

COVE POINTE
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

This DECLARATION is made as of this ____ day of _____, 2005, by Cove Preservation Partners, Inc., a Florida corporation (the "Declarant").

Declarant is the owner of that property located in Bay County, Florida, which is more particularly described on Exhibit A, attached hereto and made a part hereof (the "Property"). Declarant desires to assure high quality standards for the orderly development, use, occupancy and maintenance of the Property, to protect the value of the Property, and to promote the common interests of the owners of the Property.

NOW, THEREFORE, for and in consideration of the above premises, and for other good and valuable consideration, Declarant hereby declares that all of the Property and any additional property subjected to this Declaration by Supplemental Declaration (hereafter defined) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Property, their heirs, successors, and assigns, and shall inure to the benefit of each owner of any portion of the Property.

Article 1
DEFINITIONS

For the purposes of this Declaration, the following Capitalized Terms shall have the meanings set forth below.

1.1. "Additional Property" shall mean any real property added to the Property by Supplemental Declaration in accordance with Article 2 hereof, which Additional Property shall then be included within the term "Property."

1.2. "Annual Assessments" shall mean assessments levied on all Lots to fund Common Expenses for the general benefit of all Lots, as more particularly described in Article 6.

1.3. "ARB" shall mean the Architectural Review Board, as established pursuant to Article 11 hereof.

1.4. "Articles" shall mean the Articles of Incorporation of the Association as amended from time to time.

1.5. "Assessments" shall mean all assessments provided for in this Declaration, including, but not limited to, Annual Assessments, Special Assessments,

Individual Assessments, Capital Assessments and Transfer Assessments.

1.6. "Association" shall mean Cove Pointe Owners Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

1.7. "Board of Directors" shall mean the Board of Directors of the Association.

1.8. "Bylaws" shall mean the Bylaws of the Association as amended from time to time.

1.9. "Capitalization Assessment" shall mean assessments levied in accordance with Section 6.11.

1.10. "City" shall mean the incorporated municipality known as Panama City, Florida.

1.11. "Common Area" All real and personal property and improvements, including easements, which the Association owns, leases or otherwise holds possessory or use right in for the common use and enjoyment of the Owners. The term Common Area shall include any amenities appurtenant to the Common Area, including any dock or pier improvements appurtenant to the Common Area waterfront property.

1.12. "Common Expenses" shall mean those items of expense for which the Association is or may be responsible under this Declaration, including any reasonable reserve, and those additional items of expense or anticipated expense approved and adopted in the manner set forth in this Declaration, the Articles or the Bylaws.

1.13. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board of Directors or the ARB, as applicable.

1.14. "Declaration" shall mean this Cove Pointe Declaration of Covenants, Conditions, Restrictions and Easements, as amended from time to time, as hereinafter provided.

1.15. "Declarant" shall mean Cove Preservation Partners, Inc., a Florida corporation, and its successors and assigns, but only if, and to the extent, the current Declarant specifically assigns rights to the successor or assign and such successor or assign shall specifically assume the obligations of Declarant under the Declaration, Articles and Bylaws. Declarant may assign all or part of its rights on a non-exhaustive basis in the manner set forth in the assignment.

1.16. "Design Guidelines" shall mean the design and construction guidelines and application, review and approval procedure applicable to the Property promulgated and administered pursuant to Article 11.

1.17. " Dwelling Unit" shall mean any single family residential dwelling constructed on or within any Lot, which shall be deemed unimproved until all improvements being constructed thereon are substantially complete.

1.18. " Individual Assessments" shall mean assessments levied in accordance with Section 6.10.

1.19. " Lot" shall mean a portion of the Property, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy as a detached residence for a single family. The term shall refer to the land which is a part of the Lot, as well as the improvements thereon, which shall include not only the detached residence for a single family, but also any improvements upon the land which are ancillary or accessory thereto.

1.20. " Member" shall mean those persons or entities entitled to Class A or Class B membership in the Association as provided in this Declaration and the Articles.

1.21. " Mortgage" shall mean a mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to a Lot.

1.22. " Mortgagee" shall mean any institutional holder of a first mortgage encumbering a portion of the Property as security for the performance of an obligation; an insurer or guarantor of such Mortgage, including without limitation, the Veterans Administration (" VA" or Federal Housing Administration (" FHA") and/or a purchaser or guarantor of such Mortgages in the secondary market including without limitation, Federal National Mortgage Association and Federal Home Loan Mortgage Association (" GNMA"), and the Declarant, if it is holding a first Mortgage on any portion of the Property.

1.23. " Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding those having such interest in a Lot merely as security for the performance of an obligation.

1.24. " Plat" shall mean the recorded plat or replat of any subdivision of the Property and any Additional Property, if any, as further amended or replatted from time to time.

1.25. " Property" shall mean that certain real property described in Exhibit A, together with improvements thereon, and such portions of Additional Property, if any, as may hereinafter be brought within the jurisdiction of the Declaration by Supplemental Declaration.

1.26. " Proposed Improvements" shall mean any activity or improvement to the Property of any nature whatsoever requiring ARB approval as set forth in Article 11 below.

1.27. "Special Assessment" shall mean assessments levied in accordance with Section 6.8.

1.28. "Supplemental Declaration" shall mean an instrument filed in the Official Records of Bay County, Florida, pursuant to Article 2 which subjects additional property to this Declaration or imposes additional restrictions or obligations on the Property.

1.29. "Transfer Assessment shall mean assessments levied in accordance with Section 6.12.

1.30. "Utilities" shall mean water, sewer, electricity, gas and other services and suppliers of services and goods commonly considered, from time to time, as utilities, specifically including cable television, and other communication services; provided, however, that the inclusion within this definition of a utility service shall not imply that such service will be available to Owners.

Article 2
PROPERTY SUBJECT TO THIS DECLARATION
AND ADDITIONS THERETO

2.1. Existing Property. The initial real property which is and shall be held, sold, conveyed and occupied subject to this Declaration is described in Exhibit A, attached hereto.

2.2. Additional Property.

2.2.1. *By Declarant*. From time to time, and within its sole discretion, Declarant, or its assigns, shall have the right, but not the obligation, for so long as Declarant is a Class B Member, to annex other real properties (the "Additional Property") now or hereafter acquired by Declarant, or owned by others, so long as such annexation is with the consent of the owner(s) of the property so annexed.

2.2.2. *By Association*. With the affirmative vote of at least two-thirds (2/3rds) of the members of the Board of Directors, the Association may annex additional real property (the "Additional Property") owned by the Association or owned by others, so long as such annexation is with the consent of the owner(s) of the property so annexed.

2.2.3. *Supplemental Declaration*. Any additions to the Property authorized in this Article 2 shall be made by filing of record one or more Supplemental Declarations with respect to the Additional Property. With respect to Additional Property annexed by the Declarant, the Supplemental Declaration need only be executed by the Declarant, or its assigns; in the case of Additional Property to be annexed by the Association, the Supplemental Declaration shall be executed by the President of the Association and shall state that such annexation is in accordance with a resolution

passed by the Association pursuant to the terms and conditions of this Declaration. A Supplemental Declaration shall contain any additions to or modifications of the provisions hereof applicable to the Additional Property as may be necessary or desirable in Declarant's judgment. A Supplemental Declaration shall become effective upon being recorded in the Official Public Records of Bay County, Florida.

