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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
CAPTIVA COVE TOWNHOMES, A TOWNHOUSE PROJECT**

THIS DECLARATION is made by **CAPTIVA DEVELOPMENT COMPANY, INC.**, a Florida corporation, hereinafter referred to as "Declarant":

WHEREAS, Declarant is the owner of fee simple title in certain real property located in Okaloosa County, Florida, more particularly described as:

SEE EXHIBIT "A" ATTACHED AND MADE A PART OF THIS
DECLARATION BY REFERENCE, AND CALLED "CAPTIVA
COVE TOWNHOMES"

and, WHEREAS, Declarant desires to develop the described property into a high-quality single-family subdivision of townhome units, protected by Covenants and Restrictions and governed by a mandatory association;

NOW, THEREFORE, Declarant hereby declares that all of the real property described in the plat of CAPTIVA COVE TOWNHOMES, resubdivision of a portion of CINCO BAYOU SUBDIVISION, a townhouse project, the legal description for which is contained in Exhibit "A", be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title and interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

RECITALS

Whereas, the Declaration of Covenants, Conditions and Restrictions of Captiva Cove Homeowners Association, Inc. were recorded in Official Records Book 1813, at Page 96, et seq., as amended, all of the Public Records of Okaloosa County, Florida.

Whereas, Captiva Cove Homeowners Association, Inc. has the authority and power to amend its Declaration;

Whereas, the Association desires to amend and restate the Declaration, as more fully set forth herein; and,

Whereas, the Amended and Restated Declaration was approved by the membership of the Association and the number of votes cast in favor of adoption of the Amended and Restated Declaration was sufficient for approval;

Now, therefore, the Association hereby amends and restates the Declaration so that same read in their entirety as follows:

ARTICLE I. DEFINITIONS.

Section 1. "ASSOCIATION" shall mean and refer to CAPTIVA COVE HOMEOWNER'S ASSOCIATION, INC., a Florida non-profit corporation, its successors and assigns.

Section 2. "COMMON AREA". There is no common area included in the plat of Captiva Cove. However, there are areas of common maintenance responsibility, including, for example, the parking and access easements, roofs, drainage swales and other portions of the property as described herein.

Section 3. "DECLARANT" shall mean and refer to CAPTIVA DEVELOPMENT COMPANY, INC., its successors and or assigns.

Section 4. "LIMITED COMMON AREA" shall mean certain parking spaces and boat slips.

Section 5. "LOT" shall mean and refer to any numbered plot of land described as Unit/Lots 1 through 12, inclusive, of the plat of CAPTIVA COVE TOWNHOMES, a townhouse project, or as amended by Declarant.

Section 6. "OWNER" shall mean and refer to the record owner, whether one or more person or entities, of the fee simple title to any lot which is a part of the properties.

Section 7. "PLAT" shall mean and refer to the plat of Captiva Cove Townhomes, in Cinco Bayou, Okaloosa County, Florida.

Section 8. "PROPERTIES" shall mean and refer to that real property described in the plat and such additions thereto as may hereafter be brought within the jurisdiction of the association.

Section 9. "UNIT" The residential dwelling that has been constructed upon a lot, together with its assigned parking, if any, boat slip, and other property rights associated with the unit.

ARTICLE II. EASEMENT AND RESTRICTIONS

Every owner/lessee shall have a right to the quiet enjoyment in and to his/their individual lot, subject to the following provisions:

Section 1. Easement. An easement reserved for the owners, tenants, lessees, business invitees, guests and others of each of the townhouse lots described herein to cross, use and enjoy consistent with their purpose that portion of the real property marked on the plat as "easement area", including spaces for parking, vehicle and pedestrian access, beachfront access and use of the waterfront dock.

Section 2. Utility Easement. A utility easement is reserved by, through and across each and every lot and improved lot for the installation and maintenance of utilities and utility lines as they presently exist or as they may exist in the future, including, but not limited to water, electrical, gas, sewage, TV, cable and telephone lines. Such easement shall inure to the benefit of all of the owners of the townhouse lots and to the Declarant.

Section 3. Maintenance Easement. A right of access, during reasonable times, for the purpose of maintaining any portion of the property to which the Association is assigned maintenance responsibility.

ARTICLE III. PROPERTY RIGHTS.

