

Master Covenants

Melanie Arthur 26P
CARTERET COUNTY
RWC Date 04/25/2006 Time 10:54:00
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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, Register of Deeds
By [Signature]
Asst./Deputy, 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

Lots
DECLARATION OF RESTRICTIVE
COVENANTS FOR SPOONERS CREEK

THIS DECLARATION OF RESTRICTIVE COVENANTS, is made and entered
into this the 24th day of April, 2006, by the present owner of the
property described in Paragraph 1(n) hereunder, SHORES DEVELOPMENT, INC., a North
Carolina corporation with its principal place of business in Carteret County, North Carolina,
hereinafter referred to as "DECLARANT".

STATEMENT OF PURPOSE

Declarant is the owner of certain property located in Morehead City, Carteret
County, North Carolina on which it desires to develop a planned development to include
single family residential lots, condominiums and a marina. Developer desires to provide for
the preservation of the values and amenities for such uses and for the maintenance of certain
common areas; and, to this end, desires to subject the real property described in Paragraph
1(n) herein constituting the first phase of the overall planned development, to the covenants,
restrictions, easements, charges and liens hereinafter set forth, each and all of which is and
are for the benefit of said property, Declarant and each subsequent owner thereof. Declarant
deems it desirable for the efficient preservation of such values and amenities in said
community, to create an agency to which should be delegated and assigned the powers of
maintaining and administering the community properties and facilities and administering
and enforcing the covenants and restrictions and collecting and disbursing the assessments
and charges hereinafter created. To this end, Declarant has incorporated or will incorporate
hereafter under the laws of the State of North Carolina, as a nonprofit corporation, The
Shores at Spooners Creek Property Owners Association, Inc. (the "Association"), for the
purpose of exercising the functions aforesaid;

NOW THEREFORE, Declarant declares that the real property described in
Paragraph 1(n) hereof, is and shall be held, transferred, sold, conveyed and occupied subject
to the covenants, restrictions, easements, charges and liens (sometimes referred to as
"covenants and restrictions") hereinafter set forth.

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ARTICLE I
Definitions

1. *Definitions.* The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

a. "Act" shall mean Chapter 47F, as amended, of the North Carolina General Statutes;

b. "Architectural Committee" shall mean those three (3) or more individuals so designated from time to time by the Board of Directors of the Association. At least two-thirds ($2/3^{\text{rd}}$) of the members of the Architectural Committee shall be owners of single family residential Lots. The Board of Directors may remove members from the Architectural Committee at any time in their discretion. The Board of Directors may designate itself as the Architectural Committee subject to the requirements of this paragraph.

c. "Association" shall mean and refer to The Shores at Spooners Creek Property Owners Association, Inc., as formed or to be formed by Declarant.

d. "Board of Directors" shall mean the Board of Directors from time to time of the Association.

e. "Common Elements" shall mean and refer to those areas of land now or hereafter shown as such on any recorded subdivision plat of the Property or hereafter deeded to the Association and intended to be devoted to the common use and enjoyment of the Owners.

f. "Declarant" shall mean Shores Development, Inc., a North Carolina corporation, its successors and assigns to which it shall convey or otherwise transfer its right, title and interest to all or any part of the Property and in so doing also expressly designate the transferee as a "Declarant" hereunder.

g. "Development Period" shall mean the period that is ten (10) years from the date of this Declaration is recorded at the Register of Deeds of Carteret County. With respect to any land annexed to the Property by Declarant as herein permitted, the "Development Period" shall mean the time that is ten (10) years from the time that such land is annexed to the Property by recording of the Amendment hereto at the Office of the Register of Deeds of Carteret County.

h. "Limited Common Elements" shall mean those portions of the Common Elements allocated by the Declaration (See Exhibit C) or by operation of law for the exclusive use of one or more but fewer than all of the Lots.

i. "Lot" shall mean a lot or parcel of real property located within the Property and depicted on the Plat and restricted herein to single family residential purposes. As used

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herein, "Lot" shall not include the Common Elements, nor shall it include roads, streets, or parking areas within the Property. The "front" of a Lot shall be deemed to be the portion of the Lot adjacent to the street.

j. "Member" shall mean a person or entity who holds membership in the Association as provided in this Declaration hereafter.

k. "Mortgage" shall include the noteholder or cestui que trust secured by a deed of trust.

l. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot. It shall not include a person holding the title or interest to a Lot merely as security for the performance of an obligation.

m. "Plat" shall mean that map entitled "The Shores at Spooners Creek, Phase I" prepared by Stroud Engineering, P.A., dated April 15, 2006, and recorded in Map Book 30, Page 472, Carteret County Registry.

n. "Property" shall mean all that certain property described in Exhibit A attached hereto and incorporated herein by reference, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation and subjected to this Declaration as herein provided.

o. "Structure" shall mean any thing or device other than trees, shrubbery (less than three feet high in the form of a hedge) and landscaping, the placement of which upon the Property (or any part thereof) may affect the appearance of the Property (or any part thereof) including, by way of illustration and not limitation, any building, trailer, garage, porch, deck, shed, greenhouse, or bath house, coop or cage, covered or uncovered patio, swimming pool, clothesline, radio, television or other antenna, satellite dish, fence, sign, curbing, paving, wall, roadway, walkway, exterior light, hedge more than three feet in height, signboard or any temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to the Property or any part thereof. "Structure" shall also mean (i) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across the Property, and (ii) any change in the grade of the Property (or any part thereof) of more than six (6) inches from that existing at the time of purchase by an Owner.