2.2.4 *Effect of Annexation.* In the event that any Additional Property is annexed to the Property pursuant to the provisions of this Article 2, thereafter such Additional Property shall be considered within the definition of the term "Property" for all purposes of this Declaration, and each Owner of a Lot therein, if any, shall be the class of Member and entitled to vote as provided in Article 4.

Article 3 PROPERTY RIGHTS

3.1. Common Area. Subject to the provisions of this Declaration, and the rules and regulations of the Association, all as amended from time to time, every Owner shall have a non-exclusive right and easement of use, access, and enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

3.1.1. The right of the Association to suspend the use rights of the Common Area by an Owner for any period during which any Assessments against his Lot remains unpaid;

3.1.2. The right of the Board of Directors, without further consent from Owners or their Mortgagees, to dedicate, transfer or grant an easement over all or any part of the Common Area, to any public agency, authority or utility company for the purpose of providing utilities to any portion of the Property and the right of the Board to acquire, extend, terminate or abandon such easement;

3.1.3. The right of the Declarant or the Board of Directors to adopt rules and regulations pertaining to the use of the Common Area;

3.1.4. The right of the Declarant or the Board of Directors to authorize other persons to enter upon or use the Common Area for uses not inconsistent with the Owners' rights therein;

3.1.5. The right of the Board of Directors to mortgage any or all of the Common Area for the purpose of improvement or repair of the Common Area.

3.2. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration.

3.3 Condemnation. If any part of the Common Area shall be taken or conveyed

in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice. The Association is hereby designated to represent the Owners in any condemnation proceeding, negotiations, settlements or agreements in connection with such condemnation award. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

3.3.1. *Restoration or Replacement of Improvements.* If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking at least seventy five percent (75%) of the total Class A votes in the Association, and the Class B Member, if any, vote not to replace or restore. Any restoration of improvements shall be in accordance with plans approved by the Board of Directors.

3.3.2. *Funds Not Used for Restoration or Replacement.* If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

Article 4 MEMBERSHIP AND VOTING RIGHTS

4.1 Membership. Every Owner and the Declarant shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners.

4.1 Classes of Membership. The Association shall have two classes of voting membership.

4.1.1. *Class A.* The Class A Members shall be the Owners, except that so long as Class B Membership exists, the Declarant shall not be considered a Class A Member. There shall be only one Class A membership per Lot. Class A Members shall be entitled to one vote for each Lot owned. Upon the termination of the Class B membership, the Declarant shall be a Class A Member entitled to Class A votes for each Lot which it owns.

4.1.2. *Class B.* The sole Class B Member shall be the Declarant. The Class B membership shall terminate upon the earlier of the following to occur:

4.1.2.1. when the Declarant no longer owns any part of the

Property;

4.1.2.2. twenty-five (25) years from the date of recording this

Declaration;

4.1.2.3. when Declarant, in its sole discretion, elects to transfer control to Class A members, and so declares in an instrument recorded in the Official Records of Bay County, Florida.

4.2. Exercise of Voting Rights. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. When more than one person holds an interest in any Lot, all such persons shall be Members; however, but in no event shall more than one vote be cast with respect to any Lot and the vote for such Lot shall be exercised as they determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advise, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

Article 5

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Area. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board of Directors or the Members may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the Bylaws, the Articles, and the laws of the State of Florida.. The Board of Directors is specifically authorized to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

5.2. Common Area. The Association, subject to the rights and obligations of the Owners set forth in this Declaration, shall manage, maintain and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and other personal property of the Association used in connection with the Common Area), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration and the Bylaws and consistent with the Community-Wide Standard.

5.3. Personal Property and Real Property Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real

estate, located within the Property and such shall be accepted by the Association and thereafter maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association.

5.4. Enforcement. The Association may impose sanctions for violations of this Declaration, the Bylaws, or Association rules in accordance with procedures set forth in the Bylaws, including reasonable monetary fines and suspension of the right to vote and to use the Common Area. In addition, in accordance with the Bylaws, the Association may exercise self-help to cure violations. All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, if the Association prevails it shall be entitled to recover all costs, including without limitation, attorneys fees and court costs, reasonably incurred in connection with such action.

5.5. No Obligation to Take Enforcement Action. The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that either the Association's position is not strong enough to justify taking enforcement action, or the likely outcome, even where successful, does not justify the cost or effort which would be required to pursue such action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or estopp the Association from enforcing later that or any other covenant, restriction or rule.

5.6. County and City. The Association, by contract or agreement, may enforce county and city ordinances, if applicable, and permit Bay County or the city of Panama City to enforce ordinances on the Property for the benefit of the Association and its Members.

5.7. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws, or reasonably implied from or reasonably necessary or desirable to effectuate any right or privilege.

5.8. Board Authority. Except as otherwise specifically provided in this Declaration, the Bylaws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the Members.

5.9. Government Interests. For so long as the Declarant owns any of the Property, the Declarant may designate sites within the Property for fire, police, and utility facilities, public parks, and other public or quasi-public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant.

5.10. Indemnification. The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including

settlement of any ongoing or threatened suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officer or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Article 6 ASSESSMENTS

6.1. Creation of Assessments. There are hereby created assessments for Association expenses as the Board of Directors may specifically authorize from time to time. Except as otherwise provided, there shall be five types of assessments (collectively, or any one or more as applicable, sometimes referred to herein as the "Assessments"): (a) Annual Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special Assessments as described in Section 6.8; (c) Individual Assessments as described in Section 6.10; (d) Capitalization Assessments as described in Section 6.11; and (e) Transfer Assessments as described in Section 6.12. All property within the Common Area and any property dedicated to and accepted by any governmental authority or public utility shall be exempt from Assessments.

6.2. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed or entering into a recorded contract of sale therefore, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association all applicable Assessments. The Assessments, together with interest (computed from the due date of such Assessment at a rate of 18% per annum, subject to the limitations of Florida law), late charges in such amount as the Board may establish by resolution, costs, any administrative fees provided for herein, and reasonable attorney's fees, shall be a charge and continuing lien upon the Lot upon which such Assessment is made until paid, as more particularly provided in Section 6.13 herein below. Each such Assessment, together with interest, late charges, costs, administrative fees, and reasonable attorney's fees, shall also be the personal obligation of each and every person who was the Owner of such Lot at the time when the Assessment fell due. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any Assessments and other charges due at the time of conveyance; provided, however, that the foregoing shall not affect the grantee's right, if any, to recover the grantor's share from the grantor.

6.3. Due Date and Terms of Payment. Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of Assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, Assessments may be paid in two or more installments. Unless the Board or this Declaration otherwise provides, the Annual Assessments shall be due and payable in advance on of the first day of each fiscal year. If any Owner is delinquent in paying any Assessment or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding Assessments to be paid in full immediately..

6.4. Annual Assessment. At least forty five (45) days before the beginning of each fiscal year, the Board of Directors shall prepare a budget covering the estimated Common Expenses anticipated during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 6.5.

Annual Assessments shall be levied equally against all Lots and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of Annual Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years, if any.

The Board shall send a copy of the budget and notice of the amount of the Annual Assessment to each Owner at least thirty (30) days prior to the beginning of the fiscal year for which it is to be effective. Such budget and Assessment shall become effective unless disapproved at a meeting by the Class B Owner, if such exists, and by the Owners representing at least seventy five percent (75%) of the total Class A votes in the Association. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Owners as provided for special meeting in the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the notice of the Annual Assessments.

