

Amended and Restated
Declaration of Covenants, Conditions and Restrictions
for
BALD HEAD ASSOCIATION

TABLE OF CONTENTS

Preliminary Matters	1
ARTICLE 1: DEFINITIONS.....	3
1.1 <u>AMENITIES</u>	3
1.2 <u>ARCHITECTURAL REVIEW COMMITTEE OR COMMITTEE</u>	3
1.3 <u>ARTICLES</u>	3
1.4 <u>ASSOCIATION</u>	3
1.5 <u>BOARD OF DIRECTORS OR BOARD</u>	3
1.6 <u>BYLAWS</u>	4
1.7 <u>CAPITAL IMPROVEMENT</u>	4
1.8 <u>COMMON AREA</u>	4
1.9 <u>COMMON EXPENSE</u>	4
1.10 <u>COMMUNITY WIDE STANDARD</u>	4
1.11 <u>DECLARATION</u>	4
1.12 <u>ESTATE LOTS</u>	4
1.13 <u>GENERAL ASSESSMENTS</u>	5
1.14 <u>IMPROVED UNIT</u>	5
1.15 <u>LIMITED COMMON AREA</u>	5
1.16 <u>MEMBER</u>	5
1.17 <u>MULTI-FAMILY SITE</u>	5
1.18 <u>NON-RESIDENTIAL AREAS</u>	5
1.19 <u>OWNER</u>	5
1.20 <u>PERSON</u>	5
1.21 <u>PROPERTIES OR SUBJECT PROPERTY</u>	5
1.22 <u>RULES AND REGULATIONS</u>	5
1.23 <u>SPECIAL ASSESSMENTS</u>	5
1.24 <u>TIME SHARE UNIT</u>	6
1.25 <u>UNIMPROVED UNIT</u>	6
1.26 <u>UNIT</u>	6
1.27 <u>USER</u>	6
ARTICLE 2: ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHT	6
2.1 <u>FUNCTION OF ASSOCIATION</u>	6
2.2 <u>MEMBERSHIP</u>	7
2.3 <u>VOTING</u>	7
ARTICLE 3: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.....	7
3.2 <u>PERSONAL PROPERTY AND REAL PROPERTY FOR COMMON USE</u>	8
3.3 <u>RULES</u>	8
3.4 <u>ENFORCEMENT</u>	8
3.5 <u>BOARD AUTHORITY; IMPLIED RIGHTS</u>	8
3.6 <u>INDEMNIFICATION</u>	8
3.8 <u>MANAGEMENT AND ADMINISTRATION</u>	8
3.7 <u>ASSOCIATION INSURANCE</u>	8
ARTICLE 4: CONDEMNATION	8
4.1 <u>CONDEMNATION</u>	8
4.2 <u>RESTORATION</u>	9

ARTICLE 5. ASSESSMENTS	9
5.1 <u>CREATION OF ASSESSMENTS</u>	9
5.2 <u>PURPOSE OF ASSESSMENTS</u>	9
5.3 <u>COMPUTATION OF GENERAL ASSESSMENT</u>	10
5.4 <u>CAPITAL RESERVE BUDGET</u>	10
5.5 <u>SPECIAL ASSESSMENTS</u>	10
5.6 <u>DUE DATES OF GENERAL ASSESSMENTS</u>	11
5.7 <u>LIEN FOR ASSESSMENTS</u>	11
5.8 <u>EFFECT OF NONPAYMENT OF ASSESSMENTS REMEDIES OF THE ASSOCIATION</u>	12
5.9 <u>EXEMPT PROPERTY</u>	12
ARTICLE 6. MORTGAGEE PROVISIONS.....	12
6.1 <u>NOTICE TO ASSOCIATION</u>	12
6.2 <u>FAILURE OF MORTGAGEE TO RESPOND</u>	12
ARTICLE 7. DESIGN GUIDELINES	13
7.1 <u>GENERAL</u>	13
7.2 <u>ARCHITECTURAL REVIEW</u>	13
7.3 <u>GUIDELINES AND PROCEDURES</u>	14
7.4 <u>SUBMISSION OF PLANS AND SPECIFICATIONS</u>	14
7.5 <u>NO WAIVER OF FUTURE APPROVALS</u>	16
7.6 <u>VARIANCE</u>	16
7.7 <u>LIMITATION OF LIABILITY</u>	16
7.8 <u>SPECIFIC DESIGN GUIDELINES</u>	17
ARTICLE 8. COMMON AREAS	19
8.1 <u>COMMON AREA</u>	19
8.2 <u>DEDICATION OF COMMON AREA</u>	19
8.3 <u>MANAGEMENT OF COMMON AREA</u>	19
ARTICLE 9. PROPERTY RIGHTS IN COMMON AREA.....	19
9.1 <u>EASEMENT RIGHTS OF OWNER IN COMMON AREA</u>	19
9.2 <u>EXTENSION OF EASEMENT RIGHTS</u>	20
ARTICLE 10: USE GUIDELINES AND RESTRICTIONS.....	20
10.1 <u>PLAN OF DEVELOPMENT; APPLICABILITY; EFFECT</u>	20
10.2 <u>RULES AND REGULATIONS</u>	20
10.3 <u>OWNERS' ACKNOWLEDGMENT</u>	20
10.4 <u>RIGHTS OF OWNERS</u>	21
10.5 <u>USE GUIDELINES AND RESTRICTIONS</u>	21
ARTICLE 11: MAINTENANCE.....	23
11.1 <u>ASSOCIATION'S RESPONSIBILITY</u>	23
11.2 <u>OWNER'S RESPONSIBILITY</u>	23
11.3 <u>MAINTENANCE OF UNITS</u>	24
11.4 <u>STANDARD OF PERFORMANCE</u>	24
ARTICLE 12. EASEMENTS	24
12.1 <u>EASEMENT FOR UTILITY INSTALLATION</u>	24
12.2 <u>EASEMENTS FOR CROSS-DRAINAGE</u>	25
12.3 <u>POWER TO GRANT EASEMENTS</u>	25
12.4 <u>EASEMENT FOR ENTRY</u>	25
12.5 <u>EASEMENT FOR MAINTENANCE</u>	25

12.6 <u>EASEMENTS FOR OWNER'S INGRESS AND EGRESS</u>	25
12.7 <u>EASEMENT FOR PATHWAYS</u>	25
12.8 <u>COMMON AREA EASEMENT</u>	25
12.9 <u>GRADING EASEMENTS</u>	26
12.10 <u>GOLF COURSE RESTRICTIONS FOR FAIRWAY UNITS</u>	26
12.11 <u>EASEMENTS RUN WITH THE LAND</u>	26
ARTICLE 13: SUBDIVISION OF LOTS ANNEXATION AND MERGER	27
13.1 <u>SUBDIVISION</u>	27
13.2 <u>ANNEXATION</u>	27
13.3 <u>MERGERS</u>	27
ARTICLE 14: DURATION, AMENDMENT AND TERMINATION	28
14.1 <u>UNITS, PERSONS AND ENTITIES SUBJECT TO THIS DECLARATION, DURATION AND TERMINATION</u>	28
14.2 <u>AMENDMENT</u>	28
14.3 <u>MODIFICATION</u>	29
ARTICLE 15: COMPLIANCE WITH THIS DECLARATION, THE ARTICLES, THE BYLAWS AND THE RULES AND REGULATIONS OF THE ASSOCIATION	29
15.1 <u>ENFORCEMENT</u>	29
15.2 <u>REMEDIES</u>	29
15.3 <u>SUSPENSION OF RIGHTS</u>	29
15.4 <u>FINES</u>	30
15.5 <u>REMEDIES CUMULATIVE</u>	30
15.6 <u>WAIVER</u>	30
ARTICLE 16: GENERAL PROVISIONS	30
16.1 <u>DISPUTE RESOLUTION</u>	30
16.2 <u>AMENITIES AND FACILITIES</u>	30
16.3 <u>APPLICABILITY; LEASES</u>	30
16.4 <u>OTHER ASSOCIATIONS</u>	30
16.5 <u>VARIANCES</u>	31
16.6 <u>CONFLICT</u>	31
16.7 <u>SEVERABILITY</u>	31
16.8 <u>CAPTIONS</u>	31
16.9 <u>LIBERAL CONSTRUCTION</u>	31
ARTICLE 17: RIGHTS OF BALD HEAD ISLAND LIMITED	31
17.1 <u>BALD HEAD ISLAND LIMITED</u>	31
17.2 <u>COMMITTEE REPRESENTATION</u>	32
17.3 <u>COMMITTEE APPROVAL</u>	32
EXHIBIT A	34
CERTIFICATE OF VALIDITY	40

STATE OF NORTH CAROLINA

COUNTY OF BRUNSWICK

AMENDED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR BALD HEAD
ASSOCIATION

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter "Declaration"), is made this the ____ day of _____, 2000, by Bald Head Association, on behalf of itself and all Owners of parcels of real property or lots described and shown on **EXHIBIT A** attached hereto who have approved this Declaration through separate written execution, and Bald Head Island Limited;

PREAMBLE

WHEREAS, Carolina Cape Fear Corporation, a North Carolina corporation, did, while Owner of Bald Head Island, place certain restrictive covenants on record which apply to land conveyed when the deed or deeds for such land made specific reference to the restrictive covenants recorded in Book 263, Page 621, of the Brunswick County Registry; and

WHEREAS, Bald Head Island Corporation, a North Carolina corporation, acquired substantially all of the undeveloped portion of Bald Head Island in Smithville Township, Brunswick County, North Carolina, pursuant to foreclosure deed, dated May 3, 1976, and recorded in Book 350 at Page 68 of the Brunswick County Registry; and

WHEREAS, subsequent to the recording of the above restrictive covenants, Carolina Cape Fear Corporation and Bald Head Island Corporation did convey lots on Bald Head Island with reference to said restrictions; and

WHEREAS, Bald Head Island Corporation recorded a Declaration of Restrictions dated April 18, 1977, for property located within Stage I of Bald Head Island, which property is more particularly described therein, and which Declaration of Restrictions is recorded in Book 374, Page 645, of the Brunswick County Registry; and

