

ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE SELLER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS SET FORTH IN THE DOCUMENT CHECKLIST EXECUTED BY PURCHASER CONCURRENTLY WITH THE EXECUTION OF THIS AGREEMENT.

BY THEIR EXECUTION OF THIS CONTRACT PURCHASERS ACKNOWLEDGE THAT THEIR POSSESSORY RIGHTS TO THEIR BOAT SLIP ARE SUBJECT TO THE TERMS AND PROVISIONS OF THE DOCUMENTS REFERRED TO IN SECTION 4 HEREOF

CONTRACT

THIS CONTRACT is made, entered into and effective this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between **COCOA VILLAGE MARINA, LLC, A FLORIDA LIMITED LIABILITY COMPANY** *formerly known as Whitley Bay Marina, LLC.* (hereinafter the "Seller") having a mailing address of: 90 DELANNOY AVENUE, COCOA, FL 32922 , ATTN: **Walter A. Margerison**, and

\_\_\_\_\_ (hereinafter the "Purchaser"), having a mailing address of:

\_\_\_\_\_ whose telephone numbers are:

Home: (\_\_\_\_) \_\_\_\_\_  
Work: (\_\_\_\_) \_\_\_\_\_  
FAX: (\_\_\_\_) \_\_\_\_\_

and whose Social Security Number is \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_.

WITNESSETH

WHEREAS, Seller is the redeveloper of the marina property located in Cocoa, Brevard County, Florida (the "Marina"), which is fully described in the dated May 19, 2006, as amended to the date hereof Declaration of Covenants, Restrictions and Provisions for COCOA VILLAGE MARINA BOATERS ASSOCIATION, INC.(the "Declaration"), a copy of which has, prior to or contemporaneously with the execution of this Contract, been delivered to and received by Purchaser; and

WHEREAS, Purchaser desires to acquire an exclusive possessory interest in Boat Slip No. \_\_\_\_\_ (the "Boat Slip") together with all appurtenances thereto and one (1) Class A Membership in COCOA VILLAGE MARINA BOATERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association"), all as described in more detail in the Declaration, a copy of which has been delivered to Purchaser (such possessory interest and Class A Membership being herein collectively referred to as the "Unit"); and

WHEREAS, the parties wish to define their respective rights and obligations relative to the Purchaser's acquisition of the Unit from Seller,

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties, it is agreed as follows:

1. OBLIGATION. Seller shall transfer and Purchaser shall acquire the exclusive right to possess the Unit in accordance with the terms of this Contract. Purchaser acknowledges that no representation has been made by Seller or any of its agents as to any income, income tax or economic benefit to be delivered by virtue of Purchaser's acquisition of the Unit.

The CLOSING DATE shall be designated by Seller, but which shall be on or before December 7, 2009.

2. PURCHASE PRICE. The Purchase Price to be paid by Purchaser to Seller for the Unit, together with other charges to be paid by Purchaser at the Closing, are set forth below. All amounts due by Purchaser at Closing shall be paid in U.S. funds.

Purchase Price ("Bid Price")	\$ _____
Buyer's Premium @ 10% of Purchase Price	\$ _____
DEP Fee @6% of Purchase Price	\$ _____
Total Consideration*	\$ _____
Less Reservation/escrow Deposit	\$ _____
Less Additional deposit (brings deposit total to 10% of Purchase Price plus Buyer's Premium)	\$ _____
Balance due at closing*	\$ _____

\* See Section 5 for Closing Costs also to be paid by Purchaser

Deposits shall be payable to the Escrow Agent, KEVIN MARKEY, P.L., TRUST ACCOUNT, whose post office address is: 96 WILLARD STREET, SUITE 106, COCOA, FL 32922. Purchaser shall be given a receipt for Escrow Deposits. Deposits may be made by personal check. The balance due at closing must be by wire transfer of immediately available funds or by cashier's check drawn on a United States financial institution. Deposits made by Purchaser will be held in non-interest bearing escrow pending closing by the Escrow Agent subject to the terms hereof.