ARTICLE TWO

Property Rights

2. *Grant of Lots.* Declarant shall hereafter hold, grant and convey the Property, and any part thereof, including, but not limited to Lots, subject to the Act and the covenants, conditions, easements and restrictions herein set forth, which are for the benefit of, binding

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upon and shall run with the land, and are for the benefit of Declarant, the Association and the Owners, their heirs, personal representatives, successors and assigns.

3. *Grant of Common Elements.* Declarant covenants that it will convey the Common Elements to the Association, and the Association shall accept from Declarant the Common Elements, with such improvements as may be constructed thereon at the time of such conveyance and shall hold them subject to the provisions hereof.

4. *Member's Easements of Enjoyment.* Every Member shall have a right and non-exclusive easement of use and enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot subject to the following provision:

The right the Association to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by majority vote of the Members in attendance in person or by proxy at a meeting of the Association called for such purpose.

5. *Structures.* Except as otherwise permitted by the provisions of this Declaration, no Structure shall be, erected, placed or maintained on any Common Element except: (i) Structures designed exclusively for the common use of Members, including, but not limited to, the chapel, benches, chairs or other seating facilities, fences and walls, walkways, roadways, and similar facilities; and (ii) pumping stations, drainage, storm and utility systems. The Common Elements may be graded, planted with trees and shrubs and other plants placed and maintained thereon for the use, comfort and enjoyment of the Members or for the establishment, retention or preservation of the natural growth or topography of the Common Elements and for aesthetic reasons.

6. *Rules.* The Association shall have the right to prescribe reasonable rules and regulations governing the use of the Common Elements, which rules and regulations shall apply equally to all Members.

7. *Association Management.* The Association may improve, develop, supervise, manage, operate, examine, inspect, care for, repair, replace, restore and maintain the Common Elements, including, by way of illustration, and not limitation, streets, roadways, sidewalks, parking areas and all trees, shrubbery and other plants and landscaping, together with any items of personal property placed or installed thereon, at the cost and expense of the Association.

ARTICLE THREE Reserved Rights of Declarant

8. *Reserved Rights of Declarant.* The Association shall hold the Common Elements conveyed to it by Declarant subject to a reservation to Declarant of an easement over any road in the Common Elements, such easement for the purpose of ingress and egress and the

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installation and maintenance of public and private utilities to serve the Property and any part thereof, including any Lot, as well as, all or any part of the property described in **Exhibit B** attached hereto.

9. *Grading.* Declarant further reserves unto itself the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot or other portion of the Property and grade the same provided such grading does not materially interfere with the use or occupancy of a Lot or other portion of the Property for the purposes allowed herein. However, said Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

10. *Amendment of Plats.* No irrevocable right shall be conferred upon any Owner or Member by the recording of any plat relating to the development of the Property. Declarant expressly reserves unto itself the right to make such amendments to any such plat or plats as in its best judgment shall be advisable and as shall be acceptable to public authorities having the right of approval thereof. This provision shall not be deemed to give Declarant any right to amend the property line of any Lot not then owned by Declarant.

11. *Easement for Utilities.*

a. Declarant, for itself, its successors and assigns, reserves an easement on, over and under the Common Elements for the purpose of ingress and egress and the installation and maintenance of public and private utilities to serve the Property, and all or any part of the property described on **Exhibit B** attached hereto, including, but not limited to, the right to lay, install, construct and maintain pipes, drains, mains, conduits, lines and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide adequate service to any Lot now or hereafter laid out or established on the Property, and all or any part of the property described on **Exhibit B** attached hereto, or in or on the area in which the same is located, together with the right and privilege of entering upon the Common Element for such purposes and making opening and excavations thereon which openings and excavations shall be restored in a reasonable period of time.

b. Further, Declarant, for itself, its successors and assigns, reserves an easement on, over and under the Common Elements for the purpose of ingress and egress and the installation and maintenance of public and private utilities to serve land adjoining any of the Common Elements (whether such land is owned by Declarant, its successors or assigns, or others), including, but not limited to the right to lay, install, construct and maintain pipes, drains, mains, conduits, lines and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide adequate service to any such land, or in or on the area in which the same is located, together with the right and privilege of entering upon the Common Element for such purposes and making openings and excavations thereon which openings and excavations shall be restored in a reasonable period of time.

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c. Further, Declarant, for itself, and the Association reserves an easement on, over and under each Lot for the purpose of being able to gain access to the bulkhead and for its maintenance, repair and replacement as may be required from time to time.

d. Further, Declarant, for itself, and the Association reserves an easement on, over and under Lots 6 and 7 for the purpose of being able to maintain that area depicted as "Stormwater Easement" on the Plat in compliance with the Stormwater Management Permit Number SW8 050901 referenced in Article Eleven.

ARTICLE FOUR **Membership and Voting Rights**

12. *Membership.* Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

13. *Voting.* The Association shall have two (2) classes of voting membership:

a. Class A. Class A Members shall be all Owners, with the exception of Class B Members, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

b. The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot owned.