The failure or delay of the Board of Directors to prepare or adopt the annual budget for any fiscal year or to give notice thereof shall not constitute a waiver or release in any manner of the Owner's obligation to pay any Assessment as herein provided, whenever the same shall be determined. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, each Owner shall continue to pay the Annual Assessment as established the previous year, until the current year's budget is established and the current year's Annual Assessment levied, at which time the Association may retroactively assess any difference between the Annual Assessment based on the prior year and that due under the budget adopted for the current year.

6.5. Reserve Budget and Capital Reserve Contribution. The Board shall annually prepare a reserve budget which takes into account the number and nature of

replaceable assets within the Common Area, the life expectancy of each asset, and the expected repair or replacement cost. The Board shall set the required capital reserve contribution in an amount sufficient to permit meeting the projected need of the Association, as shown on the budget, with respect both to amount and timing.

6.6. Commencement of Annual Assessments. The obligation to pay Annual Assessments shall commence as to each Lot on the first day of the month following the later of the following: (a) the month in which the Unit is made subject to this Declaration; or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article. The first Annual Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time Annual Assessments commence on the Lot.

6.7. Real Estate Taxes. In the event the Common Area is taxed separately from Lots deeded to Owners, the Association shall include such taxes as part of the Common Expenses included in the Annual Assessment. In the event the Common Area is taxed as a component of the value of the Lot owned by each Owner, it shall be the obligation of each Owner to promptly pay such taxes.

6.8. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment will be levied against the entire Membership. Any Special Assessment shall have the approval of two-thirds majority vote of the Board of Directors, unless the Special Assessment is required due to the inadequacy of insurance proceeds or condemnation award to cover the cost of repair to Common Property wherein no approval shall be required.

6.9. Uniform Rate of Assessment. Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots whether or not a Lot has a Dwelling Unit, and any increase must be applied uniformly to all Lots.

6.10. Individual Assessments. In the event an Owner fails to maintain his Lot including, without limitation, landscaping, mowing of vegetation on the unpaved right-of-way in front of the Owner's Lot or the improvements thereon as required herein, or in the event the Lot or Owner is otherwise not in compliance with the terms of this Declaration, the Bylaws or Association rules, the Association shall give written notice specifying such failure to the Owner and if the Owner fails to correct such failure or noncompliance within five (5) days from the Association's written notice, then the Association may perform such maintenance or take such action as is necessary or desirable to bring such Lot or Owner into compliance, and the cost of such, together with an administrative fee in the amount equal to twenty percent (20%) of such cost, shall constitute an Individual Assessment on the Lot for which a claim of lien may be filed and enforced. Notwithstanding the five day notice provided herein above, in the event an Owner fails to complete the improvements to the Owner's Lot required pursuant to Section 10.31 within the time specified in Section 10.31, then the Association shall give written notice specifying such failure to the Owner and if the

Owner fails to complete the required improvements within thirty (30) days from the Association's written notice, then the Association, at any time after such thirty day notice period, may cause the improvements to be completed and the cost of such improvements, together with an administrative fee in the amount equal to twenty percent (20%) of such cost, shall constitute an Individual Assessment on the Lot for which a claim of lien may be filed and enforced.

6.11. Capitalization Assessments. There is hereby established a Capitalization Assessment to provide working capital for the Association and to provide a means for funding improvements to the public park and conservation area within the Property. Upon acquisition of record title to a Lot by the first Owner thereof other than the Declarant, there is hereby levied on the Lot a Capitalization Assessment which is immediately due and payable at the closing of such Lot in an amount equal to: (a) one hundred percent (100%) of the Annual Assessment per Lot for that year, to be used by the Association as start up or working capital, plus (b) in the case of Lots 1 through 3, inclusive, Lots 12 through 42, inclusive, and Lots 55 through 58, inclusive, \$250.00 each, and in the case of Lots 4 through 11, inclusive, and Lots 43 through 54, inclusive, \$500.00 each, to be used by the Association for the improvement of the public park and conservation area located within the Property. This Capitalization Assessment is in addition to, not in lieu of, the Annual Assessment on such Lot and shall not be considered an advance payment of such Annual Assessment. At the closing of the sale of the Lot, the Capitalization Assessment shall be disbursed to the Association in accordance with this Declaration. There shall be no requirement for the Association to escrow or segregate the funds paid over to it pursuant to this Section, and the amount and timing of the expenditure of the park and conservation area improvement funds by the Association shall remain in the Association's sole discretion; the only requirement being that such funds, when expended, shall be used for the improvement of the public park and conservation area within the Property.

6.12. Transfer Assessment. Upon the conveyance of record title to a Lot by a Lot Owner other than Declarant, there is hereby levied a Transfer Assessment on the Lot transferred in an amount equal to one hundred percent (100%) of the Annual Assessment per Lot for that year. This Transfer Assessment is in addition to, not in lieu of, the Annual Assessment on such Lot and shall not be considered an advance payment of such Annual Assessment. At the closing of the sale of the Lot, the Transfer Assessment shall be disbursed to the Association in accordance with this Declaration for use in covering operating and other expenses and shall also compensate the Association for registering on its books and records the current address of the new Lot Owner.

6.13. Lien for Assessments. The Association shall have a lien against each Lot to secure payment of Assessments thereon, as well as interest (subject to the limitations of Florida law), late charges, administrative fees, and costs of collection (including, but not limited to, attorney's fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes which by law would be superior, and (b) the lien or charge of any first Mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial

foreclosure.

6.14. Property Acquired by Association Through Foreclosure. The Association may bid for the Lot at the foreclosure sale (and receive a credit against such bid for all amounts secured by its lien) and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each Lot shall be charged, in addition to its usual assessment, its prorata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

6.15. No Abatement of Set-Off. No Owner may exempt himself from liability for Assessments by non-use of Common Areas, abandonment of his Lot, or any other means. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessments or set-off shall be claimed or allowed for any alleged or actual failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

6.16. Advances by Declarant. In the event of a shortfall in collected Assessments to cover expenses of the Association, the Declarant may, but is not obligated to, make advances to cover all or part of such shortfall to the Association to be repaid on such terms as may be agreed by the Association and the Declarant.

Article 7 RIGHTS OF MORTGAGEES

7.1. Mortgagee Notice Rights. Upon written request to the Association, identifying the name and address of the Mortgagee, and stating the street address of the Lot and mortgagor to which the request relates, will be entitled to written notice of:

7.1.1. Any delinquency in the payment of Assessments owed by the Owner of the Lot subject to the mortgage held by the Mortgagee, which remains uncured for a period of sixty (60) days;

7.1.2. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

7.1.3. Any condemnation loss or any casualty loss which affects a material portion of the Common Area.

7.2. Association Information. The Association shall make available to Owners and Mortgagees current copies of this Declaration, Articles, Bylaws and rules and regulations of the Association, as well as books, records and financial statements of the Association. "Available" means available for inspection at a place in Bay County designated by the Association, a reasonable time after written request therefor, during normal business hours or under other reasonable circumstance designated by the

Association.

Article 8
INSURANCE AND CASUALTY LOSS

8.1. Damage to Common Area Due to Casualty Loss. In the event that any portion of the Common Area is damaged or destroyed by casualty or natural events, it shall be repaired or restored by the Association to substantially its condition prior to the damage or destruction, if practical and possible. Repair, reconstruction or restoration of the Common Area shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the repair, reconstruction, restoration and repair of such damage. If the insurance proceeds and any reserves maintained by the Association for such purpose are insufficient, the deficit shall be assessed against all Owners as a Special Assessment. If there is a surplus of insurance proceeds, such surplus shall be property of the Association. With respect to any insurance proceeds in connection with loss or damage to the Common Area or improvements thereon, the Association is hereby designated to represent the Owners in any proceeding, negotiations, settlements or agreements in connection with such award.

