

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at the
date and time and in the Book and Page shown on the
first page hereof.

Melanie Arthur 55P
CARTERET COUNTY
HD Date 06/11/2007 Time 16:00:00
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Melanie Arthur, Register of Deeds
By [Signature]
Melanie Arthur, Register of Deeds

Prepared by and Return to Harris Law Firm, PLLC
304 North 35th Street Morehead City, NC 28557

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

DECLARATION OF UNIT OWNERSHIP FOR
SPOONERS CREEK MARINA
CONDOMINIUMS

THIS DECLARATION is made this the 11th day of June
2007, by SHORES DEVELOPMENT, INC., a corporation organized and existing under
the laws of the State of North Carolina, (hereinafter designated as "Declarant"), pursuant
to the Uniform Condominium Act, Chapter 47C of the General Statutes of North
Carolina.

BACKGROUND STATEMENT

WHEREAS, Declarant is the owner of certain real property situated in Morehead
City, Carteret County, North Carolina, and more particularly described in **Exhibit A**,
attached hereto and incorporated herein by reference (the "Property");

WHEREAS, Declarant has constructed or caused to be constructed on the
Property a marina facility consisting of eighty-eight (88) Units along with certain
improvements extending into the waters of Spooners Creek and other attendant facilities,
all of which are depicted on the Plat and Plans (the "Project");

WHEREAS, Declarant desires to provide for the preservation of certain values
and amenities in the Project and for the maintenance of the common areas and facilities
in the Project; and, desires to subject the Property and the improvements constructed
thereon to this Declaration and the provisions of the Uniform Condominium Act, Chapter
47C, North Carolina General Statutes.

WHEREAS, Declarant has deemed it desirable to create a non-profit corporation
which shall be delegated and assigned powers of maintaining and administering the
common facilities of the Project, performing certain maintenance on the building and
common areas, administering and enforcing the covenants and restrictions created in this
Declaration, levying, collecting and disbursing the assessments and charges provided for

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and created by this Declaration, and to take any steps or perform any acts deemed necessary or appropriate to promote the recreation, health, safety and welfare of the owners of the condominium units in the Project.

NOW, THEREFORE, Declarant hereby declares that by filing this Declaration, it does submit the Property to the provisions of this Declaration and as applicable to the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes for the purpose of creating the condominium form of ownership. The Property shall hereafter be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division of the same into condominium units, and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the Property and improvement constructed thereon, their grantees, successors, heirs, executors, administrators, devisees and assigns.

ARTICLE I DEFINITIONS

As used herein, the following words and terms shall have the following meanings:

- a. "Act" shall mean the Uniform Condominium Act, Chapter 47C, General Statutes of North Carolina, as amended from time to time;
- b. "Association" shall mean the Spooners Creek Marina Owners' Association, Inc., a North Carolina non-profit corporation, and its successors and assigns;
- c. "Association Documents" shall mean collectively the Articles of Incorporation of the Association, the Bylaws of the Association, this Declaration and the Rules and Regulations adopted by the Association, all as may be amended, restated and revised from time to time. Any exhibit, schedule or amendment to an Association Document shall be considered part of that document.
- d. "Board" shall mean the Board of Directors of the Association;
- e. "Boat" shall mean a boat, vessel or other watercraft whose primary use is for pleasure and not for hire;
- f. "By-Laws" shall mean the By-Laws of the Association, which are incorporated herein and made a part hereof by this reference;
- g. "Common Elements" shall mean and comprise (i) all of the real property, improvements and facilities of the Condominium, except the Units as herein defined, (ii) ramps, docks and finger piers, (iii) all pilings penetrating, attached to or anchoring the docks and finger piers, (iii) all Riparian Rights appurtenant to the Property except those

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reserved to Declarant herein, (iv) all personal property held and maintained by the Association for the joint use and enjoyment of all the Owners of Units, including, but not limited to, Fuel System, utility lines, piping and conduits to the point of connection in any Utility Pedestal, (v) all permits for construction, maintenance and operation of the Condominium assigned by Declarant to the Association or otherwise procured or acquired by the Association and (vi) all Limited Common Elements.

h. "Common Expenses" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserve, all as provided for in the Declaration or under the Act.

i. "Condominium" shall mean the condominium created by this Declaration.

j. "Declarant" shall mean the Shores Development, Inc. and (i) any other person who has executed this Declaration except a Security Holder executing this Declaration for purposes of subordinating its interest, and (ii) any person who succeeds to any special Declarant rights pursuant to the Act, and (iii) any successors and assigns of Declarant specifically assigned the rights of Declarant hereunder by written instrument recorded in the Office of the Register of Deeds of Carteret County, North Carolina.

k. "First Mortgage" or "First Mortgagee" shall mean a mortgage or deed of trust which has been recorded so as to give constructive notice thereof, and which is a first lien on the Unit described therein. A First Mortgagee is the holder, from time to time, of a First Mortgage as shown by the records of the office in which the First Mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a First Mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a First Mortgage, they shall be considered as, and act as, one First Mortgage for all purposes under this Declaration and the By-Laws.

l. "Fuel" shall mean leaded and unleaded marine grade gasoline, diesel fuel or other types of fuels which may be developed in the future appropriate for use by Boats;

m. "Fuel System" shall mean tanks, lines, pumps, dispensing equipment and all other related fixtures and equipment for the storage and dispensing of Fuel for Boats of Owners, tenants and other users of the marina facilities within the Condominium.

n. "Fuel System Easement Area" shall mean, that certain real property designated as "Fuel System Easement Area" on that Plat entitled "Shores at Spooners Creek Condominiums", prepared by Stroud Engineering, P.A., dated May 1, 2007 and recorded in Map Book 10T, Page 193, Carteret County Registry, within which the Declarant has installed portions of the Fuel System

o. "Limited Common Elements" shall mean those portions of the Common Elements allocated by operation of N.C.G.S. § 47C-2-102(2)(4) of the Act for the exclusive use of one but fewer than all of the Units and also any Limited Common

Elements specifically allocated to a Units or Units in **Exhibit B** attached hereto and incorporated herein by reference.

p. "Master Association" shall mean the Shores at Spooners Creek Property Owners' Association, Inc.;

q. "Master Covenants" shall mean the Declaration of Covenants, Restrictions and Conditions recorded in Deed Book 1168, Page 190, Carteret County Registry;

r. "Member" shall mean any person or entity that holds membership in the Association;

s. "Occupant" shall mean any person or persons in possession of a Unit, including the Owner thereof, the family members, lessees, guests, and invitees of such person or persons, and family members, lessees, guests and invitees.

t. "Person" shall mean a natural person, corporation, limited liability company, partnership, trust or other legal entity, including any combination thereof.

u. "Plat and Plans" shall mean those plans of the Condominium recorded with, and by the Act, made a part of this Declaration, as the same may hereafter be amended and as required by G.S. §47C-2-109. The Plat and Plans of Spooners Creek Marina Condominium are recorded in Map Book 10T, Pages 236, 237, Carteret County Registry and are incorporated herein by reference as if fully set forth herein.

v. "Project" shall mean the marina improvements constructed or to be constructed on or extending from said Property as indicated by the Plats and Plans, including but not limited, to pilings, docks, finger piers ;

w. "Property" shall mean the real estate described on **Exhibit A**, together with all buildings and improvements now or hereafter constructed or located thereon, and all riparian and littoral rights, privileges, or other rights provided to Declarant under the above referenced Reservation of Easement and pertaining to the real estate described therein.

x. "Riparian Rights" shall mean the riparian and littoral rights, collectively, including the right to wharf out, moor and to tie up a boat, together with the right to maintain a channel to the navigable waterways, and other rights of access to and enjoyment of waterways given to an owner of land adjacent to a waterway.

y. "Security for an Obligation" shall mean the vendor's interest in a contract or deed, mortgagee's interest in a mortgage, trustee's interest in a deed of trust, purchaser's interest under a sheriff's certificate of sale during the period of redemption, or the holder's interest in a lien;

z. "Security Holder" shall mean any person owning a Security for an Obligation in a Unit.

aa. "Slip" shall mean a boat slip designated on the Plat and Plans and allocated to a Unit as a Limited Common Element.

bb. "Slip Boundaries" shall be that space between the finger piers, dock and an imaginary line extended between the mooring piles located along the outward edge of the Slip, all as more particularly depicted in the Plat and Plans.

cc. "Unit" or "Units" as such terms are used herein, shall mean a physical portion of the Condominium designated for separate ownership, together with a percentage of undivided interest in the Common Elements as set forth in **Exhibit C**. At the present time there are Eighty-eight (88) Units in the Condominium. Declarant has the right to create a maximum of ten (10) additional Units as part of the Condominium, which would result in the Condominium containing ninety-eight (98) Units.

dd. "Unit Boundaries" shall mean pursuant to G.S. 47C-2-102, that area which has as its boundaries on the vertical plane, the floor of the Unit extending to a height of one (1) inch. The boundaries on the horizontal plane shall be the outer edges of each Unit. Reference is made to the Plat and Plans for a more particular depiction of the boundaries for each Unit.

ee. "Unit Owner" or "Owner" shall mean the Person(s), including the Declarant, owning a Unit in fee simple, including contract-for-deed purchasers of a Unit, but excluding contract-for-deed purchasers of a Unit who are Security Holders, and also excluding all other Security Holders.

ff. "Special Declarant Rights" shall mean the rights reserved by the Declarant under Article XIV of this Declaration.

gg. "Utility Pedestal" shall mean that fixture located on the Common Elements or Limited Common Elements designed to provide utility services to one or more Slips, the use of which shall be exclusively allocated to the particular Units assigned the Slips utilizing the utilities extending into and from the Utility Pedestal.

Any word not defined herein, unless it is plainly evident from the context of this Declaration that a different meaning is intended, shall, as used herein, have the meaning set out in N.C.G.S. §47C-1-103.

ARTICLE II CONDOMINIUM

2.1 Submission. Declarant hereby submits the Property to the Act

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2.2 Name. The Project shall hereafter be known as Spooners Creek Marina Condominiums.

2.3 Division of Property into Separately Owned Units. Declarant, pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby divide the Property into Eighty-eight (88) Units and does hereby designate each Unit for separate ownership, subject, however, to the provisions of Paragraph 2.4 below.

2.4 Alterations of Units. Subject to Declarant's Development Rights reserved in this Declaration, the provisions of N.C.G.S. §47C-2-108, 47C-2-111, 47C-2-112 and 47C-2-113, and to the limitations contained in Article V of this Declaration, Units may be altered, boundaries between adjoining Units may be relocated, Units may be subdivided, Limited Common Elements may be reallocated and Common Elements may be allocated as Limited Common Elements.

2.5 No Separation of Interests. The undivided interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit, and the undivided interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which described said Unit by the number designation assigned thereto by the map recorded as aforesaid without limitation or exception, shall be deemed and construed to affect the entire Unit and its appurtenant Riparian Rights and undivided interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing the ownership of any Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants or as tenants by the entirety.

2.6 Limited Common Elements. The Limited Common Elements serving or designated to serve each Unit are hereby allocated solely and exclusively to each such Unit. Limited Common Elements are those set forth on **Exhibit B** and are hereby allocated to Units as shown on such Exhibit.

2.7 Unit Allocations. Each Unit is allocated an equal percentage of undivided interest in the Common Elements and, likewise, an equal percentage of the Common Expenses.

The initial allocations to each Unit of its undivided interest in the Common Elements and its share of the Common Expenses is set forth in **Exhibit C**.

The undivided interest in the Common Elements and share in the Common Expenses shall be reallocated among all of the Units equally when new Units are created pursuant to the exercise of Development Rights regardless of size or location of the Unit.