Section 1. Parking Lot. The parking lot in the area marked on the plat as an "easement area" shall be subject to the exclusive control and management of the Association.

Section 2. Boat Slips. Declarant reserves the right so long as it owns any parcel or lot to construct or modify existing boat slips and docking facilities in the townhouse project fronting on Cinco Bayou. Owner acknowledges that such boat facilities, if constructed, will be located on navigable waters and on lands under such waters as to which Declarant has no title. Prior to the construction or modification of the boat slip and dock facilities, Declarant shall obtain permits and approvals from all authorities having jurisdiction thereof. Declarant shall be entitled to designate the unit owners or any person or entity who shall have the exclusive use of the same for such period as the Declarant may determine and charge such unit owner a fee for such designation. The right to use such boat slip and dock facilities shall be exclusive to the unit owners or person or entity so assigned and shall be by Boat Dock Agreement as shown in Exhibit "B" attached hereto and made a part hereof.

Each boat slip or dock space shall be an asset and easement appurtenant to the ownership of a Unit. A boat slip or space is not transferable except as an asset of the unit. In no event shall the exclusive right to use be owned by or assigned to any person not a unit owner; this provision does not apply to the Declarant or its assigns as the Declarant retains the right to use or the right to assign the use of any boat slips not previously assigned to a unit owner, to any third parties. The assignment of the right to use each boat slip shall be by written instrument executed and acknowledged with the same formalities required by deeds or leases, as appropriate, in the State of Florida. A copy of such assignment shall be provided to the Association by the Declarant. After the initial conveyance of each unit with a boat slip, conveyance of the unit will carry with it a conveyance of the Boat Dock Agreement as an easement appurtenant to the unit, whether or not a new agreement is executed. The Board of Directors of the Association may charge each unit Owner a reasonable periodic special

assessment which shall reimburse the Association for all costs involved in the operation and maintenance of the boat facilities, including a reserve for repairs, if not paid for or reserved by the assignee of the boat slip, and as a condition to being granted the exclusive right, each unit owner will enter into the Joint Use Agreement to use said boat slip and docking facilities.

Section 3. Garages. Each unit owner shall be designated exclusive use of a covered garage. These garages are owned by and assigned exclusively to the particular unit with the corresponding unit number. The owner of such unit shall have the exclusive use thereof and as such the unit owner shall be responsible for the expense of maintenance, repair or replacement of the garage's interior, and doors and all other parts of the garage except the roof and the exterior finish of the building. Overhead garage door replacement will be the responsibility of the Association.

ARTICLE IV. RESTRICTIONS & COVENANTS **RULES AND REGULATIONS.**

1. VEHICLES AND BOATS. No commercial vehicles or autos, construction vehicles or equipment shall remain parked on any lot within this subdivision unless in a garage. No travel trailers or recreational vehicles shall be used as a permanent residence while parked on any lot in the subdivision nor used as a temporary or permanent residence while parked on any street in the subdivision. No house trailers shall be permitted to remain within the limits of this subdivision. Travel trailers, recreational vehicles, boats and boats on trailers may not be parked permanently on any lot in the subdivision.

2. SIGN RESTRICTIONS. Only the normal sign showing name and/or address of the resident shall be displayed permanently to the public on any residential lot. Temporary signs may be placed on the property advertising a home for sale or rent. Such a sign may be placed on the property by a builder or realtor to advertise the property during the construction and sale.

3. MAILBOXES. Mailboxes will be provided in a bank or group of mailboxes by the Developer. The Declarant, or in his absence the Association, shall have the right to assign a box to each unit owner.

4. REFUSE. No garbage, rubbish, trash, ashes, refuse, inoperative vehicles (that have been inoperative for more than thirty days), junk or other waste shall be thrown, or permitted to remain upon any lot. All garbage shall be kept in sanitary containers, as may be prescribed by the Board of Directors of the Association, and said containers shall be hidden from view except on collection days

5. PETS AND ANIMALS. No person or guest shall have, keep or maintain on any lot as

defined herein any fowl or animal, domestic or otherwise, except two (2) domestic house pets. Such animals shall not be permitted to trespass upon another lot without the consent of such lot owner. Such animals must be on a leash at all times when not confined. Violation of this requirement shall cause the imposition of such fine as the Board of Directors shall judge reasonable and shall be added to the assessment of the lot where the animal is usually kept. No dog or any other house pet shall be permitted to deposit waste on another lot or upon areas held for common parking or usage unless the owner promptly disposes of the dog's waste properly. No owner is to regularly feed wild animals or ducks so as to encourage the proximity of such animals or ducks

6. CLOTHESLINES. No structure or apparatus may be constructed for the outdoor drying of laundry or wash.

7. EXCAVATION. No excavation, except such as is necessary for the construction of improvements shall be permitted, nor shall any hole of any kind remain on any lot.