8.2. Damage to Common Area Due to Owner Negligence. In the event that the Common Area is damaged as a result of willful or negligent acts of the Owner, his tenants, agent, family, guests or invitees, such damage shall be repaired by the Association and the cost of repair thereof shall be an Individual Assessment against such Owner and his Lot as described in Section 6.10.

8.3. Damage to or Condemnation of the Lots. In the event of damage or destruction to any portion of the improvements on a Lot due to casualty, natural events, condemnation or conveyance in lieu thereof, the improvements shall be promptly repaired or restored by the Owner in a manner consistent with the original construction. Or such other plans and specifications as are approved in accordance with the terms of this Declaration. In the event that the damage, destruction or condemnation renders the improvements uninhabitable or the damage is so substantial that the Owner determines not to rebuild the improvements on the Lot, the Owner shall clear the Lot of all debris and ruins within sixty (60) days from the date of destruction or damage and shall thereafter maintain the Lot in a neat and attractive and landscaped condition consistent with the Community-Wide standard.

8.4. Property, Hazard and Liability Insurance.

8.4.1. *In General.* The Board of Directors shall obtain and maintain insurance policies insuring the interest of the Association as hereinafter described. The policy of property insurance shall cover all the Common Area (except land, landscaping, foundation, excavation, dock improvements, and other items normally excluded from coverage), including, but not limited to fixtures and service equipment, to the extent that they serve the Common Area.

8.4.2. *Policy Coverage.* The policy shall afford, at a minimum, protection against the following:

(a) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(b) all other perils which are customarily covered with respect to projects similar in construction, location, and use. All perils normally covered by the standard "all risk" endorsement, where such is available. If flood insurance is required, it must be in an amount of 100% of current replacement cost of the improvement or the maximum coverage under the National Flood Insurance Program.

(c) losses covered by general liability insurance coverage covering all Common Property in the amount of at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insurers for property damage, bodily injuries and deaths of persons in connections iwth the operation, maintenance or use of Common Area and any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

8.4.3. *Policy Limits.* The hazard policy shall be in an amount equal to 100% of the current replacement cost of the insured properties exclusive of land, foundation, excavation, dock improvements, and other items normally excluded from coverage. The maximum deductible amount for such policies shall be the better of \$10,000 or 1% of the policy amount, provided that the fund to cover the deductible shall be included in the Association reserve accounts. The policy shall provide that it may not be canceled or substantially modified without at least ten (10) days prior written notice to the Association. The Board of Directors may obtain such additional insurance as in its sole discretion deems reasonable, convenient or necessary. In the event that any of the coverage required herein becomes unavailable or prohibitively expensive, the Association may make such changes in coverage as its Board of Directors deems reasonable and prudent.

8.5. Officers and Directors Liability Insurance. The Board of Directors shall obtain and maintain insurance policies providing liability insurance for members of the Board of Directors and officers of the Association, and for members of the ARB and other committees of the Board of Directors as the Board of Directors deems appropriate.

8.6. Fidelity Insurance. The Board of Directors shall obtain and maintain insurance policies covering all Persons responsible for handling Association fund in an amount determined in the Board's business judgment but not less than an amount equal to one-sixth of the Annual Assessment on all Lots plus reserves on hand.

8.7. Additional Insurance. The Board of Directors may obtain such additional insurance as in its sole discretion deems reasonable, convenient or necessary

8.8. Unavailability. In the event that any of the insurance requirements contained herein become unavailable or prohibitively expensive, the Board of Directors, in its discretion, may determine to modify the coverages contained herein in such a manner as the Board of Directors using its business judgment determines reasonable and prudent.

8.9. Deductibles. The insurance policies maintained by the Association may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of this Article. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board of Directors reasonable determines, after notice and an opportunity to be heard, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, agents, or lessees, then the Board may specifically assess the full amount of the deductible against such Owner and the Lot as an Individual Assessment pursuant to Section 6.10.

Article 9 EASEMENTS

9.1. Utility Easements. Declarant hereby reserves for itself, its successors and assigns, and hereby grants to the Association, and its designees, a non-exclusive perpetual alienable blanket easement for the benefit of the Property upon, across, over, through and under the Property for ingress, egress, installation, replacement, repair, modification, and maintenance of all Utility and service lines and service systems, public and private, including, but not limited to, water, sewer, gas, drainage, irrigation systems, telephones, electricity, television cable or communication lines and systems and police powers and services supplied by local, state and federal governments. Declarant, for itself and its designees, reserves the right to retain title to such easements. Upon termination of the Declarant's right to grant such easements, the Association shall have the right to grant the easements described herein.

9.2. Declarant's Easement to Correct Drainage. Declarant hereby reserves for itself, its successors and assigns, and hereby grants to the Association, and its designees, a non-exclusive, perpetual blanket easement across, over and under the Property to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance. Such rights expressly includes the action reasonably necessary, following which Declarant or the Association, as applicable, shall restore the affected property to its prior condition as nearly as practicable. The Declarant or Association shall give reasonable notice of intent to take such action to all affected Owners, unless in its opinion an emergency exists which precludes such notice. The right granted hereunder may be exercised at the sole option of Declarant or the Association and shall not be construed to obligate Declarant or the Association to take any affirmative action in connection therewith. Further, Declarant hereby reserves an exclusive easement for the unintentional encroachment by any Lot upon the Common Area or visa versa caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the

Property, which exclusive easement shall exist at all times during the continuance of such encroachment which easement is appurtenant to the encroaching property to the extent of such encroachment.

9.3. Landscape Easement. Declarant hereby reserves for itself, its successors and assigns, and hereby grants to the Association, and its designees, a non-exclusive, perpetual blanket easement for the right, privilege, and authority over, under and across the Property for the purpose of installing, maintaining, improving, and repairing pipes, lines, sprinkler heads and related equipment on the landscaped islands lying in the middle of the roads located within the Property, the landscaped areas at the subdivision entrances to the Property, the landscaped areas along the Common Area walkways, and the landscaped areas within, along or around the stormwater retention areas within the Property (the "Lawn Easement"), together with the right of ingress and egress over and to the Lawn Easement for doing anything necessary, useful, desirable, or convenient for the completion or enjoyment of the Lawn Easement; provided, however, that the Declarant and the Association after assignment of Declarant's rights hereunder, shall not interfere with any construction of any Dwelling Units, and provided, further, that the Declarant or the Association shall have no obligation to maintain, improve or repair lawn or landscape over, under or upon any Dwelling Unit or other structure, including without limitation, driveway pavement or sidewalk. All actions taken by the Declarant or Association in exercise of rights under the Lawn Easement shall be at the expense of the Association except for matters which are expressly provided herein as being the responsibility of an Owner or matters for which an Individual Assessment may be made under Section 6.10 above.

9.4. General Maintenance Easement. Declarant hereby reserves for itself, its successors and assigns, and hereby grants to the Association, and its designees, a non-exclusive, perpetual blanket easement over, under and across the Property for the purpose of fulfilling its maintenance responsibilities set forth in Article 12.