3. DESCRIPTION OF BOAT SLIP. The Boat Slip is as set forth on the Plot Plan and Table of Boat Slip Dimensions prepared by ALLEN ENGINEERING, INC., which is attached to the Declaration as Exhibit "B", subject to such modifications as may be required by governmental authorities or Seller, in its reasonable discretion, may deem necessary. Purchaser acknowledges and understands that the Boat Slip is a part of the Marina Property as defined in the Declaration and is subject to the terms of the Declaration and the Association Documents as defined in the Declaration.

Purchaser agrees to be bound by the terms of the Declaration and the Association Documents (as defined in the Declaration, as well as all of the terms and provisions of the Submerged Land Lease applicable to Purchaser's Unit (*Submerged Land Lease No. 050786344 with respect to the East Basin and Submerged Land Lease No. 050001674 with respect to the West Basin*) and the Wave Attenuation Easement No. 00297(4160-05) each entered into by and between Seller and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida as Lessor (the "Submerged Land Leases"), as each of the same may from time to time be amended and/or restated. Purchaser acknowledges and understands the requirement set forth in the applicable Submerged Land Lease and the Declaration that Purchaser subject the Boat Slip to the Mandatory Rental Program.

4. ACKNOWLEDGMENT OF POSSESSORY INTEREST IN BOAT SLIP. Purchaser acknowledges and understands that:

**BY EXECUTION OF THIS CONTRACT, PURCHASER IS PURCHASING ONLY A POSSESSORY INTEREST IN THE BOAT SLIP AND THAT SUCH POSSESSORY INTEREST IS SUBJECT TO THE TERMS AND CONDITIONS OF THE DECLARATION, THE ASSOCIATION DOCUMENTS, THE APPLICABLE SUBMERGED LAND LEASE AND THE WAVE ATTENUATION EASEMENT.**

Purchaser will acquire such possessory interest pursuant to this Contract free and clear of all liens and encumbrances other than those set forth in the Declaration, the Association Documents, the applicable Submerged Land Lease, the Wave Attenuation Easement and the Leasehold Policy of Insurance to be issued to Purchaser pursuant to this Contract.

**PURCHASER, BY PURCHASER'S EXECUTION OF THIS CONTRACT, ACKNOWLEDGES THAT PURCHASER HAS RECEIVED A COPY OF THE DECLARATION, THE ASSOCIATION DOCUMENTS, THE APPLICABLE, SUBMERGED LAND LEASE AND THE WAVE ATTENUATION EASEMENT, AND UNDERSTANDS THE TERMS THEREOF.**

At Closing, exclusive possession of the Boat Slip and a Class A membership in the Association shall be transferred by delivery of a Certificate of Ownership and a duly executed Membership Certificate. Purchaser shall execute such instruments as shall

be reasonably required to complete and consummate the closing including, but not limited to, any acceptances, waivers and warranties required by Seller. The acceptance of the Certificate of Ownership and Membership Certificate by Purchaser shall be deemed to be in full performance and discharge of every agreement and obligation on the part of Seller to be performed pursuant to this Contract, except those which are herein specifically stated to survive the delivery of such Certificate.

This Section 4 shall survive the closing contemplated herein and delivery of such Certificate to Purchaser.

5. EXPENSES OF CLOSING.

a. Seller shall pay the following closing costs: the fee for recording the Certificate of Ownership and Florida documentary stamps to be affixed thereto; Seller's attorney fees; closing agent fees and expenses (charged per Unit purchased), and the fees due the Transaction Agent as provided in Paragraph 17 hereof.

b. In addition to the Balance Due at Closing as provided in Paragraph 2, Purchaser shall pay the following costs at Closing: Purchaser's attorney fees, if any, the title search charges, the premium for the Leasehold Policy of Title Insurance, an initial working capital assessment equal to two (2) times the amount of monthly dues to the Cocoa Village Marina Boaters Association, Inc., all costs incurred as a result of a "mail-away" Closing, if used and any amounts due from Purchaser in accordance with the provisions of Paragraph 17.

c. Association dues/assessments ("dues") and any other pro-ratable items shall be prorated as of the date of closing.