WHEREAS, Bald Head Island Corporation and certain Owners of residential lots shown on the subdivision plats of Stage I recorded in Map Book 12, Pages 1-11 and 38 subsequently recorded an Amended and Restated Declaration of Restrictions, dated July 1, 1978, on property located in Stage I of Bald Head Island and which property is more particularly described therein, which Amended and Restated Declaration of Restrictions is recorded in Book 409, Page 421, of the Brunswick County Registry; and

WHEREAS, Bald Head Island Corporation and certain Owners of parcels of real property or residential lots subsequently recorded an Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, dated January 29, 1982,

for property which is more particularly described therein, which Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island, Stage I, Brunswick County, is recorded in Book 498, Page 260, of the Brunswick County Registry; and

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, recorded in Book 498, Page 260, Brunswick County Registry, was subsequently amended in accordance with the requirements set forth in Article XI, Section 4 of said Declaration, by that Amendatory Addendum to Amended and Restated Declaration of Covenants, Conditions and Restrictions recorded in Book 725, Page 943, of the Brunswick County Registry, and by that Resolution before the Board and Amendment, which resolution is recorded in Book 1076, Page 89, of the Brunswick County Registry, and which amendment is recorded in Book 1076, Page 91, of the Brunswick County Registry; and

WHEREAS, certain lots subject to the restrictive covenants recorded in Book 263, Page 621, the Declaration of Restrictions recorded in Book 374, Page 645, the Amended and Restated Declaration of Restrictions recorded in Book 409, Page 421, and Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island, Stage I recorded in Book 498, Page 260, all of the Brunswick County Registry, are no longer located above the mean high water line of the Atlantic Ocean and the Cape Fear River because of erosion or other natural phenomenon (“Excluded Lots”); and

WHEREAS, these Excluded Lots no longer have voting rights or the obligation to pay assessments to the Association because they do not lie above the mean high water line of the Atlantic Ocean or the Cape Fear River and have accordingly not been included as Owners for purposes of amending the restrictive covenants set forth in those documents recorded in Book 263, Page 621, Book 374, Page 645, Book 409, Page 421 and Book 498, Page 260, all of the Brunswick County Registry; and

WHEREAS, Article XI, Section 4 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, recorded in Book 498, Page 260, of the Brunswick County Registry, provides that it may be amended by an instrument signed by Owners of not less than fifty percent (50%) of the Owners of Assessable Properties, as defined therein, in accordance with the procedure for certification and recordation set forth in Article XI, Section 5 therein; and

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick, recorded in Book 498, Page 260, of the Brunswick County Registry, was intended to supersede and replace all previous covenants and restrictions for property described in Exhibit A therein and/or annexed thereto; and

WHEREAS, Bald Head Island Limited, a Texas Limited partnership, is the successor and/or assignee of Carolina Cape Fear Corporation and Bald Head Island Corporation; and

WHEREAS, Owners representing more than fifty percent (50%) of the Owners of Assessable Properties subject to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County, recorded in Book 498, Page 260, of the Brunswick County Registry as of September 1, 1999, have signified through separate execution acceptance and approval of this Declaration; and

WHEREAS, Bald Head Island Limited, successor and assignee of Carolina Cape Fear Corporation and Bald Head Island Corporation, has joined in the execution of this Declaration; and

WHEREAS, the Board of Directors of Bald Head Association has certified this Declaration in accordance with Article XI, Section 5 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island, Stage I, Brunswick County and has attached hereto the certification required therein; and

NOW, THEREFORE, the Bald Head Association, on behalf of itself and all Owners who have executed this instrument, and Bald Head Island Limited do hereby declare in consideration of the premises and intending to be legally bound: that all of the Properties, described in **EXHIBIT A** attached hereto and/or annexed by agreement, shall be hereafter held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described Properties or any part thereof, and shall inure to the benefit of each Owner thereof.

It is the intent of the undersigned that this AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BALD HEAD ISLAND shall revoke, supersede and replace the covenants and restrictions recorded in Book 498, Page 260, of the Brunswick County Registry, and as amended in Book 725, Page 943, and Book 1076, Page 91, both of the Brunswick County Registry, and all the previous covenants and restrictions referenced in this preamble.

ARTICLE 1 DEFINITIONS

1.1 Amenities means the facilities constructed, erected, or installed on the Common Area for the use, benefit and enjoyment of Members.

1.2 Architectural Review Committee or Committee means the Committee which has jurisdiction over all construction on any portion of the Properties and whose members are appointed by the Board.

1.3 Articles means the Articles of Incorporation of Bald Head Association.

1.4 Association means Bald Head Association, its successors and assigns.

1.5 Board of Directors or Board means those persons elected or appointed and acting collectively as the Directors of the Association.

1.6 Bylaws means the Bylaws of Bald Head Association.

1.7 Capital Improvement means land, building(s), equipment, fixtures, or personal property relating thereto.

1.8 Common Area means all real property and facilities owned by the Association for the common use and enjoyment of all Members of the Association, including greenways, recreational areas, dunes, beaches and roadways. It is intended that the Common Area will include all of the Subject Property except platted lots, Multi-Family Sites, and other Non-Residential Areas, the golf course, clubhouse sites and sites established for utility purposes.

1.9 Common Expense means and includes actual and estimated expenses of acquiring, maintaining and operating the Common Areas and property owned or leased by the Association; of providing services provided for the Association or its Members; and of operating the Association and its committees for general purposes. This will include any reasonable reserve, as may be found necessary and appropriate by the Board of Directors pursuant to this Declaration, the Bylaws and Articles, and will, in addition, include the following:

(a) expenses of administration, maintenance, repair or replacement of the Common Area and Limited Common Area;

(b) expenses declared to be Common Expenses by the provisions of this Declaration, the Bylaws, or agreed to be Common Expenses by the Members present and voting in Person or voting by proxy at a meeting of the Members;

(c) hazard, liability, or such other insurance premiums as this Declaration or the Bylaws may require the Association to purchase;

(d) any ad valorem taxes and public assessments levied against the Common Area; and

(e) expenses for the provision of services benefiting all Members, including, without limitation, transportation services.

1.10 Community Wide Standard means the standard of conduct, maintenance or other activity generally prevailing in the Properties or Bald Head Island. Such standard may be more specifically determined by the Board.

1.11 Declaration means this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Association.

1.12 Estate Lots means all lots designated on any recorded plat as E- followed by a number.

1.13 General Assessments means assessments to fund Common Expenses for the general benefit of all Units within the Properties.

1.14 Improved Unit means a Unit with a completed structure build upon it for which the Village of Bald Head has issued a certificate of occupancy.

1.15 Limited Common Area means those portions of the Common Area that serve only a limited number of Units and which may include, but specifically is not limited to, walkways, parking buildings or areas serving only specified lots, and such other similar areas as may be designated by the Association. The Limited Common Area will be maintained at the expense of the Owners of Units served thereby and not at the expense of the Association.

1.16 Member means and refers to every Owner.

1.17 Multi-Family Site means Timber Creek Condominiums, Royal James Landing condominiums, Swans Quarter Condominium site, Bald Head Island Villas, The Hammocks, Lighthouse Landing, Sabal Palm Cottages, Flora's Bluff, Killegray Ridge, Ibis Roost, and any other sites which are or become a part of the Properties, whether by annexation or merger, and which are designated or identified as Multi-Family Sites at the time of annexation or merger.

1.18 Non-Residential Areas means and refers to any plot of land which is a part of or will be annexed to the Properties when permanently developed or established for Non-Residential uses such as the Bald Head Island Club and similar types of facilities, golf courses, club house or other facilities owned by the Association, inns, motels, hotels, offices, shops, service businesses, maintenance and repair areas and similar commercial or service uses necessary and desirable to the Properties and operation of the community.

1.19 Owner means and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Unit which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and any association responsible for maintaining Common Area in any Multi-Family Site.

1.20 Person means and refers to any individual, corporation, partnership, association, trustee, or other legal entity.

1.21 Properties or Subject Property means and refers to that certain real property described in **EXHIBIT A** attached hereto.

1.22 Rules and Regulations means the Rules and Regulations of Bald Head Association.

1.23 Special Assessments means and refers to an assessment for the purposes set forth in Section 5.5.

1.24 Time Share Unit means any Unit which is formed and registered under Chapter 93 of the North Carolina General Statutes or any subsequently adopted legislation.

1.25 Unimproved Unit means a vacant Unit with no completed structure built upon it.

1.26 Unit means a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy. The term will refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term will not include any time share interests, only the Unit subject to the time share interests. Non-residential areas may have more than one Unit assigned to it by the Board as provided in Section 2.3.

1.27 User means members of an Owner's family, occupants of an Owner's Unit, and the guests, invitees, licensees, agents, employees, representatives, tenants, lessees and contract purchasers of any Owner.

ARTICLE 2

ASSOCIATION FUNCTION, MEMBERSHIP AND VOTING RIGHTS

2.1 Function of Association. The Association will be responsible:

(a) to act on such matters as the Board determines affects the welfare and recreation of its Members and the beautification and conservation of the natural environment of the Properties;

(b) to communicate the actions, decisions and activities of the Association and Bald Head events (deemed by the Board to be of general interest) to its Members;

(c) to provide such services and facilities to its Members as the Board determines will promote the welfare and recreation of its Members and beautification and conservation of the natural environment of the Properties or any part of them, which services may include, for example, operating a Community Center building for its Members and others;

(d) for ownership, management, maintenance, operation and control of the Common Area owned or leased by the Association within the Properties and any private roads and Amenities owned by the Association, or other areas maintained by the Association;

(e) for enforcement of this Declaration, the Articles, Bylaws and the Rules and Regulations;

(f) for administering and enforcing the architectural design guidelines and controls set forth in this Declaration and in the Design Guidelines; and

(g) to perform its functions in accordance with this Declaration , the Bylaws, the Articles and applicable North Carolina law.

2.2 Membership. Every Owner will be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Unit which is subject to assessment by the Association. There will be only one membership per Unit. If a Unit is owned by more than one Person, all Co-Owners will share the privileges of that membership. The membership rights of an Owner which is a corporation, partnership, limited liability company or other legal entity may be exercised by any officer, director, partner, member, manager, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

The Board of Directors may make reasonable rules relating to the proof of Ownership of a Unit.