8. NOXIOUS OR OFFENSIVE ACTIVITIES. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. In addition, no noises are to be created on any lot which would offend a person of ordinary sensibilities.

9. FUEL TANKS. No fuel tanks of any kind shall be erected, place or permitted on any part of any lot, except small gas tanks for the operation of a barbecue grill.

10. LOT APPEARANCE. The owner of each lot, whether such lot be improved or unimproved, shall keep such lot and the area between the property line of the lot and the paved surface of any abutting street free of trash and rubbish, and shall at all times keep such lot and adjacent area bordering the paved surface of a street in a neat and attractive condition. In the event the owner of any lot fails to comply, the Declarant and/or Owner's Association, shall, after giving written notice to the property owner, have the right, but not the obligation, to go upon such lot and adjacent area and remove the rubbish and any unsightly or undesirable things and objects therefrom, and to do any other things and perform and furnish any labor necessary or desirable in its judgment to maintain or to place the property and adjacent area in a neat and attractive condition, all at the expense of the owner of such lot. The expense shall be payable by such owner to the Declarant or Architectural Control Committee on demand.

11. RESUBDIVIDING. No lot shall be resubdivided except with the consent of the Architectural Control Committee.

12. MINOR VIOLATIONS. The Declarant shall have the right to waive any minor violation of these covenants, such persons having the right to exercise their discretion in determining what are minor violations which, however, shall not be construed to permit waiver of an entire covenant.

13. LANDSCAPING. Natural landscaping shall be encouraged and maintained. It shall be the goal of the Association, its agents or assigns, in the approval of any landscaping plan, to preserve all existing trees where possible. All requests for approval of tree removal or changes in landscaping shall be submitted to the Association, its agents or assigns, along with a plan showing generally the location of such tree(s). In reviewing building plans, the Association, its agents or assigns, shall take into account the natural landscape such as trees, shrubs and palmettos and encourage the Owner to incorporate them into this landscaping plan.

14. WINDOW AIR CONDITIONING UNITS. No window or wall air conditioning units shall be permitted.

15. ANTENNAS. No aerial masts, towers, or antennas shall be placed or erected or affixed in any manner to the exterior of any dwelling or structure. Approval MUST be obtained as to the proposed plans, specifications, location, construction materials and design, harmony of the design, necessity of screen planting, and any other action that might affect the desirability of the proposed structure. Said approval is subject to the restrictions contained within the applicable building codes.

16. LIGHTING. No lighting shall be permitted which alters the residential character of the Property. No lighting of outdoor activity areas shall be permitted without the approval of Declarant, its agents or assigns.

17. RECONSTRUCTION OR RENOVATIONS. Following completion of construction, an Owner of a lot may not cause or permit any alteration, modification, renovation or reconstruction to be made to the structural components, roof, or exterior appearance of his dwelling, including driveways and parking areas and including the installation of window air conditioners, nor make any additions to the exterior of his dwelling or to the boat dock without the prior written approval of the Declarant, its agents or assigns, except that an Owner shall replace broken windows and doors with windows or doors of the same style and equal or better quality as originally installed as part of the construction.

18. CONDITION OF UNIT. Each Owner of a townhouse lot covenants and agrees to keep the exterior of his unit and other outside improvements located on his property, except as otherwise provided herein, in a neat, orderly and clean condition. Such owner further covenants that he shall make no changes or additions to the exterior of said townhouse unit which affects the structure, design or color except as provided herein.

19. COMPLY WITH REGULATIONS. All townhouse units and lots shall be maintained in good repair and kept clean and sanitary at all times. No nuisance or violation of any rules or regulations of the State Board of Health or any professional organization or governmental agency shall be permitted. In addition, the Association may, after notice, pass other and addition regulations

applicable to use of the property.