6. CLOSING.

a. Closing shall be held on a date (on or before December 7, 2009) designated by Seller and at the offices of Escrow Agent, Seller's counsel, or at the office of COCOA VILLAGE MARINA BOATERS ASSOCIATION, INC. located at 90 Delanoy Avenue, Cocoa, FL 32922, or at such location in Brevard County, Florida as may from time to time be designated by Seller. All sums due from Purchaser at closing shall be paid by cash, cashier's check drawn on a U.S. financial institution or by wire transferred funds.

b. Purchaser will be given at least FIVE (5) days' notice of the time and place of closing. Seller is authorized to postpone the closing for any reason and Purchaser will close on the new date, time and place Seller specifies in Seller's notice of postponement *[as long as at least FIVE (5) days' notice of the new date, time and place for the re-scheduled closing are given to Purchaser]*. Seller will have no liability to Purchaser for delaying or re-scheduling the closing. Purchaser understands that Purchaser will not have the right to postpone the closing date for any reason.

c. Any formal notice of closing, postponement or rescheduling may be given orally, by telephone, or by mail, or by any other reasonable means of communication at Seller's option. All notices to Purchaser will be sent or directed to the address, or given by telephone, as specified on Page 1 of this Contract unless Seller has received written notice from Purchaser of any change prior to the date Seller's notice is given. Notices will be effective on the date given or mailed. An affidavit by an officer or agent of Seller stating that such notice was given or mailed to Purchaser will be conclusive evidence thereof.

d. If, after Seller notifies Purchaser of the time and place for closing, Purchaser fails to close for any reason at that time and pay the balance of the Purchase Price and all other amounts that Purchaser owes under this Contract, at Seller's sole discretion, Seller will be entitled to do either of the following:

- (1) Seller may treat Purchaser's failure to close as a default, in which case Seller will have the rights set forth herein; or
- (2) Seller may agree to set another date for closing. If Seller elects to set another date for closing, Purchaser agrees that all prorations and adjustments contemplated by this Contract will be based upon the date originally set for closing.

#### 7. DEFAULT.

a. If Purchaser shall fail to do promptly any of the things required of Purchaser hereunder within the time allowed therefor, this Contract may, at the option of Seller, be deemed terminated whereupon Purchaser's deposit shall be paid to Seller as liquidated and agreed upon damages, and all obligations and duties of the parties hereto shall thereupon terminate. It is specifically recognized by Purchaser that a default on the part of Purchaser would have serious adverse financial effect upon Seller as a result of Seller's incurring expenses relative to sales, advertising expenses, fees, attorneys' fees, etc., and that it would be extremely difficult if not impossible to determine the actual damages incurred by Seller by reason of Purchaser's breach. Therefore, the foregoing provisions with regard to damages are an attempt by the parties to liquidate the same and are not to be construed or considered as a forfeiture or penalty. Upon the delivery of said liquidated sum to Seller, both parties shall be released from any and all further obligations under this Contract.

b. In the event of Seller's default hereunder, the liability of Seller under this Contract is limited to the return of Purchaser's deposits made hereunder, and in no event shall Seller be liable to Purchaser for any damages of any nature which Purchaser may sustain.

8. MANAGEMENT AGREEMENT. Purchaser acknowledges and understands the Association, acting through its Board of Directors, is authorized to enter into an agreement with any person or legal entity, including Seller or Seller's subsidiary, to act

as managing agent to handle the affairs of the Association and the operation of the Marina upon such terms and conditions as the Board may deem to be in the best interests of the Marina and its Members. The Board may delegate any part or all of the duties and functions of the Association to such managing agent.

9. WARRANTIES. Purchaser acknowledges that Seller has made no warranties or representations other than those imposed by statute in connection with the condition of the Boat Slip or other assets of the Association or Seller except as specifically set forth herein. This paragraph shall survive the closing contemplated hereunder and the delivery of the Certificate of Ownership to Purchaser.

