST 545.11 FEET; THENCE NORTH 89°34'00" EAST 137.09 FEET; THENCE NORTH 41°11'03" EAST 245.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND

SAID PARCEL CONTAINING 79,092 SQUARE FEET OF LAND, MORE OR LESS; SUBJECT TO THE SOVEREIGNTY SUBMERGED LANDS LEASE RECORDED DECEMBER 27, 2001 IN O.R. BOOK 2951, PG 1429 OF THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.

**THIS DOCUMENT PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION.**

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

Melvin R. Puttoff  
Signature: Witness One  
MELVIN R. PUTTOFF  
Printed Name: Witness One

Island Marina Boat Slip Owners  
Association, Inc.  
Signature: [Signature]  
Printed Name: THOMAS T. HALO  
Title: AUG 7, 2006

[Signature]  
Signature: Witness Two  
MARCI M COLLINS  
Printed Name: Witness Two

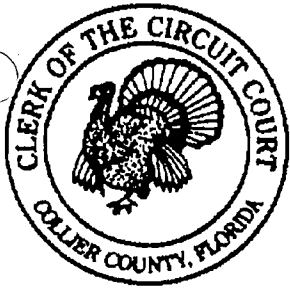
STATE OF FLORIDA  
COUNTY OF COLLIER

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 7th day of AUGUST, 2006, by THOMAS HALO, as PRESIDENT of Island Marina Boat Slip Owners Association, Inc., who is personally known to me or who produced \_\_\_\_\_ as identification.

(SEAL)

 Kathleen A. Kosmala-Downey  
My Commission DD235516  
Expires September 12, 2007

Kathleen A. Kosmala-Downey  
Notary Public - State of Florida  
KATHLEEN A. KOSMALA-DOWNEY  
Printed Name of Notary  
My Commission Expires: 9-12-07



County of Collier  
CLERK OF THE CIRCUIT COURT

COLLIER COUNTY COURTHOUSE  
3301 TAMiami TRAIL EAST  
P.O. BOX 413044  
NAPLES, FLORIDA 34101-3044

Dwight E. Brock  
Clerk

**ORIGINAL**

OFFICIAL RECEIPT  
When Validated

V#: 3922932 08/07/2006

CASH: 31.00  
CHANGE: .30-  
MC AMT PAID: 30.70

BY: GLORIA G  
DEPUTY CLERK

RECEIPT: 4926652

NAME : ISLAND MARINA BOAT SLIP  
PAYOR: HALO THOMAS T  
FNC: GG: 1 DOCUMENTS

DOC TYP FILE ID BOOK PAGE  
DEED 3882799 4084 1432

DESCRIPTION	AMOUNT
RECORDING OF LEGAL INSTRUMENT	13.00
P.R.M.T.F. RECORDING FEE	2.00
STATE CLERK OF COURTS TRUST F INDEXING	12.00
DOCUMENTARY STAMPS - 70	.70
DOCUMENTARY STAMPS - 35	
INTANGIBLE TAX SALES COPIES	3.00
MISCELLANEOUS FEES	
INTANGIBLE PENALTY	
INTANGIBLE INTEREST	
DEPOSIT ACCOUNTS	
REFUNDS	

DEPT: RECORDING

TOTAL DUE: 30.70

Notn:  
GOODLETTE COLEMAN ET AL  
4001 TAMIAKI TR N #300  
NAPLES FL 33940

RECORDED in the OFFICIAL RECORDS of COLLIER COUNTY, FL  
03/27/96 at 08:03AM DWIGHT E. BROCK, CLERK

PETER HOLMES

RO10

**DECLARATION OF COVENANTS AND RESTRICTIONS  
ISLAND MARINA**

On this 5<sup>th</sup> day of March, 1996, ISLAND MARINA, INC., a Florida corporation ("Island Marina") the owner of the property described herein for itself, its successors and assigns, hereby makes the following declarations. ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., and each Member of the Association, who by acceptance and recordation of a certain Certificate of Ownership and acceptance of a Stock Certificate becomes an Owner and a Member of the Association, hereby agree to the terms and conditions of this Declaration.

By virtue of each Owner's purchase, the Owner shall be bound by this Declaration and all rights and privileges of ownership conveyed hereby shall inure to the Owner's benefit.

1. **SUBMISSION TO TERMS OF DECLARATION.** Island Marina and the Association hereby submit the Submerged Land and other Marina Property to the restrictions and covenants set forth herein. **THE MARINA IS EXPRESSLY NOT SUBMITTED TO THE CONDOMINIUM FORM OF OWNERSHIP UNDER FLORIDA STATUTES CHAPTER 718. Island Marina DOES NOT OWN A FEE SIMPLE TITLE TO THE LAND AND CANNOT CONVEY A FEE SIMPLE INTEREST TO A PURCHASER.**

2. **NAME.** The name by which the Marina is to be identified shall be ISLAND MARINA.

3. **THE PROPERTY.** The real Property submitted to the Declaration by this instrument is located in Collier County, Florida, and is described in Exhibit A attached hereto and made a part hereof by reference.

A survey of the Property is contained on Exhibit B attached to this Declaration. The Submerged Land and, consequently, the submission of such property to the Declaration is subject to the rights and claims of the State of Florida, the United States government and the public in submerged land and navigable waters.

4. **DESCRIPTION OF MARINA PROPERTY.** The portions of the Submerged Land in which each Owner takes a sublease pursuant hereto are SEVENTY-NINE (79) individual boat slips numerically identified as No. 1 through No. 79, each of which is specifically described and graphically depicted on the Survey and Table of Permitted-Boat Slip Length and Vessel Draft attached as Exhibit B hereto (Boat Slip No. 80 is designated as a pump-out station). Said Exhibit, together with this Declaration, identifies the "Common Elements" and each "Boat Slip" and their relative locations and approximate dimensions.

The improvements on the Property are constructed substantially in accordance with the exhibits attached to this document.

5. **DEFINITIONS.** Unless otherwise defined herein, capitalized terms used herein have the meanings set forth below.

5.1 **Association.** "Association" shall mean ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC., a Florida corporation not-for-profit.

This Instrument Prepared By:

Kenneth R. Johnson, Esq.  
Goodlette, Coleman, & Johnson, P.A.  
4001 Tamiami Trail North, Suite 300  
Naples, FL 33940

COVENANTS RESTRICTION EXHIBITS FILED REFERENCE BOOK 2  
PAGE 80 thru 81 PUBLIC RECORDS OF COLLIER COUNTY, MARCH 27, 1996  
DWIGHT E BROCK, CLERK  
KELIE STROBEL, DC

5.2 **Association Board.** "Association Board" shall mean the Board of Directors of the Association.

5.3 **Boat Slips.** "Boat Slips" as used herein shall mean and comprise the Property lying within the Unit boundaries on Exhibit B with respect to each of the SEVENTY-NINE (79) individual separate boat slips identified thereon. (Boat Slip No. 80 is designated as a pump-out station).

Not included in the Boat Slips are any pilings associated with the docking facilities or any pipes, ducts, vents, wires, conduits and other facilities, equipment or fixtures running through any horizontal or vertical boundary of a Boat Slip or contained therein for the furnishing of utility services to Boat Slips or Common Elements.

5.4 **Common Elements.** "Common Elements" shall mean and comprise all of the property of the Marina as described on Exhibit B, except the Boat Slips, and in addition shall specifically include without limitation (1) easements or rights through Boat Slips for conduits, pipes, ducts, vents, plumbing, wiring and other facilities, equipment and/or fixtures for the furnishing of Utility Services to Boat Slips and Common Elements; (2) a license to use installations for the furnishing of Utility Services to more than one Boat Slip or to the Common Elements or to a Boat Slip other than the Boat Slip containing the installation; (3) a license to use installations in connection therewith required for the furnishing of services to more than one Boat Slip or to the Common Elements; (4) a license to use fixtures intended for the common use, benefit and enjoyment of all Owners; (5) a license to use all pilings and boat dock structures; (6) an easement and rights of ingress and egress across and through property of Island Marina described herein and in the Declaration of Condominium for Marina Bay Club of Naples; (7) rights to the use of parking spaces on property held by Island Marina; and (8) any and all other rights in property detailed herein as accruing to members or the Association.

5.5 **Common Expenses.** "Common Expenses" shall mean all expenses for which all the Owners of Units (except the Association) shall be liable to the Association, including:

(a) Expenses of administration, insurance, maintenance, operation, repair, replacement and betterment of the Common Elements.

(b) Expenses declared to be Common Expenses by this Declaration or by the By-Laws of the Association and any valid charge against the property as a whole.

(c) Lease payments made and to be made to the State of Florida in accordance with the terms of the Submerged Land Lease.

(d) Dues to any club associated with the Association.

5.6 **Common Surplus.** "Common Surplus" means the excess of (i) all receipts of the Association, including but not limited to assessments, rents, profits and revenues on account of the Common Elements over (ii) the Common Expenses.

5.7 **Declaration.** "Declaration" shall mean this Declaration of Covenants and Restrictions, which shall be an agreement binding upon and inuring to benefit of Island Marina, the Association and each Owner.

5.8 **Island Marina.** "Island Marina" shall mean Island Marina, Inc., a Florida corporation, and developer of the Marina and the upland property.

5.9 **Marina.** "Marina" shall mean the entire marina operation conducted on, in and around the Property, which shall be referred to as "Island Marina."

5.10 **Marina Property.** "Marina Property" shall mean the property subject to this Declaration, encompassing the area occupied by the Owners as Boat Slips, the common areas which shall be controlled by the Association, all appurtenant rights to such property and all Common Elements.

5.11 **Member.** "Member" shall mean a person who, by virtue of purchasing a Unit and a share of Class A stock in the Association and execution and recordation of a Certificate of Ownership, becomes a shareholder and member in the Association. As the context requires, "Member" shall refer to such person in his, her or its capacity as a member and shareholder in the Association, a sublessee of a portion of the Submerged Land, the owner of a Unit or any combination of the above.

5.12 **Owner.** "Owner" shall mean a person who, by virtue of purchasing a Unit and execution and recordation of a Certificate of Ownership, becomes an owner of a Unit. As the context requires, "Owner" shall refer to such person in his, her or its capacity as a member and shareholder in the Association, a sublessee of a portion of the Submerged Land, the owner of a Unit or any combination of the above.

5.13 **Submerged Land.** "Submerged Land" shall mean the submerged land described in Exhibit C attached hereto, as to which Island Marina has rights as lessee under the Submerged Land Lease.

5.14 **Submerged Land Lease.** The "Submerged Land Lease" shall mean that certain Sovereignty Submerged Land Lease between the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and Island Marina, a copy of which is recorded in Official Records Book 2144, at Page 1792, of the Public Records of Collier County, Florida, and any amendments thereto and/or renewals thereof.

5.15 **Unit.** "Unit" shall mean the entire interest of an Owner in the Marina Property and the Boat Slip, including interests and rights in Common Elements arising hereunder or otherwise by virtue of membership and share ownership in the Association.

5.16 **Utility Services.** "Utility services" shall include but not be limited to electric power, cold water, garbage and sewerage disposal, and cable, if provided by the Association.

5.17 **Singular, Plural and Gender.** Where the context so permits, the use of the plural shall include the singular, the singular the plural, and the use of any gender shall be deemed to include all genders.

6. **APPURTENANCES TO UNITS.** There shall be appurtenant, and pass with the conveyance of the leasehold interest to each Boat Slip and with membership and share ownership in the Association, the following rights, shares and interests:

6.1 The right to use exclusively, or in common with certain other Units where so specified, those portions of the Common Elements designated and/or reserved herein.

6.2 The exclusive use of the space occupied by the Boat Slip as it exists at any particular time and as it may lawfully be altered or reconstructed from time to time, which use rights shall be terminated automatically upon the termination of the Submerged Land Lease, or in the event Owner violates this Declaration or the By-Laws or Rules of the Association, and is foreclosed upon in accordance with this Declaration.

6.3 Non-exclusive rights to use and enjoy, in common with the Owners of all Units, those Common Elements not designated elsewhere herein for:

(a) The furnishing and maintenance of public Utility Services to all parts of the Marina Property over, across, in and through the Common Elements, and any improvements, as the improvements, fixtures and equipment therefor now exist or may be modified or relocated.

(b) The non-exclusive right of ingress and egress over streets, walks, docks, piers, and other rights-of-way serving the Boat Slips as part of the Common Elements to provide reasonable access to the public ways, specifically the non-exclusive right of pedestrian ingress and egress over the promenade strip as set forth on the survey attached as Exhibit "B."

(c) The non-exclusive use of parking spaces for all Members, to be maintained by Island Marina in reasonable proximity to the Marina, and the non-exclusive right of ingress from and egress to a public right-of-way over such property to provide access to such parking spaces.

## 7. MARINA OPERATION.

7.1 Association's Responsibilities. The operation of the Marina shall be by the Association, which shall fulfill its functions pursuant to its Articles of Incorporation in the form attached as Exhibit D, as the same may be amended pursuant to the terms thereof, and by its By-Laws in the form attached as Exhibit E as the same may be amended pursuant to the terms thereof.

7.2 Limitation Upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Marina Property, the Association shall not be liable to the Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other Owners or persons.

7.3 Restraint Upon Assignment of Shares in Assets. The share of each Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

7.4 Membership in Association. All of the record owners of Units in the Marina shall be Members and shareholders in the Association.

7.5 Association Authority. Subject to the rights reserved to Island Marina herein to administer and manage the Marina Property initially, the Association shall administer and manage the Marina Property; provided, however, that the Association may partially or wholly delegate its maintenance, management and operational duties and obligations.

7.6 Related Marina Activities. Island Marina or its designees, representatives or contractors shall have the right to access to the Marina Property and Common Elements for purposes of conducting activities (not otherwise prohibited by law, by the Submerged Land Lease, by contract, or by this Declaration or any Rules and Regulations promulgated pursuant hereto) related to the Marina, and shall be entitled to all profits derived therefrom. Without limiting the generality of the foregoing, at such time as required governmental permits and consents may be obtained, Island Marina may lease Units and Boat Slips held by it without the limitations applicable to Owners described herein.

8. ASSESSMENTS. To provide the funds necessary for proper operation and management of the Marina, the Association is hereby granted the right to make, levy and collect assessments against the owners

of all Units. The following provisions shall govern the making, levying and collecting of such assessments and the payment of the costs and expenses of operating and managing the Marina by the Association.

**8.1 Determination of Assessments.** Assessments by the Association against each owner of a Unit and his Unit shall be a one-seventy-ninth (1/79) pro rata share of the total assessments to be made against all owners of Units and their Units. Should the Association become the owner of any Unit(s), the assessment which would otherwise be due and payable to the Association by the Owner(s) of such Unit(s), reduced by an amount of income which may be derived from the leasing of such Unit(s) by the Association, in accordance with the terms of the rental pool agreement, shall be apportioned and the assessment therefor levied ratably among the Owners of all Units which are not owned by the Association, based upon their proportionate interests in the Common Elements exclusive of the interests therein appurtenant to any Unit or Units owned by the Association.