2.3 Voting.

(a) The Association shall have one class of voting membership. Members shall be entitled to one vote for each Unit in which they hold the interest required for membership by this ARTICLE. When more than one person holds such interest in any Unit, all such persons shall be Members. The vote for each Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any single Unit, and no fractional vote shall be cast with respect to any Unit. Members may notify the Secretary of the Association of the name of the individual who is entitled to cast the vote for that Unit in writing prior to any meeting; absent such notification the Member's vote will be suspended if more than one person seeks to exercise it.

(b) Non-Residential Areas will be entitled to one vote for each Unit owned. The number of Units allocated to each Non-Residential Area will be determined by the Board, but will not be less than one Unit.

(c) The Association for any Common Area owned or any association within a Multi-Family Site for any property owned within such Multi-Family Site will not have any votes.

ARTICLE 3 RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

3.1 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property.

3.2 Rules. The Association, through its Board, may make, revoke, amend and enforce reasonable rules governing the use of the Properties, in addition to further defining or limiting and, where specifically authorized hereunder, it may create exceptions to those covenants and restrictions set forth in this Declaration. Such rules shall be binding upon all Owners and Users.

3.3 Enforcement. The Association may impose sanctions for violations of this Declaration, the Articles, the Bylaws, or Rules and Regulations, including reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities or Amenities within the Common Area. In addition, the Association may exercise self-help to cure violations, and may suspend any services it provides to the Unit of any Owner who is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board may seek relief in any court for violations or to abate nuisances. The Board may assess the reasonable monetary fines authorized by this Section as a Special Assessment authorized by ARTICLE 5 of this Declaration, and may take any other action permitted by this Declaration for the enforcement of this Declaration, including those set forth in ARTICLE 15.

3.4 Board Authority and Implied Rights. Except as otherwise specifically provided in this Declaration, the Bylaws or Articles, all rights and powers of the Association may be exercised by the Board without a vote of the membership. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, or the North Carolina Nonprofit Corporation Act, or other applicable laws or reasonably implied therefrom or reasonably necessary to effectuate any such right or privilege.

3.5 Indemnification. To the maximum extent allowed by North Carolina law, the Association will indemnify every officer, director, and committee member against all expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be party by reason of being or having been an officer, director or committee member.

The Association will, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

3.6 Management and Administration. The management and administration of the Association and Common Area will be the sole right and responsibility of the Association. The management will be carried out in accordance with the terms and conditions of this Declaration, the Articles, Bylaws and Rules and Regulations; or they may be delegated.

3.7 Association Insurance. The Association will maintain all insurance coverage it believes desirable, including, but not limited to officers' and directors' liability insurance, general liability insurance, Workman's Compensation insurance and casualty insurance.

ARTICLE 4 CONDEMNATION

4.1 Condemnation. If any part of the Common Area shall be taken (or conveyed in lieu of condemnation by the Board acting on a vote of at least two-thirds of the Members present and voting in person or voting by proxy at a meeting of the Members) by any authority having the power of

condemnation or eminent domain, each Owner will be entitled to written notice. The award made for such taking will be payable to the Association and will be used as set forth in paragraph 4.2 below and thereafter, in the discretion of the Board of Directors.

4.2 Restoration. If the taking involves a portion of the Common Area on which improvements have been constructed, the Association will restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless at least two-thirds of the Members present and voting in person or voting by proxy at a meeting of the Members shall otherwise agree. Any such construction will be in accordance with plans approved by the Board.

ARTICLE 5 ASSESSMENTS

5.1 Creation of Assessments.

(a) The Association is hereby authorized to levy assessments against each Unit for Association expenses as the Board may specifically authorize from time to time. There will be two types of assessments for Association expenses: (1) General Assessments to fund Common Expenses for the general benefit of all Units within the Properties ("General Assessments"); and (2) Special Assessments as described in Section 5.5. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

(b) The Association will, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Such certificate will be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(c) No Owner may exempt himself from liability for assessments, by non-use of Common Area, abandonment of his Unit, or any other means. No diminution or abatement of assessments or set-off will be claimed or allowed for any alleged 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.

(d) The Association is specifically authorized, but not obligated, to enter into subsidy contracts or contracts for "in kind" contribution of services, materials or a combination of services and materials with other entities for payment of Common Expenses.

5.2 Purposes of Assessments. The assessments levied by the Association will be used exclusively for the purpose of fulfilling the function of the Association as more specifically set forth in Section 2.1 herein.

5.3 Computation of General Assessment.

(a) At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget prepared as provided in Section 5.4.

(b) The General Assessment will be levied against all Units as hereinafter set forth and will 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 level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. Improved Units shall pay General Assessments (as of the beginning of the fiscal year following the issuance of a certificate of occupancy for the Improved Unit) equal to three (3) times the General Assessment payable by the Owner of an Unimproved Unit.

5.4 Capital Reserve Budget. The Board will annually prepare a capital reserve budget for acquisition, maintenance and replacement of Capital Improvements which considers the number and nature of replaceable assets, the expected life of each asset, and the expected cost.

5.5 Special Assessments.

(a) In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover Capital Improvements, including acquisition, construction, reconstruction, maintenance, repair or replacement thereto, or unbudgeted expenses or expenses in excess of those budgeted. The Board may establish the amount of the Special Assessment for Capital Improvements if it is less than (1) ten percent (10%) of the General Assessment or (2) TWO HUNDRED FIFTY DOLLARS (\$250.00), whichever is greater, in any assessment year for each Unit. All other Special Assessments for Capital Improvements will require the affirmative vote of two-thirds of Members present and voting in person or by proxy at a meeting of the Members who will be subject to such Special Assessment. Special Assessments for Capital Improvements will be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Improved Units shall pay Special Assessments levied under this subparagraph (a) equal to three (3) times the Special Assessment levied against an Unimproved Unit hereunder.

(b) The Board will have the power to levy Special Assessments against a particular Unit or Units constituting less than all Units within the Properties, as follows:

(1) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to

Owners, which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(2) to cover costs including overhead and administrative costs and reserves incurred for maintenance, repair and replacement of any private roads, signs, fences and berms or other structures or items which are constructed for the benefit of certain specified Units;

(3) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration including, but not be limited to, ARTICLE 10, the Bylaws, Rules and Regulations, Design Guidelines or costs incurred as a consequence of the conduct of the Owner or User, including fines; provided that the Board shall give the Unit Owner prior written notice and an opportunity for a hearing before levying a Special Assessment under this subsection (b)(3);

(4) to cover all expenses, including overhead, administrative costs and reserves, incurred for maintenance, repair and replacement of any Limited Common Area; or

(5) to cover all expenses, including overhead, administrative costs and reserves for maintenance, repair and replacement of any areas or services for the benefit of any Non-Residential Areas.

5.6 Due Dates of General Assessment. The Board of Directors will fix the amount of the General Assessment against each Unit at least thirty (30) days in advance of the due date. Written notice of each General Assessment will be sent to every Owner subject thereto. The due dates will be established by the Board of Directors. The Board of Directors will require the General Assessment be paid at least annually, but may require them to be paid more often. The Association will, upon request, furnish a certificate signed by an officer of the Association setting forth whether the General Assessment or Special Assessment on a specified Unit have been paid.

5.7 Lien for Assessments. All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by North Carolina law), late charges, costs, and reasonable attorney's fees, will be a charge and continuing lien upon each Unit against which the assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, will also be the personal obligation of the Person who was the Owner of such Unit at the time the assessment was made. Such lien will be superior to all other liens, except the liens of all ad valorem taxes or assessments, and any other liens which by law would be superior. Upon a transfer of title to a Unit, the grantee will be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first mortgagee or first beneficiary under a deed of trust who obtains title to a Unit by exercising the remedies provided in its mortgage or deed of trust or any individual obtaining title by or through a foreclosure will be personally liable for unpaid assessments which accrued prior to such acquisition of title. In the event of any transfer of title to a Unit, the lien of the assessments will not be extinguished.

5.8 Effect of Nonpayment of Assessments: Remedies of the Association: Any assessments or portion thereof which are not paid when due will be delinquent. The Association may record notice of the claim of lien in the Office of the Clerk of Superior Court of Brunswick County, file Notice of Lis Pendens, file a suit to collect such delinquent assessments and charges against the Owner personally obligated to pay the same, foreclose the lien against the property in the same manner as provided in North Carolina for the foreclosure of deeds of trust, including foreclosure under a power of sale, utilize any combination of these actions, or utilize any other remedy provided under North Carolina law. For any of these actions, interest, late charges, costs and reasonable attorneys' fees will be added to the amount of such assessment. The Association may bid for the Unit at any foreclosure or judicial sale and acquire, hold, lease, mortgage, and convey the Unit. The sale or transfer of any Unit will not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein.

5.9 Exempt Property. The following property will be exempt from the payment of General Assessments and Special Assessments:

- (a) all Common Area or Limited Common Area;
- (b) any property dedicated to and accepted by any governmental authority or public utility;
- (c) any property held by a conservation trust or similar nonprofit entity as a conservation easement, except to the extent that any such easement lies within the boundaries of a Unit which is subject to assessment under this ARTICLE (in which case the Unit will not be exempted from assessment).

ARTICLE 6 MORTGAGEE PROVISIONS

6.1 Notice to Association. In the event that any Member is in default in any obligation hereunder which remains unpaid for a period of sixty (60) days, every lender who is a first mortgagee or first beneficiary under a deed of trust as to the Unit of the defaulting Member will be immediately notified of such default, provided that such lender will have given specific written notice to the Association that it is the holder of a first mortgage, or first deed of trust, and will have requested the notice of default as herein set forth.

6.2 Failure of Mortgagee to Respond. Any mortgagee or beneficiary under a deed of trust who receives a written request from the Board to respond to or consent to any action, will be deemed to have approved such action if the Association does not receive a written response within thirty (30) days of the mailing of such request, provided such request is delivered to the mortgagee or beneficiary of a deed of trust by certified or registered mail, return receipt requested.