10. RIGHTS RESERVED BY SELLER.

a. If, at the time of closing, a mortgage encumbers the Boat Slip Unit, Seller may use Purchaser's closing funds to obtain a release of such mortgage to the extent that it encumbers said Unit.

b. Seller shall have the right to litigate ad valorem tax matters, impact charges, service fees and interim and/or special assessments concerning the Boat Slip or underlying lands for prior years and the year of closing. In such event, Seller may establish an escrow account with a local banking institution so as to adequately assure to Purchaser that the portion of such charge, the amount of which is being contested and litigated, will be paid to the appropriate authorities in the event that the litigation is resolved in favor of the governmental authorities.

c. As long as Seller owns a Boat Slip, Seller and its agents shall have the right to keep an office on the Marina Property. Seller may erect advertising signs and do whatever else is necessary and helpful for Boat Slip sales and rentals, but Seller's use of the Marina Property must be reasonable and cannot materially interfere with Purchaser's use and enjoyment of Purchaser's Boat Slip.

11. NUMBER AND GENDER. All pronouns and variations thereof shall be construed so as to refer to the masculine, feminine, neuter, singular or plural form thereof, as the identity of the person or persons or the situation may require.

12. NON-ASSIGNABILITY. This Contract is binding upon the parties hereto and their heirs, legal representatives, successors and assigns. This Contract may not be assigned by Purchaser without the prior written consent of Seller, which consent, if given, shall be subject to such conditions as may be specified by Seller including, but not limited to, the payment to Seller of an assignment fee. The fact that Seller refuses to give its consent to an assignment shall not give rise to any claim for any damages against Seller. This Contract shall not be recorded in the Office of the Clerk of any Circuit Court of the State of Florida and any recording of same by Purchaser shall be considered a material breach of this Contract and such recording shall, at the sole option of Seller, cause this Contract to become null and void.

13. CONSTRUCTION. This Contract shall be construed in accordance with the laws of the State of Florida.

14. SURVIVAL OF PURCHASER'S OBLIGATIONS. All representations, duties and obligations of Purchaser pursuant to this Contract shall survive the closing hereunder.

15. OTHER AGREEMENTS. This Contract supersedes any and all previous understandings and agreements between the parties hereto, and it is mutually understood and agreed that this Contract represents the entire agreement between the parties hereto, and no representations or inducements prior hereto which are not included and embodied in this Contract shall be of any force and effect, and this Contract may only be amended and/or modified by an instrument in writing signed by the parties hereto.

16. NOTICES. Whenever a notice, is required to be sent, the same shall be delivered by hand-delivery, FEDERAL EXPRESS or some other national over-night courier delivery service, or by certified mail return receipt requested, addressed to the parties at the addresses set forth in this Contract. All such notices shall be deemed and considered given upon deposit with the delivery service or upon mailing.

17 BROKERS. **FISHER AUCTION Co., INC.** (the "Transaction Agent") has been retained by Seller to handle marketing and sales of the Units. Except as disclosed in writing by Purchaser to the Transaction Agent prior to execution of this Contract, Purchaser represents that Purchaser has not dealt with any broker in connection with this transaction other than the Transaction Broker. Seller will not be liable for a real estate brokerage commission other than the commission due to the above listed Transaction Agent and to any such broker previously disclosed by Purchaser. Purchaser covenants to defend and indemnify Seller against all claims of real estate brokers or salesmen other than the above listed procuring broker due to acts of Purchaser or Purchaser's representatives, and Purchaser shall be liable for Seller's costs, including attorneys' fees and damages, which arise by virtue of such claims as set forth in this section.

18. ADDENDA. Any addenda attached hereto shall constitute a part of this Contract and are incorporated herein by reference.

19. SEVERABILITY OF PROVISIONS. Should any part, clause, provision or condition of this Contract be held to be void, invalid or inoperative, the parties agree that such invalidity shall not affect any other part, clause, provision or condition hereof, but that the remainder of this Contract shall be effective as though such void part, clause, provision or condition had not been contained herein.

20. MISCELLANEOUS.

a. Time is of the essence in this Contract with respect to the payment of monies.

b. In the event of litigation to enforce any of the terms and provisions of this Contract, the prevailing party shall be entitled to receive all reasonable attorneys' fees incurred therein (including fees for appeals) together with costs and disbursements. In no event shall said attorneys' fees be based on a contingency fee basis. Attorneys' fees shall be computed on an hourly basis.

c. Purchaser agrees that prior to taking possession of the Boat Slip, Purchaser shall not file a *lis pendens* or claim of lien against the Boat Slip concerning any dispute with Seller relative to the subject matter of this Contract.