**8.2 Time for Payment.** Each Unit's annual assessment shall be due and payable in advance on a monthly basis, commencing on January 1 of each year, or such other date(s) as shall from time to time be fixed by the Association Board.

**8.3 Annual Budget.** The Association Board shall, in accordance with the By-Laws of the Association, establish an annual budget in advance for each fiscal year, which shall be determined by the Association Board and shall set forth estimates and budgets for (i) all expense for the forthcoming year required for the proper operation, management and maintenance of the Marina including, when deemed necessary or advisable by the Association Board, a reasonable allowance for contingencies and reserves and (ii) all income to be collected during the year. Upon adoption of each annual budget by the Association Board, copies thereof shall be delivered to each Owner and the assessment for the year shall be based upon such budget. Failure to deliver a copy of the budget to an Owner shall not, however, affect the liability of such Owner for such assessment. Should the Association Board at any time and from time to time determine, in the sole discretion of the Association Board, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Marina, or in the event of emergencies, the Association Board shall have the authority to levy such additional assessment or assessments as it shall deem to be necessary.

**8.4 Reserve Funds.** The Association Board, in establishing each annual budget, may include therein a sum to be collected and maintained as a reserve fund for capital expenditures and deferred maintenance of the Common Elements and any personal property held for the joint use and benefit of the Owners and to cover operating deficiencies arising out of delinquent payment of assessments by Owners.

**8.5 Use of Association Funds.** All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to payment of any expense of operating and managing the Marina, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, or its Articles of Incorporation or By-Laws. As the monies for annual assessments are paid to the Association by the Owner, the same may be commingled with monies paid to the Association by the other Owners. All funds and other assets of the Association, and any increments thereto, or profits derived therefrom or from the leasing or use of Common Elements, including common surplus, shall be held for the benefit of the Members.

**8.6 Delinquency or Default.** The payment of any assessment or installment thereof due to the Association shall be in default if not paid to the Association on or before the due date thereof. When in default, the delinquent assessments or installments thereof shall bear interest at the rate of eighteen percent (18%) per annum (for such other rate as may be established by the Association) until the same, and all interest due thereon, has been paid in full.

8.7 **Personal Liability of Owner.** Each Owner of a Unit, regardless of how title is acquired, shall be personally liable, jointly and severally, as the case may be, for the payment of all assessments coming due while an Owner, interest on such delinquent assessments or installments thereof as above provided, and all costs of collecting the assessments and interest thereon, including a reasonable attorney's fee, whether suit be brought or not, levied or otherwise coming due while such person(s) or entity is an Owner.

8.8 **Liability not Subject to Waiver.** No Owner may exempt himself from liability for any assessment levied against such Owner and his Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other manner.

8.9 **Lien for Assessment.** The Association is hereby granted a lien upon each Unit and its appurtenant undivided interest in Common Elements to any such Unit, which lien shall and does secure the monies due for all: (1) assessments levied against the Unit and the Owner(s) thereof; (2) interest which may become due on delinquent assessments owing to the Association; and (3) costs and expenses, including a reasonable attorneys' fee, which may be incurred by the Association in enforcing its lien upon the Unit and its appurtenances. The lien granted to the Association may be established and foreclosed in the Circuit Court in and for Collier County, Florida, and in any suit for the foreclosure of said lien, the Association, in the discretion of the court, may be entitled to rental from the Owner from the date on which the payment of any assessment or installment thereof became delinquent and shall be entitled to the appointment of a receiver for said Unit. The rental required to be paid shall be equal to the rental charged on comparable types of boat slips in the area. At any time prior to the foreclosure sale, an Owner shall have the right to pay all monies due to the Association, including interest, penalties, attorneys' fees and court costs, and thereby recover the full rights in the Unit and the lien shall be released by the Association.

8.10 **Recording of Priority of Lien.** The lien of the Association shall be effective from and after recording in the Public Records of Collier County, Florida, a claim of lien stating the description of the Unit encumbered thereby, the name of the record owner and the amount and date when due. No such lien which is recorded shall continue for a period longer than one year after the claim of lien has been recorded unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. Such claims of lien shall secure all unpaid assessments, accelerated assessments, interest, costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Such claims of lien shall be signed and acknowledged by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. The lien of the Association shall be subordinate to the lien of any mortgage or any other lien recorded prior to the time of recording the Association's claim of lien.

8.11 **Effect of Foreclosure or Judicial Sale.** In the event that any person, firm or corporation shall acquire a leasehold title to any Unit and its appurtenant undivided interest in Common Elements by virtue of any foreclosure or judicial sale, such person, firm or corporation so acquiring title shall be liable and obligated for all unpaid assessments due and payable for the Unit and its appurtenant undivided interest in Common Elements both prior to and subsequent to the date of acquisition of such title, and shall be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. Notwithstanding the foregoing, a mortgagee or other party acquiring leasehold title to a Unit by foreclosure shall not during the period of such ownership, whether or not the Unit is occupied, be excused from the payment of all normal and special assessments against the Owners during the period of such ownership.

8.12 **Effect of Voluntary Transfer.** When an Owner proposes to sell a Unit in compliance with other provisions of this Declaration, the Association, upon written request of the Owner, shall furnish to



the proposed purchaser a statement verifying the status of payment of any assessment which shall be due and payable to the Association by such Owner. Such statement shall be executed by any officer or agent of the Association and any purchaser may rely upon such statement in concluding the proposed purchase transaction and the Association shall be bound by such statement.

In the event that a Unit is to be sold at the time when payment of any Association assessment against the Owner of the Unit shall be in default (whether or not a claim of lien has been recorded by the Association), then the proceeds of such sale shall be applied by the purchaser first to payment of any then delinquent assessment or installment thereof due to the Association before payment of the balance of such proceeds to the Owner of the Unit responsible for payment of such delinquent assessment.

In any voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor made prior to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent its thereafter seeking enforcement of the collection of any sums remaining owing to it by foreclosure, nor shall proceeding by foreclosure to attempt to effect such collection be deemed to be an election precluding the institution of suit at law to attempt to effect collection of any sum then remaining owing to it.

**8.13 Maintenance Assessments on Unsold Units.** Until December 31, 1996, Island Marina guarantees that the assessment for Common Expenses imposed on a Unit Owner shall not exceed ONE THOUSAND SIX HUNDRED EIGHTY AND NO/100 DOLLARS (\$1,680.00) per year. Any amount of Common Expenses incurred during this period in excess of the assessments at the guaranteed level shall be paid by Island Marina; provided, however, that during such period Island Marina shall not be liable or obligated to pay its pro rata share of the Common Expenses on any unsold Units.

**9. USE RESTRICTION.** Use of the Marina Property shall be in accordance with the terms and conditions set forth in the Declaration of Condominium for Marina Bay Club of Naples, the provisions of the Submerged Land Lease and other instruments recorded in the Public records of Collier County, Florida affecting the Marina Property and the following provisions so long as the Marina exists or this Declaration is terminated in accordance with its terms. In the event the Submerged Land Lease is terminated, the Declaration shall likewise terminate. In the event the Submerged Land Lease is extended, this Declaration shall be binding and shall control during the period of all such extensions.

**9.1 Common Elements; Prohibition Against Live-Aboards and Commercial Mooring.** The Common Elements shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the Units. No live-boards shall be permitted on a vessel docked within a Boat Slip. Further, vessels docked within a Boat Slip may not be used for commercial fishing or permanent mooring of other commercial vessels. All such vessels shall be in compliance with all laws, statutes, ordinances and regulations of all applicable governmental agencies including but not limited to all requirements imposed on vessels by the U.S. Coast Guard. However, in the event the laws and statutes of the City of Naples and the Department of Environmental Regulations rules and permits are amended to permit live-boards or permanent mooring of commercial vessels, the Association reserves the right to amend its covenants and restrictions to permit such uses.

9.2 **Lawful Use.** All valid laws, including all laws regarding the disposal of human waste, garbage and fuel shall be fully complied with. All zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies pertaining to maintenance, replacement, modification or repair of the Marina Property shall be the same as is elsewhere herein specified.

9.3 **Regulations.** Reasonable regulations concerning the use of the Marina Property may be made and amended from time to time by the Association in the manner provided by its Articles of Incorporation and By-Laws. Copies of such regulations and amendments shall be furnished by the Association to all Owners. It is intended that such regulations shall pertain to the use of the Common Elements and the Boat Slips. However, such regulations shall not infringe upon any rights, obligations or duties imposed upon an Owner pursuant to this Declaration.

9.4 **Restriction on Leasing.** After approval by the Association, Units may be leased by Owners, provided the use is only by the sublessee and his family, his servants and guests. No lease shall be for a period of less than three (3) months. All leases shall be on a form approved by the Association.

9.5 **Sale of Units.** Until Island Marina has closed the sale of all of the Units in the Marina, neither the Owner nor the Association shall interfere with the sale of the Units. Island Marina may make such use of the unsold Units as may facilitate such sales, including but not limited to maintenance of a sales office, the showing of the property and the display of signs.

10. **COMPLIANCE AND DEFAULT.** Each Owner shall be governed by and shall comply with the terms of this Declaration, the Articles of Incorporation and By-Laws of the Association, and any and all Rules and Regulations adopted pursuant thereto, as they may be amended from time to time and the Declaration of Condominium for Marina Bay Club of Naples, the provisions of the Submerged Land Lease and other instruments recorded in the Public records of Collier County, Florida affecting the Marina Property and. Failure of the Owner to comply therewith shall entitle the Association or other Owners to the following relief in addition to the remedies provided by law.

10.1 **Negligence.** An Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness or by that of any employees, agents, lessees or other invitees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. The responsible Owner shall reimburse the Association for any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit, including the Common Elements.

10.2 **Costs and Attorneys' Fees.** In any proceeding arising because of an alleged failure of an Owner to comply with the terms of the Declaration, the Articles of Incorporation and By-Laws of the Association, and any and all Rules and Regulations adopted pursuant thereto, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

10.3 **No Waiver of Rights.** The failure of the Association or any Unit Owner to enforce any covenant, restriction or other provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, or the Rules and Regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

11. **MAINTENANCE OF COMMUNITY INTERESTS.** In order to maintain a community of congenial Owners who are financially responsible, and thus protect the value of the Units, the transfer of Units by any Owner other than Island Marina shall be subject to the following restrictions:

### 11.1 Transfers Subject to Approval.

(a) **Sale.** No Owner may dispose of a Unit or any interest in any Unit by sale to any person other than another person who is then an Owner without approval of the Association, which shall not be unreasonably withheld.

(b) **Lease.** No Owner may dispose of a Unit or any interest in any Unit by lease without approval of the Association, which shall not be unreasonably withheld, except to a then existing Owner, a current lessee or by way of a renewal of an existing lease. All leases shall be in a standard form approved by the Association and shall be for a minimum term of three (3) months.

(c) **Other Transfers.** A Unit may be transferred by gift, devise or inheritance without approval of the Association provided such transfer does not violate any of the restrictions recorded in the Public Records of Collier County, Florida affecting use of the Marina Property, and in particular, the number of Boat Slips which may be utilized by owners of condominium units in Marina Bay Club of Naples, a Condominium.

11.2 **Approval by Association.** The approval of the Association that is required for the transfer of ownership of Units shall be obtained in the following manner:

(a) **Notice to Association.**

(1) **Sale.** An Owner intending to make a *bona fide* arms-length sale of a Unit shall give to the Association written notice sent certified mail return receipt requested of such intention, together with the name and address of the intended purchaser and such other information concerning the intended purchaser as the Association may reasonably require. Such notice at the Owner's option may include a demand by the Owner that the Association furnish a purchaser of the Unit if the proposed purchaser is not approved, and if such demand is made, the notice shall be accompanied by an executed copy of the proposed contract to sell. In the event the Association is of the opinion that the price is not a bona fide sales price, then the sales price shall be the fair market value of the Unit determined by the average of the values assigned by the written appraisals of three recognized marina appraisers, one of whom shall be selected by the Association, one by the proposed seller and the third by the first two appraisers. The cost of such appraisals shall be equally divided between the Association and the proposed seller.

(2) **Lease.** An Owner intending to make a *bona fide* arms-length lease of his Unit shall give to the Association written notice sent certified mail return receipt requested of such intention, together with the name and address of the intended lessee, such other information concerning the intended lessee as the Association may reasonably require and an executed copy of the proposed lease which shall be on a standard form approved by the Association.

(b) **Certificate of Approval.**

(1) **Sale.** If the proposed transaction is a sale, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the proposed transaction. If approved, the approval shall be stated in a certificate executed by the Association in recordable form, which shall be recorded in the public records of Collier County, Florida, at the expense of the purchaser.

(2) **Lease.** If the proposed transaction is a lease, then within fifteen (15) days after receipt of such notice and information the Association must either approve or disapprove the

proposed transaction. If approved, the approval shall be stated in a certificate executed by the Association and delivered to the lessee.

(c) **Approval of Corporate Owner or Purchaser.**

If the Owner or purchaser is a corporation or other entity, the approval of ownership by the corporation may be conditioned by requiring that the persons occupying the Unit be approved by the Association.

**11.3 Disapproval by Association.** If the Association shall disapprove a transfer of ownership of a Unit, the matter shall be disposed of in the following manner:

(a) **Sale.** If the proposed transaction is a sale and if the notice of sale given by the Owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or mail by certified mail to the Owner an agreement to purchase the Unit concerned by a purchaser approved by the Association who will purchase and to whom the Owner must sell the Unit upon the following terms:

(1) The purchase price will be identical to the *bona fide* offer which was described in the notice to the Association.

(2) The purchase price shall be paid on the same terms as set forth in the *bona fide* offer or on more favorable terms.

(3) The sale shall be closed within thirty (30) days after the delivery or mailing of the agreement to purchase.

(4) A certificate of the Association executed by the Association approving the purchaser shall be recorded in the public records of Collier County, Florida, at the expense of the purchaser.

(5) If the Association shall fail to provide a purchaser upon the demand of the Owner in the manner provided, or if a purchaser furnished by the Association shall default in his agreement to purchase, then, notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved and the Association shall furnish a certificate of approval as elsewhere provided, which shall be recorded in the public records of Collier County, Florida, at the expense of the purchaser.

(b) **Lease.** If the proposed transaction is a lease which is disapproved, the Owner shall be advised of the disapproval in writing and the lease shall not be entered into.

**11.4 Mortgage.** An Owner may mortgage his Unit to a vendor and any financial institution or to a third party to secure a portion or all of the purchase price.

**12. AGREEMENT BETWEEN THE PARTIES AND MAINTENANCE, ALTERATION AND IMPROVEMENT.** The parties, in addition to the other terms and conditions herein, agree to the following responsibilities:

## 12.1 Sublease by Island Marina.

12.1.1 Island Marina, by the execution and recordation of a Certificate of Ownership ("Certificate") in favor of an Owner, thereby grants to such Owner a sublease to the Boat Slip designated in the Certificate. The term of the sublease shall commence the date the Certificate is recorded in the Public Records of Collier County, Florida, and shall terminate upon the termination of the Submerged Land Lease. Island Marina shall have no responsibility or obligation to grant an Owner occupancy rights subsequent to the termination of the Submerged Land Lease. As consideration for the grant of the sublease, the Owner shall make one payment to Island Marina at closing. The terms of the sublease shall be and include as appropriate the terms of this Declaration, Articles of Incorporation and By-Laws of the Association and Rules and Regulations promulgated by the Association, and a default under the Articles of Incorporation, By-Laws or Rules and Regulations shall be a default hereunder and Island Marina shall be entitled to all remedies as provided by law.