9.5. Enforcement Easement. Declarant hereby reserves for itself, its successors and assigns, and hereby grants to the Association, and its designees, a non-exclusive, perpetual blanket easement over, under and across the Property for the purpose of enforcing any of its rights under this Declaration.

Article 10 USE RESTRICTIONS AND REQUIREMENTS

10.1. Single Family Residential Uses Only. Lots shall be used for single family residential living units and for no other purpose, and no business or commercial building may be erected on any Lot and no business may be conducted on any part of a Lot. No time-share ownership of Lots is permitted. If a detached living space secondary to and separate from the main structure on a Lot is constructed on a Lot (for example, an apartment above a detached garage), then same shall be occupied only by the occupants of the main housing structure on the Lot and their guests (and in this context, the term "guests" means on a temporary basis and without remuneration of any kind). In no event shall the secondary living space ever be leased to a tenant except as

incidental to the letting to such tenant of the entire Lot with all improvements thereon.

10.2. Antennas and Other Devices. No exterior radio or television antenna, satellite dish or other receiving or transmitting device, antenna or aerial, solar panel or other solar collector, windmill or similar exterior structure shall be placed or erected upon any Lot or affixed in any manner to the exterior of any improvement on such Lot; provided, however, satellite receptor dishes shall be allowed subject to ARB approval, if any.

10.3. Clothes Drying Area. No portion of any Lot shall be used as a drying or handling area for laundry of any kind unless screened from the view of neighboring Owners and from the street.

10.4. Nuisances. Nothing shall be done or maintained on any Lot or Common Area which may be or become an annoyance or nuisance to any other Lot in the vicinity thereof or to its occupants, or to the Common Area. The following are, without limitation, deemed to be a nuisance and a prohibited activity or condition: (a) any activity or condition which emits foul, offensive or obnoxious odors outside the Dwelling Unit; (b) any activity or condition which results in an unreasonable level of sound or light pollution; (c) any activity or condition which interferes with television, cable or radio reception on another Lot; (d) any activity or condition which tends to disturb the peace or threaten the safety of the occupants of other Lots; (e) pursuit of hobbies or other activities which tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Lot; (f) any noxious or offensive activity which in the reasonable determination of the Board of Directors tends to cause embarrassment, discomfort or annoyance to persons using the Common Area or the occupants of other Lots; (g) discharge of firearms; . In the event of a dispute or question as to what may be or become a nuisance, such dispute or question shall be submitted to the Board of Directors and the written decision of the Board of Directors shall be dispositive of such dispute or question.

10.5. Signs. No signs, advertisement or notice of any type or nature whatsoever shall be placed or displayed on any mailbox, Dwelling Unit (including those inside the Dwelling Unit which are visible from the exterior of the Dwelling Unit), or Lot without the approval of the ARB, in its sole discretion; provided, however, that there shall be allowed on a Lot one standard-size professional real estate sign advertising the Lot for sale or lease.

10.6. Window Coverings. No reflective window coverings or treatments shall be permitted on any building on the Property.

10.7. Operation of Motorized Vehicles. Motorized vehicles of any kind shall not be allowed to be operated on any part of the Common Area or the sidewalks constructed on the rights-of-way within the Property.

10.8. Pets and Animals. No animals except a reasonable number of common domestic household pets, shall be allowed on the Property or any

Lot. Pets within the ordinary meaning and interpretation of such words, may be kept, maintained or cared for in any Lot or within the Property. NO pet shall be allowed to make an unreasonable amount of noise or to become a nuisance; and no pets will be allowed on the Property other than on the Lot of the Owner of such pets, unless confined to a leash. No pets shall be allowed to run at large. Upon written request of any Owner, the Board of Directors may conclusively determine in its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether an animal is being allowed to run at large, whether an animal is a nuisance, or whether the number of pets being maintained at any Lot exceeds that which is reasonable. No pet shall be allowed to run at large and all pets shall be kept within an enclosed area, which must be clean, sanitary and reasonably free of refuse and waste, all subject to ARB approval. The decision of the Board of Directors in such matters is conclusive and shall be enforced as other restrictions contained herein. The Association reserves the right to designate specific areas within the Common Area where pets may be walked on leashes by their owners. No pet may be maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels for boarding or operation shall be allowed.

10.9. No Oil or Mining Operation. No oil drilling, mining operation, oil refining, quarrying or oil development operations, or tanks, tunnels, mineral excavations or shafts shall be permitted upon, in, or under a Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

10.10. No Portable or Metal Buildings. There shall not be erected or installed on any Lot any metal or portable building or shed.

10.11. Unlawful Use. No improper, offensive or unlawful use shall be made of the Property or any part thereof and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

10.12. Repair and Parking of Vehicles. No commercial or inoperative or unlicensed vehicle shall be parked in the street or on any Lot except that commercial vehicles may be parked on a Lot during regular business hours incidental to construction thereon. Vehicles parked in the street or on a Lot in violation of this provision will be towed away and stored at the Owner's expense. In addition, automobile parking on any Lot shall be limited to a reasonable number of automobiles appropriate to the residential use of the Lot. Trailers, campers, motor homes or any other motorized vehicles must be stored in garages. Boats must be stored in garages; except that on waterfront Lots within the Property, boats may be stored at the dock or pier constructed for such waterfront Lot, or at the water's edge of such Lot, so long as such dock, pier or other waterfront storage site has been approved by the ARB. As used in this Declaration, the term "boat" shall include every description of water craft that is designed for use or is equipped with a motor.

10.13. No Burning or Burial of Debris. Lot clearing debris or Lot maintenance debris shall be burned or remain on the Lots or Common Area. Construction debris,

clearing debris or pollutants shall not be buried on any Lot or Common Area.

10.14. Garbage and Trash Containers. All garbage and trash containers must be placed and maintained in accordance with the rules and regulations adopted by the Board of Directors, and except for their temporary placement as required by the trash collector contracted by the City for trash pickup, all garbage and trash containers shall be stored such that they are reasonably screened from view from the street, the Common Area, and any other Lot. No garbage or trash shall be placed elsewhere and no portion of the Property shall be used for dumping refuse.

10.15. Window Air Conditioners. No window air conditioning unit shall be installed or maintained in any of the Dwelling Units without the prior approval of the ARB, which will be granted in only the most restrictive circumstances.

10.16. Prohibition on Mobile Homes/Temporary Improvements. No mobile home, manufactured home, shack, barn, shed or other outbuilding shall be allowed on a Lot.

10.17. Fuel Storage. No fuel or gas storage tanks, barrels, or other containers shall be permitted on any Lot, except that an Owner may maintain a small gas bottle or tank for gas barbecues, fireplaces, or small lawn equipment.

10.18. Obstruction of Vision of Motorists. Nothing shall be erected, constructed, planted or otherwise placed in such a position so as to create a hazard or black the vision of motorists upon any of the paved rights-of-way which are a part of the Property.

10.19. Soliciting. No soliciting will be allowed at any time within the Property, except by special permission of the Board of Directors.

10.20. HVAC Enclosure or Screening. All Dwelling Units must include a fenced enclosure or continuously maintained screened area approved by the ARB for the concealment of air conditioning and heating equipment located outside the Dwelling Unit.

10.21. Fencing, Generally. All fences and other screening shall be subject to the approval of the ARB. No fences shall be allowed of chain link construction. Design and height restrictions of fences shall be subject to review and promulgation of the ARB. In general, no fence exceeding six feet in height will be approved. In considering any fencing proposed on a waterfront Lot, the ARB will give special consideration as to how the proposed fencing impacts views of the water from the adjoining waterfront Lots.