Notwithstanding the above, the Declarant for a period of five (5) years unless it sooner releases or waives such right, shall be entitled to appoint those persons to serve on the Board of Directors for the Association. Upon the expiration of such five (5) year period and the then-current terms of the appointed members of the Board of Directors, their election shall be made by the Members as a whole and as provided for above in accordance the By-Laws for the Association.

ARTICLE FIVE **Covenant for Maintenance**

14. *Creation of Lien and Personal Obligations for Assessments.* The Declarant, for each Lot hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges, (ii) special assessments, and (iii) additional assessments, all such assessments to be established and collected as hereinafter provided. The annual, special, and additional assessments, together with interest, costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the Lot for the amount of the assessment. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person(s) who was the Owner of such Lot at the time when the assessment became due. The personal

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obligation for delinquent assessment shall not pass to successors in title of an Owner unless expressly assumed by them; however, the Lot shall remain subject to the assessment until paid or otherwise discharged.

15. *Purposes of Assessments.* Except as otherwise specifically provided for herein, assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the Owners of Lots and for the improvement and maintenance of the Common Elements and/or as is otherwise consistent with the rights and responsibilities of the Association hereunder and for the benefit of the Members.

16. *Maximum Annual General Assessment.* Until January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum annual general assessment shall be FOUR HUNDRED and NO/100 Dollars (\$400.00) per Lot.

a. From and after January 1 of the year immediately following the conveyance of the first Lot, the maximum annual general assessment may be increased each fiscal year of the Association not more than fifteen percent (15%) above the annual general assessment for the previous fiscal year without a two-thirds (2/3) majority vote of the Class A members and the unanimous consent of the Class B members. Given inability to plan for increases in insurance rates in coastal communities, any insurance that is required to be maintained by the Association under this Declaration shall not be included in the determination of whether the maximum annual general assessment has increased by more than fifteen percent (15%).

b. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

17. *Special Assessments.*

a. In addition to the annual general assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, and/or to meet any other emergency or unforeseen expenses of the Association, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at the meeting duly called for this purpose.

b. Special assessments shall be due as provided by the Board of Directors.

18. *Expenses Associated With Limited Common Elements Or Benefiting Less Than All Lots.*

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

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

19. *Notice and Quorum for Any Action Authorized Under Paragraphs 16 and 17.*

Written notice of any meeting called for the purpose of taking an action authorized under Paragraphs 16 or 17 shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast forty percent (40%) of all of the votes of each class of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

20. *Uniform Rate of Assessment.*

a. Subject to the provisions of sub(b) below, both annual and special assessments must be fixed in a uniform rate based on voting rights for all Lots. Such assessments may be collected on a monthly basis or other periodic basis not more often than monthly or less often than annually, all as determined by the Board of Directors. This provision shall not be applicable to assessments made for Limited Common Elements which may be assessed to the particular Lot as provided for in Paragraph 18 above.

b. Declarant Exemption. Anything in sub(a) above to the contrary notwithstanding, Declarant shall not be required to pay any assessment for any Lot 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 Lot 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.

21. *Additional Assessments.* Additional assessments may be fixed against any Lot only as provided for in this Declaration or under the Act. Any such assessments shall be due as provided by the Board of Directors in making any such assessment.

22. *Surplus Receipts.* Any surplus of receipts over expenses of the Association for any fiscal year shall be either applied to reduce the assessments necessary to meet the budget adopted by the Association for the next fiscal year or refunded by the Association to

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each Owner, and the refund shall be prorated among the Owners (and former Owners), including the Declarant, based upon the portion of the previous fiscal year that each such Owner (or former Owner), including the Declarant, shall have held record title to the Lot, as determined by resolution of the Board of Directors. Notwithstanding the above, the Association shall be entitled to maintain a reserve fund to cover anticipated expenses which shall not be larger of the following: \$10,000.00 or twenty percent (20%) of its annual budget each year unless otherwise approved by two-thirds (2/3rds) of the Members of each class in attendance, in person or by proxy, at a meeting of the Association called for that purpose.

23. *Date of Commencement of Annual Assessments; Due Dates; Certificate of Payment of Assessments.*

a. The annual general assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Elements to the Association. The first annual general assessment shall be fixed by the Board of Directors and shall be adjusted according to the number of months remaining in the calendar year. Thereafter, the Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors.

b. If additional land is annexed to the Property as herein permitted, the annual assessments for the Lots, condominium units or marina boat slips added to the Property by such annexation shall commence on the first (1st) day of the month following the conveyance to a Class A Member of the first (1st) Lot, condominium unit and/or marina boat slip within the annexed land.

c. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

24. *Effect of Nonpayment of Assessments; Remedies of the Association.* Any assessment not paid within thirty (30) days after the due date shall constitute a lien against the Lot. Any unpaid assessment shall bear interest from the due date at the rate of EIGHTEEN PERCENT (18%) per annum, and shall further be subject to a late charge in an amount equal to the maximum amount allowed by law. The Board of Directors shall have the right to declare the entire balance of the annual assessment and any accrued interest thereon to be immediately due and payable. In addition, the Owner shall be liable for all costs of collecting any such assessment, including reasonable attorney's fee and court costs. All such interest, late charges and costs of collection shall be deemed to be an additional assessment hereunder. The Association may bring an action at law against the Owner personally, who is obligated to pay the same and/or, without waiving any other right, may foreclose the lien in the same manner as the foreclosure of a deed of trust. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Element or abandonment of his Lot.