12.1.2 Island Marina has granted to the Association by way of capital contribution a license to use certain of the Common Elements and shall convey or license certain additional Common Elements, including without limitation the following, all in exchange for one hundred percent (100%) of the Class A Memberships in the Association (as described in the Association's Articles of Incorporation and By-Laws): (i) a license to use the floating pier facility with all utilities, cable television, telephones, deck lighting, storage boxes and all other amenities; (ii) a license to use all structural beams, pilings, columns, piers, docks, seawall, rip-rap and utility conduits and lines whether contained inside or outside the floating pier facility; (iii) easement to parking spaces, bathrooms and showers located on the uplands property; (iv) an easement to all means of ingress and egress from the upland facility to the Marina; (v) a license to use all electrical apparatus and wiring, plumbing pipes and apparatus and other utility conduits, cables, wires or pipes within or outside of the floating pier; (vi) a license to use all pumps and aerators utilized for the Marina; (vii) a license to use all alterations, additions and improvements to the floating pier facility, the Submerged Land and the seawall. By the execution and recordation of this Declaration, Island Marina hereby grants to the Association a lease or sublease, as appropriate, on all Common Elements not otherwise conveyed by Island Marina to the Association. The terms of the lease or sublease shall commence on the date the instrument is recorded in the Public Records of Collier County, Florida, and shall terminate upon the termination of the Submerged Land Lease (including all extensions). As consideration for the transfer, license or conveyance of property and grant of this lease or sublease, the Association agrees to comply with all terms and conditions of the Submerged Land Lease and the permit issued by the Department of Environmental Resources of the State of Florida ("DER"), and to report and account to the Trustees of the Internal Improvement Fund and the Department of Natural Resources of the State of Florida ("DNR") for the benefit of Island Marina. The Association will perform all obligations required of Island Marina under the Submerged Land Lease and the DER permit, will accept all terms and conditions of said lease and will pay all rents and fees required thereof. In addition, the Association agrees to be bound by and perform all terms and conditions of the Declaration incumbent upon the Association and to maintain the Marina in a condition and operate the Marina in a manner consistent with the standards expected of a first-class Marina operated in south Florida. In the event the above terms and conditions are not met, the same shall be considered a default hereunder and Island Marina shall give the Association thirty (30) days' written notice to cure such default. If such default is not cured, this lease and sublease shall terminate and Island Marina shall be entitled to all remedies provided by law.

## 12.2 By the Association.

12.2.1 The Association shall maintain, repair and replace at the Association's expense all of the Marina Property, including the docks, piers, seawalls and pilings, and all Common Elements, except for reimbursement by Owner for any expenses to repair or replace any of the Common

Elements which are incurred as a result of negligence of the Owner or his guests, invitees, employees or agents. The Association shall manage and control the Marina.

12.2.2 The Association shall take all action necessary to comply with the terms of the Submerged Land Lease.

12.3 By the Unit Owner. The responsibility of each Owner shall be as follows:

(a) To abide by the terms of this Declaration and the Articles of Incorporation, By-Laws and the Rules and Regulations of the Association and promptly to pay all assessments or other monies owed to the Association as they become due.

(b) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the Common Elements.

(c) Promptly to report to the Association any defect or need for repairs for which the Association is responsible.

13. **INSURANCE.** Insurance shall be carried and kept in force at all times in accordance with the following provisions:

13.1 **Duty and Authority to Obtain.** The Association shall obtain and keep in force at all times the insurance coverage which it is required hereby to carry and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized hereby to carry. All insurance obtained by the Association shall be purchased for the benefit of the Association and the Owners and their mortgagees. Provision shall be made for the issuance of mortgagee endorsements or memorandums of insurance for such mortgagees.

13.2 **Required Coverage.** The Association shall purchase and carry insurance coverage as follows:

(a) **Property Insurance-Harbor Master's Office.** Property insurance covering all of the Harbor Master's office in an amount equal to the maximum insurance replacement value thereof, exclusive of excavation and foundation costs, as determined annually by the Association Board, such insurance to afford protection against loss or damage by fire or other hazards covered by the standard extended coverage.

(b) **Public Liability Insurance.** Special public liability insurance in such amounts, with such coverage and in such forms as shall be required by the Association Board to protect the Association and all Owners.

(c) **Workers' Compensation Insurance.** Workers' Compensation insurance to meet the requirements of law.

13.3 **Optional Coverage.** The Association may purchase and carry such other insurance coverage, as the Association Board, in its sole discretion, may determine from time to time to be in the best interests of the Association and Owners, including but not limited to:

(a) **Property Insurance-Boat Docks and other Marina Improvements.** If available at commercially reasonable rates, the Association Board may elect to obtain insurance covering the

boat docks and any other improvements of the Marina, including but not limited to piers, seawalls and pilings in a manner similar to insurance coverage for the Harbormaster's Office.

(b) Such other risks of a similar or dissimilar nature as are or shall be customarily covered with respect to marinas and boat docks, piers, seawalls and pilings, and other improvements similar in construction, location and use to the improvements of the Marina, including vandalism and malicious mischief insurance, if available.

**13.4 Premiums.** Premiums for all insurance obtained and purchased by the Association shall be paid by the Association. The cost of insurance premiums and other incidental expenses incurred by the Association in administering and carrying out the provisions of this Article shall be assessed against and collected from the Owners as Common Expenses.

**13.5 Assured.** All policies of insurance obtained and purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering casualty losses shall be paid to the "Insurance Trustee," as herein identified, or to its successor, and the proceeds from insurance against any casualty loss shall be held for the use of the Association, Owners and their respective mortgagees, as their interests may appear, to be applied or distributed in the manner herein provided. The Association is hereby constituted and appointed agent for all Owners, with authority to negotiate and settle the value and extent of any and all losses covered under any policy of casualty insurance, and the Association is granted full right and authority to execute, in favor of any insurer, a release of liability arising out of any occurrence covered by any policy or policies of casualty insurance and resulting in loss of or damage to insured property, subject only to the restrictions contained in subject only to the restrictions contained in subparagraph 13.9 below.

**13.6 Insurer.** All persons beneficially interested in the insurance coverage obtained, purchased and maintained by the Association shall be bound by the Association's selection of its insurer(s) and the amount of insurance coverage carried and kept in force by the Association.

**13.7 Insurance Trustee.** The Association shall be the Insurance Trustee unless an institutional lender holding a mortgage on thirty percent (30%) of the Units makes written demand to the Association requesting the appointment of an independent trustee. In such event, any proceeds will be paid to or any undisbursed proceeds in the control of the Association will be paid over the independent Insurance Trustee. All persons for whose benefit such insurance is held shall be bound by the Association's selection of the Insurance Trustee.

The independent Insurance Trustee shall be selected by the Association Board and it shall be a bank with trust powers doing business in the State of Florida. The Insurance Trustee shall not be liable for the payment of premiums, the renewal of any policy or policies of casualty insurance, the sufficiency of coverage, the form or content of policies nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds of casualty insurance as are paid and to hold the same in trust for the purposes herein stated and for the benefit of the Association, Owners and their respective mortgagees, to be disbursed as herein provided. The Association shall pay a reasonable fee to the Insurance Trustee for services rendered hereunder and shall pay such costs and expenses as the Insurance Trustee may incur in the performance of its duties hereunder, such fees and costs to be assessed against and collected from Owners as a Common Expense. The Insurance Trustee shall be liable only for its willful misconduct, bad faith or gross negligence, and then only for such money as may come into the possession of the Insurance Trustee. If and when the Insurance Trustee is required to distribute insurance proceeds to Owners and their mortgagees, as their respective interests may appear, the Insurance Trustee may rely upon a certificate of the President and Secretary of the Association executed under oath and provided to the Insurance Trustee upon request to the

Association, such certificate to certify the name or names of the Owners, the mortgagee(s) thereof and the respective percentages of any distribution which is to be made to such Owner(s) and mortgagee(s), as their respective interests may appear.

The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purpose elsewhere stated in this instrument and for the benefit of the Owners and their mortgagees, in the following shares, but which shares need not be set forth on the records of trustee:

(a) **Common Elements.** Proceeds on account of damage to Common Elements - an undivided share for each Owner, such share being the same as the undivided share in the Common Elements appurtenant to his Unit.

(b) **Units.** Proceeds on account of damage to Units shall be held in the following undivided shares:

(1) When the improvements are to be restored - for the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Owner, which cost shall be determined by the Association.

(2) When the improvements are not to be restored - an undivided share for each Owner, such share being the same as the undivided share of the Common Elements appurtenant to his Unit.

(c) **Mortgagees.** In the event a mortgagee endorsement has been issued as to a Unit, the share of the Owner shall be held in trust for the mortgagee and the Owner as their interest may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such proceeds made to the Owner and mortgagee pursuant to the provisions of this Declaration.

**13.8 Distribution of Proceeds.** Proceeds of insurance policies received by the trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(a) **Expense of the Trust.** All expenses of the Trustee shall be paid first or provisions made for such payment.

(b) **Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittance to Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of any Unit and may be enforced by such mortgagee.

(c) **Failure to Reconstruct or Repair.** If it is determined in the manner elsewhere provided that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittance to Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.



13.9 **Association as Agent.** The Association is irrevocably appointed agent for Island Marina, for each Owner and for each holder of a mortgage or other lien upon a Unit to adjust all claims for property damage less than \$10,000 arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims. The Association is likewise irrevocably appointed agent for each Owner and for each owner of any other interest in the Marina Property to adjust all claims for property damage in excess of \$10,000 arising under insurance policies purchased by the Association. However, for all such claims in excess of \$10,000, the Association shall be authorized to execute and deliver releases and to settle claims for the Owners and for the owners of any other interest in the Marina Property only when the Association has the consent of all Owners and approved mortgagees. This provision shall not be construed to confer upon the Association any authority with regard to any claims which an Owner may have for personal injury.

13.10 **Required Coverage by Owners.** Each Owner shall obtain and keep in full force and effect at all times liability insurance insuring against claims arising out of the use and occupancy of such Owner's Unit and the operation of such Owner's vessel in and around the Marina Property. Each Owner shall provide the Association with a Certificate of Insurance. Such insurance shall be in a minimum amount of \$1,000,000 combined single limit (unless the Association determines that a lesser amount is adequate), shall name the Association as an additional insured, and shall cover both public liability of any action of Owners arising out of the operation of vessels in and around the Marina Property, and further provide for payment of any damage to the Marina Property or other vessels in and around the Marina Property arising out of such Owner's use or operations of his vessel in or around the Marina Property.

#### 14. RECONSTRUCTION OR REPAIR AFTER CASUALTY.

14.1 Whether or not the Marina Property damaged by casualty shall be reconstructed and repaired shall be determined in the following manner:

(a) **Common Elements.** If the damaged improvement is a part of the Common Elements, the damage shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Marina and the Declaration shall be terminated.

14.2 **Plans and Specification.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Marina Property, or if not, then according to plans and specifications approved by the Association Board.

14.3 **Estimates of Costs.** Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

14.4 **Assessments.** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the cost of reconstruction and repair are insufficient, assessments shall be made by the Association against all Owners in sufficient amounts to provide funds for the payment of those costs. The assessments shall be made as for a Common Expense, except that the cost of construction, reconstruction and repair to or for the benefit of a Unit, occasioned by a special improvement made at the request of the Owner and not for the benefit of other Units, shall be assessed to the Owner of the Unit.

**15. ALTERATIONS OF AND IMPROVEMENTS TO UNITS AND COMMON ELEMENTS.** Neither an Owner nor the Association shall make any alterations, improvements or additions to Units or Common Elements, except in compliance with the following:

**15.1 Units.** Unless the Owner(s) shall first submit plans for such work to the Association Board and Island Marina, and the Association Board and Island Marina shall approve and consent thereto, no alteration of or improvement or addition to a Unit shall be made, constructed, erected or installed which shall: (1) remove, in whole or in part, replace, reroute or otherwise affect any piling, seawall, dock, pier, column, partition, pipe, duct, wire or conduit, or obstruct any use right herein provided for, or (2) remove or change the style, pattern, material, texture or outside color of any improvements.

**15.2 Common Elements.** After the completion of the improvements included in the Common Elements contemplated by this Declaration, there shall be no alteration or further improvement of the property constituting the Common Elements, and no alteration in the rights of the Association or members to parking spaces without prior approval of Island Marina and the Association and with the consent, in writing, or by vote at a meeting of members constituting two-thirds (2/3) of the ownership interests in all Units (whether or not such members are otherwise entitled to vote), Island Marina being included in each calculation to the effect it holds Units and Class A Memberships in the Association. Any such alteration or improvement shall not interfere with the rights of any Owners without their consent.

**16. RIGHTS OF ISLAND MARINA.** As long as Island Marina, or any mortgagee succeeding Island Marina in leasehold title, shall own any Unit, it shall have the absolute right to lease or sell any such Unit to any person, firm or corporation upon any terms and conditions as it shall deem to be in its own best interests.

**17. AMENDMENTS.**

**17.1 Vote for Amendment.** Except as elsewhere provided herein with respect to Island Marina and mortgagees, this Declaration may be amended only with the consent, in writing, or by vote at a meeting of members constituting two-thirds (2/3) of the aggregate number of shares of Class A stock and Class B stock of the Association outstanding.

**17.2 Change to Boat Slips.** Notwithstanding any other provision of the Declaration to the contrary (including Section 17.3 hereof but excepting Section 15.2 hereof), no amendment may change the configuration or size of any Boat Slip in any material fashion, materially alter the transferability provisions of this Declaration, or materially alter or modify the appurtenances to the Unit nor change the proportion or percentage by which the Owner of the Unit shares the Common Expenses and owns the common surplus, without the consent of one hundred percent (100%) of the Association Members.

**17.3 Amendment by Island Marina.** Notwithstanding any other provision hereof to the contrary, except as provided in Section 17.2 hereof, Island Marina may amend this Declaration until such time as it conveys control of the Association to the members. Such determination shall be conclusively made by the recording of an affidavit in the Public Records of Collier County, Florida, by Island Marina that Island Marina no longer maintains control of such Association (which recordation Island Marina shall be required to make with reasonable promptness following such time).

**17.4 Execution and Recording.** A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted, which certificate shall be executed by the officers of the Association with the formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Collier County, Florida.

18. **TERMINATION.** This Declaration may be terminated in the following manner:

18.1 **Destruction.** In the event of destruction of the Marina Property, such property shall be repaired and reconstructed if there is insurance adequate to cover the costs, or the Association determines to proceed with such repair and reconstruction in any case. In the event it is determined by the Association that the improvements shall not be reconstructed because of total destruction or major damage which is not covered by insurance, the plan of ownership will be thereby terminated.