20. ODORS AND VAPORS. No odors or vapors shall be permitted or caused to emanate from any townhouse unit, nor offensive conduct be carried on in the Development.

21. NO TRANSIENT RENTALS. Transient rentals being defined as rentals in duration for less than thirty (30) days. All leases of units within this property shall be deemed to include by reference a provision that incorporates this Declaration. Any tenants shall, at all times, be subject to the terms of this Declaration as if he or they were an owner.

ARTICLE V. ASSOCIATION POWERS AND RESPONSIBILITIES

The operation of the Association shall be vested in the CAPTIVA COVE HOMEOWNER'S ASSOCIATION, INC., a non-profit Florida corporation.

A. The operation of the Association shall be vested in the Captiva Cove Homeowner's Association, Inc., a non-profit association. Each owner shall have the legal obligation to care for and maintain all of his lot. However, this Declaration shall serve as an assignment to the Association of certain of the duties which otherwise would be performed by the owner. Such duties hereby assigned include the following:

1. Maintenance of all roofs and exterior finishes of buildings, except glass.
2. Maintenance and trimming of all trees
3. Maintenance of common parking areas and exterior lighting within the property but not attached to the unit.
4. 4. Maintenance of boat dock.
5. The Association may insure all improvements except the contents of buildings, and shall act as representative of the owners to obtain, pay for, collect and disburse said coverage in accordance with the insurance provisions herein.

B. No unit owner, except as an officer of the Association shall have any authority to act for the Association.

C. The powers and duties of the Association shall include those set forth herein, in the By-Laws and the Articles of Incorporation, but in addition thereto, the Association shall have:

1. The irrevocable right to have access to each townhouse unit from time to time during reasonable hours as may be necessary for making emergency repairs therein or for making emergency repairs therein necessary to prevent damage to the commonly used elements or to another unit or units;
2. To make and collect assessments, to maintain, repair and replace the commonly used

- elements and to maintain an adequate reserve fund for the same;
3. Maintain accounting records according to good accounting principles which shall be open to inspection by townhouse owners at all times; and
 4. Prescribe and enforce such rules, covenants, regulations and restrictions as are specified herein at Article IV, and can amend said rules and restrictions from time to time as it considers essential.

ARTICLE VI. MEMBERSHIP AND VOTING RIGHTS.

Section 1. At such time as a lot becomes an improved lot in accordance with Article I, Section 10, then that owner of said improved lot shall become a member of the Association and shall be entitled to one vote for each lot owned and that lot shall be subject to an assessment provided herein except that the Declarant shall not be liable for any assessment until two years from date said lot owned by Declarant becomes an improved lot. When more than one person holds an interest in any one lot, all such persons shall be members. The vote for such lot shall be exercised as they determine among themselves, but in no event shall more than one vote be cast with respect to any one lot. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

ARTICLE VII. COVENANT FOR MAINTENANCE ASSESSMENTS.

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant for each lot owned within the properties hereby covenants and each owner of any lot by acceptance of a warranty deed therefore, whether or not it shall be so expressed in such warranty deed is deemed to covenant and agree to pay the Association (a) annual assessments or charges; (b) special assessments for capital improvements or emergency maintenance, such assessments to be established and collected as hereinafter provided, and (c) special assessments imposed upon an individual lot owner for repair or maintenance necessitated by the willful or negligent act of the owner, his family, or their guests, tenants or invitees, or failure to pay costs and expenses as required under the Boat Dock Agreement attached as EXHIBIT "B" or this Declaration. The annual and special assessments together with interest, costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with interest, costs and reasonable attorney's fees for collection and foreclosure shall also be the personal obligation of the person who was the owner of such property at the time when the assessment

fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

A. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the owners in the properties and for the improvement and maintenance of the commonly used areas and of the units upon the properties.

B. In addition to maintenance on the commonly used areas, the Association may assess for the purpose of the Association's administrative expenses, purchase of insurance and to cure the breach for failure to accomplish the terms and conditions of the Declaration of Restrictive Covenants, Conditions, Restrictions and Easements by an owner.