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25. *Subordination of the Lien to Mortgages.* The lien for the assessments provided for herein shall be subordinate to the lien of any mortgage or deed of trust duly recorded prior to the time a Claim of Lien is filed with the Clerk of Court of Carteret County. Sale or transfer of any Lot shall not affect the assessment lien. However, any contract purchaser of a Lot shall be entitled, on written request to the Association, to a statement in writing from the Association setting forth the amount of any unpaid assessments against the Owner of the Lot due the Association and such purchaser shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessments made by the Association against the Lot in excess of the amount set forth in such statement. The sale or transfer of a Lot pursuant to foreclosure or any proceeding in lieu thereof, of a mortgage senior in priority to the assessment lien, shall extinguish the lien of such assessments as to the payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from any lien therefor.

ARTICLE SIX SINGLE FAMILY LOT RESTRICTIONS

The following restrictions and covenants shall apply exclusively to the single family residential Lots located within the Property.

26. *Architectural Review.* All of the rights and powers (including discretionary rights and powers) reserved by or conferred upon Declarant by this Article 6 are invested initially in Declarant alone including any successor or assign to which it shall convey or otherwise transfer its right, title and interest to all or any part of the Property and in so doing expressly designates the transferee as "Declarant", but may be assigned or transferred by Declarant to the Architectural Committee. This right or assignment may be exercised by Declarant from time to time, and may be exercised in whole or in part, and may apply to all or any part of the Property, including any Lot. In any event, the rights and powers of Declarant under this Paragraph 26 shall automatically terminate with respect to Declarant and vest in the Architectural Committee alone upon the earlier to occur of (a) ten (10) years from the date hereof or (b) when improvements have initially been constructed on all Lots and the Owners of all such Lots have been issued Certificates of Occupancy by Carteret County for the improvements constructed on the Lots. Whenever "Declarant or Architectural Committee" is used or referred to in this Article 6, it shall apply to the Declarant alone until such time as Declarant shall transfer rights to the Architectural Committee and then shall apply to the Architectural Committee with respect to any such rights transferred to the Architectural Committee.

a. No Structure shall be commenced, erected or maintained on any Lot, nor shall the exterior appearance (including the color thereof) of any Structure on a Lot be changed or altered from the original appearance thereof, nor shall the natural state of any area of a Lot be disturbed or altered, nor shall any work be commenced or performed which may result in a change in the exterior appearance of any such Structure, until plans and specifications showing the nature, kind, shape, dimensions, materials, floor plans, color scheme, location, exterior plans and details, exterior lighting plans, paving plans and location, landscaping details and proposed topographical changes, together with estimated

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cost of said work and the proposed construction schedule therefore, and together with a designation of the party or parties to perform the work, have been submitted to and approved in writing by Declarant (or Architectural Committee after the rights and powers with respect thereto have been transferred to it by Declarant as herein provided). In the event the Declarant (or the Architectural Committee) fails to approve or disapprove such design and location in writing within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

b. *Committee Criteria.* The Declarant (or Architectural Committee) shall consider such plans and specifications for approval upon the basis of, among other things, the harmony of external design and location in relation to surrounding Structures and topography, the nature and durability of the materials, quality of workmanship, choice of colors and materials, grade elevations and/or drainage, the ability of the party or parties designated by the Owner to complete the work proposed in accordance with the plans and specifications submitted, including, without limiting the foregoing, such factors as background, experience, skill, quality of workmanship, financial ability, etc. . . . In reviewing the plans, the Declarant (or Architectural Committee) may also consider factors of public health and safety, the effect the proposed work will have on the use, enjoyment and value of surrounding properties, and/or the outlook or view of other neighboring properties and the suitability of the proposed improvements or alterations with the general aesthetic values of the surrounding area.

c. *Disapproval of Plans.* In any case where the Declarant (or Architectural Committee) shall disapprove the plans and specifications submitted hereunder, or shall approve the same only as modified or upon special conditions, such disapproval or qualified approval shall be accompanied by a statement in writing of the grounds upon which such action was based. In any such case, the Declarant (or Architectural Committee) shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval. However, the final decision of the Declarant (or Architectural Committee) is final and binding.

d. *Approval of Plans.* The applicant shall submit for approval two (2) sets of plans and specifications. Upon approval by the Declarant (or Architectural Committee), one copy of such plans and specifications shall be retained by the Declarant (or Architectural Committee), and the other bearing the approval of Declarant (or Architectural Committee) in writing shall be returned to the applicant.

e. *Non-approved Structures.* If any structure shall be altered, erected, placed or maintained upon any part of a Lot or any new use commenced on any part of a Lot, in violation of the provisions hereof, such Structure or new use shall be removed or discontinued, and such use shall be terminated so as to extinguish such violation. If within fifteen (15) days after notice from Declarant (or Architectural Committee) of such violation, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps towards the removal or termination of the same, the Declarant (or the Association upon recommendation of the Architectural Committee) shall have the right to apply to a court of