18.2 **Agreement.** The Declaration may be terminated at any time by the approval in writing of all the Owners of Units in the Association and by all mortgagees who have recorded their mortgages.

18.3 **Termination of Submerged Land Lease.** In the event the Submerged Land Lease is terminated for any reason, the Declaration shall terminate.

18.4 **Certificate.** The termination of the Declaration in any of the foregoing manners shall be evidenced by a certificate of the Association executed by its appropriate officers with the formality of a deed certifying as to facts affecting the termination, which certificate shall become effective upon being recorded in the Public Records of Collier County, Florida.

18.5 **Ownership After Termination.** After termination of the Declaration, all interest in the Submerged Land Lease and the sublease of the Owners and the Association shall terminate and all ownership interest in the Submerged Land Lease shall remain with Island Marina; provided, however, that equitable arrangements shall be made by the Association for distribution of proceeds that may be derived by Island Marina for the assignment, sublease or sale of its rights under the Submerged Land Lease.

18.6 **Amendment.** This section concerning termination shall not be amended without consent of all Owners and of all owners of mortgages required to approve termination by agreement.

19. **MISCELLANEOUS.** Notwithstanding any other provisions of this Declaration, the following shall govern and apply:

19.1 **Enforcement by Governmental Agencies.** The parties acknowledge and agree that Collier County or the State of Florida or their respective duly authorized representative may separately enforce the restrictions against live-aboards and other restrictions as set forth in the Submerged Lands Lease.

19.2 **Severability.** The invalidity in whole or in part of any covenant or restriction, or any article, subarticle, sentence, clause, phrase or word, other provision of this Declaration and the Articles of Incorporation, By-Laws and Regulations of the Association shall not affect the validity of the remaining portions thereof.

19.3 **Applicability of Declaration.** All present or future Owners, tenants, subtenants or any other person who might use the facilities of the Marina in any manner are subject to the provisions of this Declaration, and the mere acquisition or rental of any Unit, or the mere act of occupancy of any Unit, shall signify that the provisions of this Declaration are accepted and ratified in all respects.

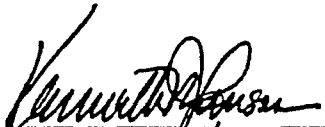
19.4 **Construction.** The provision of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of leasehold ownership.

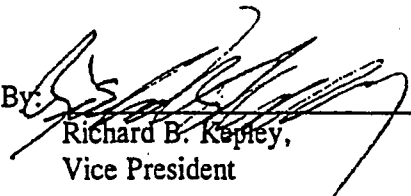
19.5 **Parties Bound.** The restrictions and burdens imposed by this Declaration are intended to and shall constitute covenants running with Island Marina's leasehold interest in the land, and shall be binding upon Island Marina, the Association, their successors and assigns and upon all parties who may subsequently become Owners of Units in the Marina and their respective heirs, legal representatives, successors and assigns.

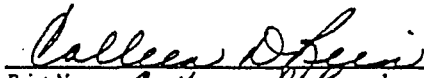
IN WITNESS WHEREOF, Island Marina and the Association have caused the foregoing Declaration to be executed by its undersigned duly authorized officer on the date set forth above.

Signed, Sealed and Delivered  
in the Presence of:

ISLAND MARINA, INC.,  
a Florida corporation

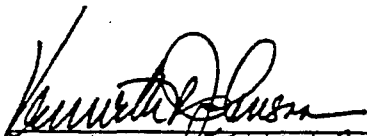
  
Print Name: Kenneth R. Johnson

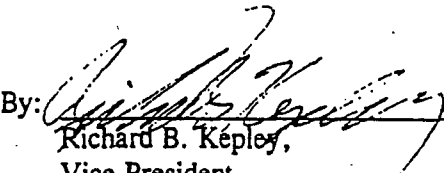
By:   
Richard B. Képley,  
Vice President

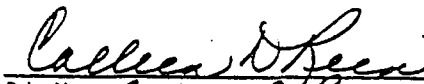
  
Print Name: Colleen D. Keio

Signed, Sealed and Delivered  
in the presence of:

ISLAND MARINA BOAT SLIP  
OWNERS ASSOCIATION, INC.,  
a Florida not for profit corporation


  
Print Name: Kenneth R. Johnson

By:   
Richard B. Képley,  
Vice President

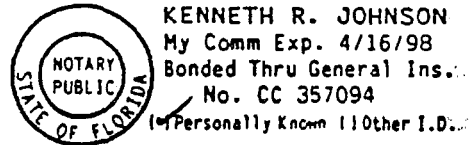
  
Print Name: Colleen D. Keio

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me on this 5<sup>th</sup> day of March, 1996,  
by RICHARD B. KEPLEY, who is personally known to me, as Vice President of ISLAND MARINA,  
INC., a Florida corporation, on behalf of the corporation.


  
\_\_\_\_\_  
Notary Public  
Print Name: KENNETH R. JOHNSON  
State of Florida at Large  
My Commission Expires:

(Notary Seal)



STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me on this 5<sup>th</sup> day of March, 1996,  
by RICHARD B. KEPLEY, who is personally known to me, as Vice President of ISLAND MARINA,  
BOAT SLIP OWNERS ASSOCIATION, INC., a Florida corporation, on behalf of the corporation.

  
\_\_\_\_\_  
Notary Public  
Print Name: KENNETH R. JOHNSON  
State of Florida at Large  
My Commission Expires:

(Notary Seal)

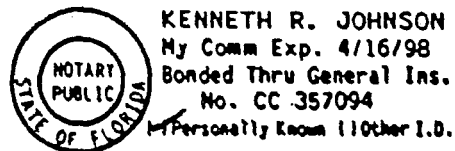


EXHIBIT A

Description of Property Subject to Declaration

EXHIBIT B

Survey

EXHIBIT C

Description of Submerged Land

EXHIBIT D

Articles of Incorporation

EXHIBIT E

By-laws

EXHIBIT A

Description of Property Subject to Declaration

The **MARINA UNIT**, of **MARINA BAY CLUB OF NAPLES**, a **CONDOMINIUM**, according to the Declaration of Condominium therefor recorded in Official Records Book 1619, at Page 1422, of the Public Records of Collier County, Florida, as amended, which includes the following described **FEE** and **SUBMERGED LAND LEASE** property.



## Q. GRADY MINOR &amp; ASSOCIATES, P.A.

Civil Engineers ■ Land Surveyors ■ Planners

GRADY MINOR, P.E.  
 MARK W. MINOR, P.E.  
 C. DEAN SMITH, P.E.

ALAN V. ROSEMAN  
 ROBERT W. THINNES, A.I.C.P.  
 ERIC V. SANDOVAL, P.S.M.

MARINA BAY CLUB OF NAPLES CONDOMINIUM  
 MARINA UNIT (FEE)

A PARCEL OF LAND LYING IN AND BEING A PART OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, LOCATED IN THE COCOHATCHEE RIVER AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA; THENCE RUN N 00°26'00" W ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 17, FOR A DISTANCE OF 646.16 FEET; THENCE RUN S 89°53'18" W FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF VANDERBILT DRIVE; THENCE RUN N 00°26'00" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 363.20 FEET; THENCE RUN S 89°34'00" W A DISTANCE OF 72.25 FEET; THENCE RUN S 41°11'03" W FOR A DISTANCE OF 130.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S 41°11'03" W FOR A DISTANCE OF 270.00 FEET; THENCE RUN S 89°34'00" W FOR A DISTANCE OF 137.09 FEET; THENCE RUN N 00°26'00" W FOR A DISTANCE OF 545.11 FEET; THENCE RUN N 44°09'46" E FOR A DISTANCE OF 175.19 FEET; THENCE RUN N 89°40'55" E FOR A DISTANCE OF 352.00 FEET TO A POINT ON THE SAID WESTERLY RIGHT-OF-WAY LINE; THENCE RUN S 00°26'00" E ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 168.11 FEET; THENCE RUN S 89°34'00" W FOR A DISTANCE OF 50.00 FEET; THENCE RUN N 00°26'00" W FOR A DISTANCE OF 75.00 FEET; THENCE RUN S 89°34'00" W FOR A DISTANCE OF 98.00 FEET; THENCE RUN N 00°26'00" W FOR A DISTANCE OF 56.41 FEET; THENCE RUN S 89°40'55" W FOR A DISTANCE OF 57.07 FEET; THENCE RUN S 00°19'05" E FOR A DISTANCE OF 14.18 FEET; THENCE RUN S 82°22'47" W FOR A DISTANCE OF 81.16 FEET; THENCE RUN S 59°25'56" W FOR A DISTANCE OF 70.39 FEET; THENCE RUN S 39°00'39" W FOR A DISTANCE OF 61.25 FEET; THENCE RUN S 19°02'32" W FOR A DISTANCE OF 57.25 FEET; THENCE RUN S 03°02'41" W FOR A DISTANCE OF 402.35 FEET; THENCE RUN N 68°22'28" E FOR A DISTANCE OF 15.78 FEET; THENCE RUN N 60°00'16" E FOR A DISTANCE OF 34.07 FEET; THENCE RUN N 50°44'49" E FOR A DISTANCE OF 27.01 FEET; THENCE RUN N 49°00'06" E FOR A DISTANCE OF 33.07 FEET; THENCE RUN S 39°50'35" E FOR A DISTANCE OF 31.66 FEET; THENCE RUN N 48°48'12" E FOR A DISTANCE OF 42.06 FEET; THENCE RUN N 43°48'00" E FOR A DISTANCE OF 58.05 FEET TO THE BEGINNING OF A TANGENTIAL CIRCULAR CURVE CONCAVE TO THE NORTHWEST, THENCE RUN NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 138.00 FEET, THROUGH A CENTRAL ANGLE OF 16°51'03", SUBTENDED BY A CHORD OF 40.44 FEET, AT A BEARING OF N 35°22'31" E FOR A DISTANCE OF 40.58 FEET TO THE END OF SAID CURVE; THENCE RUN N 58°50'54" E FOR A DISTANCE OF 39.30 FEET;

THENCE RUN S 48°48'57" E FOR A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING, CONTAINING 2.096 ACRES, MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREON REFER TO AN ASSUMED BEARING OF N 00°26'00" W ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST.

**Q. GRADY MINOR & ASSOCIATES, P.A.**

Civil Engineers ■ Land Surveyors ■ Planners

ALAN V. ROSEMAN  
ROBERT W. THINNES, A.I.C.P.  
ERIC V. SANDOVAL, P.S.M.Q. GRADY MINOR, P.E.  
MARK W. MINOR, P.E.  
C. DEAN SMITH, P.E.**ISLAND MARINA, INC. SUBMERGED LANDS LEASE****LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN AND BEING A PART OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, LOCATED IN THE COCOHATCHEE RIVER AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA; THENCE RUN N 00°26'00" W ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 17, FOR A DISTANCE OF 646.16 FEET; THENCE RUN S 89°53'18" W FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF VANDERBILT DRIVE; THENCE RUN N 00°26'00" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 363.20 FEET; THENCE RUN S 89°34'00" W FOR A DISTANCE OF 72.25 FEET; THENCE RUN S 41°11'03" W FOR A DISTANCE OF 155.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

THENCE RUN S 48°48'57" E FOR A DISTANCE OF 43.41 FEET;  
 THENCE RUN S 48°38'49" W FOR A DISTANCE OF 236.40 FEET;  
 THENCE RUN S 49°38'25" W FOR A DISTANCE OF 22.40 FEET;  
 THENCE RUN S 47°36'58" W FOR A DISTANCE OF 14.14 FEET;  
 THENCE RUN S 57°10'54" W FOR A DISTANCE OF 32.31 FEET;  
 THENCE RUN S 54°54'08" W FOR A DISTANCE OF 5.35 FEET;  
 THENCE RUN S 74°55'51" W FOR A DISTANCE OF 3.34 FEET;  
 THENCE RUN N 68°43'32" W FOR A DISTANCE OF 6.94 FEET;  
 THENCE RUN S 77°59'33" W FOR A DISTANCE OF 14.81 FEET;  
 THENCE RUN S 89°49'53" W FOR A DISTANCE OF 17.55 FEET;  
 THENCE RUN N 87°57'42" W FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN S 87°21'36" W FOR A DISTANCE OF 18.28 FEET;  
 THENCE RUN N 79°34'42" W FOR A DISTANCE OF 21.74 FEET;  
 THENCE RUN S 86°17'16" W FOR A DISTANCE OF 5.79 FEET;  
 THENCE RUN N 64°51'47" W FOR A DISTANCE OF 8.97 FEET;  
 THENCE RUN N 60°19'17" W FOR A DISTANCE OF 16.64 FEET;  
 THENCE RUN N 44°01'34" W FOR A DISTANCE OF 15.60 FEET;  
 THENCE RUN N 43°52'33" W FOR A DISTANCE OF 14.00 FEET;  
 THENCE RUN N 43°52'33" W FOR A DISTANCE OF 19.44 FEET;  
 THENCE RUN N 22°12'06" W FOR A DISTANCE OF 20.21 FEET;  
 THENCE RUN N 21°59'50" W FOR A DISTANCE OF 8.48 FEET;  
 THENCE RUN N 02°04'40" W FOR A DISTANCE OF 5.87 FEET;  
 THENCE RUN N 11°23'41" W FOR A DISTANCE OF 21.10 FEET;  
 THENCE RUN N 13°18'12" E FOR A DISTANCE OF 18.26 FEET;  
 THENCE RUN N 05°39'02" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 01°33'54" E FOR A DISTANCE OF 100.00 FEET;  
 THENCE RUN N 04°25'39" E FOR A DISTANCE OF 20.02 FEET;  
 THENCE RUN N 01°33'54" E FOR A DISTANCE OF 14.00 FEET;  
 THENCE RUN N 04°43'17" E FOR A DISTANCE OF 21.20 FEET;  
 THENCE RUN N 03°07'50" E FOR A DISTANCE OF 204.00 FEET;

THENCE RUN N 07°12'58" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 01°06'51" E FOR A DISTANCE OF 23.26 FEET;  
 THENCE RUN N 04°15'31" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 02°59'04" E FOR A DISTANCE OF 28.90 FEET;  
 THENCE RUN N 13°38'41" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 12°27'35" E FOR A DISTANCE OF 19.37 FEET;  
 THENCE RUN N 20°01'22" E FOR A DISTANCE OF 14.87 FEET;  
 THENCE RUN N 31°32'10" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 25°28'45" E FOR A DISTANCE OF 34.45 FEET;  
 THENCE RUN N 07°21'29" E FOR A DISTANCE OF 5.79 FEET;  
 THENCE RUN N 36°12'55" E FOR A DISTANCE OF 8.97 FEET;  
 THENCE RUN N 42°36'43" E FOR A DISTANCE OF 19.57 FEET;  
 THENCE RUN N 75°49'46" E FOR A DISTANCE OF 16.83 FEET;  
 THENCE RUN N 61°48'24" E FOR A DISTANCE OF 14.56 FEET;  
 THENCE RUN N 35°59'29" E FOR A DISTANCE OF 11.95 FEET;  
 THENCE RUN N 51°28'28" E FOR A DISTANCE OF 13.32 FEET;  
 THENCE RUN N 47°32'54" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 45°42'48" E FOR A DISTANCE OF 25.77 FEET;  
 THENCE RUN N 41°41'21" E FOR A DISTANCE OF 14.56 FEET;  
 THENCE RUN N 49°06'14" E FOR A DISTANCE OF 20.22 FEET;  
 THENCE RUN N 27°29'43" E FOR A DISTANCE OF 5.71 FEET;  
 THENCE RUN N 55°24'42" E FOR A DISTANCE OF 3.47 FEET;  
 THENCE RUN N 85°47'47" E FOR A DISTANCE OF 6.35 FEET;  
 THENCE RUN N 72°10'20" E FOR A DISTANCE OF 31.48 FEET;  
 THENCE RUN S 84°53'55" E FOR A DISTANCE OF 15.65 FEET;  
 THENCE RUN N 80°45'51" E FOR A DISTANCE OF 30.00 FEET;  
 THENCE RUN N 78°26'35" E FOR A DISTANCE OF 8.59 FEET;  
 THENCE RUN S 81°16'43" E FOR A DISTANCE OF 5.77 FEET;  
 THENCE RUN N 80°28'50" E FOR A DISTANCE OF 16.19 FEET;  
 THENCE RUN S 87°30'57" E FOR A DISTANCE OF 11.29 FEET;  
 THENCE RUN S 87°40'09" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 88°14'43" E FOR A DISTANCE OF 54.00 FEET;  
 THENCE RUN S 87°40'09" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 88°14'43" E FOR A DISTANCE OF 65.42 FEET;  
 THENCE RUN S 00°19'05" E FOR A DISTANCE OF 80.18 FEET;  
 THENCE RUN S 89°40'55" W FOR A DISTANCE OF 262.24 FEET;  
 THENCE RUN S 44°09'46" W FOR A DISTANCE OF 175.19 FEET;  
 THENCE RUN S 00°26'00" E FOR A DISTANCE OF 545.11 FEET;  
 THENCE RUN N 89°34'00" E FOR A DISTANCE OF 137.09 FEET;  
 THENCE RUN N 41°11'03" E FOR A DISTANCE OF 245.00 FEET;  
 TO THE POINT OF BEGINNING, CONTAINING 79,092 SQUARE FEET,  
 MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREIN REFER TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, AS BEING N 00°26'00" W.

