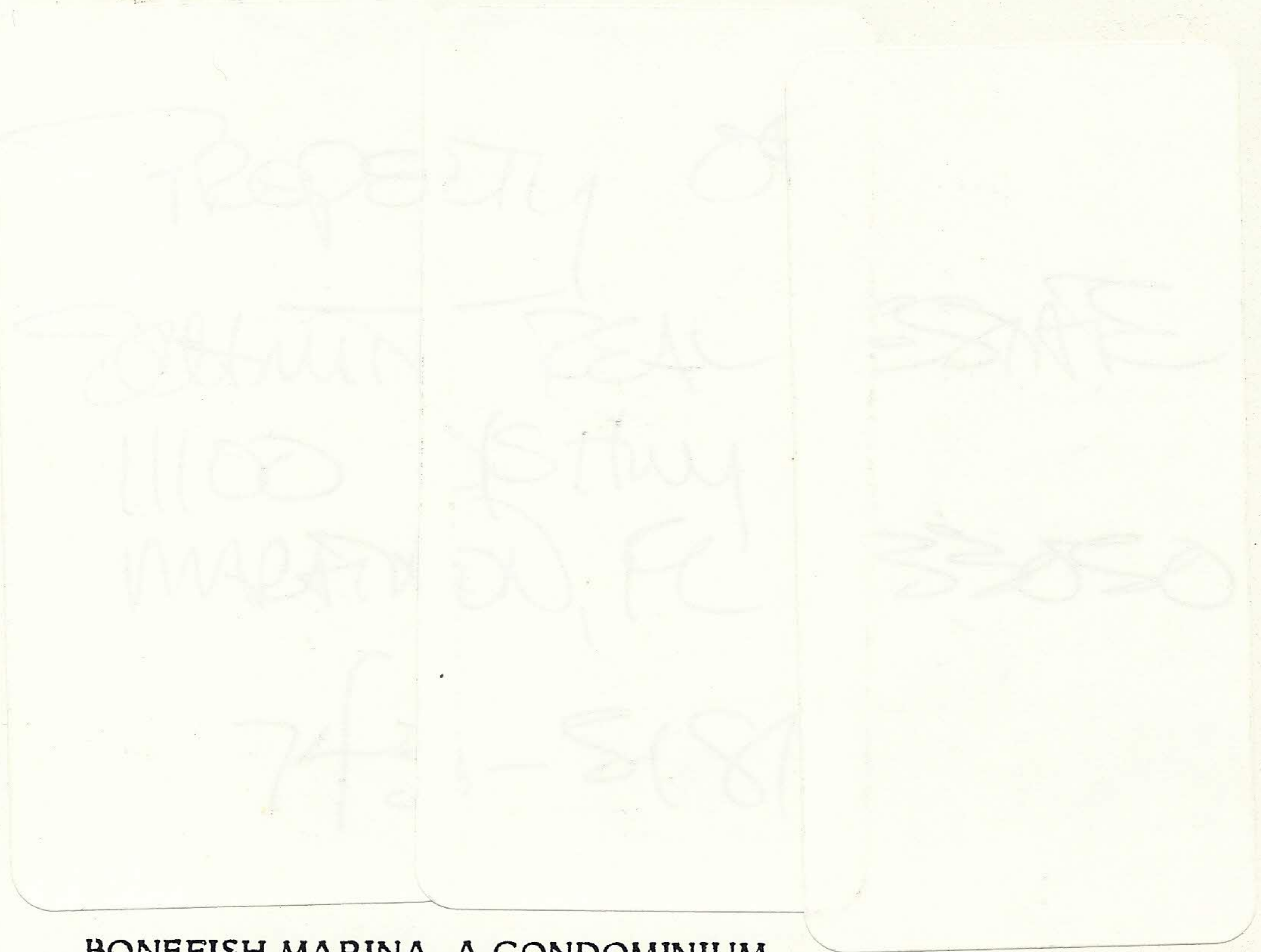


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CONDOMINIUM DOCUMENTS



BONEFISH MARINA, A CONDOMINIUM

Fat Deer Key and Crawl Key
Monroe County, Florida

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BONEFISH MARINA, A CONDOMINIUM

INTRODUCTION TO PROSPECTUS

THIS PROSPECTUS CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS AND ALL SALES MATERIALS.

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

ALTHOUGH REFERENCE IS MADE THROUGHOUT THE PROSPECTUS, DECLARATION OF CONDOMINIUM AND RELATED DOCUMENTS TO CHAPTER 718, FLORIDA STATUTES (1981) KNOWN AS "THE FLORIDA CONDOMINIUM ACT", THE DEVELOPER IS OF THE OPINION THAT THE PROVISIONS OF THAT ACT DO NOT, IN FACT, APPLY TO THIS MARINA CONDOMINIUM DEVELOPMENT. NONETHELESS, DEVELOPER HAS DETERMINED TO PARALLEL THE FORMAT FOR THE DISCLOSURE OF INFORMATION, AS OTHERWISE REQUIRED BY THAT ACT.

PROSPECTUS1. NAME AND LOCATION

The name of the condominium being offered through this PROSPECTUS is BONEFISH MARINA, A CONDOMINIUM. BONEFISH MARINA, A CONDOMINIUM, is located on Fat Deer Key and Crawl Key, in Monroe County, Florida. The real property upon which BONEFISH MARINA, A CONDOMINIUM, is being constructed is described in Exhibit "A" to the Declaration of Condominium.

2. DESCRIPTION OF THE CONDOMINIUM PROPERTY

A copy of the Survey and Site Plan is attached to the Declaration of Condominium as Exhibit "A". All improvements have been made.

3. NUMBER OF SLIPS

The number of slips that will use the facilities in common with this offered condominium is forty-eight (48).

4. THIS CONDOMINIUM IS BEING CREATED AND SOLD AS FEE SIMPLE INTERESTS5. DESCRIPTION OF THE COMMONLY USED FACILITIES

Dockmaster's Office is the only facility located on the condominium property.

6. MANAGEMENT OF THE ASSOCIATION AND MAINTENANCE AND OPERATION OF THE PROPERTY

The Association shall be managed by its Board of Directors. The Association shall be responsible for the maintenance of all common areas within the perimetrical boundaries of the condominium property. The day-to-day operations of the Association will be conducted by the officers and employees of the Association, or by such independent management company as the Association may employ. Each unit owner is responsible to pay his proportionate share of the Association costs related to BONEFISH MARINA, A CONDOMINIUM, including his proportionate share of the expenses attributable to a particular slip. The Association shall have the right to a lien against any slip the owner of which fails to pay his proportionate share of expenses.

7. THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD

Refer to the By-Laws for additional information.