ARTICLE 7 DESIGN GUIDELINES

7.1 General.

(a) No structures, buildings, improvements or construction, which shall include within its definition, clearing, grading, excavation and other sitework, will be commenced, erected, or maintained upon any Unit or the Properties, nor will any exterior addition, change, alteration, or change of color be made, except in compliance with this ARTICLE, the Design Guidelines and until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same will have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Committee according to the provisions of Section 7.2. Structures, buildings and improvements shall include, but not be limited to any dwelling, garage, fence, wall, sidewalk, hedge, mass planting, change in grade or slope, drainage pipe, drainage canal, ditch, swale, catch basin, swimming pool, tree house, playhouse, sign, flagpole, exterior illumination, monument or marker, outdoor statuary, exterior lights, security lights, storm door, well utility facility, mailbox, patio, deck, screening for outdoor trash cans or other purposes, sprinkler system, driveway, outdoor decorative objects, shrubbery or landscaping.

(b) Any Owner may remodel, paint or redecorate the interior of structures on his Unit without 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.

(c) This ARTICLE will apply to improvements to the Common Area by, or on behalf of, the Association.

(d) This ARTICLE will apply to improvements located on golf course property, but not to the design of the golf course.

7.2 Architectural Review.

(a) Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article will be handled by the Committee as described in this Section 7.2. The members of the Committee will be Members of the Association, and may not include contractors, builders, architects or others involved in the design or construction of structures on the Properties, except as may otherwise be provided in ARTICLE 17 herein. The Board may hire such professionals as it deems necessary to assist the Committee in the discharge of its duties. The Board may establish and charge reasonable fees for review of applications hereunder. These fees may include the fees charged by any professionals employed by the Board and may require such fees to be paid in full prior to review.

(b) The Committee will consist of at least five (5) persons appointed by the Board beginning on January 1, 2000, and will have jurisdiction over all construction on any portion of the Properties. The Committee shall consist of five (5) members from January 1, 2000 to December 31, 2004 and shall have representation from Bald Head Limited as provided in ARTICLE 17. Thereafter, the Board may change the number of persons serving on the Committee to an odd number of at least five (5) and not more than nine (9) persons by a vote of not less than two-thirds (2/3) of the Board.

(c) The Committee will consider as part of the review process the natural beauty and features of the land, adherence to the Community Wide Standards, aesthetic compatibility of architectural style and materials with other structures on Bald Head Island, and will maximize the conservation of trees and natural vegetation.

7.3 Design Guidelines and Procedures.

(a) The Committee will prepare design guidelines, application and review procedures (the "Design Guidelines"), and amendments thereto which shall apply to all construction activities within the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. The Design Guidelines, application and review procedures, and any amendments thereto must be adopted and approved by the Board of Directors initially and reviewed at least every five (5) years thereafter.

(b) Any amendments to the Design Guidelines will apply to construction and modifications commenced after the date of such amendment only, and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

(c) The Committee will make the Design Guidelines available to Owners and contractors who seek to engage in development or construction within the Properties, and all such Persons will conduct their activities in accordance with such Design Guidelines.

7.4 Submission of Plans and Specifications.

(a) No construction or improvements, as defined in Section 7.1(a), will be commenced, erected, placed or maintained on any Unit; nor will any exterior addition, change or alteration be made thereto, until the plans and specifications ("Plans") will have been submitted to and approved by the Committee. The approval of the Plans will be consistent with the Design Guidelines. The Plans will show site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, screening, and grading plans. The Design Guidelines will set forth the procedure for submission of the Plans. A reasonable fee for the review of the Plans will be required and submitted, along with the Plans and any other supporting documents required by Committee. The Board may require a deposit to be posted prior to the

commencement of any construction or work, which will be used for administrative costs, fees, damage to any Common Area, fines, or penalties incurred during construction or work. Any sums still due and owing will be a Special Assessment and may be collected in accordance with ARTICLE 5 or to insure that construction is completed in accordance with the Plans (including landscaping) approved by the Committee. Any sums remaining at the completion of construction will be returned to Owners or contractor.

(b) In reviewing each submission, the Committee will consider such parameters as the suitability of the proposed building, improvements, structure, landscaping, and the materials of which it is to be built; the proposed site; visual aesthetics; natural platforms and finish grade elevations; harmony of external design with nearby structures, property and environment; and location in relation to surrounding structures, property and plant life which it deems appropriate and to the extent they are articulated in the Design Guidelines. The Committee may require relocation of native plants within the construction site as a condition of approval of any submission. Location of any driveways will be subject to the approval of the Committee.

(c) The Committee will have the right to refuse to approve any Plans which, based on the Design Guidelines, are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld.

(d) No bulldozing or clearing of trees or excavation of lakes or ponds will be commenced until the Plans showing the nature, kind, shape and location of work to be done have been submitted to and approved in writing by the Committee and a copy filed permanently with the Committee.

(e) The Committee, within forty-five (45) days after receipt of each submission of the Plans, will advise the party submitting the Plans, in writing, at an address specified by such party at the time of submission, of (1) the approval of Plans, or (2) the segments or features of the Plans which are deemed by the Committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines. In the event the Committee fails to advise the submitting party by written notice within the time set forth above of either the approval or disapproval of the Plans, approval will be deemed to have been given. Notice will be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice will, however, be sufficient and will be deemed to have been given at the time of delivery.

(f) If construction does not commence on a project for which Plans have been approved within 24 months of such approval, such approval will be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans for reconsideration.

(g) An applicant of any Unit disagreeing with the finding of the Committee may appeal the decision to the Board of Directors by giving written notice of appeal to the president of the Association within fifteen (15) days following receipt of notice of denial. The Board may refer the

matter to an independent board of appeals of at least three (3) persons appointed by the Board, none of whom shall be a member of the Board or the Architectural Review Committee. Such board of appeals appointed by the Board shall review the decision of the Architectural Review Committee and make a recommendation or take other action as directed by the Board. The rules and procedures under which such board of appeals operates shall be determined by the Board. The Board of Directors will then review the plans, giving the chairman of the Architectural Review Committee, or his designee, the opportunity to present to the Board of Directors specific reasons why the plans were rejected, and the Owner of the Unit or his agent may present information challenging the findings of the Committee. The decision of the Committee will only be overridden by a two-thirds vote of the Board of Directors, and the actions of the Board must be consistent with this Declaration and the Design Guidelines. The Board of Directors will adopt an appeals procedure which is in accordance with the framework set forth in this paragraph.

7.5 No Waiver of Future Approvals. Each Owner acknowledges that the members of the Committee and the Design Guidelines will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of Plans for any work done or proposed, or any other matter requiring approval, will not be deemed to constitute a waiver of the right to withhold approval for any similar Plans subsequently or additionally submitted for approval.

7.6 Variance. The Committee may authorize in its discretion reasonable variances or adjustments from compliance with any of its guidelines and procedures in order to alleviate practical difficulties and hardship in their enforcement and operation. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; or (b) stop the Committee from denying a variance in other circumstances. Any such variances shall not violate the spirit or the intent of this document to create a subdivision of Units owned in fee by various persons with each such Owner having an easement upon areas owned by the Association.

7.7 Limitation of Liability. Review and approval of any application pursuant to this ARTICLE will be made on the basis of this ARTICLE and the Design Guidelines only and the Committee will not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board, nor the Committee, will be held liable for any injury, damages, or loss arising out of the review and approval of any application. This includes, but is not limited to, the granting of a variance, the manner or quality of construction, defects in any Plans, deficiencies in kind or quality of materials used, or for ensuring compliance with building codes and other governmental requirements.

(a) Any structure placed or improvement made in violation of this ARTICLE will be deemed to be non-conforming. Upon written request from the Board, Owner shall, at its own cost and expense, remove such structure or improvement and restore the land to substantially the same condition which existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Board will have the right to enter the property, remove the violation, and

restore the property to substantially the same condition as it previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the Unit Owner and the benefited Unit and collected as a Special Assessment in accordance with the provisions of ARTICLE 5.

(b) The Association shall have the authority to establish fines for violations of this ARTICLE and the Design Guidelines, including fines for continuing violations. The fine amounts may be deducted from any deposit posted. If the fines are not paid, the Association may establish a Special Assessment in accordance with the provisions of ARTICLE 5.

(c) In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available, including injunctive relief and proceedings for contempt, to enforce the provisions of this ARTICLE and the decisions of the Committee in accordance with the provisions of ARTICLE 15.

7.8 Specific Design Guidelines.

(a) Site Placement. To insure that the maximum balance of view, privacy and breeze will be available to each home located within the Properties; and to assure that all structures will be located with regard to the topography of each individual Unit or Multi-Family Site taking into consideration the height of the dunes, the location of trees on each Unit and similar considerations, the Committee will have the right of approval of the precise site and location of any Multi-Family structures, house or dwelling or other structure upon all the Properties. In its right to approve, the following guidelines for building will be used as a minimum standard, be adhered to, and be followed except with the prior written approval of Committee:

(1) On Estate Lots no building or structure will be located within fifty (50) feet of the street property line in front of said Unit, within twenty-five (25) feet of the side or ten (10) feet of the rear of said Estate Lots.

(2) Any setbacks or any allowed building pad shown on any recorded subdivision plat are incorporated herein by reference.

(3) On all other Units except Estate Lots, no building or structure will be located within thirty-five (35) feet of the street property line in front of said Unit or within ten (10) feet of the side or rear lines of said Unit, and within fifteen (15) feet of any side street.

(b) General Building Restrictions. Construction on numbered single-family Units within the Properties will be governed by the following general minimum requirements:

(1) Except with the prior written approval of the Committee, all single family residences will have a maximum height of thirty-five (35) feet measured from the lowest natural point on the ground beneath a building and attached structures to the highest point of the roof. The Board will establish the maximum height of Multi-Family and Non-Residential structures as part of

the Design Guidelines, which may not exceed forty-five (45) feet except with the prior written approval of the Board.