C. In the event that the need for maintenance or repair is caused by owner by breach of the terms and conditions of the Boat Dock Agreement attached as Exhibit "B" or caused by a breach to this Declaration, or through the willful or negligent act of the owner, his family or guests, or invitees, the costs for such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the commonly used areas including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-third (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Notice and Quorum for any Action Authorized Under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty (50%) percent of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting date.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis except special negligence assessment referred to in Section 3(c) may increase an individual lot owner's assessment.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the first day of the month following conveyance of any unit. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of eighteen (18%) percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the commonly used areas or abandonment of his lot.

Section 8. Subordination of the Lien to the Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VIII. ARCHITECTURAL CONTROL

Section 1. No building, fence wall or other structure shall be commenced, altered or maintained upon the properties, nor shall any exterior addition to or change or alteration thereon be made until the plans and specifications show the nature, kind, shape, height, color, materials and location of the same shall have been submitted to and approved in writing as to harmony of external sizing and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board or its designated committee fails to approve or disapprove such design and location within 30 days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been complied with fully. In no case shall such committee require any more rigorous design than that which exists in the surrounding subdivision nor shall the Association prevent free and unimpeded access to any lot for the purpose of construction nor unreasonably restrict the use of customary construction methods, equipment, structures, work hours or workmen during the construction of dwellings upon any unimproved lot in the subdivision nor prevent

the Declarant from completing construction of roadways, driveways, parking areas or other commonly used areas.

Section 2. Swimming Pools, Detached Garages and Similar Structures. No swimming pool, detached garage, or other structure (not connected to with the main dwelling), shall be installed and/or constructed without the express, written approval of the Architectural Committee. Additionally, no structure of a temporary (or permanent) character, to include, but not limited to the following, shall be constructed and/or installed without the prior written approval of the Architectural Control Committee: tent, shack, barn, tree house, boat house, club house, gazebo, and storage shed. Such approval MUST be obtained as to the proposed plans, specifications, location, construction materials and design, harmony of the design, necessity of screen planting, and any other action that might affect the desirability of the proposed structure. Said approval is subject to the restrictions contained within the applicable building codes.

ARTICLE IX. PARTY WALLS.

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhouses on the property and placed on the dividing line between the lots shall constitute a party wall and to the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Waterproofing. Notwithstanding any other provision of this Article, an owner who by his negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or under the

provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator and the decision shall be by a majority of all the arbitrators.

ARTICLE X. GENERAL PROVISIONS.

Section 1. Enforcement. Disputes regarding enforcement or interpretation of this document, or any rule or regulation pursuant to it, or of the Boat Dock Agreement may be presented for resolution to the appropriate court in Okaloosa County, Florida. The prevailing party shall be entitled to recover legal fees and costs in such action. In the alternative, either party may initiate, upon mutual agreement, the arbitration process set forth in Florida Statutes Chapter 682.”

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment of court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Litigation. In the event of litigation to enforce any of the terms of this Declaration, the successful party shall be entitled to recover reasonable attorney fees and court costs from the unsuccessful party in such litigation.

Section 4. Financial Statements. The Association shall make available to owners, and lenders and holders, insurers or guarantors of first mortgages, current copies of the Declaration, by-laws and those rules concerning the Association, and the books, records and financial statements of the Association, upon request during normal business hours, or under other reasonable circumstances. The holder of fifty (50%) percent of the first mortgages shall be entitled to have an audited financial statement for the immediately preceding fiscal year of the Association, prepared at their expense, if one is not otherwise available

Section 5. Declarant’s Authority. The Declarant may unilaterally alter, change or revise these covenants and restrictions and the terms and conditions of the Boat Dock Agreement until such time as Declarant no longer owns at least twenty (20) percent of the development. After the Declarant no longer has the authority to amend the Declaration of Covenants, Conditions and Restrictions, the members of the Association, by majority vote, after notice to all members, shall have the authority to amend the Declaration and the terms and conditions of the Boat Dock Agreement.”

Section 6. Applicability of Covenants and Restrictions.