8. RESTRICTIONS ON USE OF THE UNITS

Restrictions on the use of the slips may be found in the Declaration. In summary, these provisions restrict the use of the slips as follows:

- a. Slips. Each of the Slips shall be occupied only as a single boat mooring. No Slip may be divided or subdivided. At no time may more than one boat occupy any one Slip.
- b. Common Elements and Limited Common Elements. The Common Elements and Limited 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 Slips.
- c. Nuisances. No nuisance shall be allowed upon the Condominium Property or within a Slip, nor any use or practice that is the source of annoyance to Slip Owners or which interferes with the peaceful possession and proper use of the property by its Owners. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No Slip Owner shall permit any use of his Slip or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.

d. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Slip, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Condominium Property or a Slip shall be the same as the responsibility for the maintenance and repair of the property concerned.

e. Leasing of Slips. After approval by the Association required herein, entire Slips may be rented provided the mooring is only by the Lessee, his family and guests, provided such written approval when once given and relied upon may not thereafter be revoked or terminated without the consent of the Slip Owner. A lease of any Slip shall not release or discharge the Owner thereof from compliance with any of his obligations and duties as a Slip Owner, and said Slip Owner shall be liable jointly and severally for any violation of the Rules and Regulations by a tenant. All of the provisions of the Condominium Documents and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Slip as a tenant to the same extent as against a Slip Owner, and a covenant upon the part of each such tenant to abide by the Rules and Regulations of the Association, and the terms and provisions of the Condominium Documents, and designating the Association as the Slip Owner's agent for the purpose of and with the authority to terminate any such lease agreement in the event of violations by the tenant of such covenant shall be an essential element of any such lease or tenancy agreement, whether oral or written, and whether specifically expressed in such agreement or not. The provisions of this section shall be inapplicable as to the Developer. The Developer shall be irrevocably empowered to sell, lease, rent or mortgage any Slip owned by the Developer, notwithstanding the limitations imposed by this section, provided that such action shall in no way impair or diminish the rights and interests of other Slip Owners.

f. Signs. No "For Sale" or "For Rent" signs or other displays or advertising shall be maintained on any part of the Common Elements, Limited Common Elements, or Slips, except that the right is specifically reserved in the Developer to place and maintain "For Sale" or "For Rent" signs in connection with any unsold or unoccupied Slip the Developer may from time to time own, and the same right is reserved to any Institutional Mortgage which may become the owner of a Slip, and to the Association as to any Slip which it may own.

g. Regulations. Reasonable Rules and Regulations concerning the use of Condominium 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. One copy of such Rules and Regulations and amendments shall be furnished by the Association, free of charge, to all Slip Owners of the Condominium.

h. Developer's Exemption. The Developer may make such use of the unsold Slips and Common Elements as may facilitate the sale of Slips by the Developer, including, but not limited to, showing of the property and the display of signs and other promotional devices.

i. Exterior Appearance. No Slip Owner shall decorate or alter any part of his Slip so as to affect the appearance without the prior written approval of the Board of Directors of the Association.

j. Boats. The Association shall have the right to board a boat occupying any Slip within the Condominium Property for purposes of resecuring to fixed moorings, pumping, or anytime that the boat poses a hazard or threat to Condominium Property or the property of other Slip Owners. The Association shall not be obligated to resecure, pump or prevent a dangerous condition created by any boat occupying a Slip, nor shall the Association be liable for any damage sustained to the Slip Owner's boat while attempting to resecure, pump or prevent a dangerous condition or for damage sustained as a result of no attempt to resecure, pump or prevent a dangerous condition. The Association shall have the right to board a boat occupying any slip within the Condominium Property to inspect and test with mechanical devices to determine the soundness of the craft, however, the Association shall have no responsibility or obligation to inspect or test. A Slip may be occupied only by a boat of such size that would not obstruct the turning basin for those boats presently or designated to be moored within the Condominium Property. The Association shall have the right to condemn and cause to be removed any boat occupying a slip within the Condominium Property where the boat or lines are not properly maintained or where the boat poses a threat or hazard to any other boat. All boats shall maintain a current Coast Guard inspection and display same upon request of the Association.

k. Boats for Sale. If a Slip Owner holds a boat for sale within the Condominium Slip the Slip Owner or an authorized agent of the owner must accompany the prospective Purchaser(s) when viewing the boat within the Condominium property. This measure is to preserve the security and privacy of the Condominium.

l. Guests. An Owner must notify the Association in advance of the expected period of use of any guest of an Owner when using the Slip in the Owner's absence. The Owner of the Slip shall remain liable for the conduct of his guest while using the condominium facilities. The Association or its authorized agent shall have the right to refuse the entrance of a guest when not properly authorized by the record owner.

m. Marine Facility Slips. Rules and Regulations affecting the area may be promulgated only by the Board of Directors.

n. Notice. The Owner of a Condominium Slip must notify the Association in writing on forms as promulgated by the Association of the particular boat that will occupy a Condominium Slip.

o. Occupancy. No boat or vessel shall be used or maintained for sleeping or living purposes or as a place of residence which is not sound, seaworthy and equipped with self-propelled machinery in good operating condition. Vessels that are to occupy slips may not be used principally as a residence nor to provide on a long-term basis the essential services typically associated therewith.

p. Storm Precaution. During hurricanes and other high velocity wind threat, the Slip Owner shall be responsible for following all safety precautions that may be outlined by the Miami Hurricane Center. If a Slip Owner's boat or any other boat authorized to occupy a slip sinks as a result of a storm, or for any other reason, the Slip owner must remove the sunken boat from the Condominium Property within five (5) days after the occurrence of such event or else the Association may remove the same and impose a special assessment against the Slip Owner.

9. UTILITIES

a. Water. Water is provided to BONEFISH MARINA, A CONDOMINIUM.

b. Sanitary Sewer Service. Sanitary sewer service is provided to BONEFISH MARINA, A CONDOMINIUM.

c. Electricity. Electricity is provided to BONEFISH MARINA, A CONDOMINIUM, at owner's expense.

d. Telephone. Telephone services are provided to BONEFISH MARINA, A CONDOMINIUM, at owner's expense.

e. Garbage and Trash Removal. Garbage and trash removal is provided to BONEFISH MARINA, A CONDOMINIUM.

f. Cablevision. Cablevision is provided to BONEFISH MARINA, A CONDOMINIUM, at the owner's expense.

10. ESTIMATED OPERATING BUDGET

The estimated operating budget for BONEFISH MARINA, A CONDOMINIUM, is set forth in Exhibit "E" of the Declaration of Condominium. Because actual expenditures may differ from year to year, the budget set forth on Exhibit "E" should not be considered as a representation that the Budget for any period of operation will not vary from the amounts stated or that the Association will not require additional working capital reserves or other sums not reflected in said budget. The common expenses reflected in the budget will not include any charges for utilities that are individually metered to each slip and consumed therein nor will the common expense include any charges for alterations, repairs, painting or maintenance that are the responsibility of the Slip Owner, if any. Said common expenses do not include any costs that are personal to the Slip Owners or those costs not uniformly incurred by all Slip Owners but which are not provided for nor contemplated by the Declaration of Condominium including, but not limited to, private telephone costs, costs services privately contracted for by the Slip Owner, insurance premiums on personal property, and like expenses of an individual Slip Owner. The Condominium Association shall collect the funds required to pay the expenses set forth in the estimated budget from the Slip Owners by assessments and said assessments shall be assessed against each Slip Owner. Based upon the budget set forth on Exhibit "E", each Slip Owner in BONEFISH MARINA, A CONDOMINIUM will be assessed in the amount indicated on the Estimated Operating Budget.