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competent jurisdiction for an order directing the Owner to remove or discontinue such Structure or new use, and if the Owner shall fail to do so, authorizing the Declarant or the Association, through its agents and employees, to enter upon the Lot and to take such steps as it deems necessary to extinguish such violation, and the cost thereof shall be a binding, personal obligation of the Owner of the Lot and an additional assessment upon the Lot.

f. *Completion of Construction.* Upon completion of construction of any Structure in accordance with the provisions hereof, the Declarant (or Architectural Committee), upon request of the applicant shall issue a Certificate of Compliance in form suitable for recording with the Register of Deeds of Carteret County, identifying such Structure and the Lot (or other part of the Property) on which such Structure is placed, and stating that the Structure has been completed pursuant to the terms hereof. Preparation and recording of such Certificate shall be at the expense of the applicant. Any Certificate of Completion issued pursuant hereto shall be *prima facie* evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith, and for value, or as to any title insurer, such Certificate shall be conclusive evidence that all Structures on the Lot noted in such Certificate comply with the provisions hereof.

g. *Committee Compensation.* The members of the Architectural Committee shall serve without compensation unless specifically approved by the Members.

h. *Architectural Rules.* The Declarant (or Architectural Committee), to the extent of its functions hereunder and the rights specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration.

i. *Conditional Approvals.* In granting any permit, authorization, or approval, as herein provided, the Declarant (or Architectural Committee) may impose any appropriate conditions or limitations thereon as they shall deem advisable under the circumstances of each case.

j. *Interpretations and Exculpation of Liability.* Declarant (or the Architectural Committee) will be the interpreter of the provisions of this Declaration with respect to all matters involving aesthetics. Its decisions in such matters shall be final if consistent with the intent of this Declaration. In any and all events, neither Declarant or the Architectural Committee will be liable for any decisions, action or inaction taken pursuant to this Article Six, including, but not limited to any matters concerning aesthetics and/or the administration, interpretation, application and enforcement of the provisions of this Article Six.

27. *Lot Restrictions.* The following restrictions will apply to all Lots. These restrictions may be amended by Declarant at any time until it shall transfer all of its rights and powers under this Article Six to the Architectural Committee. (This right of amendment is in addition to the right to amendment of this Declaration set forth in Article Nine below).

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Any amendment shall become effective when a written instrument setting forth the amendment is signed and recorded by Declarant (or the Architectural Committee) at the Register of Deeds of Carteret County. The restrictions are as follows:

a. Subdivision. No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise after acquisition from Declarant. With respect to any Lots while owned by Declarant, Declarant expressly reserves the right to further subdivide or alter property lines as it may deem necessary and appropriate, subject to all applicable governmental laws, rules and regulations.

b. No Poles. No facilities, including poles and wires for the transmission of electricity, telephone and the like shall be placed or maintained above the surface of the ground on any Lot.

c. No Temporary Residences. No temporary building, trailer, garage, or building in the course of construction or other Structure shall be used, temporarily or permanently, as a residence of any Lot.

d. No Junked Vehicles, Boats, Trailers. No stripped, partially wrecked or junked motor vehicle, boat or trailer, or any parts thereof, shall be permitted to be parked or kept on any Lot. All motor vehicles and boats shall have current registration and inspection certificates. The Association shall have the authority to come upon any Lot for the purpose of removing any such vehicle or boat upon the failure of the Owner to do so after ten (10) days written notice.

e. Trash. No lumber, metals, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any Lot, except building materials during the course of construction of any approved Structure. During the course of construction of any approved Structure, all trash or other refuse resulting therefrom shall be removed weekly. The Declarant (or Architectural Committee), in its sole discretion, may adopt and promulgate reasonable rules and regulations relating to size, shape, color, and type of trash or other refuse containers permitted and the manner of storage of the same on the Property, provided that the same must be sanitary and animal-proof. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, the containers therefore may be placed in the open on any day that pick-up is to be made, at such place on the Lot as to provide access to persons making such pick-up. At all other times such containers shall be stored in such a manner so that they cannot be seen from adjacent and surrounding Lots.

f. Architectural Style: Building Restrictions.

- i. Lots may only be used for single family residential purposes.
- ii. The principal residential structure on the Property must be at least a two-story structure and have at least 3,000 heated square feet.
- iii. No flat roof on any building will be permitted on the Property. All dwellings must have a roof pitch of 6/12 or more except for minor

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portions of the dwelling roof which otherwise meet the other requirements and present no aesthetic imbalance as determined in the sole discretion of the Declarant (or Architectural Control Committee).