2.8 Condominium Ordinances. The Condominium is not subject to any code, real estate use law, charter provision or regulation (i) prohibiting the condominium form of Unit Ownership, or (ii) imposing conditions or requirement upon a condominium which are not imposed upon physically similar developments under a different form of ownership. This statement is made pursuant to N.C.G.S. § 47C-1-106.

ARTICLE III ASSOCIATION

3.1 Association. To efficiently and effectively provide for the administration of the Condominium by the Owners of the Units, an association of all Owners has been or will be organized pursuant to Chapter 55A of the General Statutes of North Carolina known and designated as "SPOONERS CREEK MARINA CONDOMINIUM OWNERS' ASSOCIATION, INC.," and the Association shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the Association Documents.

3.2 Powers. In the administration of the operation and management of the Condominium, the Association, subject to the provisions of N.C.G.S. §47C-3-105 and 47C-3-112, shall have and is hereby granted the authority and power to enforce the provisions of this Declaration and all other Association Documents, to levy and to collect assessments in the manner hereinafter provided, to adopt, promulgate and enforce such rules and regulations governing the use of the Common Elements as the Board may deem to be in the best interests of the Association and to exercise all powers set forth in N.C.G.S. §47C-3-102, including the specific power to assign its rights to future income and to receive Common Expense assessments as provided in N.C.G.S. §47C-3-102(a)(14).

3.3 Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Unit which is subject by this Declaration to assessment by the Association and continuing only for such time as they own such interest shall be a Member, provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

3.4 Voting Rights. The Association shall have two (2) classes of voting membership:

CLASS A. Class A Members shall be all those Owners of Units. Class A Members shall be entitled to one (1) vote equal to its interest in the Common Elements for each Unit in which they hold the interests required for membership by Paragraph 3.1. When more than one person holds such interest or interests in any Unit all such persons shall be Members, and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.

CLASS B. The Class B Members shall be the Declarant. The Class B Member shall be entitled to vote three (3) times the interest in the Common Elements assigned to each Unit for which it holds the interest required for membership by Paragraph 3.1. The Class B membership shall cease and convert to Class A membership at the earlier occurrence of the following events:

- i. when the total votes outstanding in the Class A membership equal or exceed the total outstanding votes in the Class B membership, or
- ii. two (2) years after any Declarant has ceased to offer Units for sale in the ordinary course of its business;
- iii. two (2) years after any Special Declarant Rights to add new Units was last exercised.

From and after the happening of the earlier to occur of these events, the Class B Member shall be deemed to be a Class A Member entitled to vote for each Unit in which it holds the interests required for membership under Section 3.1.

3.5 **By-Laws.** The initial By-Laws of the Association are attached hereto as **Exhibit D**, incorporated herein by reference.

3.6 **Register.** The Association shall at all times maintain a register setting forth the names of Owners of all of the Units. In the event of the sale or transfer of any Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Units, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Unit. The holder of any mortgage or mortgages upon any Unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

The Association shall not be responsible to any Owner (including former Owners) or parties holding mortgages on Units for disbursing monies based on the information contained in the Register that has not been properly updated by the Owner or party holding a mortgage.

3.7 **Membership in the Shores at Spooners Creek Property Owners' Association, Inc.** In addition to the restrictions, conditions and covenants contained in this Declaration, the Property (including each Unit) and Unit Owners shall be subject to those restrictions, conditions and covenants contained in the "Declaration of Covenants, Restrictions and Conditions for Spooners Creek", (the "Master Covenants"), as recorded in Deed Book 1168, Page 190, Carteret County Registry, as amended. Under the Master Covenants, the Master Association of which every Unit Owner shall be a Member (along with others as defined in such covenants) is authorized and directed to maintain and manage certain additional common elements which are to be shared with other properties. The Master Association shall have the right to assess the Units and Unit Owners and its other

members as defined in the Master Covenants. The restrictions, covenants, obligations and voting rights of members of the Master Association shall be as set forth in the Master Covenants.

ARTICLE IV EASEMENTS

4.1 Enjoyment. Subject to the Development Rights reserved to Declarant in this Declaration and the provisions of N.C.G.S. §47C-3-112, all of the Common Elements, except the Limited Common Elements, shall be, and the same are hereby declared to be subject to a perpetual non-exclusive easement in favor of all of the Owners of Units in the Condominium for their use and the use of their tenants, guest and invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonable intended for the use and enjoyment of the Units. Subject to Declarant's Development Rights, the Association shall have the exclusive right to establish the rules and regulations pursuant to which the Owner or Occupant of any Unit, their tenants, guest and invitees, may be entitled to use the Common Elements and to establish regulations concerning the use of said Common Elements.

4.2 Encroachments. In the event that, by reason of the construction, re-construction, rehabilitation, alteration, or improvement of the buildings or improvements comprising a part of the Property, any part of the Common Elements now or hereafter encroaches upon any part of any Unit, or any part of any Unit or Limited Common Element assigned to it now or hereafter encroaches upon any part of the remaining Common Elements, or upon any part of another Unit or Limited Common Element assigned to it, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided, that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements, Units, or Limited Common Elements encroached upon.

Except as otherwise declared above, each Boat shall be located entirely within the boundaries of the Slip in which it is moored at all times, and nothing in this Article or otherwise in this Declaration shall permit any moored Boat to encroach upon other Slips or the Common Elements without the express written consent of the Board in its sole discretion.

4.3 Easements. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to perform all obligations relating to maintenance, repair and replacement as more particularly described in Article VII including, but not limited to, dredging and related work within the boundaries of a Slip necessary to maintain the water depth in each Slip at such depth as may be determined to be necessary or desirable, from time to time, by the Board, together with all legal rights of a "profit a'prende" to remove and dispose of the dredged material under such terms and conditions approved by the Board.

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4.4 Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the By-Laws or the Act, an Owner, the Association, the Board, or any other person, is authorized to enter upon a Unit or the Common Elements (including a Slip) to repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration, or reconstruction are hereby declared and granted.

This easement shall specifically include the circumstance where it may be necessary to enter a Unit or Common Element (including a Slip) for the purpose of performing any maintenance, alteration or repair to any portion of the Common Elements (including another adjacent or adjoining Slip).

4.5 Declarant's Easements. Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary for the purposes of discharging its obligations and completing the development and construction of the Condominium, which easements shall exist as long as reasonably necessary for such purposes.

4.6 Construction Easements. Declarant hereby expressly reserves such easements through the Common Elements as may be reasonably necessary for the purpose of allowing Declarant to construct additional Units and Common Elements extending from the Property as allowed to be annexed into this Condominium by a specific provision in this Declaration, a part of which construction may occur, as more specifically set out hereinafter, upon the Common Elements.

4.7 Bulkhead and Boardwalk Easement. An unexclusive easement is declared for the benefit of the Master Association, over, across and upon the Property. Such easement(s) shall be for the upkeep, maintenance and operation of (i) the boardwalk, (ii) bulkheading, and (iii) landscaping, as all the same are located on the Property and depicted in the Plat and Plans. All members of the Master Association shall also have an easement as to the use and enjoyment of the boardwalk along with such other persons authorized under the Master Covenants. The Master Association shall have the exclusive right to establish the rules and regulations pursuant to which any member of the Master Association or other authorized person under the Master Covenants may be entitled to use the portions of the Property subject to this easement.

4.8 Easements to Run With the Land. All easements and rights described in this Article are appurtenant easements running with the land, and except as otherwise expressed shall be perpetually in full force and effect, and shall inure to the benefit of and be binding upon Declarant, the Association, Owners, Occupants, Security Holders, and any other person having any interest in the Condominium or any part of any thereof. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE V
RESTRICTIONS, CONDITIONS AND COVENANTS

5.1 Rules and Regulations. The use of the Common Elements and the Units by Owners and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established by the Association. In addition, the Association, acting through its Board, is expressly authorized to adopt, amend and restate from time to time rules and regulations applicable to the Condominium, the Common Elements and Units that apply during times of emergencies including, but not limited to, emergencies created by weather or climatic conditions. Such rules and regulations may require the removal of Boats from the Slips and the Condominium.

5.2 Compliance with Declaration, By-Laws, Rules and Regulations. Each Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the By-Laws, and the rules and regulations promulgated by the Board, or the Association, all as may be adopted and/or amended from time to time. Failure to comply shall be grounds for an action by the Association, an aggrieved Unit Owner, or any person adversely affected, for recovery of damages, injunction or other relief, including reasonable attorneys fees if successful on the merits of the specific case.

5.3 Administration of Condominium. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and the By-Laws.

5.4 Use Restriction. Each Unit is restricted to non-residential use. Each Slip allocated to a Unit as a Limited Common Element herein is restricted exclusively for the docking of Boats, primarily used for recreational purposes only and not used in a trade or business for hire. No Boat kept within a Slip may be used as a residence or live-aboard.

For purposes of this Declaration, the leasing of a Unit shall not be considered a trade or business or for hire.

Notwithstanding anything to the contrary above, Declarant shall be entitled to maintain an office on the Property for the purpose of the marketing and sale of Units for as long as the Declarant owns at least one (1) Unit.

5.5 Timeshare. No Unit may be transferred or conveyed as a timeshare, as the same is defined in Chapter 93A, Article 4, of the North Carolina General Statutes.

5.6 Obstruction. The docks, boardwalks, entrances, and parking areas and other Limited and Common Elements of the Condominium shall not be obstructed, encumbered, or used for any purpose other than ingress and egress to and from the Condominium and other purposes for which they are intended and no carriages, bicycles, mopeds, wagons, carts, chairs, benches, tables, toys or other objects, or things, regardless of the nature thereof shall be left or stored therein, except as may designated by the Association.

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5.7 Children. Children less than twelve (12) years of age shall be accompanied by an adult at all times. Children shall not play or loiter on the Common Elements of the Condominium.

5.8 Storage. Personal property of the Owners or Occupants shall not be stored in their Unit but rather, may only be stored in a Boat located within the Slip assigned to their Unit or within Limited Common Elements designated for such purpose i.e. dock boxes.

5.9 Articles. No garbage cans, supplies, bottles, or other articles shall be placed on the docks or finger piers or on any other Limited or Common Element of the Condominium, nor shall lines, clothing, curtains be located on any part of the Limited or Common Elements.

5.10 Debris. The Common Elements shall be kept free of rubbish, debris, garbage, or unsightly material.

5.11 Safety. Unit Owners shall take reasonable precautions not to permit anything whatsoever to fall from his/her Boat located within a Slip nor shall an Owner or Occupant sweep, wash or throw any dirt or substance from the Boat located within a Slip onto the Common Elements or waters of Spooners Creek.

5.12 Trash. Refuse, rubbish and garbage shall be disposed of promptly in the receptacles located and provided for by the Association. Trash shall not be placed or stored on the Common Elements of the Condominium, except in designated receptacles.

5.13 Fire Equipment. Fire prevention and fire fighting equipment located throughout the Condominium shall not be tampered with except in the case of an emergency.

5.14 Emergency. In case of an emergency originating in or threatening any Unit, Slip or Common Element, regardless of whether the Owner is present at the time of such emergency, the Board, or any other person authorized by it, shall have the right to enter such Unit, Slip and any Boat located therein, for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate without requirement of notice.

5.15 Noises. No Owner or Occupant shall make or permit any disturbing noise in the Common Elements (including Slips) and/or his Unit by himself, his family, servants, employees, agents, visitors, guests, invitees, licensees, tenants, or lessees, nor do or permit to be done by such persons, anything that will interfere with the rights, comfort, or convenience of the remaining Owners or Occupants. No Owner or Occupant shall play any musical instrument, phonograph, radio, television, or sound amplifier in such a manner or volume so as to disturb or annoy any other Owner or Occupant.