10.22. Minimum Square Footage. Each Dwelling Unit shall have the minimum heated and cooled square footage set forth below (as applicable):

Square Fee	Lot numbers (inclusive)
------------	-------------------------

Living Area			
1800	1	through	2
	17	through	35
	36	through	42
	55	through	58
2000	12	through	16
	49	through	54
2400	3	through	11
	43	through	48

10.23. SetBack Lines for Principal Structures. Except as allowed by a variance granted by the City and specifically approved by the ARB, the Dwelling Unit shall adhere to the following minimum setback requirements:

10.23.1. Front: 25 feet from the front Lot line;

10.23.2. Rear: 25 feet from the rear Lot line;

10.23.3. Side, in the case of a single story Dwelling Unit: 7 feet from the side Lot line;

10.23.4. Side, in the case of a multiple story Dwelling Unit: 10 feet from the side Lot line.

10.24. Set Back Lines for Other Structures. Except as allowed by variance granted by the City and specifically approved by the ARB, structures and improvements built on a Lot other than the principal structure Dwelling Unit shall adhere to the setback requirements then in effect under the City Land Development Code for like improvements on single family residential property.

10.25. Limitations on Set Back Lines Variance. The ARB will issue its consent to a City approved set-back variance only in the most unusual or extreme circumstances. In considering a request for consent to a City approved variance, the ARB may consider hardships resulting from the irregular shape of a Lot, and shall give weight to a variance by the City granted for the purpose of protecting or retaining trees on the Lot.

10.26. Restrictions on Waterfront Development. No development or construction activity shall be permitted on upland area within 30 feet of the mean high tide line of any estuarine water body. Within this restricted area, all natural shoreline

vegetation shall be preserved for a distance of 20 feet landward from the mean high tide line, except that a corridor not to exceed 15 feet in width may be cleared for access to the water.

10.27. Maximum Building Height. No structure exceeding 35 feet in height above ground elevation shall be constructed on any Lot.

10.28. Automated sprinkler system. Every Lot must have an automated sprinkler system covering the entire Lot and any unpaved right-of-way adjoining such Lot.

10.29. Separate Irrigation Meter. Each Lot must be developed with two water meters, one for the Dwelling Unit and one for irrigation.

10.30. Fully Sodded. All yards upon completion of a Dwelling Unit on the Lot shall be fully sodded and planted with landscaping in accordance with a plan approved by the ARB.

10.31. Sidewalks. Each Owner shall install upon the unpaved right-of-way adjoining his Lot a sidewalk consisting of materials and a design as directed by the ARB, five (5) feet in width, running the entire length of any right-of-way adjoining the Lot, in the location approved by the ARB. Notwithstanding whether any other improvements are made to the Lot, all Lot Owners shall complete construction of the aforementioned sidewalk no later than twenty four (24) months from the date of acquisition of record title to the Lot by the first Owner thereof other than the Declarant.

10.32. Minimum Two Car Garage Parking. The development of each Lot shall include an enclosed garage (either attached or detached) providing parking space for at least two automobiles within the garage.

10.33. Pools. All pools, including without limitation, swimming pools, spas and Jacuzzi, screening, enclosures, housing, equipment housing and fencing must be approved by the ARB prior to any construction or installation. No pools, except inground pools, will be allowed.

10.34. Docks and Piers. The accommodation and location of multiple functional docks and piers along the numerous adjoining waterfront Lots within the Property requires special consideration of the placement or design of the proposed dock or pier in relation to all other existing or potential docks. The design, location, and construction materials of all docks, piers and improvements related thereto must be approved by the ARB prior to any construction or installation.

10.35. Maintenance Required and Failure to Maintain. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot or in the non-paved right-of-way adjoining such Lot, and no refuse piles or unsightly object shall be allowed to be placed or suffered to remain anywhere on any Lot or in the non-paved right-of-way adjoining such Lot. The Owner shall be required to maintain the non-paved

right-of-way adjoining their Lot, commencing from their Lot and continuing to the edge of the paved road. The Owner shall maintain the exterior of the Dwelling Unit and improvements on his Lot in good and workmanlike manner, and shall present a neat and clean appearance upon the Lot and the non-paved right-of-way adjoining any Lot including painting, repairing, replacing and caring for roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. The Owner shall be required to repair or replace any and all irrigation systems (pipes, lines, sprinkler heads) which are located on the Owner's Lot or on the non-paved right-of-way adjoining the Owner's Lot. In the event that any Owner fails to keep his Lot or the non-paved right-of-way adjoining his Lot free of weeds, long grass, underbrush, refuse piles, debris or other unsightly growth or objects, or to keep the Dwelling Unit or improvements on his Lot in a good and workmanlike manner, or to repair and/or replace any part of the irrigation system located in the right-of-way or fails to keep his Lot and the unpaved right-of-way adjoining his Lot in a neat and clean appearance in compliance with the terms of this Declaration, then after no less than five (5) days written notice to Owner, the Declarant or ARB or the Board of Directors may authorize its agents to enter upon the Lot and perform any work necessary or desirable to bring the Lot and, as applicable, any unpaved right-of-way adjoining the Lot in compliance with the terms hereof. Any such work shall be at the expense of the Owner, which expense, together with a penalty equal to ten percent of the cost thereof, shall be deemed an Individual Assessment upon the Owner and his Lot. Any entry pursuant to the rights granted herein shall not be deemed a trespass. During the construction of a Dwelling Unit or other improvements, each Owner will be required to maintain his Lot and the unpaved right-of-way adjoining such Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot. The Declarant, its successors and assigns, the Association, and the ARB hereby reserve an easement of ingress and egress over all Lots and the Property for the purpose of enforcing the specific maintenance requirements as stated in this Declaration.

Article 11 ARCHITECTURAL CONTROL

11.1. General. Except as expressly and specifically excluded in Section 11.2 below, no construction, modification, alteration or improvement of any nature whatsoever (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall be undertaken on, adjacent to, or appurtenant to any Lot unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same shall have been submitted to and approved in writing by the ARB. No structure or improvement shall be placed, erected, installed or suffered to exist upon, adjoining or appurtenant to any Lot except as constructed, installed or made in strict compliance with the plans and specifications approved in writing by the ARB. Improvements and modifications which are specifically subject to architectural approval include, without limitation, the construction, installation, modification or alteration of any structures or improvement on, adjacent to, or appurtenant to a Lot, including without limitation the painting devices, fountains, swimming pools, spas, Jacuzzis, seawalls,

docks or piers (and as used in this Declaration, the term “dock” shall include all improvements associated with or connected to a dock, including boat lifts and boat houses), any fencing, walls, enclosures, exterior lighting; awnings, shelters, gates, statues or other outdoor ornamentation, utility enclosures, walkways, irrigation systems, landscaping, terraces, driveways, parking areas, mailboxes, playground equipment, playhouses, greenhouses, outbuildings, storage buildings, garages, patios, porches, and any other modifications, alterations or improvements visible from the Common Area, dedicated streets or parks, or other Lots.

11.2. Exemptions and Exceptions. Notwithstanding Section 11.1, above, the Board of Directors may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of the Board’s resolution and the restrictions contained within the Declaration. Further, any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval, except that remodeling and painting to the interior of screened porches, patios, and similar portions of a structure visible from outside the structure on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Finally, this Article shall not apply to the activities in connection with or improvements made on or to the Common Area or publically dedicated streets or parks by either the Declarant or the Association.