11. ESTIMATED CLOSING EXPENSES

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The actual closing costs to be paid by each purchaser to a unit in BONEFISH MARINA, A CONDOMINIUM, will depend upon the purchase price of the slip and upon other factors. At closing, the purchaser of a slip will also be obligated to pay the Florida documentary stamps for the deed at the rate of forty-five (45¢) cents for each One Hundred (\$100.00) Dollars of the purchase price, the costs of recording the deed at the rate of Four (\$4.00) Dollars for the first page and Three (\$3.00) Dollars for each additional page, Condominium Association Initial Start-Up Fund of \$150.00 and prorated maintenance per quarter not to exceed \$ 150.00 . The amount of real estate and other taxes shall be subject to changes of statutory authority and any governmental bodies, as same may apply to the Condominium. Purchaser shall be provided an owner's title insurance policy. Said policy shall be issued by a company authorized to insure land title in the State of Florida, and shall contain the usual and standard exceptions contained in the standard ALTA owner's title insurance policies. Taxes and quarterly maintenance payments will be prorated as of the date of closing.

12. PROPOSED SALES CONTRACT

A copy of the form of Purchase Agreement which the Developer proposes to use in the sale of slips in BONEFISH MARINA, A CONDOMINIUM, may be found at Exhibit "F" of the Declaration of Condominium.

13. RESTRICTIONS ON SALE OR LEASE OF SLIPS

THE SALE, LEASE OR TRANSFER OF SLIPS IS RESTRICTED OR CONTROLLED. Refer to the Declaration of Condominium wherein the restrictions, limitations and controls on the sale, lease or transfer of slips is described.

14. MISCELLANEOUS

The Developer reserves the right to make changes to this Prospectus and the documents constituting a part thereof without notification to prospective purchasers. There are no express warranties unless they are stated in writing by the Developer.

15. LEASING

The Developer does not at the present time contemplate leasing slips and selling them subject to such Leases. Provided, however, the Developer does reserve the right to lease slips. In the event slips are leased by the Developer, THE SLIPS MAY BE TRANSFERRED SUBJECT TO A LEASE.

16. APPORTIONMENT OF COMMON EXPENSES AND COMMON ELEMENTS

The owners of each slip at BONEFISH MARINA, A CONDOMINIUM, shall share equally all common expenses and all shall own an equal undivided share in the common elements and common surplus.

17. THE DEVELOPER

BONEFISH MARINA, A CONDOMINIUM, is being developed by BONEFISH LAND TRUST (Ross E. Apgar, Trustee).

18. SUMMARY

- a. THIS MARINA CONDOMINIUM IS CREATED AND BEING SOLD AS FEE SIMPLE INTERESTS.
- b. THERE IS NO LAND OR RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS CONDOMINIUM.
- c. SLIPS MAY BE TRANSFERRED SUBJECT TO LEASES.
- d. THE DEVELOPER HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE SLIPS HAVE BEEN SOLD.
- e. THE SALE, LEASE OR TRANSFER OF SLIPS IS RESTRICTED OR CONTROLLED.

DECLARATION OF CONDOMINIUM

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DECLARATION OF CONDOMINIUM
OF
BONEFISH MARINA, A CONDOMINIUM

1. PREAMBLE, NAME AND LEGAL DESCRIPTION

The undersigned, BONEFISH LAND TRUST (Ross E. Apgar, Trustee), as General Partner, hereinafter referred to as the "Developer", being the owner of fee simple title of record to those certain lands located and situate in Monroe County, Florida, as more particularly described in composite Exhibit "A" attached hereto does hereby submit fee simple title to the said lands and any improvements that may currently and in the future be situated thereon to condominium ownership in accordance with the provisions of Chapter 718, Florida Statutes, hereinafter referred to as the "Condominium Act". The name by which this condominium is to be identified is BONEFISH MARINA, A CONDOMINIUM, hereinafter referred to as the "Condominium".

2. DEFINITIONS

The terms used in this Declaration and in its exhibits, including the Articles of Incorporation and By-Laws of the Association, shall be defined in accordance with the provisions of the Condominium Act, and as follows unless the context otherwise requires:

- a. Association means BONEFISH MARINA CONDOMINIUM ASSOCIATION, INC., a non-profit Florida corporation, and its successors. The Articles of Incorporation of the Association are attached hereto as Exhibit "C" and incorporated herein by reference. The By-Laws of the Association are attached hereto as Exhibit "D" and incorporated herein by reference.
- b. Common Elements shall include all Condominium Property not included in the Slips.
- c. Common Expenses include:
 - (1) Expenses of administration and management of the Condominium Property.
 - (2) Expenses of maintenance, operation, repair or replacement of the Common Elements, and Limited Common Elements to be maintained by the Association, including but not limited to repair of bulkhead and seawalls, wharfs, finger piers, landscaping, parking areas, basin silt removal, common grounds, and security equipment.
 - (3) The costs of carrying out the powers and duties of the Association.
 - (4) Expenses declared Common Expenses by the provisions of this Declaration or the Condominium Documents or the Condominium Act.
 - (5) Any valid charge against the Condominium Property as a whole.
- d. Common Surplus shall include all receipts of the Association over the amount of expenses.
- e. Condominium Documents shall include the Declaration of Condominium together with all exhibits attached hereto and all other documents expressly incorporated herein by reference, as the same may be amended from time to time.
- f. Condominium Parcel is a Slip together with the undivided share in the Common Elements and Common Surplus which are appurtenant to the Slip.
- g. Condominium Property means and includes the lands and leaseholds that are subject to condominium ownership, whether or not contiguous, and all improvements thereon and all easements and rights appurtenant thereto intended for use in connection with this Condominium.

- h. Developer means BONEFISH LAND TRUST (Ross E. Apgar, Trustee), its successors and assigns, particularly including but in no way limited to successors through mortgage foreclosure or grantees of deeds given in lieu of foreclosure, unless the context otherwise requires.
- i. Institutional Mortgagee or Institutional Lender shall be synonymous and may be used interchangeably, and shall mean any trust, savings and loan association, credit union, mortgage company, bank, insurance company, or commercial loan company licensed to do business in the State of Florida, holding a first mortgage on any portion of the Condominium Property.
- j. Limited Common Elements means and includes those Common Elements which are reserved for the use of a certain Slip or Slips to the exclusion of other Slips.
- k. Slip means a part of the Condominium Property which is subject to private ownership. The terms Parcel and Unit shall be construed to have the same meaning as "Slip" for purposes of this Declaration and the Exhibits hereto.
- l. Slip Owner or Owner of a Slip means the owner of a Condominium Parcel.
- m. Utility Services shall include but not be limited to electric power, water, garbage and telephone, together with all other public service and convenience facilities.

3. EXHIBITS

Exhibits attached to this Declaration of Condominium and made a part hereof include the following:

- a. Exhibit "A". A survey of the land in the Condominium and a graphic description of the improvements in which Slips are located and a site plan thereof which, together with the Declaration, are of sufficient detail to identify the Common Elements and each Slip and their relative locations and approximate dimensions.
- b. Exhibit "B". Share of Common Elements, Expense and Surplus.
- c. Exhibit "C". The Articles of Incorporation of the Association.
- d. Exhibit "D". The By-Laws of the Association.

4. EASEMENTS

Easements are expressly provided for and reserved in favor of the Developer, the sales and service entity, the Slip Owners, their lessees, their guests and invitees, as follows:

- a. Utilities. Easements are reserved under, through and over the Condominium Property as may be required for utility service in order to serve the Condominium adequately.