5.16 Pets. The Board shall have the right to adopt rules and regulations regarding pets being allowed within the Condominium. These rules may restrict the type and number of pets allowed.

5.17 Temporary Structures. No temporary structures of any kind shall be permitted on the Property or Common Elements at any time, excepting such structures as may be required during major repair and maintenance on the Common Elements and have been approved by the Board of Directors. This provision shall not pertain to the placement of Boats within a Slip.

5.18 Open Fires. No open fires, including outdoor cooking activities, shall be permitted anywhere on the Common Elements except in such areas as may be designated for such purposes, from time to time by the Board of Directors.

5.19 Hazardous Use and Waste. No Unit Owner or Occupant shall permit anything to be done to or kept in a Boat located within the Slip assigned to his Unit or anywhere else on the Property or Common Elements that will result in the cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) thereto.

5.20 Alterations of Common Elements or Exterior Portions of Slip.

- a. Subject to the Special Declarant Rights and Development Rights reserved to Declarant in this Declaration, no Owner of a Unit shall permit any structural modification or other alteration including, but not limited to, dredging or filling the bottom within the Slip assigned to his Unit to be made or any betterment or improvement to the Limited Common Elements appurtenant to his Unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of the Association shall determine in their sole discretion, that such structural modifications, alterations, betterments or improvements would adversely affect or in any manner endanger the Condominium, Common Elements or any Slip in part or in its entirety. Subject to the Special Declarant Rights and Development Rights reserved to Declarant in this Declaration, no Owner shall cause any object to be affixed to the Common Elements or in any manner change the appearance of the Common Elements without the written consent of the Association first being obtained. In the event the Association shall grant its consent for improvements or changes to be made, such improvements, including but not limited to antennae and other objects, machines or equipment that may extend beyond the boundaries of a Slip shall become and be deemed to be part of the Slip to which they are affixed i.e. a Limited Common Element appurtenant to the Unit that is assigned the Slip.
- b. Subject to the Special Declarant Rights and Development Rights reserved to Declarant in this Declaration, the Board of the Association, in its sole discretion, may require an Owner desiring to add betterments or

improvements to the Common Elements or Limited Common Elements appurtenant to his Slip to indemnify the other Owners and the Association against any and all loss, cost and expense that may be occasioned by the addition of such betterments or improvements and further may require such Owner to obtain liability insurance naming the other Owners and the Association as co-insureds in such amounts and upon such terms as the Board shall determine.

- c. To the extent that any federal, state or local permit(s) is required to be obtained regarding the reconstruction, repair, modification or alteration of any portion of the Common Elements (including Slips), the Association shall be responsible for all expenses related to obtaining such permit(s) except to the extent that such work is discretionary in the opinion of the Board and requested by an Owner. In such case, the Owner(s) requesting such work shall be responsible for all such expenses. No work shall be commenced prior to being permitted.

5.21 Rentals. Owners shall be entitled to rent or lease their Unit; however, each lease must be in writing. Additionally, the Association is specifically granted and reserved the right to promulgate rules and regulations which may include but not be limited to, duration, notice and information to be provided to Association, and the requirement of standard rental or property terms and provisions relating to compliance with the terms of this Declaration, By-Laws and the rules and regulations adopted by the Board from time to time.

Notwithstanding the above, no Owner may assign his right to use the common facilities and amenities provided through the Master Association to his Tenant, other than use of the streets and parking lots and then only for purposes of access. Likewise, no Owner shall be entitled to lease or rent his Unit to a person convicted of a Class E or higher felony or any crime involving the abuse of children.

5.22 Satellite Dishes; Antennas. No Owner shall install a satellite dish or transmitting antenna to any part of the Common Elements or his Unit at any given time except in accordance with rules and regulations adopted by the Association. It shall be permissible for the Association to not allow such items.

5.23 Signs, Flags, Banners. No Owner shall display signs, flags or decorative banners from his Unit, Slip or Boat docked in the Slip or on the Common Elements at any given time except in accordance with rules and regulations adopted by the Association. It shall be permissible for the Association to not allow the display of such items.

5.24 Compliance with Laws; Noxious, Offensive Activity. The Owner of each Unit shall observe all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium. No Owner of a Unit shall permit or suffer anything to be done or kept on his Unit, or on the Common Elements (including Slips), which will increase the rate of insurance on the Condominium, or which will

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obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Owner undertake any use or practice which shall create and constitute a nuisance to any other Owner, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements (including Slips).

5.25. Partition; Restraint upon Separation. Recognizing that the proper use of a Unit by an Owner or Owners is dependent upon the use and enjoyment of the Common Elements in common with the Owners of all other Units, and that it is in the best interest of all Owners that the ownership of the Common Elements be retained in common by the Owners, it is hereby declared that the proportional undivided interest in the Common Elements appurtenant to each Unit, as the same may be amended from time to time in the manner herein set out, shall remain undivided and no Owner shall bring or have any right to bring any action for partition or division of the Common Elements.

5.26 Restrictions, Conditions and Covenants To Run With The Land. Each Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, and shall inure to the benefit of every Unit Owner and the Association.

ARTICLE VI ASSESSMENTS

6.1 General Assessments. Each Owner, by acceptance of the deed thereto, whether or not it shall be so expressed in such deed, is deemed to, and does thereby, covenant and agree to pay assessments in a pro-rata share equivalent to such Unit's allocated ownership interest in the Common Elements (said ownership interest being defined in **Exhibit C** attached hereto) for the common expenses of the upkeep, maintenance and improvement of the Common Elements and for the following services which are to be provided to all Slips: power, water, sewer, and trash collection and any other services approved by the Association that are provided for the benefit of all Units or to the Slips assigned to such Units. Notwithstanding the above, power provided to Slips on Docks B, C and D shall be metered by the Association and charged to the Owner of the Unit to which such Slip is allocated. Such expense shall be collectible in the same manner as an assessment.

6.2 Payment of Assessments. The Assessments provided for in this Article shall be payable as directed by the Board of the Association but no more frequently than quarterly. Such assessments shall commence upon closing of the first Unit by a purchaser other than a Declarant.

6.3 Association as Owner of Unit. Should the Association be the Owner of a Unit, the assessment which would otherwise be due and payable to the Association in relation to such Unit, less any income which may be derived from the leasing of such Unit by the Association, shall be apportioned and assessed ratably among the Owners of

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all Units which are not owned by the Association, based upon their proportionate interests of the Common Elements, exclusive of the interests therein appurtenant to any Unit owned by the Association.

6.4 Declarant Exemption. Anything to the contrary in this Declaration notwithstanding, Declarant shall not be required to pay any assessment for any Unit owned by the Declarant. So long as Declarant is exempt from assessment as herein provided, if the assessment for any fiscal year of the Association, exclusive of those amounts collected by the Association for a reserve fund and for the working capital fund, shall fail to equal or exceed the actual expenses incurred by the Association during any such fiscal year because of such Declarant's exemption from payment of assessments, then the Declarant shall pay to the Association a sufficient amount, up to the amount for that fiscal year of the full assessment for each Unit owned by the Declarant, to meet any such deficit, so long as (i) written notice of such deficit is given by the Association to the Declarant within sixty (60) days following the termination of the fiscal year for which the assessment is made, and (ii) the Declarant shall have no obligation for any such deficit caused by expenditures for capital improvements or by any decrease in assessments, including, without limitation, the levying of an assessment in an amount less than the maximum for any annual assessment, unless the same has been previously approved in writing by the Declarant.

6.5 Change in Assessments. The Association shall have the right, by a vote of its Board of Directors, to increase regular assessments in any given year without the approval of the membership by an amount not to exceed fifteen per cent (15%) of the assessment of the previous year. The assessment may be increased without limit by a vote of two-thirds ($2/3^{\text{rds}}$) of the membership in attendance, in person or by proxy, at the regular annual meeting or at a meeting duly called for this purpose. Notwithstanding the above, the ability of the Association to assess the Owners for the cost for insurance required under this Declaration to be maintained by the Association or taxes (income and ad valorem) shall not be limited or restricted by this Paragraph or by any other provisions in this Declaration so that the Board shall have the right to increase the assessments in regards to the providing insurance without restriction.

6.6 Special Assessments. In addition to the regular assessments specified above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Elements, including fixtures and personal property related thereto or other expense related to the Common Elements and/or the maintenance of the Condominium; provided that such assessment shall have the assent of two-thirds ($2/3^{\text{rds}}$) of the membership in attendance, in person or by proxy, at the regular annual meeting or at a meeting duly called for this purpose.

6.7 Creation of Lien and Personal Obligation of Assessments. The assessments called for hereinabove, together with interest and cost of collection, including court costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment

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shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. Personal obligations for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them. Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen per cent (18%) per annum until such delinquent assessment and accrued interest have been paid in full to the Association. The Association may bring action at law against the Owner(s), jointly or severally, who is (are) personally obligated to pay the same or may foreclose the lien against the property, and the Association is hereby granted a power of sale to conduct said foreclosure; and interest, costs and reasonable attorneys' fees of the action of foreclosure shall be added to the amount of such assessment. The Association shall be entitled to bid at any foreclosure sale and may apply as cash credit against its bid all sums due as provided herein. In the conduct of such foreclosure and sale, it shall be sufficient to satisfy the requirements of due process if the Board of Directors shall satisfy the then existing requirements of the North Carolina General Statutes for notice and hearing applicable to foreclosures under a power of sale. No Owner or owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements and facilities. The Board of Directors shall also have the power, in its discretion, to assess a late payment penalty of five per cent (5%) of the assessment or the maximum amount allowed by law, whichever is higher, against any owner whose assessment shall be unpaid on due dates.

The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of Eighteen percent (18.00%) per annum on any such advances made for such purpose.

6.8 Acceleration of Assessments Payable by Installment. In any case where an assessment is payable in installments, upon a default by an Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessment may be accelerated, at the option of the Board, and the entire remaining balance of the assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner.

6.9 Mortgagee Liability. Where a mortgagee, or other person claiming through such mortgage, pursuant to the remedies provided in a mortgage or deed of trust, or by foreclosure, or by deed in lieu of foreclosure, obtains title to a Unit, the liability of such mortgagee, or such other person, for assessments shall be only for the assessments, or installments thereof, that would become delinquent if not paid after acquisition of title. For purposes hereof, title to a Unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption.

Without releasing the transferor from any liability therefor, any unpaid portion of assessments resulting, as provided in above, from the exercise of remedies in a mortgage or deed of trust, or by foreclosure thereof, or by deed in lieu of such foreclosure, shall be

considered a Common Expense collectible from all Unit Owners, including the Mortgagee or such other person above who acquires ownership by foreclosure or by deed, or assignment, in lieu of foreclosure.

6.10 Prohibition Of Exemption From Liability For Contribution Toward Common Expenses. No Unit Owner may exempt himself from liability for his share of the Common Expenses assessed by the Association by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit or otherwise.

6.11 Capital Reserves. The Board of the Association, in adopting its budget for the operation, management and maintenance of the Condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Elements, which capital improvement and replacement fund ("Capital Improvement Fund") shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a portion of the Common Elements, as well as, the replacement of personal property which may constitute a portion of the Common Elements held for the joint use and benefit of the Owners of Units. The amount to be allocated to the Capital Improvement Fund may be established by the Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Elements. The amount so collected for the Capital Improvement Fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to the Common Elements. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board, be expended for current operations and maintenance.

6.12 Assessments and Reserves are Separate Property. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Bylaws of the Association or the Act. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by other Owners. Although all funds held by the Association shall be for the benefit of the Members of the Association, no Member shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit. When the Owner of a Unit shall cease to be a Member of the Association by reason of his divestment of ownership to such Unit, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

6.13 Statements; Election of Remedies. Whenever any Unit may be leased, sold or mortgaged by the Owner thereof, the Association, upon written request of the Owner, shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the

Association for such Unit. Such statement shall be executed by an officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owed to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owed to the Association.