11.3. Amendment to this Article. This Article may not be amended except by an affirmative vote of both: (a) a majority of the Class A Members; and (b) the Class B Member, if any.

11.4. Architectural Review Board. The Architectural Review Board, the ARB, shall be responsible for the administration of the Design Guidelines, and the review and approval or disapproval of all applications for all construction, modification, alteration or improvement under this Article. The ARB shall consist of at least three (3) members who need not be Members of the Association. Although not required, members of ARB may include architects, engineers or similar professions, whose compensation, if any, shall be established from time to time by the Board of Directors. Until such time as the Declarant owns less than twenty percent (20%) of the total Lots, the Declarant shall have the sole right to appoint the members of the ARB, fill vacancies on the ARB, and members of the ARB shall thereafter serve at the pleasure of the Declarant. At such time as the Declarant owns less than twenty percent of the Lots, members of the ARB shall serve at the pleasure of the Board of Directors and the Board of Directors shall have the right and responsibility to fill any vacancies occurring on the ARB.

11.5. ARB Quorum and Action. A majority of the members of the ARB shall constitute a quorum to transact business at any meeting of the ARB, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ARB. The ARB shall have the right to meet by telephone or electronically and any action taken telephonically or electronically shall be documented in written minutes of such action signed by all members of the ARB consenting to such action.

11.6. Application Fees. The Board of Directors may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full by the applicant prior to review of any application by the ARB. Such fees may include the reasonable costs incurred or to be incurred by the ARB in having any application reviewed by architects, engineers or other professionals.

11.7. Design Guidelines. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the ARB in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the ARB and compliance with the Design Guidelines does not guarantee approval of any application. The initial Design Guidelines are attached hereto as *Exhibit B*.

11.8. Amendments to Design Guidelines. The ARB may recommend to the Board of Directors modifications and/or amendments to the Design Guidelines. Any modification or amendment to the Design Guidelines shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors; but further provided, that in the event the Declarant owns at least twenty percent (20%) of the Lots, then any modification or amendment approved by the Board of Directors shall not be effective unless it is also approved by the Declarant. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures or improvements previously approved once the approved construction or improvement has commenced. There shall be no limitation on the scope of the amendments to the Design Guidelines to remove requirements previously imposed or to otherwise make the Design Guidelines less restrictive.

11.9. Powers and Duties of ARB. The ARB shall have the following powers and duties:

11.9.1. To require submissions to the ARB of two (2) complete sets of preliminary and final plans and specifications as hereinafter defined for any activity of any kind requiring approval pursuant to the terms of this Article (the "Proposed Improvement"). The ARB may also require submission of samples or building materials and colors proposed for use in the Proposed Improvement and may require such additional information as reasonably may be necessary or desirable for the ARB to completely evaluate the Proposed Improvement in accordance with the Declaration and the Design Guideline.

11.9.2. To approve or disapprove any Proposed Improvement or change or modification thereto, the construction, erection, performance, installation or placement of which is proposed upon, adjacent to, or appurtenant to any Lot or the Property. Any party thereafter aggrieved by a decisions of the ARB shall have the right to make a written request to the Board of Directors within thirty (30) days of such decision for a review thereof. In such instance, the determination of the Board of Directors upon reviewing any such decisions shall be final, except that if Declarant owns at least twenty percent (20%) of the Lots, if the Declarant does not also approve the

appeals decision of the Board, the ARB determination will stand as final.

11.9.3. To evaluate each application for the total effect, including the manner in which the Lot, as a whole, is developed, the harmony of the design with the Declarant's Statement of Purpose set forth in the initial Design Guidelines, the harmony of the design and placement of the Proposed Improvements with the surrounding structures and topography, the impact of the Proposed Improvements on the existing trees on the Lot, and the impact on the surrounding Lots of the placement of the Proposed Improvements. In many instances, this evaluation relates to matters of judgment and taste which cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that a Proposed Improvement might meet individual criteria delineated in this Article and the Design Guidelines and still not receive approval, if in the sole judgment of the ARB, its overall aesthetic impact is unacceptable. The approval of an application for one Proposed Improvement shall not be construed as creating any obligation on the part of the ARB to approve applications involving similar designs for Proposed Improvements pertaining to different Lots.

11.9.4. If any Proposed Improvement as aforesaid shall be changed, modified or altered without prior approval of the ARB of such change, modification or alteration, and the plans and specifications therefor, if any, then the Owner shall, upon demand, cause the Proposed Improvements to be restored to comply with the original plans and specifications, or the plans and specifications originally approved by the ARB, and the Owner shall bear all costs and expenses such restoration, including the costs and reasonable attorney's fees of the ARB.

11.10. Hold Harmless. Any Owner making or causing to be made any Proposed Improvement agrees and shall be deemed to have agreed, for such Owner and his heirs, personal representatives, successors and assigns, to hold the ARB, Association, Board of Directors, Declarant and all other Owners harmless from any liability, damage to the Property and from expenses arising from the construction and installation of any Proposed Improvement. Owners shall be solely responsible for the maintenance, repair and insurance of any alteration, modification or change and for assuring that the Proposed Improvement meets with all applicable governmental approvals, building codes, rules and regulations. Approval by the Declarant and/or the ARB of a Proposed Improvement shall not constitute a basis for any liability of the members of the ARB, the Association, or Declarant for any reason, including, without limitation, (i) failure of the plans to conform to any applicable development codes or building codes; or (ii) inadequacy or deficiency in the plans resulting in a defect in the improvements.

11.11. Procedure for Approval of Plans. The ARB shall approve or disapprove the preliminary and final applications for a Proposed Improvement within sixty (60) days after each has been submitted to it in proper form together with all supporting information. If the plans are not approved within such period, they shall be deemed disapproved. The applications and plans submitted to the ARB shall comply with the Design Guidelines in effect from time to time, with such variances as are approved by the ARB in its discretion.

11.12. Construction Conduct Standards. During construction of the Proposed Improvement, the Owner shall be required to maintain the Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot. The ARB or the Board of Directors, may, at its option establish reasonable rule and regulations relating to construction activities, including reasonable hours of construction activities, so as to minimize disturbance to Owners of land adjacent to the Lot under construction. Any damage caused by construction to any adjacent Lot, Common Area or dedicated public park or right-of-way is the responsibility of the Owner that is doing the construction.

Article 12 MAINTENANCE RESPONSIBILITIES

12.1. Owner Maintenance Responsibilities. Except as expressly provided elsewhere in this Declaration, each Owner is obligated to and responsible for performing all maintenance, repair and restoration in connection with that Owner's Lot and all improvements thereon. Each Owner shall maintain the exterior of all buildings and improvements on his Lot in a good and workmanlike manner and shall present a neat and clean appearance upon the Lot including painting, repairing, replacing and caring for roofs, gutters, down spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Owners shall further assure that no weeds, underbrush or other unsightly vegetation is permitted to grow or remain upon his Lot or on the right-of-way existing between the property on his Lot and the paved surface of the road and no refuse piles or unsightly objects shall be allowed to be placed or suffered to remain anywhere on any Lot or the right-of-way existing between the property on his Lot and the paved surface of any road.