(2) Except as provided herein, single-family residences will have the minimum square footage of fourteen hundred (1400) square feet of enclosed living area, exclusive of garages, boat sheds, terraces, decks and open porches. A maximum of three hundred (300) square feet of the square footage of the floor plan may be included in a fully screened porch, so long as the roof of such porch forms an integral part of the roof line of the main structure.

(3) No temporary structures, such as trailers, tents, canopies or mobile homes, will be placed on any Unit within the Properties; provided, however, that in the course of the construction of the building as set out above, the contractor or builder may have shelters or storage sheds used in the course of the construction and for no other purpose, which will be removed from the premises within ten days after the completion of the building. No tents or canopies will be placed on any Unit without the written consent of the Association.

The Committee will approve the location of any structure, having regard for the foregoing considerations, aesthetic considerations, Community-Wide Standard, size, shape and location of the property, type of housing, and any other reasonable considerations. The Committee has the right to require maintenance and/or removal of plant material to protect an Owner's view.

(c) Completion. Once construction of a dwelling or other improvements is started on any Unit, the exterior improvements, including painting and landscaping must be completed in accordance with the approved plans and specifications within twenty-four (24) months from the date of commencement. Failure to complete construction within twenty-four (24) months from commencement date may result in a fine being imposed in the minimum amount of \$500.00 per month, which shall be payable to the Association. The fine imposed under this Section will be a Special Assessment enforceable in accordance with ARTICLE 5. Commencement date will be the date of the issuance of the building permit.

(d) Compliance with Local Regulations. Buildings must in all particulars meet the requirements of the Brunswick County Health Department regulations and the Village of Bald Head Island building code and ordinances, including the procuring of a building permit and landscape permit.

(e) Water and Sewer Service. All buildings must hook up to water and sewer service at the time of construction, whether provided by a private utility company or the Village of Bald Head Island.

(f) Non-Residential Guidelines. The Board may adopt specific guidelines governing any Non-Residential structure located within, annexed to, or merged with the Properties.

ARTICLE 8 COMMON AREA

8.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, will manage and control the Common Area and all improvements thereon (including, but not limited to, private roads, rights of way, furnishings, equipment, and common landscaped areas); and will keep it in good, clean, attractive, and sanitary condition, order and repair, consistent with this Declaration and the Community-wide Standard.

8.2 Dedication of Common Area. The Association may dedicate portions of the Common Area to any local, state, or federal governmental entity, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

8.3 Management of Common Area. The management and administration of the Association, Common Area, recreation areas and Amenities will be the sole right and responsibility of the Association.

ARTICLE 9 PROPERTY RIGHTS IN COMMON AREA

9.1 Easement Rights of Owner in Common Area. Every Owner will have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area which shall be appurtenant to and pass with the title to every Unit, subject to the following provisions:

(a) this Declaration, the Articles, the Bylaws, the Rules and Regulations and any other applicable covenants;

(b) any restrictions or limitations contained in any deed conveying such property to the Association;

(c) the right of the Board to adopt rules regulating the use and enjoyment of the Common Area and improvements thereon, including rules restricting use of the recreational facilities within the Common Area to occupants of Units and their guests and rules limiting the number of guests who may use the Common Area; and the right of the Board to establish penalties for any infractions thereof;

(d) the right of the Board to suspend the voting rights and the right to use the Common Area and the recreational facilities within the Common Area by an Owner or User (1) for any period during which any charge against such Owner's Unit remains unpaid, and (2) for a period not to exceed sixty (60) days for a single violation, or for a longer period in the case of any continuing

violation, of this Declaration, the Bylaws, Articles, or the Rules and Regulations, after notice and a hearing pursuant to procedures adopted by the Board;

(e) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;

(f) the right of the Board to impose reasonable fees for services or membership requirements and charge reasonable membership admission or other fees for the use of any recreational facility situated upon the Common Area;

(g) the right of the Board to permit use of any recreational facilities situated on the Common Area by persons, other than Owners and Users upon payment of use fees established by the Board;

(h) the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth herein. The rights of such mortgagees in said Properties will be subordinate to the rights of the Unit Owners hereunder; and

(i) easements as provided in ARTICLE 12.

9.2 Extension of Easement Rights. Any Owner may extend his or her right of use and enjoyment to any User, subject to reasonable Board regulation. An Owner who leases his or her Unit will be deemed to have assigned all such rights to the lessee of such Unit for the duration of the lease and any such lessee will abide by all the restrictions contained herein. Any such lease will not release the Owner of his liability for damage to the Common Area caused by said lessee. Owner shall be liable for damage to the Common Area caused by any User.

ARTICLE 10 USE GUIDELINES AND RESTRICTIONS

10.1 Plan of Development, Applicability, Effect. The Properties are subject to architectural and Design Guidelines as set forth in ARTICLE 7 and to guidelines and restrictions governing land use, individual conduct, and uses of or actions upon the Properties as provided in this ARTICLE 10. This Declaration establishes affirmative and negative covenants, easements, and restrictions (the "Use Guidelines and Restrictions").

10.2 Rules and Regulations. Subject to the terms of this ARTICLE 10, the Board will implement and manage the Use Guidelines and Restrictions through Rules and Regulations which adopt, modify, cancel, limit, create exceptions to, or expand the Use Guidelines and Restrictions.

10.3 Acknowledgment of Owners.

(a) All Owners and all the Properties are subject to the Use Guidelines and Restrictions and are given notice that, (1) their ability to use their privately owned property is limited thereby, and (2) the Board may add, delete, modify, create exceptions to, or amend the Use Guidelines and Restrictions in accordance with Section 10.2.

(b) Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by these provisions, agrees to be bound thereby, and agrees that the Use Guidelines and Restrictions and Rules and Regulations may change from time to time.

10.4 Rights of Owners. Except as may be specifically provided in this Declaration, the Board may not adopt any rule which interferes with the activities carried on within the confines of Units; except that the Association may prohibit activities not normally associated with property restricted to residential or commercial use; that it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that generate excessive noise or traffic, that create unsightly conditions visible outside the Unit, that block the views from other Units, that create an unreasonable source of annoyance, embarrassment or discomfort to the Association or other Owners; that constitute an illegal, immoral, improper, noxious or offensive activity; or that create a nuisance.

10.5 Use Guidelines and Restrictions. The following Use Guidelines and Restrictions apply to all the Properties except for that real property owned by the Bald Head Island Club or the golf course at the time of the recordation of this Declaration:

(a) Single Family Utilization. This Declaration will restrict all Units described on **EXHIBIT A** to use only for single family residential purposes unless an amendment to this Declaration is adopted in accordance with Section 14.2. No home or other structure constructed within the described area will be utilized for commercial purposes, except that home offices will be permitted as long as such offices do not induce traffic, require signage, require outdoor storage of equipment, inventory, vehicles, or include retail space. If otherwise approved in accordance with the procedures and standards set out within this Declaration, nothing contained herein will prohibit or restrict the construction of any appurtenant structure to any residence, including, but not limited to, decks, walkways, or cart storage facilities.

No dwelling, including any ancillary structure or annex to a Unit, will be utilized at any time for occupancy by more than one family or one family with guests. The Owner of a Unit is specifically prohibited from occupying an ancillary structure or annex located on his Unit while renting the primary residential dwelling, or from occupying the primary residential dwelling while renting the ancillary structure or annex, or from renting to two or more rental parties, the primary residence and the ancillary structure or annex.

(b) Dunes. An Owner will not remove, reduce, cut down or otherwise change or cause to be removed, reduced, cut down or changed the elevation of any sand dunes or

ridges or both within the Properties, even upon their respective Unit, except with the written permission and consent of the Association.

(c) Parking Rights. The Association may regulate the parking of vehicles, boats, trailers and other such items on the Common Area or the Properties. No vehicles, boats, trailers or other similar types of equipment shall be parked within the traffic lane of any street maintained by the Association.

(d) Parking Restrictions. Each Unit Owner will provide off-street parking space for his Unit. Off-street parking spaces may be established by the Association at various places for access to selected Common Areas. No boat, water craft of any kind, and no boat trailer will be allowed to be parked overnight on any Unit or Common Area unless screened in accordance with the Design Guidelines. Any vehicle violating this restriction may be removed and impounded by the Association and towing charges assessed.

(e) Satellite Receivers/Antennae. No exterior structure or device intended for receiving or transmitting radio, television or other electronic signals or waves will be allowed larger than twenty-four (24) inches in diameter, and unless it is screened from view of adjoining Units, Common Area and roadways. The location of any such device, as well as required screening, is subject to approval by the Association.

(f) Quiet Enjoyment. No immoral, illegal, improper, obnoxious or offensive activity will be carried on upon the Properties which may be or may become a nuisance or annoyance to the neighborhood or Unit Owners.

(g) Prohibited Uses. It is the intent and purpose of the Association to ensure development and maintenance of the Bald Head Island complex as an exclusive residential community of the highest quality and at the same time to endeavor to retain the natural, unspoiled beauty of the Island. To that end the following restrictive uses and limitations are placed on all Units within the Properties:

(1) No fuel tanks or storage receptacles will be exposed to public view and will either be located and kept in an accessory building, underground receptacles or screened from view. Trash and garbage receptacles will be enclosed or screened from view.

(2) No open or exposed storage, including junk or abandoned items of personal property, will be maintained on any Unit. No trash or refuse, including leaves, will be burned in an open incinerator within the Properties.

(3) No animals, livestock or poultry of any kind will be raised, bred or kept within the Properties except household pets, which may not be kept, bred or maintained for any commercial purpose. Pets must be kept under control by the Owner at all times and attended as

required by the ordinances of the Village of Bald Head Island. The Owner will be responsible to remove all pet excrement deposited on the Properties.

(4) No trees measuring three inches or more in diameter (outside bark to outside bark) at four feet above the ground level may be removed without prior written approval of the Association, which approval will not be unreasonably withheld.

(5) No beach access will be allowed or created other than in a location permitted by the Board.

(h) Signs. No commercial signs, including “for rent”, “for sale” and other similar signs will be erected or maintained within the Properties except those which conform to the defined Association standard for such signs as set forth in the minutes of the Board dated July 17, 1999. The Board retains the right to modify the Association standard for signs, including the right to disallow signs altogether and to change the standard specifications, including, but not limited to, the size, shape, color, content, type of material and location of the sign or symbol. Any modification to the defined Association sign standard must be approved by a two-thirds (2/3) vote of all Board members.