Q. GRADY MINOR & ASSOCIATES, P.A.

SIGNED 1/22/96

*Eric V. Sandoval*

ERIC V. SANDOVAL  
F: SURVEY\IM

, P.S.M. #5223  
STATE OF FLORIDA

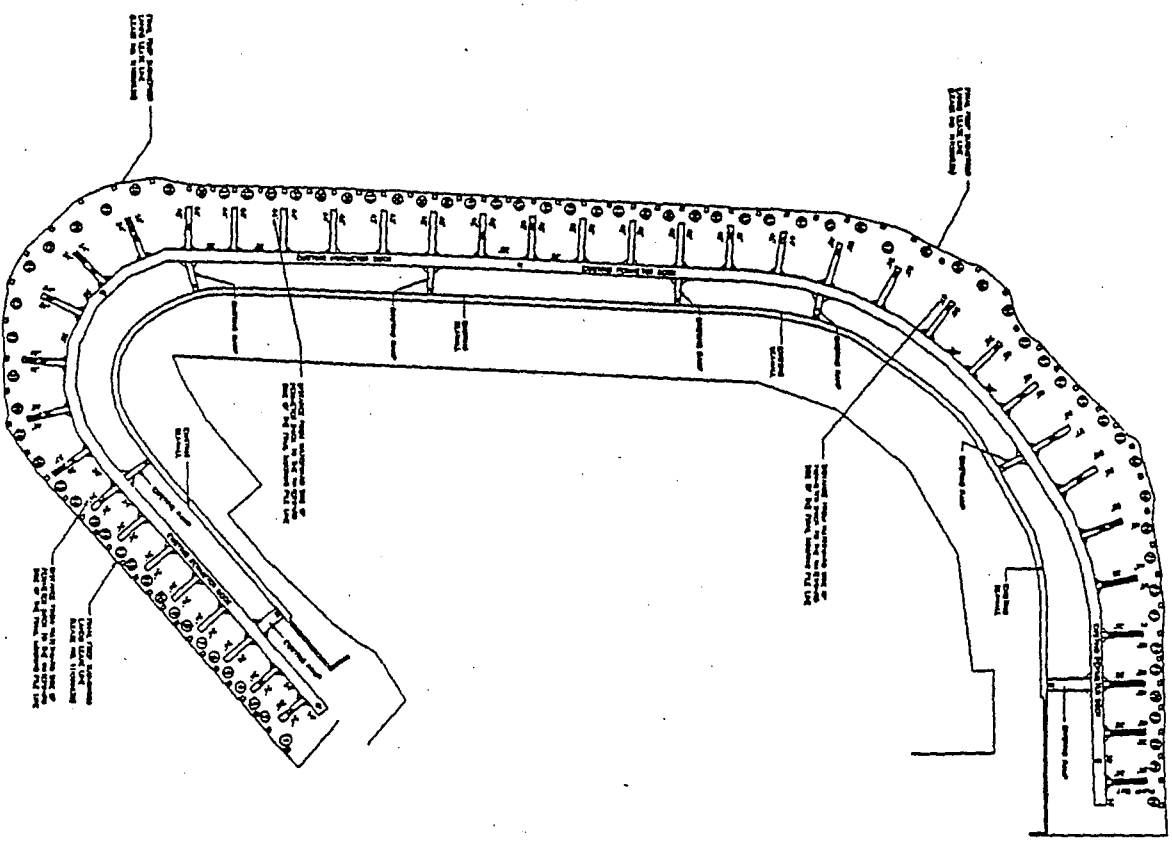
EXHIBIT B

Survey and Table of Permitted Boat Slip Length  
and Vessel Draft



UK: 4163 PG: 0029

- LEGEND**
- ROOFRING PILE LOCATION
  - ▬ EXISTING FRINGER PIER
  - APPROVED FRINGER PIER TO BE INSTALLED
  - ① SLIP NUMBER



<p><b>ISLAND MARINA, INC.</b></p> <p>OVERALL DOCK PLAN</p>		<p><b>R. CRADY WARD AND ASSOCIATES, P.A.</b>          CIVIL ENGINEERS • LAND SURVEYING • PLANNERS          1000 N. W. 10th St.          BOCA RATON, FLORIDA 33432</p>	<p><b>OWNER/DEVELOPER</b>          ISLAND MARINA, INC.          P. O. BOX 2288          BOCA RATON, FLORIDA 33432</p>
<p>DATE: 11/1/84</p> <p>SCALE: 1" = 100'</p>	<p>PROJECT NO. 84-001</p> <p>DATE: 11/1/84</p>	<p>BY: [Signature]</p> <p>CHECKED: [Signature]</p>	<p>DATE: 11/1/84</p>



**Table of Permitted Boat Slip  
Length and Vessel Draft**

<b>Boat Slip</b>	<b>Slip Length (as permitted by Florida Submerged Land Lease No. 111000635)</b>	<b>Maximum Vessel Draft</b>
1	34	3.0
2	34	3.0
3	34	3.0
4	34	3.0
5	34	3.0
6	34	3.0
7	34	3.0
8	34	3.0
9	34	3.0
10	34	3.0
11	34	3.0
12	34	3.0
13	34	3.0
14	34	3.0
15	34	3.0
16	34	3.0
17	35	3.0
18	37	3.0
19	42	3.0
20	40	3.0
21	41	3.0
22	42	3.0
23	51	4.0
24	54	4.5
25	54	4.5
26	54	4.5
27	54	4.5
28	52	4.5
29	45	4.0

Boat Slip	Slip Length (as permitted by Florida Submerged Land Lease No. 111000635)	Maximum Vessel Draft
30	44	4.0
31	44	4.0
32	44	4.0
33	44	4.0
34	44	4.0
35	44	4.0
36	44	4.0
37	43	4.0
38	43	4.0
39	42	4.0
40	42	4.0
41	42	4.0
42	42	3.0
43	42	3.0
44	42	3.0
45	42	3.0
46	42	3.0
47	42	3.0
48	42	3.0
49	42	3.0
50	42	3.0
51	42	3.0
52	41	3.0
53	43	4.0
54	44	4.0
55	49	4.0
56	50	4.0
57	54	4.5
58	53	4.5
59	57	4.5
60	60	4.5
61	50	4.0

Boat Slip	Slip Length (as permitted by Florida Submerged Land Lease No. 111000635)	Maximum Vessel Draft
62	46	4.0
63	48	4.0
64	49	4.0
65	53	4.5
66	57	4.5
67	60	4.5
68	60	4.5
69	55	4.5
70	48	4.0
71	44	4.0
72	42	4.0
73	41	3.0
74	40	3.0
75	40	3.0
76	40	3.0
77	40	3.0
78	39	3.0
79	39	3.0

Vessel Drafts shall be measured as the deepest draft of each Vessel with the motor fully extended.

Vessel Beam: As set forth in Paragraph 7.K. 2. of the Submerged Land Lease, 75 Slips shall be limited to vessels with beam widths of 14 feet or less, except that up to 6 of such slips may be used by multi-hulled vessels with beams greater than 14 feet, which have drafts of less than 3 feet; and no more than 4 slips shall be permitted to have beam widths of greater than 14 feet but not more than 16.5 feet. Boat Slips 65, 66, 67 and 68 are the four slips presently permitted to have a vessel beam of up to 16.5 feet. No changes in the designation of 16.5 vessel beam slips shall be permitted without the permission of the Island Marina Harbormaster who shall maintain a ledger of such slips and of the slips permitted to have multi-hulled vessels with beam widths of greater than 14 feet. Further, in order to change such designation a notice must be recorded in the Public Records of Collier County, Florida which must be signed by the respective owners of the slip losing and gaining the 16.5 feet designation and by an officer of the Association.

EXHIBIT C

Description of Submerged Land

# Q. GRADY MINOR & ASSOCIATES, P.A.

Civil Engineers ■ Land Surveyors ■ Planners

Q. GRADY MINOR, P.E.  
MARK W. MINOR, P.E.  
C. DEAN SMITH, P.E.

ALAN V. ROSEM  
ROBERT W. THINNES, A.I.  
ERIC V. SANDOVAL, P.S.

## ISLAND MARINA, INC. SUBMERGED LANDS LEASE

### LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN AND BEING A PART OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, LOCATED IN THE COCOHATCHEE RIVER AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA; THENCE RUN N 00°26'00" W ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 17, FOR A DISTANCE OF 646.16 FEET; THENCE RUN S 89°53'18" W FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF VANDERBILT DRIVE; THENCE RUN N 00°26'00" W ALONG SAID WESTERLY RIGHT-OF-WAY LINE FOR A DISTANCE OF 363.20 FEET; THENCE RUN S 89°34'00" W FOR A DISTANCE OF 72.25 FEET; THENCE RUN S 41°11'03" W FOR A DISTANCE OF 155.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED;

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UN. 4103 PG: 0034

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 THENCE RUN N 01°06'51" E FOR A DISTANCE OF 23.26 FEET;  
 THENCE RUN N 04°15'31" E FOR A DISTANCE OF 14.04 FEET;  
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 THENCE RUN N 25°28'45" E FOR A DISTANCE OF 34.45 FEET;  
 THENCE RUN N 07°21'29" E FOR A DISTANCE OF 5.79 FEET;  
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 THENCE RUN S 87°30'57" E FOR A DISTANCE OF 11.29 FEET;  
 THENCE RUN S 87°40'09" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 88°14'43" E FOR A DISTANCE OF 54.00 FEET;  
 THENCE RUN S 87°40'09" E FOR A DISTANCE OF 14.04 FEET;  
 THENCE RUN N 88°14'43" E FOR A DISTANCE OF 65.42 FEET;  
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 THENCE RUN S 89°40'55" W FOR A DISTANCE OF 262.24 FEET;  
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 THENCE RUN N 89°34'00" E FOR A DISTANCE OF 137.09 FEET;  
 THENCE RUN N 41°11'03" E FOR A DISTANCE OF 245.00 FEET;  
 TO THE POINT OF BEGINNING, CONTAINING 79,092 SQUARE FEET,  
 MORE OR LESS.

THIS PROPERTY IS SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RESTRICTIONS OF RECORD.

BEARINGS SHOWN HEREIN REFER TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 48 SOUTH, RANGE 25 EAST, COLLIER COUNTY, FLORIDA, AS BEING N 00°26'00" W.

Q. GRADY MINOR & ASSOCIATES, P.A.

SIGNED 1/22/96

*Eric V. Sandoval*

ERIC V. SANDOVAL, P.S.M. #5223  
STATE OF FLORIDA

F: SURVEY\IM

EXHIBIT D

Articles of Incorporation



## RULES AND REGULATIONS

In order to maintain an inviting atmosphere at Island Marina and to assure maintenance of water quality at the Marina as required by environmental permits issued to the Marina, the following rules and regulations are in effect and constitute a part of and are deemed incorporated into the Dockage Agreement. Compliance at all times with the following rules and regulations is required.

1. When a vessel enters the Marina, the Vessel Owner ("Vessel Owner"), crew and guests shall comply with the terms of the Rules and Regulations, the Mooring Rules, The Declaration of the Association and the Bylaws of the Association as amended from time to time to include the terms of the Dockage Agreements and the Submerged Land Lease ("Association Documents"). If applicable, it is the ultimate responsibility of the related Slip Owner to ensure the Vessel Owner or his/her/its' crew and invitees comply with the terms of the Association Documents.
2. Check In – Upon the new arrival of a vessel or upon the signing of a Dockage Agreement, the Harbormaster (or his/her designee) shall inform the Vessel Owner of their responsibilities regarding use of the slip and shall advise the Vessel Owner that the outboard mooring pilings are the waterward extent of the Marina and that no part of the Vessel Owner's vessel may extend beyond the outboard mooring pilings. The Harbormaster shall go over the Terms of the Dockage Agreement and shall explain the conditions, including the navigation conditions and restrictions in and around the Marina and Wiggins Pass. The Association shall make available to the Vessel Owner upon request, a document reflecting the navigational channel from the Marina to Wiggins Pass. The Harbormaster, upon directing the Vessel Owner to the assigned slip, shall inspect the vessel to determine the type of operation and condition of various overboard discharge systems, including, but not limited to bilges, showers, galleys, heads, and holding tanks.
3. The vessel Owner is prohibited is from and shall not allow any part of the vessel to extend waterward of the Marina's outboard mooring pilings. In certain instances, the outboard mooring pilings have been placed short of the permitted slip boundary. See Rule # 1 of the MOORING RULES for a detailed description of the rule and remedies adopted for enforcement.
4. Upon initial mooring at the Marina and at appropriate subsequent intervals, as determined by the Harbormaster, the Vessel Owner shall provide the Harbormaster a mechanics' certification that the engines are properly tuned, or will allow the Harbormaster access to inspect the vessel to determine that the engines are properly tuned so as to release into the water as little oil and grease as practical, given the size, type, and age of the engine. Vessels with improperly tuned engines, as determined by the Harbormaster, shall not be permitted to moor at the Marina.
5. Sewage Pumpout – Upon determination of the type of system on board, the Harbormaster shall proceed to; a) pump out any self contained holding tank, assuring that it is sealed from discharge overboard; b) seal any head (toilet) with a direct discharge overboard, in a fashion preventing its use; c) remove any portable holding tank to a secured upland location; and d) provide the Vessel Owner with key/combination to upland sanitary facilities (OPTIONAL). The Harbormaster shall ensure that discharges shall be properly directed for treatment.
6. Documentation – The Harbormaster shall enter into the daily log the name of the vessel, name of the Vessel Owner, and type of sanitary facilities on board. If a holding tank is pumped out, an approximate amount shall be documented.
7. Bilges – Pumping of bilges in the Marina is prohibited. Pumping of bilges introduces oils, greases, detergents and related deleterious substances into the Marina basin that degrade water quality. Owners of vessels moored at the Marina for more than two consecutive days or seven days in any 30-day period, must install and maintain within the vessel bilge, absorbent pads capable of absorbing oil and grease but not water. Vessel owners shall replace such absorbent pads at intervals recommended by the manufacturer or at more frequent intervals as determined by the Harbormaster after inspection. The Vessel Owner shall be responsible for disposing of the absorbent pads in a manner consistent with state or federal regulations. Vessels planning to moor at the Marina for more than two consecutive days or seven days in any 30-day period shall be prohibited from mooring without absorbent pads.  
  