ARTICLE VII MANAGEMENT, MAINTENANCE, REPAIRS, REPLACEMENTS ALTERATIONS AND IMPROVEMENTS

7.1 Common Expenses.

a. By the Association. The management, replacement, maintenance, repair, alteration and improvement of the Common Elements, (including all conduits, ducts, plumbing, wiring and other facilities located in the Common Elements or in a Slip for the furnishing of utility and/or other services to the Common Elements or other Slips), shall be the responsibility of the Association, and, subject to the provisions of Paragraph 7.2 hereof, the cost thereof shall be a Common Expense to the extent not paid by Unit Owners pursuant to (b) below. The Association shall also be responsible for dredging and related work necessary to maintain the water depth within each Slip and the marina generally at such depth as may be determined to be necessary or desirable, from time to time, by the Board. All dredged material removed from any Slip or the marina generally shall be disposed of under such terms and conditions approved by the Board.

All damage to a Unit or Limited Common Element by any work on or to the Common Elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common Expense. Notwithstanding the above, the Association may charge to any Owner, the cost of any repairs or maintenance required because of the negligence of the Owner, his agents, employees, or invitees, with the same being collectible as an assessment under Article VI hereof.

b. By Owners. Each Owner shall pay all cost to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of his intentional or negligent acts or omission to act or the intentional or negligent or omission to act of himself or any Occupant of his Unit. Such payment shall be made upon demand by the Association and be subject to the same collection rights provided to the Association herein.

Notwithstanding the above, to the extent such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance,

repair or replacement, except that the Owner who is responsible for the act or omission to act that caused the damage (whether done by himself, his tenants, guests or invitees) shall be required to pay such portion of the cost of such maintenance, repair or replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of insurance proceeds received by the Association.

The establishment of liability for damage caused by an Owner of a Unit is subject to the provisions of N.C.G.S. §47C-3-107(d).

c. Common Utilities. The Association shall provide and bear the cost for utility service and charges, such as power, water, and sewer utilized in the Common Elements and/or provided to all Slips as provided for in Paragraph 6.1, and shall repair and maintain any signage on the Common Elements, except as otherwise provided herein. The electrical service provided to Slips on Docks B, C and D shall be metered by the Association and useage by an Owner or Occupant shall be charged to the Owner and collected in the same manner as an assessment under Article VI above.

7.2 Expenses Associated With Limited Common Elements Or Benefiting Less Than all Slips.

a. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units, to which such Limited Common Element was allocated at the time the expense was incurred.

a. In addition, the Association may assess any Common Expense benefiting less than all of the Units against the Units benefited proportionally, if more than one, based on their respective interest in the Common Elements.

b. In the event that the maintenance, repair or replacement is necessitated or required resulting from the action or inaction of any Owner or Owners utilizing such Limited Common Element, the Board shall have the discretion to proportion the Common Expense liability between or among the Owners of the Units affected as the Board, in its discretion, deems equitable and appropriate.

7.3 Maintenance by Owner. Every Owner shall perform promptly all maintenance and repair work within his Unit and Limited Common Elements allocated to his Unit (including a Boat or other personal property located within his Slip or other Limited Common Element) which, if omitted, would adversely affect the Condominium, either in its entirety or in part, the Units and Limited Common Elements assigned to other Owners or the waters of Spooners Creek. Every Owner shall be expressly responsible for the damages and liability which his failure to do so may engender. The Owner of each Unit shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all permitted dock boxes, docking equipment, cleats, boat lifts, and other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, to the Slip assigned to his Unit. Whenever the maintenance, repair and replacement of any item for which the Owner of a Unit is obligated to

maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that the Owner of such Unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

7.4 Right to Alter and Improve Common Elements. Subject to Declarant's Special Declarant Rights and Development Rights, the Association shall have the right to make or cause to be made such alterations or improvements to the Common Elements which do not materially prejudice the rights of the Owner of any Unit in the use and enjoyment of the Limited Common Elements assigned to his Unit; provided the making of such alterations and improvements are approved by the Board and the cost of such alteration or improvements shall be Common Expenses to be assessed and collected from all of the Owners of Units. However, where any alterations or improvements are exclusively or substantially for the benefit of the Owner or Owners of a certain Unit or Units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the Owner or Owners of the Unit or Units exclusively or substantially benefited, the assessment to be levied in such proportion as may be determined by the Board. For purposes of this Paragraph, dredging of a portion of the marina basin which benefits only a certain number of Slips shall be a shared Common Expense among all Owners and not just those directly benefited.

7.5 Waiver of Claims. Except as may otherwise be specifically provided for in this Declaration, the Association agrees that it shall make no claim against the Unit Owner or Occupant, and each Unit Owner and Occupant agrees that he shall make no claim against the Association, members of the Board, officers of the Association, or its employees or agents thereof, or against any manager retained by the Board or his or its officers, directors, employees or agents, or other Unit Owners or Occupants, for any loss or damage to any of the Property, or to a Unit, Limited Common Element or personal property located therein, even if caused by the omission or neglect of any one or more of such persons named above and all such claims are hereby waived and released; provided, however, that this waiver shall not apply to any such loss or damage due to the intentional acts; provided, further, this waiver is void if application of the same will result in loss of insurance coverage by the party suffering the damage.

7.6 Right of Entry.

a. By the Association. The Association, and any person authorized by the Association, may, but is not obligated to enter any Unit or any of the Limited Common Elements in case of any emergency or dangerous condition or situation originating in or threatening that Unit or any of the Limited Common Elements, as determined in its sole discretion. The Association, and any person authorized by the Association, after reasonable notice to a Unit Owner or Occupant, may enter that Unit or any of the Limited Common Elements for the purpose of performing any of the Association's duties or

obligations, or exercising any of the Association's powers under the Act, this Declaration, or the By-Laws, with respect to that or any other Unit, any Limited Common Elements, or the Common Elements. Notwithstanding Paragraph 7.4, the Association shall be responsible for any damage caused by the gross negligence of the Association, or its authorized persons, to the entered Unit or Limited Common Element, and the cost thereof shall be a Common Expense. All such entries shall be made and done so as to cause as little inconvenience as reasonably possible to the Unit Owner and Occupant, if any.

b. *By Unit Owners.* Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives to enter his Unit or Limited Common Elements allocated to his Unit, when reasonably necessary for the purpose of altering, maintaining, repairing, or replacing the requesting Owner or Occupant's Unit or Limited Common Elements, or performing the duties and obligations under the Act, this Declaration, or the By-Laws of the Unit Owner or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner or Occupant whose Unit or Limited Common Element is to be entered. In case of emergency or dangerous condition or situation, such right of entry shall be immediate. Notwithstanding Paragraph 7.5, the person making such entry shall be responsible for repair of any damage caused by such person to the entered Unit or Limited Common Element.

ARTICLE VIII INSURANCE

8.1 Casualty Insurance. The Association shall maintain in its name casualty insurance covering the Common Elements and Units, including all buildings, improvements, docks and pilings. Such insurance shall be procured to the extent available in an amount equal to at least eighty percent (80%) of the maximum insurable replacement value thereon (exclusive of land, excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against (a) loss or damage by fire and other hazard, covered by the standard extended coverage endorsement; and (b) such other risks as from time to time customarily shall be covered with respect to improvements and facilities similar in construction, location and use, including, but not limited to, vandalism and malicious mischief. The Board, in its discretion, may elect to waive coverage regarding casualty losses caused by wave action.

All policies of insurance shall be payable to the Association, as trustee for all Owners of Units and Security Holders as their interest may appear, and such proceeds shall be disbursed pursuant to the Act, specifically N.C.G.S. §47C-3-113.

Notwithstanding anything to the contrary stated hereinabove, the Association shall maintain all insurance required by the Act.

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8.2 Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of all Owners, Occupants; holders of a vendor's interest in a contract for a deed on a Unit; the Association, its officers, directors, employees and agents; the Declarant, its officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that, the public liability insurance shall be for at least \$1,000,000.00 per occurrence for death, bodily injury and property damage. Limits on liability and deductibles may be altered from time to time by the Board within the limits provided for herein. Said insurance shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership, or maintenance of the Common Elements; and insure the Association and its respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the Units.

8.3 Other Insurance. The Association may procure such other insurance as it may from time to time deem appropriate to protect the Association and/or the Owners.

8.4 Terms. Insurance policies carried by the Association pursuant to this Article shall provide that:

- a. Each Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;
- b. The insurer waives its right to subrogation under the policy against any Owner or members of his household, if applicable;
- c. No act or omission of any Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy;
- d. If, at the time of any loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance; and
- e. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each mortgagee or beneficiary under a deed of trust to whom certificates or endorsements have been issued at their respective last known addresses.

8.5 Disbursement. Proceeds of insurance policies received by the Association shall be disbursed first for the repair, reconstruction or restoration of the damaged property and second for any monies outstanding and owed to the Association for assessments under Article VI above. No Owner or Security Holder shall be entitled to receive payment of any portion of the proceeds unless there is a surplus after the Property has been completely repaired or restored, or the Condominium is terminated.

8.6 Insurance Trustee. The Board may engage, and pay as a Common Expense, any appropriate person to act as an insurance trustee to receive and disburse insurance proceeds upon such terms as the Board shall determine, consistent with the provisions of the Act and this Declaration; otherwise, the Board shall serve as such insurance trustee.

8.7 Individual Policy For Owners. Each Owner of a Unit shall obtain or cause to be obtained insurance, at his own expense, affording personal liability coverage in amount equal to at least \$300,000.00 per occurrence for death, bodily injury and property damage related to the use of a Boat by himself or any Occupant and shall provide a copy of the same to the Association. Limits on liability and deductibles may be altered from time to time by the Owner within the maximum limit of \$5,000.00 unless otherwise increased by the Board. Said insurance shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured and insure the Association against such liability arising out of or in connection with the use, ownership, or maintenance of a Boat while located in his Slip.

Owner may obtain any other coverage he deems necessary to protect his own interest; provided, that any such insurance shall contain a waiver of subrogation providing that it is without contribution as against the insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of proceeds that would otherwise be payable on the insurance purchased by the Association due to the proration of the insurance purchased by an Owner under this Paragraph, then such Owner shall be liable to the Association to the extent of such reduction and shall pay the amount of such reduction to the Association upon demand, and assigns the proceeds of his insurance, to the extent of such reduction, to the Association.

The Association shall not be required to maintain insurance coverage for any betterment or improvements to the Slips and/or Limited Common Elements added by any Owner i.e. boat lifts.

8.8 Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense to be assessed and collected from all of the Owners of Units.

Declarant shall procure and pay the premium(s) for the initial insurance policies required by this Article and shall be reimbursed for the pro rata portion of the cost thereof by each Owner at the time each Unit is conveyed to a Person other than the Declarant.

8.9 Mortgage Endorsement. In the event a mortgage endorsement has been issued for a Unit, the share of any insurance proceeds of the Owner shall be held for the mortgagee and the Owner as their interest may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

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ARTICLE IX
CASUALTY DAMAGE

9.1 Reconstruction. Any portion of the Condominium for which insurance is required pursuant to Article VIII above which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Owners decide not to rebuild by an eighty percent (80.00%) vote, including one hundred percent (100.00%) approval of all of the Owners of Units not to be rebuilt or Owners of Units assigned Limited Common Elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of Units to which Limited Common Elements which are not rebuilt were allocated or to Security Holders, as their interests may appear, and (3) the remainder of the proceeds shall be distributed to all of the Owners or Security Holders, as their interests may appear, in proportion to their Common Element interest. If Owners vote not to rebuild any Unit or Limited Common Element assigned to a Unit, that Unit's allocated interests automatically shall be reallocated upon the vote as if the Unit had been condemned pursuant to N.C.G.S. § 47C-1-107(a), and the Association promptly shall prepare, execute and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this Paragraph, N.C.G.S. §47C-2-118 shall govern the distribution of insurance proceeds if the Condominium is terminated. Unless otherwise prohibited, any such reconstruction or repair shall be substantially in accordance with the Plat and Plans.