(i) Construction. Sign restrictions contained in subsection (h) above and requirements relative to use of temporary structures, including trailers, will not be applicable to active construction sites. The Association will adopt standards for construction sites for the purpose of reasonably controlling the aesthetics, trash, and noise resulting from construction. The Association must approve all identification signs. Only one construction sign will be allowed per Unit.

(j) Timeshare Properties. No Timeshare Unit may be established or formed within the Properties unless within a project of Timeshare Units for which registration of at least one phase has been submitted to the North Carolina Real Estate Commission under Chapter 93A of the North Carolina General Statutes (or a successor statute) on or before December 31, 1999, or prior to annexation of any annexed property upon which a Timeshare Unit is constructed or for which at least one phase has been submitted to the North Carolina Real Estate Commission under Chapter 93A of the North Carolina General Statutes (or a successor statute).

(k) Non-Residential Structures. The Board may adopt regulations regarding the land use, individual conduct and uses of or actions upon any Non-Residential Areas, at the time any property is annexed into or merged with the Properties, at the time of any amendment permitting non-residential use within any areas currently designated as single family residential Units, or at any other time deemed appropriate by the Board.

ARTICLE 11 MAINTENANCE

11.1 Responsibility of Association. The Association will be responsible to maintain and keep in good repair the Common Area and other Property which the Board may decide to maintain in the interest of the Association.

11.2 Responsibility of Owner. Each Unit Owner will maintain and preserve the grounds of the Unit and all structures located thereon in a clean, neat, sightly and attractive condition; and will provide for the removal of all trash or refuse from the Unit. This removal will be consistent with the Community Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may, but is not required to, perform such maintenance responsibility and assess all costs incurred by the Association against the Unit and the Owner in accordance with ARTICLE 5. The Association will afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

11.3 Maintenance of Units. If, in the opinion of the Association, any Owner fails to maintain any Unit owned by him in a manner which is reasonably neat and orderly and as is required by ARTICLE 10 or shall fail to keep improvements constructed thereon in a state of repair so as not to be unsightly, all in the sole opinion of the Association, the Association in its discretion, by the affirmative vote of a majority of the members of the Board of Directors, and following ten (10) days written notice to Owner, may enter upon and make or cause to be made repairs to such improvements and perform such maintenance on the Unit as may be required. This maintenance includes the removal of trash, pruning of shrubbery, weeding, performing items of erosion control, and removing unsightly structures and objects. The Association shall have an easement for the purpose of accomplishing the foregoing. The reasonable cost incurred by the Association in rendering all such services, plus a service charge of fifteen percent (15%) of such cost, will be added to and become a Special Assessment to which such Unit is subject as provided in ARTICLE 5 herein.

11.4 Standard of Performance.

Maintenance, as used in this ARTICLE, will include, but not be limited to, repair and replacement as needed, as well as other duties, as the Board may determine necessary or appropriate to satisfy the Community Wide Standard. All maintenance will be performed in a manner consistent with the Community Wide Standard and all applicable covenants and restrictions.

ARTICLE 12 EASEMENTS

12.1 Easement for Utility Installation.

(a) All of the Common Area, will be subject to a perpetual non-exclusive easement for water lines, sanitary sewers, storm drainage facilities, telephone and electric power lines, television antenna lines, and other public utilities as may be established by the Association whether the same be within the boundaries of any Unit.

(b) The Association may grant easements for utility or other purposes for the benefit of the Properties and the Units, over, under, along and through the Common Areas. Provided, however that no such grant of easement will have a material adverse effect on the use, enjoyment or value of any Unit.

(c) All utility wires, lines, cables and lines, and pipes, without exception, will be underground.

12.2 Easements for Cross-Drainage. Every Unit and the Common Area will be burdened with easements for drainage of water runoff from other portions of the Properties. No Unit Owner will alter the drainage on any Unit so as to materially increase the drainage of water onto, or prevent drainage from, adjacent portions of the Properties without the consent of the Owner of the affected property.

12.3 Power to Grant Easements. The Association will have the power and authority to grant and to establish in, over, upon and across the Common Area conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties.

12.4 Easement for Entry. The Association will have the right, but not the obligation, to enter upon any Unit to perform maintenance pursuant to ARTICLE 11 hereof, and to inspect for the purpose of ensuring compliance with this Declaration, Bylaws, and the Rules and Regulations. This right may be exercised by any member of the Board and its officers, agents, employees, and managers without being guilty of a trespass. Except in an emergency situation, entry will only be during reasonable hours and after notice to the Owner.

12.5 Easement for Maintenance. All maintenance of any water, sewer or drainage easement will be the responsibility of the Owner of the Unit on which said easement is located. No structure, planting or other material will be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, sewer or drainage facilities, or which may change the direction of flow of drainage channels in the easements. The easement area of each Unit and all improvements in it will be maintained continuously by the Owner of the Unit, except for those improvements for which a public authority or utility company is responsible.

12.6 Easements for Owner's Ingress and Egress. Every Owner and User shall have a perpetual non-exclusive easement and right of ingress and egress over and across any of the private roads and sidewalks located or to be located within the Properties, as shown on any recorded plats of the Property, for the purpose of providing vehicular and pedestrian access to and from the Properties.

12.7 Easement for Pathways. Each Owner and User will have a perpetual, non-exclusive easement for the use and enjoyment of bicycle paths, pedestrian paths, or nature preserve trails, if any, which may be established by the Association.

12.8 Common Area Easement. Every Owner of a Unit within the Properties, as an appurtenance to such Unit, shall have a perpetual easement over and upon the Common Area within the Properties for each and every purpose or use to which such Common Area is intended as determined by its type, or for which such Common Area generally is used, including, but not limited to, easement of access, maintenance, repair or replacement of the Common Area.

12.9 Grading Easement. The Association reserves unto itself, its successors and assigns, perpetual, alienable and releasable easements within the Properties, including an easement on, over and under the ground to cut drainways for surface water and an easement to grade soil whenever and wherever such action may appear to the Association to be necessary.

12.10 Golf Course Restrictions for Fairway Units. The following special restrictions will apply to all Units abutting, adjoining or lying contiguous to the golf course:

(a) Owners of such Units will not engage in any activities which would detract from the playing qualities of the Bald Head Island Golf Course, or from the Properties and its attractive overall landscaping plan for the entire golf course area.

(b) The owner of the golf course ("Golf Course Owner") is hereby granted an assignable "golf course maintenance easement area" of thirty (30) feet from the regularly mowed area of the golf course for the purpose of landscaping, planting of grass, watering the golf area, application of fertilizer to the golf area as needed, and otherwise mowing and maintaining the easement area. This easement privilege will include the removal of underbrush, trees less than three inches in diameter (outside bark to outside bark) when measured four feet above ground level, stumps, trash and debris that would or could be in conflict with the plans and specifications of the golf course area as determined by the Golf Course Owner.

(c) Golf Course Owner is hereby granted for itself, its successors or assigns, an easement to permit and authorize registered golf course players and their caddies to enter upon the golf course easement maintenance area to recover a ball or play a ball. This easement is subject to the official regulations of the course, and such entering and playing will not be deemed a trespass. Registered golf players or their caddies will not be privileged to enter the golf course maintenance easement area on any Unit with a golf cart or other vehicle. Golf Course Owner, its successors or assigns, agree to place and maintain "out of bounds" markers on said lots at the expense of the Golf Course Owner, its successors and assigns.

12.11 Easements Run with the Land. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on all undersigned, their heirs, successors and assigns, and any Owner, purchaser, mortgagee, beneficiary under a deed of trust and other Person having an interest in said land, or any part or portion thereof, regardless of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the benefit of and be binding on the undersigned, its successors and assigns, and any Owner, purchaser, mortgagee, beneficiary under a deed of trust and other Person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or deed of trust or other evidence of obligation, to the easements and rights described in this Declaration.

ARTICLE 13

SUBDIVISION OF LOTS, ANNEXATION AND MERGER

13.1 Subdivision. No Unit within the Properties shall be subdivided or divided into smaller Unit(s) or its boundary lines changed, nor shall any Unit or portion of a Unit be added to or incorporated into any other Unit, without the written consent of the Association, except that subdivision or division of any Unit into Time Share Units is prohibited. However, any two property Owners may jointly purchase and divide a Unit between their respective Units, but in such event, the Unit then ceases in perpetuity to be a Unit in the Properties and is merged into the Ownership of the respective adjoining property Owners in the ratio of their division. Such division must be recorded in writing with the Association. The total number of Units, as indicated on **EXHIBIT A** shall not be increased. This Section shall not preclude the addition of Units by subsequent annexation of additional areas.

If the recombination of any Units reduces the total number of allowable building Units within Properties, for purposes of membership in the Association and for purposes of the payment of dues and assessments, recombined Units will be considered a single Unit.

13.2 Annexation. Owners of Units located within or without the Properties may annex their individual Units to this Declaration with Board approval and will execute an instrument satisfactory to and joined in by the Association. Said annexation instrument will contain a statement that the Owner declares to be legally bound by this Declaration; that the Unit will be thereafter held, sold and conveyed subject to this Declaration; that the easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the property or any part thereof, and shall inure to the benefit of each Owner thereof.

13.3 Merger. The Board of Directors and the membership of the Association are hereby required and directed to take such action as may be necessary to cause a legal merger of the Bald Head Association and the Bald Head Island Stage Two Association, Inc., so long as the merger is approved by the Members as set forth below, is subject to the limitations contained hereinafter, and occurs on the earlier of the two following dates:

- (a) on December 31, 2012; or
- (b) on the December 31 next following a written request for such merger provided to the Association by Bald Head Island Stage Two Association, Inc.

The merger will occur and be effective subject to adoption of an agreement between the Board of Directors of the Bald Head Association and the Board of Directors of the Bald Head Island Stage Two Association, Inc., following any legally required Membership approval; wherein:

- (a) the method of collection of dues and assessments is approved as to all Lots or Units in both associations;

(b) there is agreement between the two associations as to the applicable general architectural standards to impose upon future construction and renovation on Properties on Bald Head Island; and

(c) the general Membership of the Bald Head Association, Inc. does not reject merger by votes representing a majority or more of the total number of Units represented by Membership in the Association.