If requested by the Vessel Owner, or in the event of a recognized emergency situation, in the Vessel Owner's absence, the Harbormaster shall provide, at the Vessel Owner's expense, equipment capable of pumping bilges into a container for transfer to a suitable upland disposal site. Only in the event of an emergency, for example the breach of a hull, failure of a thru hull fitting, or similar event, shall pumping of bilges be allowed. Emergency pumping does not alleviate the State requirements for water quality or any subsequent enforcement action as result of pumping. The Vessel Owner shall be financially responsible for the remediation of adverse water quality impacts. Absorbent material and a containment boom are available at the Marina to contain discharges of fuel or other pollutants.

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## RULES AND REGULATIONS

8. **Galleys/Showers** – The Vessel Owner has an obligation to maintain water quality within the Marina. The Vessel Owner should utilize biodegradable detergents when possible, avoid overboard discharges and prevent discharge of oils, greases, food products, or other wastes associated with use of a galley or shower or other source.
9. **Residency** – No transient or permanent liveaboard shall be allowed to use the Marina. Liveaboards shall be defined as those vessels with habitants docked at the facility for two (2) consecutive days or seven (7) days in a thirty (30) day period. No overnight sleeping or staying on any vessels shall be allowed at the Marina unless such vessels contain a federally approved holding tank for galley, head, or similar waste, and on board discharges be directed to those facilities. The Harbormaster will, at the Vessel Owner's request and expense, pump those tanks out prior to the vessel departing and make an appropriate entry made into the daily log.
10. Omitted on purpose to retain rule # sequence - - - transferred original language to rule # 31.
11. Omitted on purpose to retain rule # sequence - - - transferred original language to rule # 30.
12. Only vessels in good condition, and under their own power, shall be admitted to berthing areas. In the event of an emergency during the Vessel Owner's absence, e.g. breakdown of the bilge pump, leak, bad lines, the Association is authorized to make necessary repairs as economically as possible which will be charged to the Vessel Owner.
13. Pets shall be leashed within the confines of the Marina, and toileted on grass areas. Pets are permitted only if they do not disturb guests.
14. Boats leaving for an extended cruise will notify the Harbormaster of the approximate duration and destination.
15. The rules of the road and the navigational laws of the United States apply to all vessels entering and leaving the Marina.
16. Refuse or garbage shall not be thrown overboard. All refuse or garbage shall be deposited in can (garbins) or other receptacles supplied for that purpose. Vessel Owner shall notify the Association of anything that will not fit in these cans and the Association shall dispose of same.
17. Charcoal or gas fires will not be permitted on the dock. Storage or placement of fuel/oil containers, flammable substances or hazardous materials on the docks or in dock boxes is strictly prohibited.
18. Noise shall be kept to a minimum at all times. Vessel Owners shall use discretion in operating engines, generators, radios and television sets, so as not to create a nuisance or disturbance. The use of mechanical tool (buffers, sanders, etc.) outside of the boat is prohibited. All boats must have under-water exhaust in operation.
19. Advertising or soliciting shall not be permitted on any vessel within the Marina. Neither the vessel nor Island Marina, its name, address or phone number shall be used for business purposes by Owners. Commercial vessels (For Sale, charter or hire, etc.) are not permitted in the Marina.
20. Fishing, swimming, diving, jumping, roller-skating, skateboarding, casting, or gigging shall not be permitted from the docks, finger piers, or from vessels at the dock. No fish cleaning shall be permitted within the Marina.
21. Vessel or Slip Owners shall not store supplies, materials, accessories or debris on walkway, docks or finger piers and shall not construct or place thereon any lockers, boat lifts, cabinets, or similar structures, except with written approval from the Association. Painting, scraping or repairing of gear or of the vessel shall not be permitted on the walkways, docks or finger piers. The extent of repairs and maintenance, which shall be permitted, shall be at the sole discretion of the Association.
22. Subleasing of slips, transfer of a vessel between slips, or from one slip to another slip shall not be allowed, except upon prior written approval of the Association. The Vessel Owner agrees that in case of an emergency, the Association may move the vessel from its' assigned mooring space to any other mooring space without prior notice or approval. Vessels may be moved to another slip upon a (30) thirty-day notice to make room for special events at Island Marina.
23. Laundry shall not be hung on boats, walkways, docks or finger piers in the Marina, nor shall "for sale" or "for hire" signs be placed on vessels.
24. Vessel Owners checking out of the Marina shall report to the Harbormaster's office and settle their account prior to leaving. It is suggested that all Vessel and Slip Owners will leave a forwarding address in order to permit prompt handling in the event telephone calls or mail is received for them. However, in any event the Association assumes no responsibility whatsoever for forwarding mail or messages. All personal property must be removed from dock boxes when dockage is terminated. The Association assumes no responsibility for any personal property that may be remaining.
25. The Association reserves the right to limit and govern parking in the Marina Area.

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## RULES AND REGULATIONS

26. Motorcycles and bicycles shall not be ridden on any dock or pier and shall be stored on the boat or in the parking lot. Dinghies must be berthed within the slip assigned to the boat and in such a manner as not to interfere with the adjoining slip.

27. All vessels moored at this Marina shall be registered or titled unless exempt by Florida Statutes Chapters 327 and/or 328.

28. All lines, rigging and halyards will be secured by the Vessel Owner in order to eliminate noise. Slotted masts must have noise protection devices.

29. If the Owner's vessel contains a sanitation device aboard, it must comply with the most advanced state of the art requirements of applicable governmental laws and regulations concerning the installation and use of such device. The sanitation device must be properly functioning at all times while the vessel is at its berth. No discharge of sanitation effluent or dumping overboard shall be allowed at the Marina.

30. Violations - The Association reserves the right to identify any offender causing a violation of any governmental approval, rule, regulation of law, including but not limited to, water quality standards within and adjacent to the Marina, and to name said offender in any enforcement action taken by any governmental authority with jurisdiction or a proprietary interest in or over the Marina or activities conducted at the Marina.

Violation of any of the Rules and Regulations and Mooring Rules as amended from time to time, or disorder, or indecorous conduct by the Vessel or Slip Owner, that may injure a person, cause damage to property or to the environment or harm the reputation of the Marina shall be cause for immediate termination of the Dockage Agreement and removal from the Marina of the Vessel.

31 Remedies and Notification - The Harbormaster shall monitor all Vessel and Slip Owners using the Marina to ensure compliance with these Rules and Regulations, the Mooring Rules and the Dockage Agreement. Upon observation of non-compliance concerning Rule Nos. 3, 4, 7, 8, 16, 17 or 29 or other environmental compliance requirements, regulatory approval, rule, regulation or law, the Harbormaster may serve a written "Caution" statement to the Vessel and Slip Owner, informing him of the infraction. A second infraction may result in a written "Warning" notice, informing the Vessel and Slip Owner of the second infraction. A third infraction will result in the immediate termination of the Dockage Agreement, and the Vessel Owner will be given one hour to remove the vessel from the Marina. Infractions do not have to be identical, and separate notices of violations of these Rules and Regulations, the Mooring Rules and the Dockage Agreement are cumulative. All Caution, Warning and Termination Notices will be documented in the Daily Log, including the reason for the infraction. Copies of such Notices resulting from violations will be forwarded to the Department of Environmental Regulations, Fort Myers office.

In lieu of issuing such notices, the Association reserves the right to terminate the lease and cause the immediate removal from the Marina of the vessel as authorized by the Dockage Agreement.

32. Mooring Rules - The rules entitled "MOORING RULES" are incorporated herein by reference.

33. When any vessel is moored, the stern or bow of the vessel shall not be in contact with any part of the docks. The "spring line" must prevent any part of the stern or bow of the vessel from touching or bumping any part of the docks. See Rule # 2 of the MOORING RULES for a detailed description of the rule and the remedies adopted for enforcement.

34. Following the adoption of the Mooring Rules by the Board on April 17, 2003 requires that all subsequent Vessel Owners after July 1, 2003, must enter into a Dockage Agreement with the Association for any vessel that is to be moored in a designated slip at this Marina and a member of the Board of Directors must approve that agreement. See Rule # 3 of the MOORING RULES for a detailed description of the rule and the remedies adopted for enforcement.

35. Any vessel with a bow, anchor or any other portion thereof that extends into the Association common dock space must have that bow, anchor or portion thereof covered with a brightly colored cushioned protective device to aid in the safety of persons utilizing the docks. See Rule # 4 of the MOORING RULES for a detailed description of the rule and the remedies adopted for enforcement.

**KEEP OUR WATERWAYS CLEAN - WATCH FOR THE MANATEE  
NO WAKE PLEASE!**

**NOTICE: THESE RULES AND REGULATIONS ARE PART OF YOUR DOCKAGE AGREEMENT**

**THESE RULES AND REGULATIONS WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S  
BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON JULY 31, 2003**

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ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.

**DOCKAGE AGREEMENT**

This agreement (the "Dockage Agreement") is entered into by and between The Island Marina Boat Slip Owners Association (the "Association") and the undersigned vessel owner ("Vessel Owner") and/or Slip Owner ("Slip Owner"). The Vessel Owner and the Slip Owner may be the same person or entity.

PRINT ALL INFORMATION

Vessel Owner's Name: \_\_\_\_\_ Slip Owner's Name: \_\_\_\_\_  
Vessel Owner's Phone #: \_\_\_\_\_ Slip Owner's Phone #: \_\_\_\_\_  
Street Address: \_\_\_\_\_ Street Address: \_\_\_\_\_  
City, State & Zip: \_\_\_\_\_ City, State & Zip: \_\_\_\_\_  
Vessel Name: \_\_\_\_\_ Vessel Mfgr: \_\_\_\_\_ Vessel Model: \_\_\_\_\_ Reg.#/Documentation: \_\_\_\_\_  
Registration Length: \_\_\_\_\_ Tip to Tip Length: \_\_\_\_\_ Beam (Width): \_\_\_\_\_ Draft (Depth): \_\_\_\_\_  
Slip # \_\_\_\_\_ Liability Insurance Provider: \_\_\_\_\_ Insurance Amount: \_\_\_\_\_ Interested Party: \_\_\_\_\_

For and in consideration of the fees stipulated herein and the promises and covenants, the parties agree as follows:

1. Subject to the terms hereof and for only the purposes set forth herein, the Association grants to Vessel Owner a license to use the Dock Space identified herein. Every Vessel Owner whose vessel is moored in a slip at Island Marina must enter into a Dockage Agreement. The parties affirm that this Agreement creates only a license for the use of a Dock Space with Association as Licensor and the Vessel Owner as Licensee. This license confers no interest whatsoever in real or personal property.
2. The license granted hereby shall be for the term of the Agreement entered into between the Vessel Owner and the Slip Owner, provided however that the Association may revoke the license upon failure of the Vessel or Slip Owner to abide by the terms of this Dockage Agreement or terms of other documents incorporated herein by reference.
3. As used herein, the term "Dock Space" means the water column extending from the surface, to one inch above the bottom of the adjacent dock as identified by the Slip # shown above. The license also includes use of the main perimeter docks, parking area, and access ways for access to the Dock Space.
4. The Rules and Regulations of Island Marina will be observed by the Vessel or Slip Owner, their guests, agents and employees. The Rules and Regulations for Island Marina are attached to this Dockage Agreement and are incorporated by reference. A violation of the Rules and Regulations shall constitute a violation of this Dockage Agreement. The Association reserves the right to alter, amend and modify the Rules and Regulations by posting of a notice in the Harbormaster Office. A breach of any of the requirements of this Dockage Agreement or a violation of the Rules and Regulations shall constitute a Default. In the event of a Default, this Dockage Agreement and the license granted hereby shall at the Association's option, terminate immediately, and the Association may remove the vessel from the Dock Space at the Vessel Owner's expense and retake possession of the Dock Space or take any other remedial action permitted by this Dockage Agreement, the laws of the State of Florida or Federal Law.
5. No alterations or modifications to any part of the premises may be made by the Vessel Owner or the Slip Owner. Use of the Dock Space is the personal privilege of the Vessel Owner and is not assignable. Any attempt to assign, or assignment of, this Dockage Agreement is void. Any vessel remaining at Island Marina after its license has been revoked or after the expiration of this Dockage Agreement shall be deemed to be trespassing and the Association may take any and all actions permitted by law to remedy the trespass.
6. Vessel and/or Slip Owner acknowledge that the Association has disclosed the vessel size limitations for the Dock Space established by the regulatory agencies, including the size limitations for the Dock Space subject to this Dockage Agreement. Vessel and/or Slip Owner acknowledges its understanding of the vessel size limitation relating to the Dock Space assigned for the mooring of Owner's vessel and verifies that its vessel complies with the vessel size limitation established for that Dock Space.
7. Use of the Marina and Dock space is at the sole risk of the Vessel Owner. Vessel and/or Slip Owner agree to be responsible to, indemnify and hold harmless the Association for any loss, damage, fine, legal action, violation of regulatory or proprietary approvals, laws or regulations or claim occasioned by the Vessel Owner's use of Dock Space or the Marina or by the presence of the Vessel Owner's vessel at the Marina, **WHETHER OR NOT ANY LOSS, DAMAGE, FINE, LEGAL ACTION, VIOLATION OF REGULATORY OR PROPRIETARY APPROVALS, LAWS OR REGULATIONS OR CLAIM IS THE RESULT OF THE NEGLIGENCE OF THE ASSOCIATION OR ITS EMPLOYEES.**

ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.