9.2 Estimate. Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary or appropriate.

9.3 Priority of Repairs. When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the costs of repairing the Common Elements with the balance to the Units.

Each Owner shall be deemed to have irrevocably delegated to the Association his right to adjust with insurance companies all losses under policies purchased by the Association.

ARTICLE X CONDEMNATION

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored, and the awards paid on account thereof shall be used and applied in accordance with the provisions of N.C.G.S. § 47C-1-107.

ARTICLE XI TERMINATION

The Condominium may be terminated only in strict accordance with the provisions of N.C.G.S. § 47C-2-118.

ARTICLE XII REMEDIES FOR DEFAULT

The Owner or Owners of each Unit shall be governed by and shall comply with the provisions of the Declaration. A default by an Owner shall entitle the Association or any Owner of a Unit to the following relief:

A. Failure to comply with any of the terms of this Declaration, rules and regulations or the By-laws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including, without limitation, fines, actions to recover sums for damages, injunctive relief, foreclosure of lien, or any combination thereof. Assessments in the form of fines for the violation of this Declaration shall be subject to the provisions of N.C.G.S. Chapter 47C. Such relief may be sought by the Association or, if appropriate, by an aggrieved Owner.

B. Each Owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances. Assessments for such liability shall be subject to the provisions of N.C.G.S. §47C-3-107(d). Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. In any proceeding arising because of an alleged default by an Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees as may be determined by the Court, but in no event shall any Owner be entitled to such attorneys fees except as otherwise provided in N.C.G.S. §47C-3-116(e).

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D. The failure of the Association or any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or the Owner to enforce such right, provision, covenant or condition in the future.

E. The violation of the rules and regulations adopted by the Board or the breach of any provision of this Declaration shall give the Board the right, in addition to any other rights set forth herein or in the Act: (i) to enter a Unit, Limited Common Element or the portion of the Property on which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions thereof, and the Board shall not thereby be deemed guilty in any manner of trespass; (ii) to use self-help to remove or cure any violation of this Declaration (including, without limitation, the towing of Boats or other vessels); or (iii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; provided, however, that before any construction may be altered or demolished (except in emergencies) judicial proceedings shall be instituted.

F. The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

G. The failure of a Security Holder to enforce any right, provision, privilege, covenant or condition which may be granted by this Declaration or the other above-mentioned documents shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

ARTICLE XIII AMENDMENT

This Declaration may be amended as follows:

A. An amendment or amendments to this Declaration may be executed as set forth in other provisions of this Declaration (such provision deal with specific and limited reasons for amendment);

B. An amendment or amendments to this Declaration may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association having a majority of the vote, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by the Board or Members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not later than sixty (60) days from receipt by him of the proposed amendment or amendments. It shall be the duty of the Secretary to give to each Member as of the date of such notice, written or

printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than fourteen (14) days before the date set for such Special Meeting. If mailed, such notice shall be deemed properly given when deposited in the United States mail addressed to the Member at his post office address as it appears on the records of the Association, the postage thereon prepaid. Any Member may, by written waiver of notice signed by such Member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the Special Meeting, shall be deemed equivalent to the giving of notice to such Member. At the meeting, the amendment or amendments proposed must be approved by an affirmative vote of at least sixty-seven percent (67.00%) of the votes in the Association which are allocated to Owners in the Condominium that are in attendance at said meeting in person or by proxy, in order to be adopted. The original or an executed copy of such amendment or amendments, so certified and executed with the same formalities as a deed, shall be recorded in the Register of Deeds Office of Carteret County, North Carolina, such amendment or amendments to specifically refer to the recording data identifying this Declaration. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the Owners of all Units, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any Member of the Association shall be recognized if such Member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

C. As an alternative to holding a meeting of the Members to consider an amendment of this Declaration, a written agreement may be circulated among the Members. To be effective, the written agreement must be executed by Owners of Units to which at least sixty-seven percent (67.00%) of the votes of the Association are allocated. Once approved, the amendment or amendments shall be transcribed, certified, executed, recorded and a copy sent to all Owners as specified in Paragraph B above;

D. Provisions in this Declaration creating Special Declarant Rights and Development Rights may not be amended without the consent of Declarant which consent shall be attached to the amendment when recorded with the Office of the Register of Deeds for Carteret County, North Carolina.

E. Except to the extent expressly permitted or required by the other provisions of this Declaration (in compliance with the Act), no amendment may create or increase Special Declarant Rights, create or increase Development Rights, increase the number of Units, change the boundaries of any Unit, change the allocated interest of any Unit, or change the uses to which any Unit is restricted, in the absence of unanimous consent of the Owners.

ARTICLE XIV
DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

In addition to each and every right of Declarant as set forth in this Declaration, Declarant, its successors and assigns, specifically reserves all Development Rights and Special Declarant Rights hereinafter set forth:

A. Reservation of Development Rights.

- (1) All Development Rights, as that term is defined in the Act, together with any and all other Development Rights as are set forth in the Act and this Declaration;
- (2) The rights to: create Units, Common Elements and Limited Common Elements within the existing Condominium or to be added to the Condominium; and convert Units into Common Elements;
- (3) The right to construct utility lines, pipes, wires, ducts, conduits, and other facilities across the Property, Common Elements and Limited Common Elements in the Condominium not occupied by improvements and/or Units for the purpose of furnishing utility and other services to improvements to be constructed on the land or within the Riparian Rights appurtenant to the Property or for the benefit of any adjoining property or Riparian Rights area of Declarant. Declarant also reserves the right to withdraw and grant easements and other utility improvements within those easement areas anywhere in the Condominium not occupied by buildings and/or Units, for the above mentioned purpose.
- (4) The right to withdraw and to grant such easements for utility services, drainage, pedestrian and vehicular traffic, or otherwise, across, under or through the Common Elements as may be considered by Declarant desirable for the use of the Condominium for the purposes herein stated or to provide such utility service, drainage, pedestrian and vehicle access to other properties of Declarant adjacent or contiguous thereto.
- (5) The Development Rights reserved hereunder by Declarant may be exercised with respect to different portions of the Property at different times, and Declarant makes no assurances as to the boundaries of those portions or the order in which those portions of the Property may be subjected to the exercise of the Development Rights. If a Development Right is exercised with respect to any portion of the Property, Declarant may, but is not obligated to, exercise any Development Right with respect to any other portion of the Property.

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(6) The Development Rights reserved by Declarant must be exercised within twenty (20) years from the date of recording of this Declaration in the Office of the Register of Deeds of Carteret County, North Carolina.

(7) The exercise of any or all of the Development Rights reserved by Declarant shall be pursuant to, and subject to, the provisions of the Act, and subject to all easements granted to the Association.

B. Reservation of Special Declarant Rights.

(1) All Special Declarant Rights, as that term is defined in the Act, and any other Special Declarant Rights as are set forth in the Act and this Declaration.

(2) The right to use any portion or all of the Common Elements for the purpose of aiding in the sale or rental of Units, including the right to use portions of the Condominium for parking of prospective purchasers and other such parties as Declarant determines. The foregoing right shall include the right to display and erect any signs, billboards, and placards and to store, keep and exhibit the same and to distribute audio and visual promotional materials upon the Common Elements.

(3) The right to use easements through the Common Elements for utility services, drainage, pedestrian and vehicular traffic, or otherwise, across, under or through the Common Elements as may be considered by Declarant desirable for the purpose of making improvements within the Condominium or improvements to be added to the Condominium.

(4) The right to complete improvements indicated on the Plat and Plans and any areas reserved for future development by Declarant;

(5) The right to exercise any and/or all of the Development Rights of Declarant;

(6) The right to perform warranty work and repairs and construction work, and to store materials in secure areas, and in Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of the Board. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Declarant's Development Rights and Special Declarant Rights, whether arising under the Act or reserved in this Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities and other entities to fulfill the plan of development.

C. Limitation on Development Rights and Special Declarant Rights.

The Development Rights and Special Declarant Rights reserved in this Declaration are limited as follows:

(1) The Development Rights and Special Declarant Rights may be exercised at any time, but not later than twenty (20) years from the date of the recording of the Declaration in the Office of the Register of Deeds of Carteret County. All Development Rights and Special Declarant Rights shall terminate on the date which is twenty (20) years after the date of the recording of this Declaration in the Office of the Register of Deeds of Carteret County.

(2) No more than ten (10) additional Units with appurtenant Limited Common Elements consistent with those provided to Units herein may be created by Declarant under the Development Rights and Special Declarant Rights on the Property or as the result of a subdivision of an existing Unit owned by the Declarant. This right to create additional Units and Common Elements and subject the same to the provisions of this Declaration shall be exercised by recording in the Office of the Register of Deeds of Carteret County, North Carolina, an amendment to this Declaration, which amendment shall not require the joinder of the Association or any third party. The Amendment shall specifically describe the additional Units being made subject to this Declaration. Such amendment shall specify restrictions and conditions applicable to the additional Units, but no such provision or condition shall materially and adversely impact the rights granted to the owner of any current Unit. For purposes of this provision, a reduction in percentage ownership in the Common Elements or an increase in use of the Common Elements both occurring as a result of such annexation shall not be considered to "materially and adversely impact the rights of the owner of any current Unit.

(3) All Units, Limited Common Elements and Common Elements created pursuant to the Development Rights and Special Declarant Rights will be restricted to use in the same manner and to the same extent as the Units created under this Declaration as initially recorded.

(4) Upon the expiration or other termination of the Development Rights and Special Declarant Rights, all real property in the Condominium subject to Development Rights upon which no Units or Limited Common Elements have been created shall become Common Elements as described in this Declaration.

(5) No Development Rights and/or Special Declarant Rights may be abandoned or terminated by Declarant unless all persons holding security interests in the Development Rights and/or Special Declarant Rights consent to such abandonment or termination.

D. Phasing of Development Rights.

Declarant reserves the right to exercise any of Declarant's Development Rights with respect to the Property at different times. No assurances are made by the Declarant regarding the areas or any portions of the areas as to the portions where Declarant will exercise its Development Rights or the order in which such portions will be developed. No assurances are made by Declarant regarding whether all or portions of the areas described on the Plat and Plans as "reserved for future development" will be developed. The exercise of any Development Rights in part does not obligate Declarant to exercise all of its Declarant's Development Rights in the future. Declarant reserves the right to exercise any of Declarant's Development Rights as to portions but not all of the property described in Plat and Plans.

Declarant reserves the right to exercise any of Declarant's Development Rights with respect to the Units owned by Declarant at different times. No assurances are made by Declarant regarding the Units owned by Declarant as to when the Declarant may exercise its Development Rights or in what order. No assurances are made by Declarant regarding whether all of the Units Declarant reserves the right to create will be created. The exercise of any Development Right as to some of the Units owned by Declarant will not obligate Declarant to exercise any of the Declarant's Development Rights as to other Units owned by Declarant.

E. Interference with Special Declarant Rights and Development Rights.

(1) Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right or Development Right without the prior written consent of Declarant.

(2) In relation to Declarant's exercise of any Special Declarant Right or Development Right, the provisions of this Declaration which prohibit or require approval by the Association or Owners of additions, alterations, or any improvements shall not be applicable.