ARTICLE 14

DURATION, AMENDMENT AND TERMINATION

14.1 Units, Persons and Entities Subject to this Declaration, Duration and Termination. All present and future Owners and Users, shall be subject to, and shall comply with the covenants, conditions, restrictions and affirmative obligations set forth in this Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance, the entering into of a lease, or the entering into occupancy or the visiting of any Unit will constitute an agreement that the provisions of this Declaration are accepted and ratified by such Owner and User and that they will fully comply with the terms and conditions of this Declaration. The covenants, conditions, restrictions, and affirmative obligations of this Declaration shall inure to the benefit of and be enforceable by the Association, or the Owner of any Unit, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded in the Brunswick County Registry, after which date this Declaration shall be extended for successive periods of thirty (30) years, unless a majority of the then Owners agree to revoke the same. The covenants, restrictions, conditions and affirmative obligations of this Declaration shall run with and bind the land and shall bind any Person having at any time any interest or estate in any Unit as though such provision were made a part of each and every deed of conveyance or lease.

14.2 Amendment. This Declaration may be amended by vote of two-thirds of those present and voting in person or voting by proxy at a meeting of the Members. An instrument which has attached as an exhibit, a certified copy of the resolution adopting the amendment and which has been signed by the president of the Association and attested to by its secretary, must be recorded in the Brunswick County Registry for such an amendment to be effective. In no event may this Declaration be amended so as to alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or to affect any lien for the payment thereof established herein.

The Board of Directors of the Association, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, in order to qualify the Association or the Subject Property or any portion thereof, for tax-exempt status. Such amendment will become effective upon the date of its recordation in the Brunswick County Registry.

The Association through a vote of two-thirds of its Board of Directors will be allowed to amend this Declaration, notwithstanding any other provision contained herein, and without joinder of any other party, to correct any discovered error contained herein, to clarify any ambiguity contained herein, or to add or delete any incidental provisions deemed in the sole discretion of Association to be in the best interest of the Association. This right may be exercised, and will be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of Brunswick County. The Corrected Declaration shall specifically reference this document, and the provision impacted.

14.3 Modification. ARTICLE 17 may not be modified without the consent of Bald Head Island Limited.

ARTICLE 15

COMPLIANCE WITH THIS DECLARATION, THE ARTICLES, THE BYLAWS, AND THE RULES AND REGULATIONS OF THE ASSOCIATION

In the case of failure of an Owner or User to comply with the terms and provisions contained in this Declaration, the Articles, the Bylaws, Rules and Regulations or Design Guidelines, the following relief shall be available:

15.1 Enforcement. The Association, any Owner, any aggrieved Owner on Bald Head Island on behalf of the Association, or any Owner on behalf of all the Owners on Bald Head Island who are Members of the Association shall have the right to enforce by any proceeding at law or in equity, all of the conditions, covenants and restrictions of this Declaration and the Articles, Bylaws, Rules and Regulations of the Association, Design Guidelines and any and all laws hereinafter imposed pursuant to the terms of this Declaration. The prevailing party will be entitled to collect all costs thereof, including reasonable attorneys' fees.

15.2 Remedies. The Association shall have the right to remedy the violation, including the right of entry onto any Unit without being guilty of trespass, and assess the costs of remedying same against the offending Owner as a Special assessment as provided in ARTICLE 5 herein.

15.3 Suspension of Rights. For any violation of any provision of this Declaration, the Articles, the Bylaws, the Rules and Regulations, or Design Guidelines by an Owner or his User, including, but not limited to, the nonpayment of any General Assessment or Special Assessment, the Association shall have the right to suspend the offending Owner's voting rights and/or the use by such Owner and his/her Users of the Common Area and recreational facilities and Amenities for any period during which a violation continues. Such penalties may not be for more than sixty (60) days for violation of any of the Association's published Rules and Regulations.

15.4 Fines. The Association may establish a schedule of fines for the violation of this Declaration, the Articles, Bylaws and Rules and Regulations and Design Guidelines. If an Owner does not pay the fine within fifteen (15) days the fine shall be a Special Assessment against the Owner's Unit and may be enforced by the Association in accordance with ARTICLE 5 herein.

15.5 Remedies Cumulative. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided by law.

15.6 Waiver. No provision contained in this Declaration, the Articles, the Bylaws, the Rules and Regulations, or the Design Guidelines will be deemed to have been waived, abandoned, or abrogated by reason of failure to enforce them on the part of any Person or the Association as to the same or similar future violations, no matter how often the failure to enforce is repeated. The Association will not be liable to any Owner or other aggrieved party for failure to enforce any provision of this Declaration, the Articles, Bylaws, Rules and Regulations, or Design Guidelines.

ARTICLE 16

GENERAL PROVISIONS

16.1 Dispute Resolution. If a dispute, controversy or claim (whether based upon contract, tort, statute, common law or otherwise) (collectively, a "Dispute") involving the Association arises from or relates directly or indirectly to Bald Head Island, to the development of Bald Head Island, or to this Declaration, Articles, Bylaws, Rules and Regulations, or Design Guidelines; and if the dispute cannot be settled through direct discussions; the parties, including the Association or any Owner, shall submit the dispute for resolution in a mediation administered by a North Carolina certified mediator with experience in homeowners association matters. The mediator will be chosen by agreement by both parties under rules consistent with the rules for mediation required by North Carolina Superior Court. The mediation shall be nonbinding on the parties.

16.2 Amenities and Facilities. Every park, recreation area, recreation facility, dedicated access, and other Amenities appurtenant to the Properties, whether or not shown and delineated on any recorded plat of the Properties, will be considered private and for the sole and exclusive use of the Owners of Units within the Properties. Neither the recording of any plat nor any act of the Association with respect to such area is, or is intended to be, or will be construed as a dedication to the public of any such areas, facilities, or Amenities.

16.3 Applicability; Leases. All provisions of this Declaration and of any Association Rules and Regulations will apply to all Owners and Users of any Unit. Any lease on a Unit will provide that the User of the Unit will be bound by the terms of this Declaration, the Bylaws, and the Rules and Regulations of the Association.

16.4 Other Associations. Other associations have been or may be established within the Properties (e.g., condominium associations) and in connection therewith may designate limited

common areas solely for the benefit of members of such associations. The annexation to Bald Head Association of such areas does not and will not entitle the Members of Bald Head Association to the use of any limited common area established for the benefit of members of such other associations.

16.5 Variances. The Board in its discretion by a vote of at least two-thirds of the members of the Board, may allow reasonable variances and adjustments of this Declaration in order to alleviate practical difficulties and hardship in their enforcement and operation. Any such variances will not violate the spirit or the intent of this document to create a subdivision of Units owned in fee by various persons, with each such Owner having an easement upon areas owned by the Association.

16.6 Conflict. In the event of any irreconcilable conflict between this Declaration and the Bylaws of the Association or the Articles of Incorporation of the Association, the provisions of this Declaration will control.

16.7 Severability. Invalidation of any one of the covenants or restrictions set forth herein by judgment of any court, agency or legislative order will in no way affect any other provisions, covenants, conditions or restrictions contained in this Declaration.

16.8 Captions. The captions preceding the various Articles of this Declaration are for the convenience of reference only, and will not be used as an aid in interpretation or construction of this Declaration. As used herein, the singular includes the plural and where there is more than one Owner of a Unit, said Owners are jointly and severally liable for the obligations herein imposed. Throughout this Declaration, references to the masculine will be deemed to include the feminine, the feminine to include the masculine, and the neuter to include the masculine and feminine.

16.9 Liberal Construction. The provisions of this Declaration shall be construed liberally to effectuate its purpose of creating a common plan or scheme of development of fee simple Ownership of Units and buildings governed and controlled by rules, regulations, restrictions, covenants, conditions, reservations and easements administered by an owners' association with each Owner entitled to and burdened with the rights and easements equivalent to those of other Owners.

ARTICLE 17

RIGHTS OF BALD HEAD ISLAND LIMITED

17.1 Bald Head Island Limited. Bald Head Island Limited, as successor and assignee of Carolina Cape Fear Corporation and Bald Head Island Corporation, has been granted certain rights and obligations under certain of the restrictive covenants described in the Preamble to this Declaration, including the Amended and Restated Declaration of Covenants, Conditions and Restrictions dated January 29, 1982. By joining in the execution of this Declaration, Bald Head Island Limited does hereby waive and relinquish any and all rights and obligations held under any of the restrictive covenants amended and supplanted by this Declaration. In consideration for this joinder,

Bald Head Island Limited has been granted, for a stated period of time as more fully set out herein, certain rights and obligations which rights and obligations shall take precedent over any contrary provisions contained within this Declaration.

17.2 Architectural Review Committee Representation. Bald Head Island Limited shall be entitled to appoint two (2) members of the Architectural Review Committee for the years 2000 through 2001, and one (1) member for the years 2002 through 2004. There shall be no limitation on the profession or qualification of those members of the Committee appointed by Bald Head Island Limited. This right of appointment shall expire December 1, 2004.

17.3 Architectural Review Committee Approval. No structure, building, improvement or construction, nor an exterior addition to or change or alteration in structure or building, to the extent submitted by Bald Head Island Limited or any entity related thereto, for construction of property owned by Bald Head Island Limited or an entity related thereto, shall require approval from the Architectural Review Committee for such requested work to be undertaken, if such plans are submitted to the Committee for an advisory review on or before December 31, 2000. Bald Head Island Limited shall endeavor to use good faith to accommodate any suggestions or improvements or modifications to its submitted plans that may be suggested by the Committee in its advisory review. Nothing contained herein shall allow construction by Bald Head Island Limited of any structure, building or improvement that is not consistent with the provisions and requirements of the Design Guidelines, and which is not consistent with the specific use restrictions contained within this Declaration.

IN WITNESS WHEREOF, the undersigned have executed this instrument this the _____ day of February, 2000.