- iv. Only dimensional shingles, wood shingles, tile, slate, or pleated metal (or other materials with similar appearance approved by the Grantor, or subsequently the owners association) will be permitted on roofs for structures on the Property.
- v. Exterior sheathing on all dwellings shall consist of natural wood, brick, stucco or hardiplank siding.
- vi. No attached or detached carports will be permitted on the Property; however, detached garages which are architecturally compatible with the residence and approved by the Architectural Control Committee shall be allowed;
- vii. No exposed stilts or pilings will be permitted on the Property; however, the Architectural Committee may allow elevated decks to remain exposed;
- viii. No metal buildings will be permitted on the Property.
- ix. No buildings or structures using exposed concrete or cinder block without stucco on the exterior will be permitted on the Property.
- x. No exterior sidings installed in panels, including plywood, hardboard, synthetic, or metal, will be permitted for use on the Property.
- xi. No window air-conditioner unit shall be installed on the Property.
- xii. All driveways and parking lots are to be paved with concrete, asphalt, brick pavers, or other edged aggregates (Examples: riverstone, coquina) which are approved by the Declarant, or subsequently the owners association, by the time the principal building on the Property is completed.
- xiii. Entrances to enclosed garages may not face towards Bogue Sound and all garages shall have a door or doors that completely close off the garage entrance from outside view. Such door or doors shall remain completely closed except during periods of actual use of such garage entrance.
- xiv. Flags and banners will be permitted but no more than one (1) decorative, art banner or officially recognized State or Federal flags will be display on any Lot at any given time. The Declarant (or Architectural Control Committee) shall retain authority to pass reasonable rules and regulations governing the display of such flags and banners.
- xv. No elevated tanks of any kind will be permitted on the exterior of any structure on the Property larger than one hundred (100) gallons. All elevated tanks must be properly screened as approved by the Declarant (or Architectural Control Committee) so as not to be visible from the street or adjacent lots.

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- xvi. Shallow wells will be permitted on the Property for use in landscape irrigation only.
- xvii. No transmitting antennas may be attached to any building or installed on a Lot.
- xviii. One (1) satellite receiving dish no greater than twenty (20) inches in diameter may be attached to any dwelling. Such satellite dish shall be inconspicuous and not visible at standing eye-level from the curb at the streetside of the Lot on which installed, nor at the streetside of either adjoining Lots.

g. Used/Premanufactured Homes. No used or pre-manufactured homes or buildings of any kind shall be permitted on the Property. For purposes of this section, any dwelling which is installed in sections or pieces, manufactured at a location other than the Lot shall be considered a "Premanufactured Home". Notwithstanding the above, the use of premanufactured roof trusses and floor joists in the construction of a dwelling shall be allowed.

h. Home Offices. A home office is permitted, but not an office or any other use of a dwelling on a Lot in which, other than the Owners or residential tenants of Owners, there are present any employees or manager(s), whether full or part-time, day or night, for pay, other recompense, or not, or in which inventory is stored, or where patients, wards or recipients of care or services, or where sales of goods or services take place other than telephonically or electronically, or which generates more vehicular traffic than other dwellings on the Property.

i. Fences. There will be no fences constructed or maintained on any Lot except as provided for herein. As part of the initial development of the Property, Declarant shall construct or provide for the construction of a low profile (no higher than 4') picket fence along the east and west property lines between the various Lots not to extend beyond the front of the primary Structure on the Lot. All such fencing shall thereafter be maintained, repaired and replaced as needed by the Association but the expense for such maintenance, repair and/or replacement shall be a shared expense only among the Lot Owners along whose Lot the fence exists.

During such time as construction of a Structure is underway, Owner may temporarily maintain a chain link or wire fence to enclose building materials and equipment located on the Lot for such time period as reasonably necessary to complete such construction. Declarant (or Architectural Committee) reserves the right to designate the location of such fenced area which shall be in the area detracting the least from the appearance of the Property as a whole while still being reasonably accessible to Owner for its intended purposes. After the completion of such construction or the necessity for securing building materials or equipment within such fenced area, the fence shall promptly be removed by Owner.

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j. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and provided further, that such pets do not constitute a danger or nuisance to other Owners or the neighborhood. No more than three (3) such pets shall be allowed to be kept at any Lot at any time. Snakes and other animals that are known to be harmful to humans are not to be brought to or kept on the Property. The Association shall have the authority to additional rules and regulations governing the keeping of pets on the Property which may identify certain types or breeds of pets which shall not be allowed.

k. Vehicles. No truck or other vehicle in excess of a one-ton load capacity, and no mobile home, trailer camper, similar vehicle shall be parked or kept on any Lot, in such a manner as to be visible to the occupants of other Lots, except during the construction of improvements on the Lot.

l. Docks. No dock or other Structure providing access to the waters of Bogue Sound shall be allowed to extend or exist on or from any Lot except for steps (no landing allowed) descending from the bulkhead to the ground on the south side of the bulkhead.

m. No Offensive Activity. No obnoxious or offensive trade or activity shall be carried on or upon the Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to adjoining Lot Owners.

n. No Pollution. No Lot shall be so used as to cause any pollution to streams or ponds on or adjacent to said Lots or to any adjoining property's water supplies which is in violation of any Federal, State, or Local Statute, rule or regulation. No Lots shall be used or maintained as to cause any erosion of soil or sediment into such streams, ponds or water supplies. During the grading and construction of any improvements upon any Lot, adequate arrangements shall be made to insure that no erosion of soil or sediment into such streams, ponds or water supplies.

o. Lighting. No exterior lighting on any Lots shall be directed outward from the boundaries of the Lot; and, mercury lights may not be used for any such exterior lighting.

p. Garage Sales. No owner may conduct more than one (1) garage sale in any twelve (12) month period. Notwithstanding the above, an Estate of a deceased owner may conduct one (1) estate sale. Otherwise, no sales which involve the display of goods of any kind, or vehicles or watercraft, outside of dwelling and garages will be conducted.

q. Construction. It shall be a requirement that construction of the principal residential structure be commenced on a Lot within four (4) years of its initial conveyance from Declarant and that such construction be substantially completed within twelve (12) months thereafter which period may be extended for good cause shown but in no event shall such construction not be substantially completed within twenty-four (24) months of its commencement. For purposes of this paragraph "substantially completed" shall mean the