F. Assignment of Declarant's Rights and Duties.

Any and/or all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person which will assume any and/or all of the duties of Declarant hereunder, and upon any such person

evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment, and to the extent thereof, Declarant shall be relieved from all liabilities, obligations, and duties hereunder. Declarant may limit and restrict the rights and powers which are assigned to any person in the instrument which assigns such rights. The term "Declarant" as used herein includes all such assignees and their successors and assigns, subject to such restrictions or limitations as may be imposed in the instrument assigning such rights.

ARTICLE XV OPERATION AND MAINTENANCE OF FUEL SYSTEM

15.1 Fuel System. Declarant has caused to be constructed and installed the Fuel System within the Fuel System Easement Area and Common Elements of the Condominium. The Association is hereby obligated to operate or cause to be operated the Fuel System to provide and sell fuel for the beneficial use of all Owners, Occupants and other users of the marina facilities. The Association may adjust hours of operation based on demand and time of year. The Association shall maintain the Fuel System at all times in first class operating condition and in full compliance with all legal and regulatory requirements.

The Association shall be entitled to lease the Fuel System and responsibility for its operation, maintenance and repair to third parties upon such terms as deemed appropriate by its Board; however, always subject to compliance with the terms of this Article and the Declaration.

15.2 Fuel Reserves. The Association shall utilize reasonable efforts to maintain such quantities of fuel within the Fuel System at all times to meet the reasonable fuel requirements, as may be adjusted on a seasonal basis determined by historical use and demand, for all Owners, tenants and other users of the marina facility. The Association shall be entitled to assess as a Common Expense the expense necessary to maintain such a fuel reserve.

15.3 Fuel Dock. The Declarant hereby grants to the Association an exclusive easement to use Units C-19 and C-20 and the Limited Common Elements assigned to such Units for the limited purpose of mooring Boats for fueling.

During the term of this easement, the Association shall be responsible for the upkeep and maintenance of the Units, which shall be treated as a Common Expense shared among all other Units in the Condominium along with any assessments by the Master Association. The Declarant, as Owner of these Units, shall not be charged any portion of the Common Expenses for such time as said Units are subject to this easement.

Likewise, the Association agrees that it shall hold Declarant harmless from any cost, expense or liability related to the use, maintenance, upkeep or repair of the Units and their assigned Limited Common Elements during the term of this easement.

This easement shall run with the land and inure to the benefit of the Association's successors and assigns; however, the easement shall terminate upon the earlier of the following to occur:

- i. the Association ceasing to operate or cause to be operated the Fuel System for a period of ninety (90) consecutive days;
- ii. Declarant or Association installing a fuel dispensing system which allows Boats to fuel within the Slips. Declarant's right to install such a fueling system is in its sole discretion and shall be at its sole cost and expense. Declarant specifically reserves an easement across the Common Elements for the purpose of being able to construct said system and to remove and relocate the existing Fuel System, if necessary. Declarant shall convey and Association shall accept the new fuel dispensing system and shall administer and maintain the same in accordance with this Article.

15.3 Indemnity. Association shall defend, indemnify, protect and hold harmless, the Master Association and The Shores at Spooners Creek Condominium Owners' Association, Inc., their respective directors, members, guests, invitees, tenants, employees and agents, successors and assigns, from and against all claims, demands, judgments, damages, actions, causes of action, injuries to person or property, administrative orders, consent decrees and orders, liabilities, penalties costs, attorneys fees, consultants fees and expenses of any kind whatsoever including, but not limited to, claims arising out of loss of life, injury to persons, property or business or damage to the environment or natural resources caused by the ownership and operation of the Fuel System, the presence of Fuel within the Fuel System Easement Area or of whatsoever nature arising out of the use, condition, operation, maintenance, repair and restoration of the Fuel System and the storage and dispensing of Fuel.

The Association may carry such insurance related to the Fuel System as deemed appropriate in the discretion of the Board and may assess the same as a Common Expense against the Owners.

15.4 Termination of Service. The Association shall be entitled to cease operation of the Fuel System and the provision of Fuel for Owners, Occupants and other users of the marina facility upon the affirmative vote of Owners representing seventy-five percent (75.00%) of the undivided interest in the Common Elements, which vote shall have been cast at a special meeting of the Members called for such purpose and noticed in accordance with the By-laws.

ARTICLE XVI
GENERAL PROVISIONS

16.1 Conflict with the Act; Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provision of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event, the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph, or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or affect the rest of this Declaration or the application of any such covenants, restriction, condition, limitation, provision, paragraph or clause to any other Person or circumstance.

16.2 Interpretation of Declaration. Whenever appropriate singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.

16.3 Captions. The captions herein are only for convenience and reference. They do not define, limit or describe the scope of this Declaration, or the intent of any provision.

16.4 Exhibits. Exhibits "A", "B", "C", and "D" are attached hereto and made a part hereof.

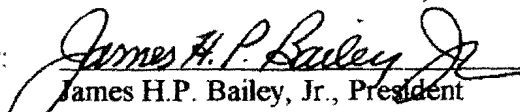
16.5 Authority of Association. Unless specifically limited by a provision of this Declaration or the By-Laws, any action allowed or required to be taken by the Association may be taken by a majority vote of the Board, without joinder or approval of the Members of the Association.

16.6 Bailment. The placement of a Boat in a Slip shall not be deemed to create any bailment relationship between Owner and Association.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the day and year first above-written.

SHORES DEVELOPMENT, INC.

By:


James H.P. Bailey, Jr., President

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STATE OF NORTH CAROLINA

COUNTY OF CARTERET

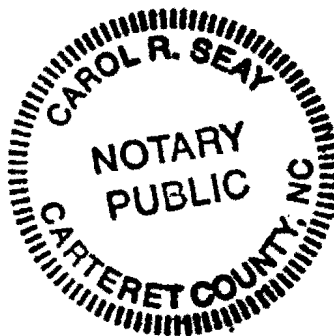
I, Carol R. Seay, a Notary Public of the County and State above, do hereby certify that JAMES H.P. BAILEY, JR. personally came before me this day and acknowledged that he is _____ President of SHORES DEVELOPMENT, INC., a North Carolina corporation, and that he as _____ President being authorized to do so, executed the foregoing instrument on behalf of and as the act of said corporation.

This the 11th day of June, 2007

Carol R. Seay
Notary Public

My commission expires:

June 18, 2011



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STATE OF NORTH CAROLINA

CONSENT OF LIENHOLDER

COUNTY OF CARTERET

Branch Banking & Trust Company and BB&T Collateral Service Corporation join in the execution of this Declaration to consent to the terms of the same and subordinate the liens of the below referenced Deeds of Trust to BB&T Collateral Service Corporation, Trustee, for Branch Banking & Trust Company to this Declaration, said Deeds of Trust being recorded in:

Deed Book 1153, Page 76, Carteret County Registry;
Deed Book 1153, Page 80, Carteret County Registry;
Deed Book 1071, Page 408, Carteret County Registry;
Deed Book 1080, Page 195, Carteret County Registry;
Deed Book 1088, Page 170, Carteret County Registry;
Deed Book 1219, Page 481, Carteret County Registry;

IN TESTIMONY WHEREOF, Trustee and Branch Banking and Trust Company have caused this Declaration to be executed in such form as to be legal and binding.

BB&T COLLATERAL SERVICE
CORPORATION

By: 

Vice President

BRANCH BANKING & TRUST
COMPANY

By: 

Vice President

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STATE OF NORTH CAROLINA

COUNTY OF CARTERET

I, Ophelia H. Chambers, a Notary Public in the County and State above, do hereby certify that Mark Anderson, personally came before me this day and acknowledged that he is Vice President of BB&T COLLATERAL SERVICES CORPORATION, a corporation, and that he as Vice President being authorized to do so, executed the foregoing instrument on behalf of the corporation.

This the 11th day of June, 2007.

Ophelia H. Chambers
Notary Public

My commission expires

1-9-2010

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

I, Ophelia H. Chambers, a Notary Public in the County and State above, do hereby certify that W. Mark Shouse, personally came before me this day and acknowledged that he is Vice President of BRANCH BANKING & TRUST COMPANY, a corporation, and that he as Vice President being authorized to do so, executed the foregoing instrument on behalf of the corporation.

This the 11th day of June, 2007.

Ophelia H. Chambers
Notary Public

My commission expires

6-19-2010

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EXHIBIT A
[Property]

Being all of that property depicted on that certain plat entitled "As Built Survey of Spooners Creek Marina Condominiums" prepared by Stroud Engineering, P.A., dated June 6, 2007 and recorded in Map Book 101, Page 236/237 Carteret County Registry.

EXHIBIT B
[Limited Common Elements]

The following areas are Limited Common Elements for Units:

Slips assigned to Units as indicated on the Plat and Plans. The assigned Slips have the same designation as the Unit;

Utility Pedestals, finger piers and mooring pilings shall be a Limited Common Element shared by the Units assigned the two (2) Slips located immediately adjacent to such items.

Cleats located on the main docks and finger piers shall be a Limited Common Element of the Unit assigned the Slip immediately adjacent to the cleats.

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EXHIBIT C

Unit Designation	Percentage of Undivided Interest	Percentage of Common Expenses	Vote
A 1	1.1363%	1.1363%	1.1363
A 1	1.1363%	1.1363%	1.1363
A 2	1.1363%	1.1363%	1.1363
A 3	1.1363%	1.1363%	1.1363
A 4	1.1363%	1.1363%	1.1363
A 5	1.1363%	1.1363%	1.1363
A 6	1.1363%	1.1363%	1.1363
A 7	1.1363%	1.1363%	1.1363
A 8	1.1363%	1.1363%	1.1363
A 9	1.1363%	1.1363%	1.1363
A 10	1.1363%	1.1363%	1.1363
A 11	1.1363%	1.1363%	1.1363
A 12	1.1363%	1.1363%	1.1363
A 13	1.1363%	1.1363%	1.1363
A 14	1.1363%	1.1363%	1.1363
A 15	1.1363%	1.1363%	1.1363
A 16	1.1363%	1.1363%	1.1363
A 17	1.1363%	1.1363%	1.1363
A 18	1.1363%	1.1363%	1.1363
A 19	1.1363%	1.1363%	1.1363
A 20	1.1363%	1.1363%	1.1363
A 21	1.1363%	1.1363%	1.1363
A 22	1.1363%	1.1363%	1.1363
A 24	1.1363%	1.1363%	1.1363
A 26	1.1363%	1.1363%	1.1363
A 28	1.1363%	1.1363%	1.1363
A 30	1.1363%	1.1363%	1.1363
B 1	1.1363%	1.1363%	1.1363
B 2	1.1363%	1.1363%	1.1363
B 3	1.1363%	1.1363%	1.1363
B 4	1.1363%	1.1363%	1.1363
B 5	1.1363%	1.1363%	1.1363
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B 7	1.1363%	1.1363%	1.1363
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B 9	1.1363%	1.1363%	1.1363
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C 9	1.1363%	1.1363%	1.1363
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D 1	1.1363%	1.1363%	1.1363
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D 18	1.1363%	1.1363%	1.1363
D 19	1.1363%	1.1363%	1.1363
D 20	1.1363%	1.1363%	1.1363
Total:	100.00%	100.00%	100.00

*C 19 and C 20 have a slightly higher interest in the Common Elements and Voting.

EXHIBIT D
[By-Laws]

**BY-LAWS
OF
SPOONERS CREEK MARINA OWNERS' ASSOCIATION, INC.**

ARTICLE I - OFFICES

The principal office of the Association shall be located at such place as the Board of Directors may fix from time to time. The registered office of the Association required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

ARTICLE II - MEMBERS

The Members of the Association shall be those persons or entities which meet the requirements for membership in the Association as set out in the Declaration of Unit Ownership recorded in Deed Book 1227, Page 241, Carteret County Registry, as amended (hereinafter referred to as the "Declaration").