**DOCKAGE AGREEMENT**

8. Due to the rapid shoaling experienced in the Wiggins Pass inlet, Collier County has conducted an inlet management study to establish, among other things, reasonable boat draft criteria to protect the safety of boaters, as well as natural resources in the Wiggins Pass basin. The Wiggins Pass Inlet Management Plan, if adopted by the Collier County Board of County Commissioners, will, among other things, provide for and adopt a three foot draft vessel as the planning and design standard of the maintenance dredging of the Wiggins Pass inlet and the Wiggins Pass basin and maintain navigable depths for vessels with drafts of three feet or less in the channels east of the Wiggins Pass inlet.

The Vessel and/or Slip Owner acknowledge that they have read the above statement and understand that the vessel draft used as the design standard for the maintenance dredging of Wiggins Pass is three feet. The Vessel Owner further acknowledges the availability of a document at the Marina Office, reflecting the navigational channel from the Marina to Wiggins Pass. Vessel Owner acknowledges the Association is not the author of such navigational documents and the Association makes no representations or warranties of the accuracy thereof. Vessel Owner and its guests, agents, crew, employees and/or invites may not rely on any oral representations or warranty made by or on behalf of the Association. Vessel Owner shall hold harmless and shall indemnify the Association and the Association's officers, employees and agent from all actions, in contract and tort, brought against the Association and/or the Association's officers, employees and/or agents arising from any navigational documents obtained by the Vessel Owner, from whatever source, the accuracy of which are not warranted as set forth herein.

9. The Vessel and/or Slip Owner acknowledge that they have been informed of the fire fighting, first aid and security service provisions and/or equipment available at Island Marina and hereby acknowledge same as being sufficient, reasonable and adequate, and hereby agrees to, and does by these presents, hold harmless, indemnify and release the Association from all liability, loss or damage to persons, including death, and/or property arising out of fire, or other casualty, theft and/or vandalism at Island Marina, regardless of whether the failure to have other or additional such services, provisions and/or equipment shall in any manner constitute negligence.

10. Vessel Owner recognizes and agrees that the Slip Owner may take any action available at law or in equity and/or may place upon Vessel Owner's vessel, its contents or equipment, any liens of whatever nature available under law to the Slip Owner for non-payment of dockage fees, supplies, or services furnished to the Vessel Owner. In any such action, any bond posted pursuant to law releasing the vessel to Vessel Owner shall include an amount sufficient to cover the Slip Owner's reasonable fees and costs, including attorney's fees, provided the Vessel Owner may have the lesser amount of any bond posted increased to insure the posted amount adequately covers all amounts claimed, including interest, costs, and attorney's fees. Vessel Owner agrees to the Slip Owners use, if necessary, of any procedures under admiralty law including but not limited to proceeding Supplemental Admiralty Rule "C" and further agrees to waive notice and hearing and challenge thereto.

11. The license granted hereby shall entitle the Vessel Owner and his/her/its' crew and invitees to utilize all Marina facilities. The fee for this entitlement shall be established solely between the Slip owner and the Vessel Owner. The Association shall collect all fees generated on behalf of the Vessel Owner from the Slip owner and the Slip owner shall ultimately be responsible for the Vessel Owner's compliance with the terms of all applicable Rules and Regulations including the terms of this Dockage Agreement.

12. All charges for the facilities of the Marina, or for provisions or services for the vessel are due and payable upon rendition of the service or receipt of the provisions. Use of any facilities at the Marina by the Vessel Owner, his agents and/or guests shall be charged to the Slip Owner named herein and said charges are deemed to constitute services rendered to said slip and, therefore, constitute a maritime lien against the slip. The Association may proceed against the Slip Owner for non-payment and the Slip Owner may proceed against the Vessel Owner for non-payment.

13. In the event of a hurricane or tropical storm warning, the Yacht Basin may be cleared of all vessels. The Marina Manager (Harbormaster) shall determine when this will be necessary. It is the responsibility of the Vessel Owner, prior to evacuation time, to make arrangements for a safe anchorage for their vessel. Unattended vessels may be towed to another anchorage at the Vessel Owner's expense and risk. Undertaking to move or evacuate vessels under these circumstances shall not be deemed an assumption of responsibility for safety, security and care of the Vessel Owner's vessel by the Association, nor shall the Association be deemed a bailee of the Vessel Owner's vessel.

14. It is understood and agreed that this Dockage Agreement does not constitute bailment. Vessel Owner retains and has the exclusive care, custody, control and access to the vessel and its contents at all times.

15. No modifications to this Dockage Agreement shall be enforceable unless in writing and signed by an authorized agent of the Association.

ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.

**DOCKAGE AGREEMENT**

16. The Association's failure to require strict performance under this Dockage Agreement, or waiver of any condition shall not be deemed a future waiver of any condition or any of its rights under this Dockage Agreement and shall not in any respect be deemed a continuing waiver.
17. The individual executing this Dockage Agreement warrants and represents his/her authority to obligate the Slip and/or Vessel Owner and vessel to the terms of this Dockage Agreement. The Association may in its sole discretion require proof of such authority.
18. In the event any portion of this Dockage Agreement shall be deemed to be in violation of any law of the State of Florida, said portion and said portion only shall be deemed null and void. The remainder of the Dockage Agreement shall remain in full force and effect. This Dockage Agreement shall be interpreted in accordance with the laws of the State of Florida and any action brought to enforce this Dockage Agreement shall be in the FLORIDA COURTS.
19. The Vessel and/or the Slip Owner, both jointly and severally, shall pay all costs, including reasonable attorneys' fees incurred by the Association, in non-judicial proceedings or judicial proceedings and appeals therefrom to enforce any and all provisions of this Dockage Agreement and effect collection of any sums due the Association. In the event the Association sues or is sued in tort or contract, or otherwise, in any action arising out of or in relation to this Dockage Agreement and Association is the prevailing party by means of judgment, dismissal or otherwise, whether or not such actions presented a justifiable issue of law of fact, or whether or not the Association was Plaintiff or Defendant in said action, the Association shall recover its costs and expenses directly incurred because of any said action, including its reasonable attorneys' fees, whether taxable or not, from the other party.
20. Charges for electricity shall be billed according to the formula adopted and approved by the Board of Directors.
21. The statute of limitations for enforcement of either party's rights under this Dockage Agreement shall be the applicable statutes of limitations of the State of Florida and any laches defense raised by either party shall be constructed to always be within the period of the said applicable statutes of limitations.
22. The Slip Owner and/or Vessel Owner, as the case may be, hereby acknowledge and confirm their understanding of and agreement to the following:
- A. Neither this Dockage Agreement, or any Certificate of Ownership in favor of the Slip Owner, or the use of the term "Slip Owner" or equivalent in this or any other document confer any ownership whatsoever to the land on which the Dock Space is located or to the Dock Space itself. The Dock Space for most, if not all portions of the Marina, exists on property leased from the Trustees of the Internal Improvement Trust Fund of the State of Florida pursuant to a Sovereignty Submerged Land Lease. The rights enjoyed by the Vessel Owner and Slip Owner are limited to use of the Dock Space in accordance with the terms of this Dockage Agreement and all applicable laws, rules and regulations, of the State of Florida, the provisions of the Declaration, and the terms and conditions of the Sovereignty Submerged Land Lease as it exists, from time to time.
  - B. Any assignment, conveyance or other transfer of the right to use the Dock Space, rental, leasing, licensing, sublicensing, subletting or other grant of permission to use the Dock Space whether temporarily, or otherwise, requires prior written approval from the Association. Approval will only be granted in accordance with: (i) the terms of this Dockage Agreement; (ii) the terms and conditions of applicable laws, regulations, permits and the Sovereignty Submerged Land Lease; (iii) rules and regulations adopted by the Association; (iv) submission to the Association and its committee for prior written approval of all documentation pertaining thereto; and (v) the remittance and payment to the Association, for further remittance to the State of Florida, of any and all applicable and required rent payments due the State of Florida by virtue of the terms and conditions of the Sovereignty Submerged Land Lease and applicable rules and regulations of the State of Florida pertaining thereto. State regulations currently require the payment of 6% of any and all consideration paid therefore to the State of Florida as well as applicable sales tax in respect to the consideration so paid. The Association will retain such funds and remit them accordingly to the State of Florida Department of Environmental Protection and/or the State of Florida Department of Revenue.

ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.

**DOCKAGE AGREEMENT**

- C. The Sovereignty Submerged Land Lease has a term to it, there is no right to require that it be renewed, and no legal right to be assured that the State of Florida will renew, extend it, modify it, or grant a new lease in the future. Upon its expiration whether by maturity of its terms or otherwise, any right or ability of the Vessel Owner or Slip Owner to make use of the Dock Space will cease and terminate forthwith and any vessels or improvements located therein must be removed forthwith.
- D. Any terms and conditions of the Sovereignty Submerged Land Lease, as it may in the future be renewed, extended or modified and/or applicable rules, regulations or laws of the State of Florida shall prevail and control over anything in this Dockage Agreement or in the Declaration to the contrary relative to the Dock Space.
- E. The term "Dock Space" as used in this Dockage Agreement means the "Boat Slip" as defined in the Declaration.
- F. The terms and conditions of the Sovereignty Submerged Land Lease include, among other things, a special lease condition, 31D, that prohibits more than a maximum of 21 of the 79 Boat Slips or Dock Spaces within the Marina at any given time from being used or occupied by owners of residential condominium units in the upland Marina Bay Club of Naples, a condominium, in which the Marina is a unit. Accordingly, the Association will further regulate (and has the right to do so) approvals of any transfers, leases, assignments, conveyances, licenses, sublicenses or subleases to prohibit any of the foregoing that would result in more than the owners of twenty-one (21) residential units within the Marina Bay Club from having the right to use or occupy Boat Slips or Dock Space at any one time. Furthermore, to the extent a Dock Space is occupied by a vessel whose Vessel Owner does not own a residential condominium at the time of occupancy, but whose Vessel Owner subsequently acquires ownership of an upland residential condominium unit such that the twenty-one (21) permitted Dock Spaces are exceeded, the Association reserves the right to require immediate removal of any such vessel from the Dock Space and the Marina.
- G. The provisions hereof relative to transfer and assignment shall prevail over the provisions of Section 11 of the Declaration and shall permit the Association to disapprove any conveyance, leases, license, assignment, sublease, sublicense or other transfers of the right to use the Dock Space except in conformity herewith without the exercise of the purchase rights provided for in section 11 of the Declaration.
- H. The term "Declaration" refers to the Declaration of Covenants and Restrictions Island Marina dated March 5, 1996, recorded in Official Records Book 2163, at Page 1, of the Public Records of Collier County, Florida.
- I. The Slip Owner consents to and approves in advance, any future amendments to the Declaration, the Articles of Incorporation, or Bylaws of the Association for the purpose of imposing or including any and all of the foregoing requirements (or the substance thereof) therein so as to ensure compliance with applicable requirements as herein set forth imposed by the terms of the Sovereignty Submerged Land Lease and/or rules, regulations and laws of the State of Florida and hereby grants to the Secretary of the Association an irrevocable proxy, that is coupled with an interest, for the purpose of casting the vote of the Slip Owner to approve any such amendments
- J. Any instrument transferring or assigning this Dockage Agreement and/or the right to make use of the Dock Space whether described, construed, or intended as an assignment, conveyance, bill of sale, license, lease, sublicense, sublease or other equivalent term or concept shall contain within its provisions describing and replicating the terms and conditions of this section 22, or the substance thereof, so that the transferee, licensee, lessee, sublicense, sublessee, or other assignee is made aware of the requirements applicable thereto and is further obliged to impose such conditions and terms and set them forth in any further instrument of transfer, leasing, licensing, sublicensing, subleasing or other assignment.

ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION, INC.

**DOCKAGE AGREEMENT**

the substance thereof, so that the transferee, licensee, lessee, sublicense, sublessee, or other assignee is made aware of the requirements applicable thereto and is further obliged to impose such conditions and terms and set them forth in any further instrument of transfer, leasing, licensing, sublicensing, subleasing or other assignment.

The Parties have executed this Dockage Agreement effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**The Undersigned hereby acknowledges [check one]:**

\_\_\_\_ He is the Owner of the vessel described to in this Agreement.

\_\_\_\_ He is authorized by the Owner of the vessel to execute this Agreement and bind the Owner and vessel to the terms hereto.

**ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION INC.,**

\_\_\_\_\_  
PRINT NAME OF VESSEL OWNER / FOR VESSEL OWNER

\_\_\_\_\_  
PRINT NAME OF DIRECTOR

\_\_\_\_\_  
SIGNATURE OF VESSEL OWNER / FOR VESSEL OWNER

\_\_\_\_\_  
SIGNATURE OF DIRECTOR

**IN ADDITION TO THIS DOCKAGE AGREEMENT YOU ARE BEING PROVIDED A COPY OF THE RULES AND REGULATIONS AND THE MOORING RULES OF ISLAND MARINA. THE RULES AND REGULATIONS ARE CONSIDERED A PART OF THIS DOCKAGE AGREEMENT. THE MOORING RULES ARE EMBEDDED IN AND ARE CONSIDERED A PART OF THE RULES AND REGULATIONS.**

**THIS DOCKAGE AGREEMENT WAS ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON OCTOBER 11, 2005.**



**MOORING RULES****A RESOLUTION OF THE ASSOCIATION'S BOARD OF DIRECTORS ESTABLISHING SPECIFIC MOORING RULES FOR THE MOORING OF VESSELS AT ISLAND MARINA**

Every Vessel Owner and Slip Owner shall be governed by and comply with the terms of the Declaration of Covenants and Restrictions of Island Marina, the Articles of Incorporation and By-Laws of the Island Marina Boat Slip Owners Association, Inc. including any Rules and Regulations adopted pursuant thereto, Dockage Agreements and the Modified Sovereignty Submerged Lands Lease. *(For additional information, see paragraph 10 on page 8 of the Declaration of Covenants and Restrictions of Island Marina)*

The Dockmaster shall monitor all Vessel Owners utilizing the Marina and its facilities to ensure compliance with all Rules, Regulations and terms contained in the Dockage Agreements. *(For additional information, see paragraph 10 on page 1 of the Rules and Regulations of Island Marina)*

**General**

The Dockmaster and the President of the Island Marina Boat Slip Owners Association Inc. (the "Association") shall have the sole discretion to determine whether a violation has occurred. All disputes, as to whether a violation has occurred, will be reviewed by the Board of Directors of the Island Marina Boat Slip Owners Association Inc. (the "Board").

The four attached rules shall be entitled "MOORING RULES" and are incorporated into the Association's Rules and Regulations. The Rules and Regulations are in effect and constitute a part of and are deemed incorporated into the Dockage Agreement.

Remedies for violations of these MOORING RULES shall be handled in the manner described for each individual Mooring Rule.

The Board may authorize the Association's Attorney to take legal action against any party in violation of these Mooring Rules in order to comply with the Modified Sovereignty Submerged Lands Lease that ultimately benefits the other Slip and Vessel Owners.

The Association may amend the Rules and Regulations (including these MOORING RULES) of Island Marina and shall provide notice of such amendments by posting a copy of the amendment on the Association's Bulletin Board.

Any fines or penalties received by the Association due to a vessel that is not moored in compliance with the MOORING RULES shall be charged and assessed to the Slip Owner.

**Definitions**

**Mooring Piling:** The 18" diameter post located near the waterward boundary of the slip space. "Mooring Piling" is also referred to as a "Dolphin Pile" on various engineering drawings and charts prepared for the Island Marina.