d. If a casualty occurs to the Boat Slip prior to closing, Seller may, at Seller's option, either cancel this Contract, in which event Purchaser's deposit will be refunded and this Contract shall become void and of no effect, or Seller may elect to rebuild as soon as possible, in which event this Contract shall be in full force and effect; provided, however, that such reconstruction is accomplished within ONE HUNDRED EIGHTY (180) days. Under no circumstances shall Purchaser have any interest in any insurance proceeds attributable to said casualty.

e. The following disclosure is required to be furnished to Purchaser under Florida law (*disclosure intended to be applicable to clubhouse/harbormaster facility*):

Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

f. Purchaser represents that Purchaser has not relied upon any statements, verbal or written, published by or under the authority of Seller in any advertising and promotional matter including, but not limited to, newspaper, radio or television advertisements, but has based his decision to enter into this Contract with Seller on personal investigation, observation and the disclosure materials provided herewith.

g. By execution of this Contract, Purchaser acknowledges receipt of copies of the Declaration and other Association Documents.

h. Purchaser shall not have the right to assign this Contract without the prior written consent of Seller. Further, Purchaser acknowledges and understands that after Closing, the Declaration imposes certain limitations and restrictions on the transfer of possession of the Boat Slip.

i. Purchaser shall not, directly or indirectly, record this Contract in the public records.

**PURCHASER ACKNOWLEDGES AND UNDERSTANDS THIS CONTRACT AND ANY RELATED DOCUMENTS, ALL DISCLOSURE MATERIALS AND ANY BROCHURES, ARE ALL IMPORTANT LEGAL DOCUMENTS AND, IF NOT UNDERSTOOD, PROSPECTIVE PURCHASERS SHOULD SEEK LEGAL ADVICE.**

**THIS AGREEMENT SHALL NOT BE BINDING UPON SELLER UNTIL EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF COCOA VILLAGE MARINA, LLC, A FLORIDA LIMITED LIABILITY COMPANY.**

**PURCHASER ACKNOWLEDGES AND UNDERSTANDS THAT PURCHASER IS NOT PURCHASING FEE SIMPLE TITLE TO THE BOAT SLIP UNIT AND THAT PURCHASER'S INTEREST IN THE BOAT SLIP IS ONLY POSSESSORY IN NATURE AND PURCHASER'S CONTINUING RIGHT TO POSSESSION OF THE BOAT SLIP IS SUBJECT TO ALL OF THE TERMS AND CONDITIONS OF THE APPLICABLE SUBMERGED LAND LEASE AND THE WAVE ATTENUATION EASEMENT REFERRED TO HEREIN AND IN THE DECLARATION.**

**Co-Broker:** \_\_\_\_\_

**Additional Clauses or Addenda:** \_\_\_\_\_

\_\_\_\_\_

**COCOA VILLAGE MARINA, LLC,**  
A FLORIDA LIMITED LIABILITY COMPANY

**PURCHASER(S):**

By: \_\_\_\_\_  
Its: Authorized Agent

By: \_\_\_\_\_  
*Print Name:* \_\_\_\_\_

Date: \_\_\_\_\_, 2009

*Tax Payer ID No.* \_\_\_\_\_

Date: \_\_\_\_\_, 2009

By: \_\_\_\_\_  
*Print Name:* \_\_\_\_\_

*Tax Payer ID No.* \_\_\_\_\_

Date: \_\_\_\_\_, 2009

**COCOA VILLAGE MARINA BOATERS ASSOCIATION, INC.**  
**REAL PROPERTY SALES DISCLOSURE**

**TO: PROSPECTIVE PURCHASERS:**

Upon closing, additional costs will be demanded from you in the form of closing costs. A list of known major cost items if applicable to your transaction, is as follows:

- \* Title insurance search and premium
- \* Attorney's fees - Purchaser's counsel
- \* Working Capital Contributions to COCOA VILLAGE MARINA BOATERS ASSOCIATION, INC. estimated to be in the amount of \$\_\_\_\_\_

Buyer acknowledges reading this Real Property Sales Disclosure before signing the foregoing Contract.

Dated: \_\_\_\_\_, 2009

**PURCHASER(S):**

\_\_\_\_\_  
  
\_\_\_\_\_