- b. Easements for Adjoining Lands. Notwithstanding anything herein expressed to the contrary, a permanent easement on and through is hereby granted to:

BONEFISH TOWERS CONDOMINIUM,
BONEFISH YACHT CLUB HOMEOWNERS ASSOCIATION, INC., and
Bonefish Sewer Plant (presently owned by Bonefish Land Trust)
for the purpose of providing and maintaining sewer, water, electricity, cablevision, telephone or other utilities to the lands of

BONEFISH TOWERS CONDOMINIUM,
BONEFISH YACHT CLUB HOMEOWNERS ASSOCIATION, INC., and
Bonefish Sewer Plant (presently owned by Bonefish Land Trust)
as are more specifically described in Exhibits A-6, A-7, and A-8, attached hereto and made a part hereof, and such easements, aforesaid, are covenants running with the land, including, but not limited to ingress and egress for any and all utility services to the aforesaid lands.

- c. Traffic. An easement shall exist for pedestrian traffic over, through and across sidewalks, paths, walks, docks, wharfs and other portions of the Common Elements as may be from time to time intended and designated for such purpose and use; and for marine traffic over, through and across such portions of the Common Elements intended for such purposes, and such easement shall be for the use and benefit of the Slip Owners within this Condominium, and those claiming by, through or under the aforesaid; provided, however, nothing herein shall be construed to give or create in any person the right to park any vehicle marine or otherwise upon any portion of the Condominium Property except to the extent that an area may be specifically designated and assigned for such purposes. An easement shall exist for marine traffic over, through and across portions of the Common Elements intended for marine traffic, in particular the turning basin, and an easement shall exist across portions of the Common Elements for pedestrian, vehicular equipment and other use as required for the operation of the Condominium. In addition, further easements shall exist for ingress and egress over such streets, walks and other rights of way serving the Slips as shall be necessary to provide for reasonable access to the public ways.
- d. Creation of Easements. Should the intended creation of any easement fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association for the purpose of allowing the original party or parties to whom the easements were originally granted the benefit of such easement. In such event the Slip Owners designate the Developer and/or the Association as their attorney in fact to execute any instrument on their behalf as may hereafter be required or deemed necessary for the purpose of creating such easement.
- e. Easement for Unintentional and Non-Negligent Encroachments. If a Slip shall encroach upon any common element, limited common element or upon any other unit, by reason of original construction or by the non-negligent or non-purposeful act of the unit owner or Developer, then an easement appurtenant to such encroaching Slip, to the extent of such encroachment, shall exist so long as such encroachment shall exist. If any common element or limited common element shall encroach upon any Slip by reason of original construction of the non-purposeful or non-negligent act of the Association or the Developer, then an easement appurtenant to such common element or limited common element, to the extent of such encroachment, shall exist so long as such encroachment shall exist.
- f. Additional Easements. The Developer (during any period in which there are any unsold Slips in the Condominium) and the Association each shall have the right to grant such additional electric, telephone, gas or other utility easements, and to relocate any existing easement in any portion of the Condominium Property, and to grant access easements and relocate any existing access easements in any portion of the Condominium Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the improvements, or any portion thereof, or for the general health or welfare of the Slip Owner, or for the purpose of carrying out any provisions of this Declaration; provided that such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use of the Slips for their intended purposes. The joinder of the Association or any Slip Owner shall not be required in the event the Developer declares an additional easement pursuant to the provisions hereof.

5. SLIP BOUNDARIES

Each Slip shall include that part of the property containing the Slip that lies within the boundaries of the Slip, which boundaries are as follows:

- a. Upper and Lower Boundaries: The upper and lower boundaries of the Slip shall be the following boundaries extended to an intersection with the perimeter boundaries:
- (1) Upper Boundaries. The upper boundaries are unlimited excepting slips located where overhead structures or sheds exist. Where overhead structures exist, the upper boundary shall be the imaginary horizontal plane adjoining but not including, the lowest point of the roof or covering section of the structure.
 - (2) Lower Boundaries. The horizontal plane adjoining but not including the upper surface of the land underlying the slip.

- b. Perimeter Boundaries. The perimeter boundaries of the Slip shall be the imaginary vertical planes adjoining with but not including the surfaces of the fixed moorings, pilings, docks or wharfs.

6. APPURTENANCES TO SLIPS

- a. Undivided Interests. Each Slip Owner shall have an undivided share of the Common Elements, ownership of Common Surplus and liability for Common Expenses, which share and interest shall be appurtenant to the Slip, as set forth in Exhibit "B" attached hereto.
- b. Limited Common Elements. Fixed pilings, docks, (including but not limited to water and electric connections and cleats) piers and other supports situated so as to be adjacent to more than one slip shall hereby be assigned to each such adjacent slip. The right to the adjacent and contiguous Slip Owners' exclusive use of any fixed supports shall pass as an appurtenance to the Slip to which the fixed support is designated. A Slip Owner shall not transfer or assign use of the designated fixed supports except in connection with the conveyance of the Slip, at which time the use of the fixed supports shall pass as an appurtenance to the Slip.

7. MAINTENANCE, ALTERATION AND IMPROVEMENT

Responsibility for the maintenance of the Condominium Property, and restrictions upon its alteration and improvement shall be as follows:

a. Slips and Fixed Moorings

- (1) By The Association. The Association shall maintain, repair and replace at the Association's expense:

- (a) All Common Elements and Limited Common Elements except as otherwise provided in the Condominium Documents.
- (b) All conduits, ducts, plumbing, wiring, telephone installations and other facilities for the furnishing of Utility Services that service part or parts of the Condominium Property, including Slips.
- (c) Electric service for the common elements, water service and garbage service.

- (2) By The Slip Owner. The responsibility of the Slip Owner for maintenance, repair and replacement shall be as follows:

- (a) To not paint or otherwise decorate or change the appearance of any portion of the Condominium Property without the prior written approval of the Association.
- (b) To promptly report to the Association any defect or need for repairs for which the Association is responsible.
- (c) To repair and replace at his expense any portion of the Condominium property which is negligently abused. Said repairs may be made by the Association and assessed to the Owner upon notice to the Slip Owner.
- (d) To promptly pay for water, electric, telephone, cablevision, etc., as may be applicable.

- b. Alteration and Improvement. The cost of any alteration or improvement shall be a Common Expense and so assessed. Any alteration or improvement shall not interfere with the rights of any Slip Owner without his consent.

- c. Association's Access to Slips. The Association has the irrevocable right to access to each Slip during reasonable hours, when necessary for the maintenance, repair, or replacement of any Common Elements or when necessary for maintaining the Condominium Property or for making emergency repairs necessary to prevent damage to the Common Elements or to another Slip or Slips.