**Spring Line:** A fore-and-aft line used to prevent a vessel from moving forward or astern while made fast to the dock.

**Tip-to-Tip Length:** The measurement from the tip of the anchor, bow or any other portion thereof that has the greatest extension, to the stern tip of the swim-platform or any other portion (including a dinghy) thereof that has the greatest extension. Measurement of the Tip-to-Tip length of the vessel may be completed by Island Marina personnel or by an independent source to be paid for by the Vessel Owner and will be used for determining compliance with these MOORING RULES.

**THESE MOORING RULES WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON APRIL 17th, 2003**

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## MOORING RULES

### A RESOLUTION OF THE ASSOCIATION'S BOARD OF DIRECTORS ESTABLISHING SPECIFIC MOORING RULES FOR THE MOORING OF VESSELS AT ISLAND MARINA

- RULE # 1:** All Vessel Owners and Slip Owners shall be prohibited from and shall not allow any part of a vessel (including a dinghy) to extend waterward of the Marina's outboard mooring pilings when moored ("permitted slip boundary") except as defined in the following paragraphs:
- a) In certain instances, the outboard mooring pilings have been placed short of the permitted slip boundary thereby reducing the length of the permitted slip boundary ("reduced slip"). Mooring pilings that are positioned short of the permitted slip boundary are identified by a marking near the top on the inside surface of the mooring pilings. A diagram of all approved reduced slips and their markings shall be maintained in the Marina Office for review ("approved reduced slip").
  - b) A reduced slip does not allow the Vessel Owner to fully utilize the permitted slip space that is identified in the Table of Permitted Boat Slip Lengths contained in the Declaration of Covenants and Restrictions of Island Marina.
  - c) Therefore, if a vessel is moored in an approved reduced slip, those Vessel Owners will be permitted to utilize their permitted slip space as identified in the Table of Permitted Boat Slip Lengths contained in the Declaration of Covenants and Restrictions of Island Marina.

#### REMEDIES FOR ENFORCING RULE # 1:

- 1) Upon a violation of this rule (the "Violation"), the Dockmaster or his Agent shall serve a written "**Caution**" statement to the Vessel Owner either in person or by certified mail return receipt requested. The Violation shall be corrected within two (2) calendar days following notification to the Vessel Owner of the violation.
- 2) A second violation shall occur if the Violation is not corrected within the two (2) day period and a written "**Warning**" shall be issued. This written "**Warning**" shall explain the Violation and be mailed to the Vessel Owner and the Slip Owner if they are not the same person or entity, by certified mail return receipt requested. Additionally, a copy of the "**Warning**" notice shall be mailed to the Florida Department of Environmental Protection, Fort Myers office.
- 3) A third violation shall occur if the Violation is not corrected within seven (7) calendar days following notification of the second violation. Upon the occurrence of this third violation, the Vessel Owner and Slip Owner shall be in default of the Dockage Agreement and the Vessel Owner shall be given one (1) hour to remove the vessel from the Marina.
- 4) Should the Vessel Owner fail to remove the vessel within one (1) hour, the Dockmaster or his agent shall have the vessel towed to an off-site storage facility and the Vessel Owner shall be required to pay all towing and storage fees.

*(These remedies only apply when the Dockmaster is unable to reposition the "vessel in violation" from encroaching into State property. The Dockmaster shall enter all attempts to reposition vessels into his daily log. There shall be no penalty if the Dockmaster is able to cure the Violation by repositioning the "vessel in violation" so long as the Dockmaster is not required to reposition the same "vessel in violation" on multiple occasions. Repeated repositioning will be brought to the attention of the Board and fines may be levied.)*

**THESE MOORING RULES WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON APRIL 17th, 2003**

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## MOORING RULES

### A RESOLUTION OF THE ASSOCIATION'S BOARD OF DIRECTORS ESTABLISHING SPECIFIC MOORING RULES FOR THE MOORING OF VESSELS AT ISLAND MARINA

**RULE # 2:** When any vessel is moored, the stern or bow of the vessel shall not be in contact with any part of the docks. The "spring line" must prevent any part of the stern or bow of the vessel from touching or bumping any part of the docks.

#### REMEDIES FOR ENFORCING RULE # 2:

- 1) Upon a violation of this rule (the "Violation"), the Dockmaster or his Agent shall serve a written "**Caution**" statement to the Vessel Owner either in person or by certified mail return receipt requested. The Violation shall be corrected within two (2) calendar days following notification to the Vessel Owner of the violation.
- 2) A second violation shall occur if the Violation is not corrected within the two (2) day period and a written "**Warning**" shall be issued. This written "**Warning**" shall explain the Violation and be mailed to the Vessel Owner and the Slip Owner if they are not the same person or entity, by certified mail return receipt requested.
- 3) A third violation shall occur if the Violation is not corrected within seven (7) calendar days following notification of the second violation. Upon the occurrence of this third violation, the Slip Owner shall be in default of the Dockage Agreement and shall be assessed a penalty of one-hundred (\$100.00) dollars per calendar day for up to a maximum of ten (10) calendar days or until the Violation is cured.
- 4) Following the nineteenth (19<sup>th</sup>) day of the Violation, the Vessel Owner shall be given one (1) hour to remove the vessel from the Marina.
- 5) Should the Vessel Owner fail to remove the vessel within one (1) hour, the Dockmaster or his agent shall have the vessel towed to an off-site storage facility and the Vessel Owner shall be required to pay all towing and storage fees.

*(These remedies only apply when the Dockmaster is unable to reposition the "vessel in violation" from encroaching into State property and violating Rule # 1. The Dockmaster shall enter each repositioning of the vessel into his daily log. There shall be no penalty if the Dockmaster is able to cure the Violation by repositioning the "vessel in violation" so long as the Dockmaster is not required to reposition the same "vessel in violation" on multiple occasions. Repeated repositioning will be brought to the attention of the Board and fines may be levied. All costs of repair to any damage to the Association's Property [e.g. the dock, finger pier, plumbing, electrical, etc.] that is caused by a vessel that violates this rule shall be charged to the Slip Owner.)*

THESE MOORING RULES WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON APRIL 17th, 2003

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## MOORING RULES

### A RESOLUTION OF THE ASSOCIATION'S BOARD OF DIRECTORS ESTABLISHING SPECIFIC MOORING RULES FOR THE MOORING OF VESSELS AT ISLAND MARINA

**RULE # 3:** Any vessel moored in a slip at this Marina shall comply with the following requirements:

- a) Following the adoption of the Mooring Rules by the Board, all subsequent Vessel Owners shall enter into a Dockage Agreement with the Association for any vessel that is to be moored in a designated slip at this Marina and a member of the Board of Directors must approve that agreement.
- b) A subsequent Dockage Agreement shall not be approved for any Vessel Owner whose vessel does not comply with these Mooring Rules or any other requirements of the Association.
- c) A new Dockage Agreement shall be required and entered into for all existing Vessel Owners anytime the Vessel Owner changes their vessel or a slip location.
- d) The Tip-to-Tip length of the vessel approved for its' designated slip shall not be greater than the overall permitted slip length as identified in the Table of Permitted Boat Slip Lengths contained in the Declaration of Covenants and Restrictions of Island Marina.
- e) Following the adoption of these Mooring Rules by the Board, if an existing moored vessel assigned to a designated slip does not comply with the Mooring Rules ("non-compliant vessel"), the following remedies shall be complied with so the Board may allow said vessel to remain moored in that slip. Also, both the existing Vessel Owner(s) and Slip Owner(s) shall enter into a **HOLD HARMLESS AND INDEMNIFICATION AGREEMENT** with the Association for any non-compliant vessel.

### REMEDIES FOR EXISTING VESSELS MOORED PRIOR TO THIS AGREEMENT:

- 1) Existing moored vessels that are longer than the permitted slip length inevitably cause the bow or anchor of that vessel or any other portion (including a dinghy) to extend into common area dock space. The common area dock space is Association property and the Board has determined that it is necessary to penalize the Slip Owner for any vessel authorized to use that slip that encroaches one (1) foot or more into Association space until the vessel moored in that slip complies with these Mooring Rules. The penalty for encroachment onto Association property shall be as follows:
  - a) No penalty will be assessed if the encroachment into the common area dock space is less than one (1) foot so long as the "spring line" prevents the vessel from further encroachment.
  - b) A sixty dollar (\$60.00) penalty per month shall be assessed for any encroachment into the common area dock space for any distance between one (1) foot and less than two (2) feet so long as the "spring line" prevents the vessel from further encroachment.
  - c) A one hundred and twenty dollar (\$120.00) penalty per month shall be assessed for any encroachment into the common area dock space for any distance between two (2) feet and less than three (3) feet so long as the "spring line" prevents the vessel from further encroachment.
  - d) A moored vessel that extends three (3) feet or greater into the common area dock space shall never be authorized at any time and shall be removed from the Marina immediately. The Dockmaster is authorized to have this vessel towed to an off-site vessel storage facility should the Vessel Owner fail to remove the vessel immediately. Vessel Owner shall be required to pay all towing and storage fees.

**THESE MOORING RULES WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON APRIL 17th, 2003**

# ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION

## MOORING RULES

### A RESOLUTION OF THE ASSOCIATION'S BOARD OF DIRECTORS ESTABLISHING SPECIFIC MOORING RULES FOR THE MOORING OF VESSELS AT ISLAND MARINA

**RULE # 4:** Any vessel with a bow, anchor or any other portion thereof that extends into the Association common dock space must have that bow, anchor or portion thereof covered with a brightly colored cushioned protective device to aid in the safety of persons utilizing the docks.

#### REMEDIES FOR ENFORCING RULE # 4:

- 1) Upon a violation of this Rule, the respective Vessel Owner shall be notified in person or by telephone by the Dockmaster or his representative and shall remedy the violation within twenty-four (24) hours of the notification.
- 2) If the Vessel Owner cannot be contacted or if the Vessel Owner has not corrected the violation within twenty-four (24) hours, the Dockmaster shall remedy the violation by purchasing and installing a brightly colored cushioned protective device. The Slip Owner shall be charged and assessed the cost of the protective device. The Dockmaster will enter the incident in his daily log.
- 3) Upon a second violation of this rule by the same Vessel Owner, the Dockmaster will contact the Vessel Owner in accordance with the provisions of this rule. If the Vessel Owner cannot be contacted or if the Vessel Owner has not corrected the violation within twenty-four (24) hours, the Dockmaster shall remedy the violation by purchasing and installing another brightly colored cushioned protective device. The Slip Owner shall be charged and assessed the cost of the protective device. The Dockmaster will enter the incident in his daily log.
- 4) Upon the third violation of this rule by the same Vessel Owner within a three (3) month period, the Dockmaster will contact the Vessel Owner in accordance with the provisions of this rule. If the Vessel Owner cannot be contacted or if the Vessel Owner has not corrected the violation within twenty-four (24) hours, the Dockmaster shall remedy the violation by purchasing and installing another brightly colored cushioned protective device. The Slip Owner shall be charged and assessed the cost of the protective device. The Dockmaster will enter the incident in his daily log and assess the Slip Owner a two hundred dollar (\$200.00) assessment in addition to purchasing and the installation of the protective device. Notice of this assessment shall be mailed to the Slip Owner by certified mail return receipt requested. Should another violation of this rule occur following expiration of a three (3) month period, the Vessel Owner shall be treated as if he/she has not previously violated this Rule.
- 5) Upon the fourth and subsequent violations of this rule, a two hundred dollar (\$200.00) penalty shall be assessed against the Slip Owner in addition to the cost of purchasing and installing another brightly colored cushioned protective device so long as the fourth and subsequent violations occur within a three (3) month period of the third or subsequent violations of this rule. Should a fourth or subsequent violation of this rule occur following expiration of a three (3) month period, the Vessel Owner shall be treated as if he/she has not previously violated this Rule.
- 6) The Vessel Owner and/or Slip Owner is not relieved of any liability due to the Dockmaster's installation of a protective device. The purpose of the installation is to minimize any damages that may occur due to the Vessel Owners' vessel encroaching into the Association common dock space.

**THESE MOORING RULES WERE ADOPTED AND APPROVED BY THE ASSOCIATION'S BOARD OF DIRECTORS AT THEIR REGULAR BOARD MEETING ON APRIL 17th, 2003**

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ISLAND MARINA BOAT SLIP OWNERS ASSOCIATION  
HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

PRINT ALL INFORMATION

Vessel's Owner's Name (s): \_\_\_\_\_ Slip Owner's Name (s): \_\_\_\_\_  
Street Address: \_\_\_\_\_ Street Address: \_\_\_\_\_  
City, State & Zip: \_\_\_\_\_ City, State & Zip: \_\_\_\_\_  
Name of Vessel: \_\_\_\_\_ Vessel in Slip #: \_\_\_\_\_

Ray Bernier as President, and on behalf of the Board of Directors (the "Board") of the Island Marina Boat Slip Owners Association Inc., a Florida not-for-profit corporation (the "Association") and the above mentioned and undersigned Vessel Owner(s) ("Vessel Owner") and Slip Owner(s) ("Slip Owner") (collectively "the Parties") for good and valuable consideration hereby agree as follows:

Article 4.01(K) of the Bylaws of the Association grants the Board the authority to adopt rules and regulations for the use of the common areas of the Marina Unit and recreational facilities serving the Vessel and Slip Owner.

On April 17, 2003, the Board adopted certain MOORING RULES that require certain Vessel Owner(s) and Slip Owner(s) to enter into this Hold Harmless and Indemnification Agreement (this "Agreement"). Copies of the MOORING RULES are attached hereto and incorporated by reference into the "Rules and Regulations" of Island Marina.

The Parties recognize the importance of complying with the Rules and Regulations as violations thereof may affect the validity of the Modified Sovereignty Submerged Lands Lease entered into between Island Marina Inc. and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida.

The Parties further agree that the Vessel Owner and Slip Owner shall hold harmless and indemnify the Association and its agents, employees and assigns from any and all claims, damages, liability, loss, verdicts, judgments, suits and actions, including attorneys' fees and all costs of litigation arising under or incidental to the mooring or dockage of the above mentioned Vessel or usage of the above mentioned Slip. The Scope of this Provision shall be broadly construed and includes all economic losses, including consequential and indirect damages. This Provision shall also pertain to any claims brought against the Association by any employee of the Vessel Owner or Slip Owner, any assignee, invitee, guest or visitor of same or anyone either directly or indirectly so employed.

The Parties have executed this Agreement effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Signature of Vessel Owner

\_\_\_\_\_  
Signature of Vessel Owner

\_\_\_\_\_  
Signature of Slip Owner

\_\_\_\_\_  
Signature of Slip Owner

ISLAND MARINA BOAT SLIP  
OWNERS ASSOCIATION INC.,  
a Florida not for profit corporation

By: \_\_\_\_\_  
Ray Bernier, President

ATTEST:

By: \_\_\_\_\_  
Melvin Puthoff, Secretary

DOCUMENT DISTRIBUTION: Original to Island Marina Copy to Vessel Owner Copy to Slip Owner