BALD HEAD ASSOCIATION

By: _____
President

ATTEST:

Secretary

(SEAL)

BALD HEAD ISLAND LIMITED

By: _____
Kenneth M. Kirkman
Attorney in Fact, by authority of that
instrument recorded in Deed Book 1143,
Page 916, Brunswick County Registry

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, _____, a Notary Public of the State and County aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is _____ Secretary of Bald Head Association, a North Carolina corporation with its principal office in Brunswick County, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by himself/herself as its _____ Secretary.

WITNESS my hand and official seal this _____ day of February, 2000.

Notary Public

My Commission Expires:

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

I, _____, a Notary Public in and for the State and County aforesaid, do hereby certify that Kenneth M. Kirkman, personally acknowledged to me this day and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of Bald Head Island Limited and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the office of the Register of Deeds of Brunswick County, North Carolina, in Deed Book 1143, Page 916, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that he acknowledged the due execution of the foregoing and annexed instrument for the purpose therein expressed for and in behalf of the said Bald Head Island Limited.

WITNESS my hand and official seal this _____ day of January, 2000.

Notary Public

My Commission Expires:

EXHIBIT A

BEING all of that real property located on Bald Head Island, Smithville Township, Brunswick County, North Carolina, and more particularly described as follows:

That portion of Bald Head Island bounded on the northeast by North Bald Head Wynd, as located on the subdivision plats hereinafter described, extended to the high water mark of the Cape Fear River, on the east by Muscadine Wynd, as located on the subdivision plats hereinafter described, extended to the high water mark of the Atlantic Ocean, and on the South, West and Northwest by the high water mark of the Atlantic Ocean and the Cape Fear River, which is not shown on subdivision plats recorded in Map Book 12, Pages 1-11 and 38 of the Brunswick County Registry, or included in the tracts set aside for the Bald Head Inn as described in that deed of trust to Dotson G. Palmer, et al., Trustees for Mutual Savings and Loan Association, recorded in Book 288 at Page 470 of the Brunswick County Registry, and amended by Modification Agreement recorded in Book 342, Page 129 of the Brunswick County Registry; and

BEING all of that real property annexed to the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bald Head Island Stage I, Brunswick County recorded in Book 498, Page 260, of the Brunswick County Registry; and

BEING all of that real property described in the documents set forth below and all amendments thereto, all of which are recorded in the Brunswick County Registry:

Book 263, Page 621.
Book 288, Page 470.
Book 342, Page 129.
Book 374, Page 645.
Book 379, Page 583.
Book 399, Page 488.
Book 409, Page 421.
Book 498, Page 260.
Book 514, Page 164.
Book 580, Page 880.
Book 588, Page 877.
Book 661, Page 441.
Book 661, Page 443.
Book 666, Page 678.
Book 679, Page 344
Book 679, Page 349.
Book 700, Page 522.
Book 700, Page 528
Book 715, Page 803.

Book 882, Page 431.
Book 925, Page 149.
Book 961, Page 754.
Book 976, Page 977.
Book 1005, Page 953.
Book 1023, Page 362.
Book 1177, Page 391; and

BEING all of that real property described in the maps set forth below and all revisions and additions thereto, which maps are all recorded in the Brunswick County Registry:

Map Book 12, Pages 1-11.
Map Book 12, Pages 14-17.
Map Book 12, Pages 36-39.
Map Cabinet I, Page 373.
Map Cabinet J, Pages 178-184.
Map Cabinet J, Page 319.
Map Cabinet L, Page 195.
Map Cabinet M, Pages 84-86.
Map Cabinet O, Page 380.
Map Cabinet Q, Page 206.
Map Cabinet S, Page 12.
Map Cabinet S, Page 112.
Map Cabinet S, Pages 143-144.
Map Cabinet U, Page 287.
Map Cabinet X, Page 231.
Map Cabinet Y, Page 93.
Map Cabinet Y, Page 246.
Map Cabinet Z, Page 72.
Map Cabinet Z, Page 196; and

BEING all of that real property which is located in, made a part of, and annexed to the following subdivisions or sections, including, but not limited to those documents and maps set forth below and all amendments, revisions and additions thereto, all of which are recorded in the Brunswick County Registry:

Sabal Palm Cottages

Book 1068, Page 106
Book 1109, Page 753
Book 1100, Page 828

Map Book 17, Page 153

Timber Creek Condominiums

Book 597, Page 185

Book 600, Page 232

Book 601, Page 137

Book 649, Page 475

Map Cabinet O, Page 160

Map Cabinet O, Page 161

Condominium Plat Book 3, Pages 37-41

Lighthouse Landing

Book 766, Page 519

Book 1068, Page 124

Book 1075, Page 337

Book 1081, Page 365

Book 1195, Page 163

Book 1122, Page 288

Book 1132, Page 1015

Map Cabinet Z, Page 399

Map Book 17, Page 152

Map Book 17, Page 241

Map Book 17, Page 465

Map Book 18, Page 232

Map Book 18, page 440

Bald Head Island Villas

Book 487, Page 687

Book 803, Page 580

Map Cabinet M, Page 250

Ibis Roost

Book 785, Page 231

Book 912, Page 168

Book 945, Page 491

Book 956, Page 1046

Book 966, Page 468

Book 971, Page 584
Book 979, Page 280
Book 983, Page 830
Book 1062, Page 118

Map Cabinet T, Pages 287-289
Map Cabinet T, Page 373
Map Cabinet U, Page 213
Map Cabinet X, Page 388
Map Cabinet Y, Page 71
Map Cabinet Y, Page 187
Map Cabinet Y, Page 268
Map Cabinet Y, Page 305

Middle Island

Book 399, Page 448
Book 814, Page 501
Book 824, Page 315

Swans Quarter

Book 651, Page 884
Book 663, Page 442

Condominium Plat Book 5, Pages 82-94
Condominium Plat Book 5, Pages 131-136

The Hammocks

Book 1240, Page 983
Book 1252, Page 47
Book 1261, Page 1148
Book 1263, Page 755
Book 1286, Page 919
Book 1310, Page 1039

Map Cabinet 7, Page 345
Map Cabinet 7, Page 346
Map Cabinet 7, Page 347
Map Cabinet 7, Page 348
Map Cabinet 7, Page 349
Map Cabinet 7, Page 350

Map Cabinet 7, Page 392
Map Cabinet 7, Page 393
Map Cabinet 7, Page 394
Map Cabinet 7, Page 395
Map Cabinet 7, Page 396
Map Cabinet 7, Page 397
Map Cabinet 7, Page 398
Map Cabinet 7, Page 432
Map Cabinet 7, Page 433
Map Cabinet 7, Page 434
Map Cabinet 7, Page 478
Map Cabinet 7, Page 479
Map Cabinet 7, Page 480
Map Cabinet 7, Page 481
Map Cabinet 7, Page 482
Map Cabinet 7, Page 483

Flora's Bluff

Book 911, Page 497
Book 926, Page 719
Book 927, Page 951
Book 930, Page 1066
Book 933, Page 550
Book 940, Page 197
Book 941, Page 344
Book 942, Page 1082
Book 953, Page 633
Book 959, Page 672
Book 961, Page 1009
Book 971, Page 582
Book 987, Page 594
Book 1004, Page 99
Book 1077, Page 255

Map Cabinet X, Pages 101-102
Map Cabinet X, Page 253
Map Cabinet X, Page 262
Map Cabinet X, Page 279
Map Cabinet X, Page 318
Map Cabinet X, Page 356
Map Cabinet X, Page 362
Map Cabinet X, Page 371
Map Cabinet Y, Page 37
Map Cabinet Y, Page 79
Map Cabinet Y, Page 95
Map Cabinet Y, Page 186
Map Cabinet Y, Page 333
Map Cabinet Z, Page 62
Map Book 17, Page 262

Killegray Ridge

Book 1007, Page 1015
Book 1017, Page 131
Book 1018, Page 44
Book 1020, Page 435
Book 1025, Page 806

Map Cabinet Z, Page 89
Map Cabinet Z, Page 92
Map Cabinet Z, Page 165
Map Cabinet Z, Page 171
Map Cabinet Z, Page 192

Book 1025, Page 808
Book 1036, Page 115
Book 1040, Page 728
Book 1047, Page 292
Book 1064, Page 714
Book 1066, Page 211
Book 1084, Page 519
Book 1084, Page 521
Book 1095, Page 585
Book 1103, Page 1177
Book 1112, Page 583
Book 1149, Page 792
Book 1155, Page 54
Book 1177, Page 54
Book 1177, Page 391
Book 1192, Page 746
Book 1208, Page 1139
Book 1219, Page 900
Book 1220, Page 740
Book 1238, Page 116

Map Cabinet Z, Page 231
Map Cabinet Z, Page 232
Map Cabinet Z, Page 303
Map Cabinet Z, Page 337
Map Cabinet Z, Page 398
Map Book 17, Pages 127-128
Map Book 17, Page 146
Map Book 17, Page 341
Map Book 17, Page 342
Map Book 17, Page 345
Map Book 17, Page 518
Map Book 18, Page 85
Map Book 18, Page 276
Map Book 18, Page 467
Map Book 19, Page 243
Map Book 19, Page 371
Map Book 19, Page 499
Map Book 20, Page 152

Bald Head Island Harbour

Book 697, Page 267
Book 722, Page 952
Book 808, Page 358
Book 892, Page 13
Book 955, Page 846
Book 982, Page 43
Book 985, Page 384
Book 991, Page 1022
Book 1005, Page 945
Book 1011, Page 189
Book 1069, Page 67
Book 1092, Page 196
Book 1169, Page 1129
Book 1185, Page 928

Map Cabinet R, Page 365
Map Cabinet S, Page 142
Map Cabinet S, Page 300
Map Cabinet U, Page 41
Map Cabinet U, Page 66
Map Cabinet U, Page 157
Map Cabinet W, Page 323
Map Cabinet X, Page 367
Map Cabinet Y, Page 61
Map Cabinet Y, Page 289
Map Cabinet Y, Page 313
Map Cabinet Z, Page 75
Map Cabinet Z, Page 118
Map Cabinet 17, Pages 176 and 177.