- (a) The covenants and restrictions contained in this Declaration shall run with the land described in the plat of Captiva Cove Townhomes, and such covenants and restrictions shall become part of all deeds, contracts or conveyances of any ‘lot’ which is subject to this Declaration and shall be binding on all parties and persons obtaining title to such lots or such persons who claim under the owners of such lot until January 1, 2050, at which time such covenants

and restrictions in this Article shall be automatically extended for successive additional ten (10) year periods unless terminated by written agreement of two-thirds (2/3) of the then record owners of such lots subject to this Declaration, which agreement must be recorded before the beginning of the next applicable ten (10) year extension.

- (b) In no event and under no circumstances shall a violation of any covenant or restriction herein contained work a forfeiture or reverter of title.
- (c) Declarant, its successors and assigns, or its designated representative, may make other restrictions applicable to each homesite by appropriate provision in the contract for deed or in any deed without otherwise modifying the general plan herein outlined, and such other restrictions shall inure to the benefit of other owners of homesites in the Association and shall bind the grantees and their respective heirs, successors or transferees in the same manner as though they have been expressed herein.
- (d) Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

ARTICLE XI.

DUTY TO REBUILD OR REPAIR AND INSURANCE COVENANTS.

Section 1. In the event of damage to or destruction of any townhouse unit by fire, windstorm, water or any other cause whatsoever, the owner shall within a reasonable time cause said townhouse to be repaired or rebuilt so as to place the same in as good and tenantable condition as it was before the event causing such damage or destruction; failure to do so shall constitute a breach of these covenants. Subject to priority of any mortgagee under a mortgage clause, all insurance proceeds for loss or damage to any townhouse unit or any other improvement upon any lot shall be used to assure the repair or rebuilding of any such townhouse unit or any part thereof.

Section 2. The Association created hereunder shall have a lien on all such insurance proceeds, regardless of whether it is named in any insurance policy subordinate only to the claim of any mortgagee under a mortgage clause, to enforce the intent of the foregoing provision.

Section 3. Authority to Purchase, Named Insured. All of the following sections shall govern all owners as to insurance to be carried upon all townhouse units. Association may purchase insurance on townhouse units any time the Board of Directors so choose or upon any townhouse unit in the event the owner fails to produce upon request of the Board of Directors a policy in conformity with this and succeeding sections under this Article. The named insured shall be the Association individually and as

agent for the owners without naming them, and as agent for their mortgagees. Provisions shall be made for the issuance of mortgagee endorsements and memoranda of insurance to individual townhouse owners. The mortgagee endorsement shall be furnished for each townhouse unit subject to a mortgage with a dollar amount specified therein as the coverage for that particular townhouse unit. Townhouse unit owners may obtain coverage at their own expense upon their personal property and living expense.

Section 4. Coverage.

A. Casualty. All townhouse units shall be insured in an amount equal to the maximum insurable replacement value excluding the foundation and excavation cost, all as determined annually by the Board of Directors of the Association. Such coverage shall afford protection against:

- (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and
- (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including but not limited to vandalism and malicious mischief.

B. Public liability in such amounts and such coverage as shall be required by the Board of Directors of the Association with cross liability endorsement to cover liabilities of the owners as a group to an individual townhouse owner.

C. Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

Section 5. Premiums. Premiums upon insurance policies purchased by the Association is a common maintenance expense purchased for all units and assessed against each townhouse unit equally. If insurance is not purchased by an owner on a particular townhouse unit because of failure of the owner to do so, such premium cost shall be treated as a special assessment against the unit enforceable by the Association in accordance with Article VI, Section 8, of this Declaration.

Section 6. Imposition of Lien and Personal Obligation Assessment. The assessments for insurance premiums as set forth herein before, together with interest, cost and reasonable attorney's fees, shall be a continuing lien upon such unit against which each such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees shall also be the obligation of the person who is the owner of the property at the time the special assessment is made.

Section 7. Right of Mortgagee to Purchase Insurance, Creation of Lien.

A. If the Association fails or a unit owner/lessee fails for any reason to purchase insurance called for herein or fails to provide the coverage called for herein on any unit, or if any unit owner becomes delinquent in the payment of his pro-rata share of the insurance premium on any unit, or the

Association cannot purchase insurance called for on such unit, the mortgagee of any unit, in its discretion, may purchase insurance coverage on a unit regardless of the number of living units on which they hold a mortgage or advance to the Association sufficient funds on behalf of the delinquent unit owner to allow the Association to purchase such insurance.