8. ASSESSMENTS AND COMMON EXPENSES

- a. Common Expenses. Each Slip Owner shall be liable for a share of the Common Expenses, as set forth in Exhibit "B" attached hereto.
- b. Developer's Exemptions. In lieu of the payment of Common Expenses pursuant to Section 8.a., the Developer owning Slips offered for sale shall be excused from the payment of its share of the Common Expenses and assessments related thereto, for either of the following periods:
- (1) For a period subsequent to the recording of the Declaration of Condominium and terminating not later than the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first Slip in each phase occurs, provided that the Developer shall be obligated to pay that portion of the Common Expenses incurred during that period which exceed the amount assessed against other Slip Owners; or
 - (2) For such period of time that the Developer shall have guaranteed to each purchaser in the Purchase Contract that the assessment for Common Expenses of the Condominium imposed upon the Slip Owners other than the Developer or such person making the guarantee, shall not increase over a stated dollar amount, and shall obligate itself to pay any amount of Common Expenses incurred during that period and not produced by the assessments at the guaranteed level receivable from other Slip Owners.
- c. Assessments. The making and collection of assessments against each Slip Owner for Common Expenses, for the costs or expenses for which an individual Slip Owner may be solely responsible pursuant to the terms of the Condominium Documents, and for reserves as may from time to time be established by the Association, shall be pursuant to the By-Laws of the Association, subject to the following provisions:
- (1) Interest: Application of Payments. Assessments and installments on such assessments paid on or before fifteen (15) days after the date when due, shall not bear interest, but all sums not paid on or before fifteen (15) days after the date when due shall bear interest at the maximum legal rate from the date when due until paid. All payments on accounts shall be first applied to interest and then to the assessment payment first due.
 - (2) Lien For Assessments. The Association shall have a lien against each Slip for any unpaid assessments and for interest accruing thereon, which lien shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien, whether or not legal proceedings are initiated. The lien is effective from and after recording a claim of lien in the Public Records of Monroe County stating the legal description of the Slip, the name of the record owner, the amount claimed to be due and the due dates. The lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of lien shall be signed and verified by an officer of the Association, or by an agent of the Association. Upon full payment, the party making payment shall be entitled to a recordable satisfaction of lien, to be prepared by and recorded at such party's expense. All such liens shall be subordinate to any mortgage recorded prior to the date of recording the claim of lien, and all such liens may be foreclosed by suit brought in the name of the Association in the same manner as a foreclosure of a mortgage on real property. The Association may also sue to recover a money judgment for unpaid assessments without thereby waiving any claim of lien. In the event an Institutional Mortgagee, as holder of a first mortgage of record, shall obtain title to a Slip as a result of the foreclosure of such mortgage, or in the event such Institutional Mortgagee shall obtain title to a Slip as the result of a conveyance in lieu of foreclosure of such first mortgage, such Institutional Mortgagee shall not be liable for that share of the Common Expenses or assessments chargeable to the Slip, or the Owner thereof, which became due prior to the acquisition of title by such Institutional Mortgagee and any such unpaid share of Common Expenses, or assessments, chargeable against any such foreclosed Slip, or against any Slip transferred in lieu of foreclosure, shall be deemed a Common Expense to be paid in the same manner as other Common Expenses of the Condominium by all of the Slip Owners.

c. Coverage

- (1) Casualty. All structures and improvements comprising Common Elements upon the Condominium Property shall be insured in an amount equal to One Hundred (100%) percent of the replacement cost value, as shall be determined annually by the Board of Directors of the Association. The Board of Directors may propose a co-insurance factor, as it deems advisable in its sole discretion. Any deductible provisions shall be determined by the Board of Directors in its sole discretion. All such coverage, including the amount thereof and the insurance company issuing same, shall be subject to the approval of the Institutional Mortgagee holding the greatest dollar amount of first mortgages against Slips in the Condominium. Such approval shall be conclusively deemed given if such Institutional Mortgagee fails to notify the Association otherwise within ten (10) days of being notified by the Association of the proposed coverage amount and insurance company. The Board of Directors shall review and adjust the insurance coverage at least once every year so as to assure reasonable protection of the Condominium improvements. Coverage shall afford protection against:
- (a) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement, generally known as All Risks Physical Damage Insurance, if available, and
 - (b) Such other risks as from time to time shall be customarily covered with respect to improvements similar in construction, location and use as the improvements on the land, including but not limited to vandalism, malicious mischief and flood insurance, if available.
- (2) Public Liability. Public liability insurance shall be carried in such amounts and with such coverage as shall be required by the Board of Directors of the Association, including but not limited to hired vehicles, owned, and non-owned vehicle coverages, known as Employers Automobile Non-Ownership Liability Insurance, and with cross liability endorsements to cover liabilities of the Slip Owners as a group to a Slip Owner as an individual.
- (3) Workmen's Compensation. Workmen's compensation insurance shall be carried so as to meet the requirements of law.
- (4) Association. Fidelity Insurance Coverage shall be carried in the name of the Association for bonding all officers or directors of the Association.
- (5) Other. Such other insurance may be carried as the Board of Directors of the Association shall determine from time to time to be desirable.

d. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

e. Insurance Trustee: Share of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Slip Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association or to a named Insurance Trustee (hereinafter referred to as the Insurance Trustee), as Trustee, which shall be a commercial bank with trust powers, authorized to do business in Florida, as may be designated as Insurance Trustee from time to time by the Board of Directors of the Association when required by this Declaration. The selection of the Insurance Trustee is subject to the approval of the Institutional Mortgagee holding the greatest dollar amount of first mortgages against the Slips in the Condominium. Such approval shall be conclusively deemed given if such Institutional Mortgagee fails to notify the Association otherwise within ten (10) days of being notified by the Association of the proposed coverage amount and insurance company. The Insurance Trustee shall not be liable for payment of premiums nor for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes stated herein for the benefit of the Slip Owners and their mortgagees in the following shares, provided, however, such shares need not be set forth on the records of the Insurance Trustee:

- (1) Proceeds on Account of Damage to Common Elements and Limited Common Elements. Proceeds on account of damage to Common Elements and Limited Common Elements shall be held in undivided shares for each Slip Owner, such share being the same as the undivided share in the Common Elements and Limited Common Elements appurtenant to each Slip.
 - (2) Slips. Proceeds on account of damage to Slips, when the improvement is not to be restored, shall be held in undivided shares for each Slip Owner, such share being the same as the undivided share in the Common Elements appurtenant to the Slip.
 - (3) Mortgagees. In the event a mortgagee endorsement has been issued, any share for the Slip Owner shall be held in trust for the mortgagee and the Slip Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether 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 Slip Owner and mortgagee pursuant to the provisions of this Declaration. Notwithstanding the foregoing, the mortgagee shall have the right to apply or have applied to the reduction of its mortgage debt any or all sums of insurance proceeds applicable to its mortgaged Slip in any of the following events:
 - (a) Its mortgage is not in good standing and is in default.
 - (b) Insurance proceeds are insufficient to restore or repair the improvement to the condition existing prior to the loss and additional monies are not available for such purpose.
 - (4) Insurance Trustee. An Insurance Trustee shall be appointed when there exists a major damage as defined in subparagraph 11.e.(2)(b) herein.
- f. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:
- (1) All expenses of the Insurance Trustee shall be paid first or provisions made for such payment.
 - (2) If the damage for which the proceeds are paid is to be repaired or reconstructed the proceeds shall be paid to defray the cost thereof as provided herein. Any proceeds remaining after defraying such cost shall be distributed to the beneficial Owners, remittances to Slip Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of, and may be enforced by, any mortgagee of a Slip.
 - (3) If it is determined in the manner provided herein that the damage for which proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Owners, remittances to Slip Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of, and may be enforced by, the mortgagee of a Slip.
 - (4) In making distribution to Slip Owners and their mortgagees, the Insurance Trustee may rely upon a Certificate of the Association made by its President and Secretary as to the names of the Slip Owners and their respective shares of the distribution.
- g. Association as Agent. The Association is hereby irrevocably appointed Agent for each Slip Owner and for each Owner of any other interest in the Condominium Property to adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases upon the payment of a claim.