ARTICLE III - MEETING OF MEMBERS

SECTION 1 - Annual Meetings

The annual meeting of the Members of the Association shall be held on the last Saturday of the month of September, beginning in September, 2008, and continuing thereafter each year at such place and time as may be fixed by the Board of Directors to be included in the notice thereof. The Directors may change the date and time of the annual meeting from time to time by resolution but in no event later than thirty (30) days from the anniversary date of the prior annual meeting. The Annual Meeting shall be for the purposes of electing directors and transacting such other business as may properly come before the meeting.

SECTION 2 - Special Meetings

Special meetings of the members may be called at any time by the Board of Directors or by the President, and special meetings shall be called by the President or the Secretary at the written request of Members representing at least twenty percent (20%) of membership, or as otherwise required under the provisions of the laws of the State of North Carolina ("Corporation Law").

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SECTION 3 – Place of Meetings

All meetings of the members shall be held at the principal office of the Association or at such other places as shall be designated in the notices or waivers of notice of such meetings.

SECTION 4 – Notice of Meetings

(a) Written notice of each meeting of the Members, whether annual or special, stating the time and place where it is to be held, shall be served either personally or by mail, not less than fifteen (15) or more than sixty (60) days before the meeting, upon each member of record as of the date of the notice entitled to vote at such meeting and to any other person to whom the giving of notice may be required by law. Notice of a special meeting shall also state the purpose or purposes for which the meeting is called and shall indicate that it is being issued by, or at the direction of, the person or persons calling the meeting. If mailed, such notice shall be directed to each such Member at his address as it appears on the membership records of the Association, unless he shall have previously filed with the Secretary of the Association a written request that notices intended for him be mailed to some other address, in which case it shall be mailed to the address designated in such request.

(b) Notice of any meeting need not be given to (i) any person who may become a Member of record after the mailing of such notice and prior to the meeting, (ii) any Member who attends such meeting, in person or by proxy, or (iii) any Member who, in person or by proxy submits a signed waiver of notice either before or after such meeting. Notice of any adjourned meeting of members need not be given, unless otherwise required by statute.

SECTION 5 – Quorum

(a) Except as otherwise provided herein, by statute or in the Articles of Corporation (such Articles and any amendments thereof being hereinafter collectively referred to as the "Articles of Corporation"), at all meetings of the Members of the Association, the presence at the commencement of such meetings in person or by proxy of Members representing one-third ($1/3$) of the votes of the Association, in good standing and entitled to vote, shall be necessary and sufficient to constitute a quorum for the transaction of any business. The withdrawal of any Member after the commencement of a meeting shall have no effect of the existence of a quorum after a quorum has been established at such meeting.

(b) Despite the absence of a quorum at any annual or special meeting of the members, those in attendance and entitled to vote thereon may, by majority vote, adjourn the meeting. At any such reconvened meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called if a quorum had been present. No meeting may be adjourned for longer than forty-eight (48) hours.

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SECTION 6 – Voting

(a) Except as otherwise provided by statute, the Articles of Corporation or in these By-Laws, any corporate action, other than the election of directors shall be taken by vote of the members and shall be authorized by a majority of votes cast at a meeting of members entitled to vote thereon.

(b) Except as otherwise provided by statute, the Articles of Corporation or in these By-Laws, a Member shall be entitled to vote his percentage ownership in the Common Elements as the same is set forth in the Declaration; provided, however, when more than one person holds an interest in a Unit, all such persons shall be members and the vote for such Unit shall be exercised as they, among themselves determine, but in no event shall more than the interest in the Common Elements allocated to said Unit be cast.

(c) Each member entitled to vote or to express consent or dissent without a meeting may do so by proxy; provided, however, that the instrument authorizing such proxy to act shall have been executed in writing by the member himself or by his Attorney-in-fact thereunto duly authorized in writing. No proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless the person(s) executing it shall have specified therein the length of time it is to continue in force. Such instrument shall be exhibited to the Secretary at the meeting and shall be filed with the records of the Association.

(d) Any resolution in writing signed by all of the members entitled to vote thereon shall be and constitute action by such members to the effect therein expressed, with the same force and effect as if the same had been duly passed by unanimous vote at a duly called meeting of members, and such resolutions so signed shall be inserted in the Minute Book of the Association under its proper date.

ARTICLE IV – BOARD OF DIRECTORS

SECTION 1 – General Powers. All corporate powers shall be exercised by and under the authority of, and the business and affairs of the corporation shall be managed under the direction of, the Board of Directors.

SECTION 2 – Number, Election and Term of Office

(a) The number directors of the Association shall be not less than three (3), nor more than seven (7) directors. It shall be a qualification to be a Director that such person also be a Member of the Association.

The directors shall be divided into three (3) classes, as nearly equal in number as may be, to serve in the first instance for terms of one, two and three years, respectively, and thereafter the successors in each class of directors shall be elected to serve for terms

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of three years. In the event of any increase or decrease in the number of directors, the additional or eliminated directorships shall be so classified or chosen that all classes of directors shall remain or become as nearly equal in number as may be possible.

(b) Except as may otherwise be provided herein or in the Articles of Corporation, the members of the Board of Directors of the Association, shall be elected by a plurality of the votes cast at a meeting of the Members entitled to vote thereon. The election of directors shall be by secret written ballot.

(c) At each annual meeting, the Members shall elect a number of directors equal to those for whose term has expired for a term of two (2) years, and thereafter, until their successors are duly elected and qualified or until their prior death, resignation or removal.

(d) Nominations for election to the Board of Directors may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting of Members. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors at least ninety (90) days prior to each annual meeting of the Members, to serve until the close of such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but no less than the number of vacancies that are to be filled. Such nominations shall be contained in the Notice of the Annual Meeting provided to the Members. The Nominating Committee shall endeavor to present a slate of nominees to the Board of Directors that is representative of each building within the Condominium.

SECTION 3 – Duties and Powers

The Board of Directors shall be responsible for the control and management of the affairs, property and interests of the Association and may exercise all powers of the Association, except as are in the Declaration, Articles of Corporation or by statute expressly conferred upon or reserved to the Members.

By way of illustration, but not limitation, the powers of the Board of Directors shall include:

i. Adopt rules and regulations governing the use of the Common Elements and amenities, the personal conduct of Members and their guests thereon, and establish penalties for the infraction thereof not to exceed \$150.00 per incident;

ii. Suspend a Member's voting rights and right of use of the recreational facilities of the Common Elements during any period in which such Member shall be in default in the payment of any assessment levied by the Association; and to suspend such rights, after notice and hearing, for infraction of published rules and regulations for a period no longer than forty-five (45) days;

iii. Declare the office of a Member of the Board of Directors to be vacant in the event such Member of the Board shall be absent from three (3) consecutive regular meetings of the Board;

iv. To employ a manager, an independent contractor, or other employees as is deemed necessary, and prescribe their duties; provided, that any contract for professional management must contain a clause requiring not more than ninety (90) days termination notice;

v. Procure, maintain, and pay premiums on, insurance policy(s) and equitably assess the members the same for their pro rata portion of such expense;

vi. Impose and receive any payments, fees, or charges for the maintenance, use, or operation of the Common Elements and recreational facilities from the Members as provided in the Declaration;

vii. Exercise any other powers necessary and proper for the governance and operation of the Association;

viii. To have and to exercise any and all powers, rights and privileges, whether implicit or explicit, provided: (1) to owners' associations under Chapter 47C of the North Carolina General Statutes, (2) to a Association organized under the Non-Profit Corporation Law of the State of North Carolina existing now or as may hereafter be provided and (3) to the Association under the Declaration;

SECTION 4 – Annual and Regular Meetings; Notice

(a) A regular annual meeting of the Board of directors shall be held immediately following the annual meeting of the Members, which shall be at the place of such annual meeting of Members.

(b) The Board of Directors from time to time may provide by resolution for the holding of such other regular meetings of the Board of Directors and may fix the time and place thereof.

(c) Notice of any regular meeting of the Board of Directors shall not be required to be given and, if given, need not specify the purpose of the meeting; provided, however, that in case the Board of Directors shall fix or change the time or place of any regular meeting, notice of such action shall be given to each director who shall not have been present at the meeting at which such action was taken within the time limited, which notice shall be given in the manner set forth in paragraph (b) of Section 4 of this Article III with respect to special meetings, unless such notice shall be waived in the manner set forth in paragraph (c) of such Section 5.

SECTION 5 – Special Meetings; Notice

- (a) Special meetings of the Board of Directors shall be held whenever called by the President or by one of the directors at such time and place as may be specified in the respective notices or waivers of notice thereof.
- (b) Notice of special meetings shall be mailed directly to each director, shall be addressed to him at his residence or usual place of business at least three (3) days before the day on which the meeting is to be held, or shall be sent to him at such place by telegram, radio or cable, or shall be delivered to him personally or given to him orally, not later than the day before the day on which the meeting is to be held. A notice or waiver of notice, except as required in Section 9 or Section 11 of this Article III, need not specify the purpose of the meeting.
- (c) Notice of any special meeting shall not be required to be given to any director who shall attend such meeting without protesting prior thereto or at its commencement the lack of notice to him, or to any director who submits a signed waiver of notice, whether before or after the meeting. Notice of any adjourned meeting shall not be required to be given.

SECTION 6 – Chairman

At all meetings of the Board of Directors, the Chairman of the Board, if any and if present, shall preside. If there shall be no Chairman or if he shall be absent, the President shall preside, and in his absence, a Chairman chosen by the Directors present shall preside.

SECTION 7 – Quorum and Adjournments

- (a) At all meetings of the Board of Directors, the presence of a majority of the entire Board shall be necessary and sufficient to constitute a quorum for the transaction of business, except as otherwise provided by law, by the Articles of Corporation or by these By-Laws.
- (b) A majority of the directors present at the time and place of any regular or special meeting, although less than a quorum, may adjourn the same from time to time without notice until a quorum shall be present.

SECTION 8 – Manner of Acting

- (a) At all meetings of the Board of Directors, each director present shall have one (1) vote.
- (b) Except as otherwise provided by statute, by the Articles of Corporation or by these By-Laws, the action of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. Any action authorized in

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writing by all or the directors entitled to vote thereon and filed with the minutes of the Association shall be the act of the Board of Directors, with the same force and effect as if the same had been passed by unanimous vote at a duly called meeting of the Board.

SECTION 9 – Vacancies

Any vacancy in the Board of Directors occurring by reason of an increase in the number of directors or by reason of the death, resignation, disqualification, removal (unless a vacancy be filled by the members at the meeting at which the removal was effected) or inability to act of any director, or otherwise, shall be filled for the unexpired portion of the term by a majority vote of the remaining directors even if less than a quorum, at any regular meeting or special meeting of the Board of Directors called for that purpose.

SECTION 10 – Resignation

Any director may resign at any time by giving written notice to the Board of Directors, the President or the Secretary of the Association. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or such officer, and the acceptance of such resignation shall not be necessary to make it effective.

SECTION 11 – Removal

Any director may be removed with or without cause at any time by the Members of the Association at a special meeting called for that purpose. Additionally, a director may be removed for cause by action of the Board of Directors, including a member of the Board missing more than three (3) consecutive meetings, regular and/or special.

SECTION 12 – Salary

No stated salary shall be paid to directors, as such, for their services unless otherwise approved by a vote of two-thirds (2/3rds) of the members, voting in person or by proxy, at a meeting called for such purpose. Notwithstanding the above, the Board may, by resolution, fix a sum for reimbursement of the cost and expense of attendance at each regular or special meeting of the Board; and provided further, however, that nothing herein contained shall be construed to preclude any director from serving the Association in any other capacity and receiving compensation therefor.