B. The mortgagee shall have the right to purchase such insurance or advance premiums for the purchase of such insurance for any delinquent owner/lessee.

C. If any insurance policy is purchased by a mortgagee provided herein for any unit, such mortgagee shall have the rights under this Article given to the Association.

D. In the event as set forth herein, it becomes necessary for the mortgagee of any unit to purchase insurance called for herein or to advance funds to pay insurance premiums for the owner of any unit who is delinquent in the payment of his insurance premium, whether or not such mortgagee holds a mortgage on such unit and lot and shall be a continuing lien upon such property and shall be enforceable by the mortgagee in accordance with Article VII of this Declaration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have hereunto set their hands and seals the 19 day May, 2015.

CAPTIVA COVE HOMEOWNER'S ASSOCIATION, INC.

Attest: Dianne L. Hrehor
Dianne L. Hrehor, Secretary

By [Signature]
Joe Napier, President

(corporate seal)

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 19 day of May, 2015 by Joe Napier, the President and Dianne L. Hrehor, the Secretary of CAPTIVA COVE HOMEOWNER ASSOCIATION, INC. a not for profit Florida corporation, on behalf of the corporation who are personally known to me or who have produced their Drivers License, as identification.

[Signature]
NOTARY PUBLIC



Linda Barringer
Print or type name
My Commission Expires: June 10, 2017

EXHIBIT "A"

Lots 3, 4, 5, 6, 7, 8, and 9, Block 4, CINCO BAYOU SUBDIVISION, according to the plat thereof as recorded in Plat Book 1, Page 27, of the Public Records of Okaloosa County Florida, and

LEGAL DESCRIPTION: (PORTION OF LUCILE STREET RIGHT OF WAY TO BE VACATED AND PROPOSED UTILITY EASEMENT.)

BEGIN AT THE PERMANENT REFERENCE MONUMENT AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 4, CINCO BAYOU, AS RECORDED IN PLAT BOOK 1, PAGE 27A, OKALOOSA COUNTY, FLORIDA. SAID POINT OF BEGINNING BEING ALSO THE INTERSECTION OF THE WEST RIGHT OF WAY OF SEA WAY (80 FT. RIGHT OF WAY) AND THE NORTH RIGHT OF WAY OF LUCILE STREET (80 FT RIGHT OF WAY); THENCE S-00°00'00". W ALONG THE SOUTHERLY EXTENSION OF THE AFORESAID WEST RIGHT OF WAY OF SEA WAY A DISTANCE OF 10.47 FEET; THENCE S- 87°10'12" – W A DISTANCE OF 535.00 FEET; THENCE N. 23°08'33" – W A DISTANCE OF 40.11 FEET TO THE SOUTHWEST CORNER OF LOT 11 OF THE AFORESAID BLOCK 4; THENCE N-90°00'00" –E ALONG THE NORTHERLY RIGHT OF WAY OF LUCILE STREET AND ALONG THE SOUTH LINE OF BLOCK 4 A DISTANCE OF 550.11 FEET TO THE OINT OF BEGINNING.

CONTAINS 12,940 SQUARE FEET OR 0.30 ACRES MORE OR LESS.

ALL LYING IN SECTION 12, TOWNSHIP 2 SOUTH, RANGE 24 WEST, OKALOOSA COUNTY, FLORIDA.

BEARINGS BASED ON ASSUMED BEARING OF N-90°00'00" –E ALONG THE NORTHERLY RIGHT OF WAY OF LUCILE STREET.

Exhibit "B"

BOAT DOCK AGREEMENT

This agreement between CAPTIVA COVE HOMEOWNER'S ASSOCIATION, INC., hereinafter referred to as "Association" and _____, hereinafter referred to as 'Owner'

WITNESSETH:

WHEREAS, the Association is the owner of a boat dock facility consisting of 12 slips, as shown on EXHIBIT "C" attached hereto and made a part hereof, and

WHEREAS, it is the desire of the above parties to define and set out their respective rights and obligations;

NOW, THEREFORE, IT IS AGREED:

1. The Owner shall be entitled to boat slip number _____.
2. Each Owner shall equally bear with the other Owners, the following expenses:
 - a. The cost of maintaining the boat dock facility in good and substantial repair;
 - b. All utilities supplied to the boat dock facility, if any;
 - c. All ad valorem taxes, governmental assessments or charges, if any;
3. All owners causing damage to the dock facility due to their negligence or that of their guests or household shall repair or cause the repair in a good and workmanlike manner commensurate with the present structure, all at their cost and expense. The repairs in this paragraph shall be accomplished not less than twenty (20) days from date of damage.
 - a. The use of the boat dock facility is restricted for non-commercial private use of the Owners, their household and guests.
 - b. The boat dock facility shall be posted as private property and shall be secured accordingly.
 - c. No trash, rubbish or unsightly material shall be allowed to accumulate on or about the boat dock facility or adjacent real property.
 - d. The primary purpose of the boat dock facility is as follows:
 - (i) Mooring of boats;
 - (ii) Loading and off-loading passengers and cargo; and

(iii) Outdoor entertainment.

- e. Guest boats may be moored at the boat dock facility for a reasonable time but shall not interfere with the ingress and egress of Owners' boats.
- f. All boats utilizing the boat dock facility shall be secured and maintained in accordance with accepted seamanship principles and applicable United States Coast Guard regulations and directives.
- g. All Owners will insure that their guests and members of their household will comply with all of the laws, rules and regulations of the Townhouse Association, or any governmental authority affecting the use of the property, the boat dock facility and boats.

4. Each Owner agrees to save all other owners harmless from any liability by reason of injury to the person or property on or about the boat dock facility caused by the conduct of the owner, their agents or guests. Each dominant tenant to the easement in Paragraph 6 below shall hold the servant tenant to said easement harmless from any liability by reason of injury to the person or property of any person occurring while utilizing said easement.

5. Each Owner grants an easement across so much of the part of their boat slip to the other Owners herein that is reasonably necessary for ingress and egress to their respective boat ship.

6. This agreement and the joint rights, duties and covenants run with the land and shall inure to the benefit of the Owners, their heirs, beneficiaries of successors in interest and shall be a part of all deeds and contracts of conveyance of the Owner's respective units. The interest of the Owners in and to the boat slip facility and the rights, duties and covenants under this agreement are not subject to assignment, mortgage, and alienation of transfer except as an appurtenance to a unit.

7. In the event any Owner fails to pay a charge or expense or fails to accomplish any of the terms and conditions required herein after ten (10) days' written notice, the sum required or act necessary to cure said default may be advanced or accomplished by the non-defaulting Owners or the CAPTIVA COVE HOMEOWNER'S ASSOCIATION, INC. The sum advanced or cost incurred that is necessary to cure said default shall bear interest at the rate of eighteen percent (18%) per annum and shall be payable on demand. The rights of the delinquent party shall be subordinate to the person or entity making the advance or cost. The advance or cost incurred shall become a common law lien on the interest of the delinquent party or lien in accordance with Article VI of the Townhouse Declaration, Covenants, Conditions and Easements of CAPTIVA COVE TOWNHOMES, a Townhouse Development, and the lien may be enforced at law or in equity against any of the parties so delinquent. All Owners further agree that the delinquent party shall pay all costs including a reasonable attorney's fee incurred by reason of the collection of the same.

8. The owners of units and/or the Declarant may voluntarily submit issues to be arbitrated according to procedures established in Chapter, 682, Florida Statutes. If either party to a controversy declines voluntary arbitration, any interested party may seek intervention y the appropriate court in Okaloosa County, Florida. A prevailing party in any dispute arising under this Board Dock Agreement may recover its or his legal fees and costs in that action.”

9. Any Owner failing to comply with the terms and conditions set forth in this agreement shall pay the costs of the non-defaulting parties including a reasonable attorney’s fees and costs in any litigation made necessary by such default.

10. The Rules and Regulations for use of the Boat Dock may be supplemented by a majority of the Association, after notice.

11. This Boat Dock Agreement is intended to be signed by each Grantor and Grantee upon sale of any Unit. However, this Agreement shall be recorded with the first conveyance, and will thereafter be deemed to be incorporated by reference into future deeds, whether or not actually executed by the parties subsequent transactions.

IN WITNESS WHEREOF, We have hereunto set our hands and seals, this ____ day of

_____.

ASSOCIATION:

By: _____

Witness _____
Witness _____

OWNER:

Witness: _____

Witness: _____