II. RECONSTRUCTION OR REPAIR AFTER CASUALTY

- a. Determination to Reconstruct or Repair. If any part of the Condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:
- (1) Common Elements and Limited Common Elements. If the damaged improvement is a Common Element or a Limited Common Element then the damaged property shall be reconstructed or repaired, unless it is determined that the Condominium shall be terminated.
- (a) Minor Damage. If the damage is to Common Elements and if thirty-five (35%) percent or more Slips are found by the Board of Directors of the Association to be operational and usable as moorings according to original standards, the damaged property shall be reconstructed or repaired, unless within sixty (60) days after the casualty, it is determined by agreement that the Condominium shall be terminated.
- (b) Major Damage. If the damage is to Common Elements and if sixty-six (66%) percent or more of the Slips are found by the Board of Directors of the Association to be unusable moorings according to the original standards, then the damaged property will not be reconstructed or repaired, and the Condominium will be terminated without agreement, unless within sixty (60) days after the casualty, the Owners of sixty-six (66%) percent of the Slips agree in writing to such reconstruction or repair.
- (2) Certificate. The Insurance Trustee may rely upon a Certificate of the Association made by its President and attested by its Secretary as to whether or not the damaged property is to be reconstructed or repaired.
- b. Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original improvements, or in lieu thereof, according to the plans and specifications approved by the Board of Directors of the Association and by the Owners of not less than sixty-six (66%) percent of the Slips including the Owners of all damaged Slips, together with the approval of the Institutional Mortgagees holding first mortgages upon all damaged Slips, which approval shall not be unreasonably withheld.
- c. Estimates of Cost. 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.
- d. 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 from insurance for the payment of the costs of reconstruction and repair are insufficient, assessments shall be made against all Slip Owners in sufficient amounts to provide funds for the payment of such costs. Such assessments shall be in proportion to the Owner's obligation for Common Expenses.
- e. Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Association or the Insurance Trustee and funds collected by the Association from assessments against Slip Owners, shall be disbursed in payment of such costs in the following manner:
- (1) Association. If the total of assessments made by the Association in order to provide funds for the payment of costs of reconstruction and repair that is the responsibility of the Association is more than \$50,000.00, then the sums paid upon such assessments shall be deposited by the Association with the Insurance Trustee. In all other cases the Association shall hold the sums paid upon such assessments and disburse them in payment of the costs of reconstruction and repair.

- (2) Insurance Trustee. The proceeds of insurance collected on account of casualty, and the sums deposited with the Insurance Trustee by the Association from collections of assessments against Slip Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the costs of reconstruction and repair in the following manner and order:
- (a) Association - Minor Damage. If the amount of the estimated costs of reconstruction and repair that is the responsibility of the Association is less than \$20,000.00, then the construction fund shall be disbursed in payment of such costs upon the order of the Board of Directors of the Association, provided however, that upon request by a mortgagee that is a beneficiary of an insurance policy the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner provided for the reconstruction and repair of major damage.
 - (b) Association - Major Damage. If the amount of the estimated costs of reconstruction and repair that are the responsibility of the Association is more than \$20,000.00, then the construction fund shall be applied by the Insurance Trustee to the payment of such cost, and shall be paid to or for the account of the Association from time to time as the work progresses, but not more frequently than once in any calendar month. The Insurance Trustee shall make payments upon the written request of the Association for withdrawal of insurance proceeds accompanied by a certificate, dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Association and by an architect in charge of the work, who shall be selected by the Association, setting forth that the sum then requested either has been paid by the Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials and any amounts paid prior to the request, and stating that the sum requested does not exceed the value of the services and material described in the certificate; that except for the amount stated in such certificate to be due as aforesaid, there is no outstanding indebtedness known to the person signing such certificate after due inquiry, which might become the basis of a vendor's, mechanic's, materialmen's or similar lien upon such work against the common elements for any individual Slip; and that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of insurance proceeds or other funds remaining in the hands of the Insurance Trustee after the payment of the sum so requested.
 - (c) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial Owners of the fund; except, however, that only those portions of a distribution to the beneficial Owners in excess of assessments paid by a Slip Owner to the construction fund shall be made payable to any mortgagee.
 - (d) Certificate. Notwithstanding the provisions of this instrument, the Insurance Trustee shall not be required to determine whether sums paid by the Slip Owners upon assessments shall be deposited by the Association with the Insurance Trustee, nor to determine whether the disbursements from the construction fund are to be upon the order of the Association or approval of an architect or otherwise, nor whether a disbursement is to be made from the construction fund nor to determine the payee nor the amount to be paid. Instead, the Insurance Trustee may rely upon a Certificate of the Association made by its President and Secretary as to any or all of such matters and stating that the sums to be paid are due and

properly payable and stating the name of the payee and the amount to be paid; provided, that when a mortgagee is required in this instrument to be named payee, the Insurance Trustee shall also name the mortgagee as a payee of any distribution of insurance proceeds to a Slip Owner; and further, provided, that when the Association, or a mortgagee that is the beneficiary of an insurance policy whose proceeds are included in the construction fund, so requires, the approval of an architect named by the Association shall be first obtained by the Association prior to disbursements in payment of costs of reconstruction and repair.

12. USE RESTRICTIONS

The use of the Condominium Property shall be in accordance with the following provisions as long as the Condominium exists upon the property:

- a. Slips. Each of the Slips shall be occupied only as a single boat mooring. No Slip may be divided or subdivided. At no time may more than one boat occupy any one Slip, with the exception of a dingy or tender.
- b. Common Elements and Limited Common Elements. The Common Elements and Limited 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 Slips.
- c. Nuisances. No nuisance shall be allowed upon the Condominium Property or within a Slip, nor any use or practice that is the source of annoyance to Slip Owners or which interferes with the peaceful possession and proper use of the property by its Owners. All parts of the Condominium shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage allowed to accumulate nor any fire hazard allowed to exist. No Slip Owner shall permit any use of his Slip or make any use of the Common Elements that will increase the cost of insurance upon the Condominium Property.
- d. Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Condominium Property or a Slip, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies for maintenance, modification or repair of the Condominium Property or a Slip shall be the same as the responsibility for the maintenance and repair of the property concerned.
- e. Leasing of Slips. After approval by the Association required herein, entire Slips may be rented provided the mooring is only by the Lessee, his family and guests, provided such written approval when once given and relied upon may not thereafter be revoked or terminated without the consent of the Slip Owner. A lease of any Slip shall not release or discharge the Owner thereof from compliance with any of his obligations and duties as a Slip Owner, and said Slip Owner shall be liable jointly and severally for any violation of the Rules and Regulations by a tenant. All of the provisions of the Condominium Documents and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Slip as a tenant to the same extent as against a Slip Owner, and a covenant upon the part of each such tenant to abide by the Rules and Regulations of the Association, and the terms and provisions of the Condominium Documents, and designating the Association as the Slip Owner's agent for the purpose of and with the authority to terminate any such lease agreement in the event of violations by the tenant of such covenant shall be an essential element of any such lease or tenancy agreement, whether oral or written, and whether specifically expressed in such agreement or not. The provisions of this section shall be inapplicable as to the Developer. The Developer shall be irrevocably empowered to sell, lease, rent or mortgage any Slip owned by the Developer, notwithstanding the limitations imposed by this section, provided that such action shall in no way impair or diminish the rights and interests of other Slip Owners.