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issuance of a certificate of occupancy from the Town of Morehead City to the Lot Owner. In the event an Owner of a Lot fails to commence construction within said four (4) year period evidenced not only by the commencement of work on the Lot but also by the issuance of a building permit for the principal residential structure previously approved under Paragraph 26, the Declarant shall have the right and option to purchase said Lot from the then-current Owner for the purchase price paid by the Owner for the Lot. Declarant may exercise this right and option by providing written notice to the Owner designating a date and time for the closing within Carteret County, North Carolina which shall be no more than forty-five (45) days after the date of the notice. At the closing, Owner shall be required to deliver by general warranty deed, fee simple marketable title, free of all encumbrances except: ad valorem taxes for the current year (prorated through the date of closing); utility easements and unviolated restrictive covenants.

28. *Rental Restrictions.* Every lease or rental agreement for a Lot and the improvements thereon shall provide that the tenant under the lease shall be subject to and shall comply with the provisions of this Declaration, the By-Laws and Rules and Regulations of the Association, as the same may be amended from time to time. No Owner shall enter into any lease for a Lot for a fixed term less than one (1) month in duration. For purposes of this Paragraph, the existence of renewal terms or options shall not be used in determining whether the term of the lease is

29. *Maintenance.* The Owner of each Lot shall keep his Lot, and all improvements thereon, in good order and repair, including but not limited to, the seeding, watering and mowing of all lawns (8" maximum height) and yards, keeping all sidewalks neat, clean and in good repair, and free of ice and snow, the pruning and cutting of all trees and shrubbery and the painting (or other external care) of all buildings and Structures, on the Lot, all in a manner and with such frequency as is consistent with good property management and maintenance. If, in the opinion of the Board of Directors, any Owner fails to perform the duties imposed hereunder, the Association, after fifteen (15) days written notice to the Owner to remedy the condition in question, and upon failure of the Owner to remedy the condition, the Association shall have the right (but not the obligation), through its agents and employees, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot and the improvements or Structures thereon and the cost thereof shall be a binding, personal obligation of such Owner, and an additional assessment upon the Lot in question and collectible as provided for in Article Five (5) above.

ARTICLE EIGHT **RULES AND RESTRICTIONS**

30. *Rules.* In order to assure the peaceful and orderly use and enjoyment of the Property, the Board of Directors may from time to time adopt, modify and revoke in whole or in part, such reasonable rules and regulations, to apply equally to Owners, governing the conduct of persons on or use of the Common Elements, as the Association may deem necessary. All such rules shall be binding upon all Owners, occupants and visitors to the

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Property. The Association may impose a fine, suspend voting or infringe upon any other rights of an Owner or other occupant for violation of the rules upon compliance with applicable law, if any, and this Declaration.

ARTICLE NINE **ANNEXATION**

31. *Annexation.* Declarant, for itself, its successors and assigns, reserves the right, but not the obligation, to annex additional property in one (1) or more separate phases incorporating the same into the Property. This right to annex additional properties shall expire twenty (20) years from and after the date this Declaration is filed for record. The property, or a portion thereof, which may be made annexed in whole or part into the Property and made subject to this Declaration is described as lots 11 through 20 on **Exhibit B** attached hereto and incorporated herein by reference (the "Annexation Property"). Declarant shall have complete discretion as to the annexation of additional property, it being understood that any or all of said property not annexed may be, from time to time, otherwise developed by Declarant as it determines in its sole discretion, subject to applicable governmental regulation and control, if any.

The Declarant agrees that if it does annex additional property, the total number of condominium units which Declarant may submit to this Declaration shall not exceed an additional nine (9) single family Lots, thirty-four (34) residential condominium units and a marina comprising no more than a one hundred (100) boat slips with related facilities (ships store/underground fuel tanks), as well as, additional common elements to be operated and maintained by the Association. The submission of one or more lots, condominium units or boat slips as herein provided shall not obligate Declarant to submit further lots, units or boat slips to the provisions of this Declaration up to the maximum. Declarant agrees that such additional lots, units and boat slips, if annexed, shall be subject to assessment and the owners thereof shall become Members of the Association.

Declarant further agrees to the following:

1. that, any residential lots added to the Property shall be made subject to the same restrictions applicable to Lots contained in this Declaration;
2. that, in the event a lot, condominium unit and/or boat slip is annexed as part of the Property that any amendment to this Declaration will provide that upon transfer by the Declarant, the owners thereof shall all be Class A Members of the Association;
3. that, each lot and condominium unit owner will each have one (1) vote as a Class A Member with boat slip owners having a one-half (1/2) vote.
4. that, assessments shall be made in proportion to each owner's voting rights in the Association.
5. that, any condominium project and/or marina facility will have a separate owners association which shall be responsible for their respective common properties and that such costs shall not be required to be shared by Lot Owners;

**VOTING
PERCENTAGE**

MARINA VS. CONDO

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The Declarant has not yet determined the method by which it intends to develop the marina facility and specifically reserves the same to its discretion. For this reason, reference above to the annexation of "boat slips" or "boat slip owners" shall be deemed to conform by default to the actual form of development and ownership chosen by the Declarant at the time the marina facility may be annexed to the Property. This may include but is not limited to a condominium form of ownership under Chapter 47C of the North Carolina General Statutes or as a cooperative association form of ownership in which holders of a specific certificate share are entitled to the use and occupancy of particular boat slip.