SECTION 13 – Contracts

(a) No contract or other transaction between this Association and any other Association shall be impaired, affected or invalidated, nor shall any director be liable in any way, by reason of the fact that any one or more of the directors of this Association is or are interested in, or is a director or officer, or are directors or officers of, such other Association, provided that such facts are disclosed or made known to the Board of Directors.

(b) Any director, personally and individually, may be a party to or may be interested in any contract or transaction of this Association, and no director shall be liable in any way by reason of such interest, provided that the fact of such interest be disclosed or made known to the Board of Directors, and provided further that the Board of Directors shall authorize, approve or ratify such contract or transaction by the vote (not counting the vote of any such director) of a majority of a quorum, notwithstanding the presence of any such director at the meeting at which the action is taken. Such director or directors may be counted in determining the presence of a quorum at such meeting. This Section 12 shall not be construed to impair or invalidate or in any way affect any contract or other transaction which would otherwise be valid under the law (common, statutory, or otherwise) applicable thereto.

SECTION 14 – Committees

The Board of Directors, by resolution adopted by a majority of the entire Board, may from time to time designate from among its members an executive committee and such other committees (examples are, Publicity, Recreational, Finance) and alternate members thereof as they deem desirable, each consisting of three or more members, which committees shall have such powers and authority (to the extent permitted by law) as may be provided in such resolution. Each such committee shall serve at the pleasure of the Board and shall have at least one (1) member of the Board on it.

ARTICLE V – OFFICERS

SECTION 1 – Number, Qualification, Election and Term of Office

(a) The officers of the Association shall consist of a President, Secretary, Treasurer and such other officers, including a Chairman of the Board of Directors and one or more Vice-Presidents, as the Board of Directors may from time to time deem advisable. The Chairman of the Board of Directors is required to be a director of the Association. Any other officer may be, but is not required to be, a director of the Association. Any two or more offices may be held by the same person, except for the offices of President and Secretary.

(b) The Board of Directors shall elect the officers of the Association at the regular annual meeting of the Board following the annual meeting of the members.

(c) Each officer shall hold office until the annual meeting of the Board of Directors next succeeding his election and until his successor shall have been elected and qualified, or until his death, resignation or removal.

SECTION 2 – Resignation

Any officer may resign at any time by giving written notice of such resignation to the Board of Directors, the President or the Secretary of the Association. Unless otherwise specified in such written notice, such resignation shall take effect upon receipt thereof by the Board of Directors or by such officer, and the acceptance of such resignation shall not be necessary to make it effective.

SECTION 3 – Removal

Any officer may be removed, either with or without cause, and a successor elected by the Board of Directors at any time.

SECTION 4 – Vacancies

A vacancy in any office by reason of death, resignation, inability to act, disqualification, or any other cause, may at any time be filled for the unexpired portion of the term by the Board of Directors.

SECTION 5 – Duties of Officers

Officers of the Association shall, unless otherwise provided by the Board of Directors, each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may be set forth in these By-Laws or as may from time to time be specifically conferred or imposed by the Board of Directors.

President.

The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Members. He shall sign, with the Secretary (or Assistant Secretary), or any other proper officer of the Association thereunto authorized by the Board of Directors, any deeds, mortgages, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general he shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Vice-President

In the absence of the President or in the event of his death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting shall have all the powers of and be

subject to all the restrictions upon the President; and shall perform such other duties as from time to time may be prescribed by the President or Board of Directors.

Secretary.

The Secretary shall: (a) keep the minutes of the meetings of the Members, of the Board of Directors and of all committees in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (c) maintain and authenticate the records of the Association and be custodian of the seal of the Association and see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association is under its seal is duly authorized; (d) sign with the President, or Vice-President, any deeds, mortgages, contracts or other instruments which shall have been authorized by resolution of the Board of Directors; (e) prepare or cause to be prepared membership lists prior to each meeting of the Members as required by law; (f) attest the signature or certify the incumbency or signature of any officer of the Association; and (g) in general perform all duties incident to the office of secretary and such other duties as from time to time may be prescribed by the President or the Board of Directors.

Treasurer.

The Treasurer shall: (a) have charge and custody of and be responsible for all funds of the Association; receive and give receipts for moneys due and payable to the Association for any source whatsoever, and deposit all such moneys in the name of the Association in such depositories as shall be selected by the Board of Directors; (b) maintain appropriate accounting records as required by law and the Declaration; (c) prepare, or cause to be prepared, annual financial statements of the Association that include a balance sheet as of the end of the fiscal year and an income and cash flow statement for that year, which statements, or a written notice of their availability, shall be mailed to each Member within one hundred twenty (120) days after the end of such fiscal year; and (d) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be prescribed by the President or the Board of Directors.

SECTION 6 – Sureties and Bonds

In case the Board of Directors shall so require, any officer, employee or agent of the Association shall execute to the Association a bond in such sum, and with such surety or sureties as the Board of Directors may direct, conditioned upon the faithful performance of

Any person who at any time after the adoption of these By-Laws serves or has served in any of the aforesaid capacities for or on behalf of the Association shall be deemed to be doing or to have done so in reliance upon, and as consideration for, the right of indemnification provided herein. Such right shall inure to the benefit of the legal representatives of any such person and shall not be exclusive of any other rights to which such person may be entitled apart from the provision of this By-Law.

ARTICLE X – AMENDMENTS

SECTION 1 – By Members

All By-Laws of the Association shall be subject to amendment, alteration or repeal, upon a two-thirds (2/3rds) vote of the Members entitled to vote, in person or by proxy, at a meeting called for such purpose.

SECTION 2 – By Directors

The Board of Directors shall have the power to make, adopt, alter, amend and repeal from time to time, the By-Laws of the Association; provided, however, that the Members of the Association may alter, amend or repeal any By-Laws made by the Board of Directors. Notwithstanding the above, the Board of Directors shall have no power to change the quorum for meetings of Members or of the Board of Directors or to change any provisions of the By-Laws with respect to the amount of votes required for action (majority/two-thirds), the removal of Directors or the filling of vacancies in the Board resulting from a removal by the Members. If any By-Law regulating an impending election of Directors is adopted, amended or repealed by the Board of Directors, there shall be set forth in the notice of the next meeting of Members for the election of Directors, the By-Law(s) so adopted, amended or repealed, together with a concise statement of the changes made.

SECTION 3 – Restriction on Amendments.

Provisions in the Declaration creating Special Declarant Rights and Development Rights may not be amended without the consent of Declarant which consent shall be attached to the amendment prior to its adoption. Any such amendment adopted other than in conformity with this requirement shall be null and void.

ARTICLE XI – PROHIBITION AGAINST SHARING IN CORPORATE EARNINGS

No Director, Officer or employee of or member of a committee of or person connected with the Association, or any other private individual, shall receive at any time any of the earnings or pecuniary profit from the operations of the Association. This shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the Association in effecting any of its purposes as shall be fixed by a vote of two-thirds (2/3rds) of the members at a meeting called for such purpose or the reimbursement for the costs and expense of attending Board of Directors meetings as

may be fixed by the Board from time to time; and no such person or persons shall be entitled to share in the distribution or winding up of the affairs of the Association, whether voluntary or involuntary. The assets of the Association, after all debts have been satisfied, shall be distributed, transferred, conveyed, delivered and paid over, in such amounts as the Board may determine or as may be determined by a Court of competent jurisdiction, exclusively to charitable, religious, scientific, literary, or educational organizations that would then qualify under the applicable provisions of the Internal Revenue Code and its Regulations as they now exist or may hereafter be amended, relating to Charitable Organizations

ARTICLE XII - MISCELLANEOUS

Capitalized terms and words used in these By-Laws shall have the same meaning as attached to them in the Declaration unless the context clearly requires otherwise and then in such case the meaning shall be their common and ordinary meaning or, in alternate thereto, as the context would otherwise require in order to give meaning and effect to such terms and words.

NORTH CAROLINA, CARTERET COUNTY
This instrument and this certificate are duly filed at the
date and time and in the Book and Page shown on the
first page hereof.

Melanie Arthur
CARTERET COUNTY
JL Date 06/26/2007 Time 09:21:00
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Melanie Arthur, Register of Deeds
By Barbara Cohen
-Asst./Deputy, Register of Deeds

Prepared by and return to: Harris Law Firm, PLLC
304 North 35th Street
Morehead City, North Carolina

STATE OF NORTH CAROLINA

CARTERET COUNTY

1st AMENDMENT TO DECLARATION
OF UNIT OWNERSHIP FOR SPOONERS
CREEK MARINA CONDOMINIUMS.

This 1st Amendment to the Declaration of Unit Ownership for Spooners Creek Marina
Condominiums is executed this the 25th day of June, 2007 by SHORES
DEVELOPMENT, INC., A North Carolina corporation, (hereinafter designed as "Declarant");

WITNESSETH:

WHEREAS, SHORES DEVELOPMENT, INC. has heretofore executed a Declaration of
Unit Ownership for Spooners Creek Marina Condominiums which appears of record in Deed
Book 1227, Page 241, Carteret County Registry (the "Declaration");

WHEREAS, under Article XIII of the Declaration, the Declaration may be amended by
an instrument signed by unit owners representing at least sixty-seven percent (67.00%) of the
votes in the Association;

WHEREAS, Declarant is the owner of units representing more than sixty-seven percent
(67.00%) of outstanding votes in the Association.

NOW THEREFORE, pursuant to the authority to amend the Declaration under Article
XIII of the Declaration, Declarant does hereby amend the Declaration as follows:

1. The following language found in Paragraph 4.2 of the Declaration is deleted in its
entirety:

"Except as otherwise declared above, each Boat shall be located entirely within
the boundaries of the Slip in which it is moored at all times, and nothing in this
Article or otherwise in this Declaration shall permit any moored Boat to encroach
upon other Slips or the Common Elements without the express written consent of
the Board in its sole discretion."

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2. A new Paragraph 5.27 entitled "Length of Boats in Slips" is adopted as part of the Declaration which shall read as follows:

"The maximum length of a Boat that may be moored in a Slip is as follows:

<u>Slips</u>	<u>Maximum Length</u>
Slips A-1 through A-30	Thirty (30) feet;
Slips B-1 through B-22	Forty (40) feet
Slips C-1 through C-11, C-13, C15 and C-16	Forty-Five (45) feet
Slips C-12	Fifty (50) feet
Slips C-14, C-16 and C-18	Fifty-Five (55) feet
Slips D-15 through 20	Seventy (70) feet

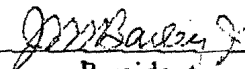
The length of Boats allowed in Slips D-1 through D-14 is currently unlimited; however, the Board of Directors shall have the right to adopt reasonable rules and regulations restricting the length of Boats able to be moored in these Slips to the extent necessary to protect navigability to and from other Slips, but in no event less than ~~seventy~~ (70) feet.

For purposes of this Paragraph, a Boat's length shall be its overall length, including but not limited to any appurtenances to it such as pedestals, engines, swim platforms or dinghys."

Except as amended herein, the remaining provisions of the Declaration shall remain in full force and effect.

Executed the day and year aforementioned.

Shores Development, Inc.

By: 
President

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STATE OF NORTH CAROLINA

COUNTY OF CARTERET

I, Lucy E. Dean, Notary Public for the said County and State, certify that JAMES H.P. BAILEY, JR., personally same before me this day and acknowledged that he is the president of SHORES DEVELOPMENT, INC., a North Carolina corporation, and that he as president being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal or stamp, this the 25th day of June, 2007.

Lucy E. Dean
NOTARY PUBLIC

My commission expires: 9/21/08