- f. Signs. No "For Sale" or "For Rent" signs or other displays or advertising shall be maintained on any part of the Common Elements, Limited Common Elements, or Slips, except that the right is specifically reserved in the Developer to place and maintain "For Sale" or "For Rent" signs in connection with any unsold or unoccupied Slip the Developer may from time to time own, and the same right is reserved to any Institutional Mortgagee which may become the owner of a Slip, and to the Association as to any Slip which it may own.
- g. Regulations. Reasonable Rules and Regulations concerning the use of Condominium 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. One copy of such Rules and Regulations and amendments shall be furnished by the Association, free of charge, to all Slip Owners of the Condominium.
- h. Developer's Exemption. The Developer may make such use of the unsold Slips and Common Elements as may facilitate the sale of Slips by the Developer, including, but not limited to, showing of the property and the display of signs and other promotional devices.
- i. Exterior Appearance. No Slip Owner shall decorate or alter any part of his Slip so as to affect the appearance without the prior written approval of the Board of Directors of the Association.
- j. Boats. The Association shall have the right to board a boat occupying any Slip within the Condominium Property for purposes of resecuring to fixed moorings, pumping, or anytime that the boat poses a hazard or threat to Condominium Property or the property of other Slip Owners. The Association shall not be obligated to resecure, pump or prevent a dangerous condition created by any boat occupying a Slip, nor shall the Association be liable for any damage sustained to the Slip Owner's boat while attempting to resecure, pump or prevent a dangerous condition or for damage sustained as a result of no attempt to resecure, pump or prevent a dangerous condition. The Association shall have the right to board a boat occupying any slip within the Condominium Property to inspect and test with mechanical devices to determine the soundness of the craft, however, the Association shall have no responsibility or obligation to inspect or test. A Slip may be occupied only by a boat of such size that would not obstruct the turning basin for those boats presently or designated to be moored within the Condominium Property. The Association shall have the right to condemn and cause to be removed any boat occupying a Slip within the Condominium Property where the boat or lines are not properly maintained or where the boat poses a threat or hazard to any other boat. All boats shall maintain a current Coast Guard inspection and display same upon request of the Association.
- k. Boats for Sale. If a Slip Owner holds a boat for sale within the Condominium Slip the Slip Owner or an authorized agent of the Management Firm must accompany the prospective Purchaser(s) when viewing the boat within the Condominium Property. This measure is to preserve the security and privacy of the Condominium. This section of the Declaration of Condominium may be amended only by unanimous consent of Slip Owners and the Board of Directors.
- l. Guests. An Owner must notify the Association in advance of the expected period of use of any guest of an Owner when using the Slip in the Owner's absence. The Owner of the Slip shall remain liable for the conduct of his guest while using the condominium facilities. The Association or its authorized agent shall have the right to refuse the entrance of a guest when not properly authorized by the record owner.
- m. Notice. The Owner of a Condominium Slip must notify the Association in writing on forms as promulgated by the Association of the particular boat that will occupy a Condominium Slip.
- n. Occupancy. No boat or vessel shall be used or maintained for sleeping or living purposes or as a place of residence which is not sound, seaworthy and equipped with self-propelled machinery in good operating condition. Vessels that are to occupy slips may not be used principally as a residence nor to provide on a long-term basis the essential services typically associated therewith.

- o. Storm Precaution. During hurricanes and other high velocity wind threat, the Slip Owner shall be responsible for following all safety precautions that may be outlined by the Miami Hurricane Center. If a Slip Owner's boat or any other boat authorized to occupy a Slip sinks as a result of a storm, or for any other reason, the Slip Owner must remove the sunken boat from the Condominium Property within five (5) days after the occurrence of such event or else the Association may remove the same and impose a special assessment against the Slip Owner.

13. MAINTENANCE OF COMMUNITY INTERESTS

In order to maintain congenial Owners who are financially responsible and thus protect the value of the Slips, the transfer of Slips by an Owner other than the Developer shall be subject to the following provisions as long as the Condominium exists upon the property:

- a. Transfers Subject to Approval. No Slip Owner, except the Developer, may either acquire or dispose of any Slip by sale, lease, gift, devise, inheritance, or other transfer of title or possession without the written consent of the Association except as hereinafter provided. In the event of transfer of title by operation of law the continued ownership is subject to the written approval of the Association except as hereinafter provided. The Association reserves the right to approve the size of any boat which may be docked within the Condominium Property, so as to assure the safe use of all marine vehicles.
- b. Approval by Association. The written approval of the Association that is required for the transfer of title of a Slip shall be obtained in the following manner:
- (1) Notice to Association.
- (a) Sale. A Slip Owner intending to make a bona fide sale of his Slip or any interest therein shall give to the Association notice 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 Slip Owner's option may include a demand by the Slip Owner that the Association furnish a purchaser of the Slip 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.
- (b) Lease. A Slip Owner intending to make a bona fide lease of his Slip to any interest therein shall give to the Association notice 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.
- (c) Gift, Devise, Inheritance, or Other Transfers. A Slip Owner who has obtained his title by gift, devise or inheritance, or by any other manner not previously specified, shall give to the Association notice of the acquiring of his title, together with such information concerning the Slip Owner as the Association may reasonably require, and a certified copy of the instrument evidencing the Owner's title.
- (d) Failure to Give Notice. If the above required notice to the Association is not given, then at any time after receiving knowledge of a transaction or event transferring ownership or possession of a Slip, the Association at its election and without notice may approve or disapprove the transaction, ownership, or possession.
- (2) Certificate of Approval.
- (a) 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 by a certificate in recordable form executed by the Association.