12.2. Enforcement of Owner Maintenance Responsibilities. In the event that any Owner fails or refuses to maintain the Owner's Lot in the manner set forth herein, after written notice to Owner, the Association may authorize its agents to enter upon the Lot, or the right-of-way existing between the Owner's Lot and the paved surface of any road and perform any necessary maintenance or other action to bring the Lot into compliance with the terms hereof, and the cost thereof, together with an administrative fee equal to twenty percent (20%) of such cost, shall be assessed against the Owner and his Lot as an Individual Assessment. In the event that any Owner leases his Lot and the improvements thereon to a tenant, the Association shall notify the Owner and it shall be the Owner's responsibility to assure that the maintenance is performed.

12.3. Association Maintenance Responsibilities. The Association shall maintain and keep in good repair the Common Area, which shall include without limitation all landscaping and other flora, stormwater retention areas, docks or piers, pedestrian walkways and pathways, situated upon the Common Area. The Association may maintain other property which it does not own, including property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or

desirable to maintain the Community-Wide Standard. Except as otherwise specifically provided herein, all costs associated with maintenance, repair, replacement or restoration of the Common Area shall be a Common Expense to be allocated among all Lots as part of the Annual Assessments, without prejudice to the right of the Association to seek reimbursement from the Owner of, or other Persons responsible for, certain portions of the Common Area pursuant to this Declaration.

12.4. Indemnification by Association. In connection with the platting of the Property or obtaining permits necessary to develop the Property, the Declarant may assume or may be required to assume certain obligations for the maintenance of the Common Area or parts thereof. The Declarant hereby assigns to the Association and the Association hereby assumes all the obligations of the Declarant under the Plat, applicable permits or under any applicable governmental regulations and for any and all obligations for the maintenance of the Common Area or parts thereof, within the Property. The Association further agrees that subsequent to the recording of this Declaration, it shall indemnify and hold Declarant harmless from suits, actions, damages, liability and expense in connection with the loss of life, bodily injury or property damage or other damage arising from or out of occurrence, in, upon, at or from the maintenance of the Common Area or parts thereof, occasioned wholly or in part by any act or omission of the Association, its agents, contractors, employees, servants or licensees but not including any liability occasioned wholly or in part by the acts of Declarant, its successors, assigns or invitees.

Article 13 GENERAL PROVISIONS

13.1. Enforcement. The Association, the Declarant for so long as it is a Class B Member, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, the Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so at anytime thereafter. The Board of Directors may adopt rules and regulation imposing reasonable procedures for imposing reasonable fines for the breach by any Owner or guest or invitee of an Owner of the covenants and restrictions contained herein. Neither the Declarant nor any officer, director, agent or shareholder of the Declarant nor any member of the Board of Directors shall have any liability for failure to enforce any restriction, condition, covenant, reservation, lien or charge of rule.

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

13.3. Term. This Declaration (but excluding the easements herein created that are perpetual) and the covenants and restrictions of this Declaration shall run with and bind the land and Property, for a term of forty (40) years from the date this Declaration is recorded, after which time this Declaration shall be automatically renewed and

extended for successive periods of ten (10) years each unless at least one year before the termination of such 40-year time or each such 10-year extension, as the case may be, there is recorded in the Public Records of Bay County, Florida, an instrument agreeing to terminate this Declaration signed by 2/3rds of all Owners and 2/3rds of all Mortgagees, upon which event this Declaration shall be terminated on the expiration of the 40-year term or the 10-year extension, during which such instrument was recorded, whichever is applicable.

13.4. Amendment. For so long as Declarant retains its Class B Membership, Declarant reserves the right without consent or joinder of any Owner or Mortgagee to: (a) amend this Declaration, provided that such amendments shall conform to the general purposes and standards of the covenants and restrictions herein contained; (b) amend this Declaration for the purpose of curing any ambiguity in or inconsistency between the provisions herein contained; (c) release any Lot from any part of the covenants and restrictions which have been violated, if Declarant, in its sole judgment determines such violation to be a minor or insubstantial violation; or (e) amend this Declaration to conform to the requirements of any Mortgagee or to conform to the requirements of institutional mortgage lenders or title insurance companies. All other amendments to this Declaration shall require the affirmative vote of (a) a majority of the Class A Members; and (b) the Class B Member, if any.

13.5. Rules, Regulations and Modifications. The Board of Directors and the ARB may from time to time adopt and amend the rules and regulations governing the details of the operation, use, maintenance and control of the Lots, Property, and Common Areas. A copy of the rules and regulations adopted from time to time as provided herein shall be furnished to each Owner.

13.6. Notices. Any notice required to be sent to the Owner of any Parcel under the provisions of this Declaration shall be deemed to have been properly sent and given when mailed, postage prepaid, or hand-delivered to the Lot and to the last known address of the person who appears as Owner of such Lot on the records of the Association at that time, if such last known address is different from the Lot address.

13.7. Interpretation; Headings. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a harmonious and consistent plan of development and operation of the Property. All headings are for convenience only and shall not be used to interpret or construe the provisions of the Declaration.

13.8. Gender and Number. The use of the masculine gender herein shall be deemed to include the feminine or neuter gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

13.9. Legal Fees. All attorney's fees and court costs which may be incurred by the Association in the enforcement of any of the provisions of this Declaration, regardless of whether such enforcement requires judicial action, shall be assessed against and collectible from the Owner against who such action was taken and shall be a lien against such Owner's Lot as an Individual Assessment in favor of the Association.

13.10. Governing Law. This Declaration shall be construed in accordance with the laws of the State of Florida.

13.11. Assignments. The rights of the Declarant herein may be assigned to any third party by an instrument executed with the same formalities as in this instrument.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal this ____ Day of _____, 200____.

COVE PRESERVATION PARTNERS, INC.,
a Florida corporation

By:
Name:
Title:

STATE OF FLORIDA
COUNTY OF BAY

The foregoing instrument was acknowledged before me this _____ day of _____, 200__, by _____, (Title): _____ of COVE PRESERVATION PARTNERS, INC., a Florida corporation, on behalf of said corporation,

- () who is personally known to me.
- () who produced _____ as identification.

Signature of Notary Public

THIS INSTRUMENT PREPARED BY:
Christine L. Reiss, Esq.
Florida Bar No. 938262
338 Bunkers Cove Road
Panama City, Florida 32401
(850) 785-6671

JOINDER OF MORTGAGEE

The Banker's Bank, hereinafter called "Bank," the owner and holder of a mortgage encumbering the property described in Exhibit A of this Cove Pointe Declaration of Covenants, Conditions, Restrictions and Easements, which mortgage is that certain mortgage dated the 8th day of April, 2004, and recorded in Official Records Book 2423, page 532, Public Records of Bay County, Florida (the "Mortgage"), to the extent that it is required to do so under the laws of the State of Florida, joins in the making of the foregoing Cove Pointe Declaration of Covenants, Conditions, Restrictions and Easements, and agrees that the lien of the Mortgage and other security documents shall hereafter encumber each and everyone of the Lots in Cove Pointe and such Lots shall be subject to the Declaration.

THE BANKER'S BANK

By:
Name:
Title:

STATE OF
COUNTY OF

The foregoing instrument was acknowledged before me this ____ day of _____, 200__, by _____, as _____ for The Banker's Bank,

- () who is personally known to me.
- () who produced _____ as identification.

Signature of Notary Public

THIS INSTRUMENT PREPARED BY:
Christine L. Reiss, Esq.
Florida Bar No. 938262
338 Bunkers Cove Road
Panama City, Florida 32401
(850) 785-6671

Exhibit A
to
Cove Pointe Declaration of Covenants,
Conditions, Restrictions and Easements