- (b) Lease. If the proposed transaction is a lease, 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 by a certificate in a non-recordable form executed by the Association.
- (c) Gift, Devise or Inheritance: Other Transfers. If the Slip Owner giving notice has acquired his title by gift, devise or inheritance or in any other manner, then within thirty (30) days after receipt of such notice and information the Association must either approve or disapprove the continuance of the Slip Owner's ownership of his Slip. If approved, the approval shall be by a certificate in recordable form executed by the Association.
- (3) Approval of Corporate Owner or Purchaser. Inasmuch as the Condominium may be used only for mooring purposes and a corporation cannot occupy a Slip for such use, if the Slip Owner, purchaser or lessee of a Slip is a corporation, the approval of ownership or lease by the corporation may be conditioned by requiring that all persons occupying the Slip be approved by the Association and contingent upon the occupation of the Slip only by those persons who have been approved.
- (4) Screening Fees. The Association shall require the payment of a reasonable screening fee, not to exceed Fifty (\$50.00) Dollars, for the purpose of defraying the Association's expenses incurred in determining whether to approve or disapprove the transaction.
- (5) Acceptance. The acceptance of a deed or conveyance, or the entering into a lease shall constitute an adoption and ratification by such Owner, tenant or occupant of the provisions of this Declaration, and the Articles, By-Laws and applicable rules and regulations of the Association, as they may be amended from time to time, including, but not limited to, a ratification of any appointments of attorneys-in-fact contained therein. The title to the Condominium Property is subject to conditions, restrictions, limitations and easements of record, if any.
- c. Disapproval by Association. If the Association shall disapprove a transfer of ownership of a Slip, the matter shall be disposed in the following manner:
- (1) Sale. If the proposed transaction is a sale and if the notice of sale given by the Slip Owner shall so demand, then within thirty (30) days after receipt of such notice and information the Association shall deliver or mail by registered mail to the Slip Owner an agreement to purchase the Slip by a purchaser approved by the Association, or an agreement to purchase signed on behalf of the Association by its President and attested by its Secretary, in which event the Slip Owner shall sell the Slip to the named purchaser at the price and upon the terms stated in the disapproved contract to sell, or upon mutually agreed terms.
- (a) The sale shall be closed within sixty (60) days after delivery or mailing of the agreement to purchase, or upon the date designated in the disapproved contract, whichever date shall be later.
- (b) If the Association shall fail to purchase or provide a purchaser upon demand of the Slip Owner in the manner provided, or if the purchaser furnished by the Association shall default in his agreement to purchase, the proposed transaction shall be deemed to have been approved, and the Association shall furnish a certificate of approval in recordable form.
- (2) Lease. If the proposed transaction is a lease, the Slip Owner shall be advised of the disapproval in writing, and the lease shall not be made.

- (3) Gift, Devise or Inheritance: Other Transfers. If the Slip Owner giving notice has acquired his title by gift, devise or inheritance, or in any other manner, then within thirty (30) days after receipt from the Slip Owner of the notice and information required to be furnished, the Association shall deliver or mail by registered mail to the Slip Owner an agreement to purchase the Slip concerned by a purchaser approved by the Association who will purchase and to whom the Slip Owner must sell the Slip upon the following terms:

- (a) The sale price shall be the fair market value determined by agreement between the seller and the purchaser within thirty (30) days from the delivery or mailing of such agreement. In the absence of agreement as to price, the price shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the Slip; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.
- (b) The purchase price shall be paid in cash.
- (c) The sale shall be closed within sixty (60) days following determination of the sale price.
- (d) If the Association shall fail to provide a purchaser as required by this instrument, or if a purchaser furnished by the Association shall default in his agreement to purchase, then notwithstanding the disapproval such ownership shall be deemed to have been approved, and the Association shall furnish a certificate of approval in recordable form, to the Slip Owner.

- d. Mortgage. No Slip Owner may mortgage his Slip nor any interest in it without approval of the Association except to an Institutional Mortgagee or to a seller to secure a portion or all of the purchase price. The approval of any other mortgagee may be upon conditions determined by the Association or may be arbitrarily withheld.
- e. Exceptions. The provisions of this section entitled "Maintenance of Community Interests" shall not apply to a transfer or purchase by an Institutional Lender that acquires its title as the result of owning a mortgage upon the Slip concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings; nor shall such provision apply to a transfer, sale or lease by an institutional lender that so acquires its title. Neither shall such provisions require the approval of a purchaser who acquires the title to a Slip at a duly advertised public sale with open bidding provided by law, such as but not limited to, execution sale, foreclosure sale, judicial sale or tax sale. Neither shall such provisions apply to the Developer, who shall have the right to freely sell, lease, transfer or otherwise deal with the title and possession of a Slip without complying with the provisions of this section, and without the approval of the Association.
- f. Unauthorized Transactions. Any sale, mortgage, lease, or transfer not authorized pursuant to the terms of this Declaration shall be voidable unless subsequently approved by the Association or otherwise cured by the terms of this Declaration.
- g. Notice of Lien or Suit.

- (1) Notice of Lien. A Slip Owner shall give notice, in writing, to the Association of every lien upon his Slip other than for authorized mortgages, taxes and special assessments within five (5) days after the attaching of the lien.

(2) Notice of Suit. A Slip Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Slip, such notice to be given within five (5) days after the Slip Owner shall receive knowledge or notice thereof.

(3) Failure to Comply. Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

- h. Association Waiver of Transfer Approval. Whenever in this section an approval is required of the Association in connection with the sale, transferring, leasing or pledging of any Slip, and such approval shall not have been obtained pursuant to the provisions hereof, failure upon the part of the Association to object in writing to such sale, transfer, pledging or leasing within ninety (90) days after the date thereof, or within thirty (30) days of the date upon which the purchaser, transferee or lessee shall take possession of the premises, whichever date shall be later, shall constitute waiver by the Association of objection to the written consent otherwise required by this section and the Association upon demand shall forthwith deliver consent in recordable form.

14. PURCHASE OF SLIPS BY ASSOCIATION

The Association shall have the power to purchase a Slip or Slips subject to the following provisions:

- a. Decision. The decision of the Association to purchase a Slip shall be made by the affirmative vote of at least fifty-one (51%) percent of the Slip Owners.
- b. Limitation. If at any time the Association shall be the Owner or agreed purchaser of one (1) or more Slips, it may not purchase any additional Slips without the prior written approval of seventy-five (75%) percent or more of the Slip Owners. The Slip Owner whose Slip is the subject matter of the proposed purchase shall be ineligible to vote thereon, provided, however, that the limitations hereof shall not apply to Slips to be purchased at public sale resulting from a foreclosure of the Association's lien for delinquent assessments where the bid of the Association does not exceed the aggregate of the amounts due by virtue of any and all senior or superior liens against the Slip plus the money due the Association, nor shall the limitation of this paragraph apply to Slips to be acquired by the Association in lieu of foreclosure of such liens if the consideration therefor does not exceed the cancellation of such lien.

15. RIGHTS OF DEVELOPER

Notwithstanding anything in this Declaration to the contrary and in addition to any other rights which may be reserved to the Developer herein, the Developer shall have the following rights:

- a. Purchase of Slips. The Developer shall have the right of first refusal to purchase any Slip which the Association shall have the right to purchase upon the same price and at the same terms available to the Association, such right of first refusal to continue until such time as the Developer shall have sold and closed on the sale of all Slips in the Condominium, or for a period of two (2) years from the date of the recording of this Declaration of Condominium, whichever is sooner.
- b. Alteration of Slip Boundaries and Dimensions. The Developer reserves the right to change the interior design and arrangement of all Slips so long as the Developer owns the Slips so changed and altered, provided such change shall be reflected by an amendment to this Declaration, provided, further, that an amendment for such purpose shall be signed and acknowledged only by the Developer and need not be approved by the Association or Slip Owners, whether or not elsewhere required for an amendment. In making the above alterations, additions and improvements, the Developer may relocate and alter Common Elements adjacent to or affected by such Units, provided that such relocation or alteration does not materially adversely affect the market value (in the Developer's opinion) or ordinary use of Slips owned by Slip Owners other than the Developer. Any amendments to this Declaration required by actions taken pursuant to this paragraph may be effected by the Developer alone. The provisions of this Section may not be added to, amended or deleted without the prior written consent of the Developer.