This right to annex additional property 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 portion of the Annexation Property to be annexed and made subject to this Declaration. Such amendment shall specify restrictions and conditions applicable to the property annexed, but no such provision or condition shall materially and adversely impact the rights granted to an Owner. For purposes of this provision, a reduction in percentage ownership in the Common Elements; a reduction in voting percentages in the Association, including Declarant's right to vote three (3) times the same vote of a Class A Member for each condominium or boat slip owned; an increase in the amount of Common Elements owned and/or maintained by the Association, including an increase in the Association's budget and Member's assessment or dues; or an increase in use of the Common Elements, all occurring as a result of such annexation shall not be considered to "materially and adversely impact the rights of an Owner."

32. *Additional Property.* Additional Lots and/or Common Elements may be annexed to the Property with the consent of two-thirds (2/3) of each class of Members, excluding the Declarant.

33. *Recording.* Any annexation made to the Property pursuant to Paragraph 31 or 32 above, shall be done and become effective upon recording of an amendment to this Declaration by the Association in the Office of the Register of Deeds of Carteret County, specifying the additional land to be annexed to the Property.

ARTICLE TEN **FORCE MAJEURE**

34. Whenever herein a time period is provided for the Declarant to do or perform, or within which the Declarant may do or perform any act or thing, including but not limited to, the time of the "Development Period" as defined hereinabove, in the event the Declarant is delayed or hindered in or prevented from doing or performing such act or thing by reason of strikes, labor troubles, inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, acts of God, fire, or other casualty or reason of a similar or dissimilar nature beyond the reasonable control of the Declarant, then performance of such act or thing shall be excused for the period of the delay and the

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period for the performance of such act or thing shall be extended for a period equivalent to the period of such delay. In no event shall the extensions of time permitted herein extend beyond twenty (20) years from the date of recordation of this Declaration with the Register of Deeds of Carteret County.

ARTICLE ELEVEN
STORM WATER PERMIT

35. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 050901, as issued by the Division of Water Quality under NCAC 2H.1000:

a. **Built-Up-on Area.** The maximum allowable built-upon area for the entire planned development is 239,270 square feet which is allocated as follows: Lot 1, 13,000 square feet, Lot 2, 9,000 square feet and Lots 3-19 (reserved for future development), 6,000 square feet and Lot 20 and 20-A, 115,270 square feet (reserved for future development). The allotted amounts include any built-upon area constructed within the boundaries of the respective Lots or other portions of the Property, and that portion of the right of way between the front property line and the edge of the pavement. "Built-upon area" includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, and coquina, but does not include raised, open wood decking, or the water surface of swimming pools. "Built-upon area" in excess of the permitted amount requires a permit modification from the State of North Carolina, Division of Water Quality.

b. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.

c. Notwithstanding anything to the contrary herein, these covenants in respect to stormwater management may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.

d. Alternation of the drainage as shown on the plans approved by the State of North Carolina, Division of Water Quality, as part of the issuance of Permit SW8.050901 may not be done without its concurrence;

e. All stormwater runoff must be directed to drain into the stormwater collection system permitted for the Property. This may be accomplished through providing roof drain gutters which drain to the street, grading the lot to drain toward the street, or grading the perimeter swales and directing them into the pond or street. Lots that will naturally drain into the system are not required to provide these extra measures.

f. Any portion of the Property which is located within a CAMA designated "Area of Environmental Concern" may be subject to a reduction in their allowable built-upon area due to CAMA regulations.

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ARTICLE TWELVE
GENERAL PROVISIONS

36. *Enforcement.* The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

37. *Variances.* Declarant and later, the Association, shall have the right to grant variances from the terms of this Declaration upon a specific finding that the variance will not harm the appearance of the Property and will not be harmful to property values within the Property. The granting of any such variance shall be in writing signed by the Declarant or the Association as the case may be in a format that is recordable with the Register of Deeds of Carteret County, North Carolina. Any variance granted shall not be deemed as a waiver or release as to the applicability of the restriction to the remaining Lots, Units or Boat Slips on the Property.

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

39. *Amendment.*

a. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of Ten (10) years. Subject to sub(b) below, this Declaration may be amended by instrument signed by no less than seventy-five percent (75%) of each class of Members who are entitled to vote at a meeting of Members. Any amendment must be recorded.

b. Until the conclusion of the Development Period of the Property, no amendment may alter or affect any rights granted hereunder to the Declarant, without the prior written consent of the Declarant. Notwithstanding the foregoing and only as may be otherwise specifically provided for herein, no amendment affecting assessments, any property right, the right of any Owner to have, use or enjoy any easement or to use and enjoy the Common Element, or the vested right of any party secured by a mortgage or deed of trust shall be valid or of any effect unless such amendment has been approved in writing by such party having such right or interest.

40. *Notices.* All notices required or provided for in this Declaration shall be in writing and hand delivered or sent by United States mail. If hand delivered, the notices shall be sent to the addresses shown below and shall be deemed to have been given on the date hand delivered to the address of the party to whom the Notice is sent. If United States mails are used, the notices shall be sent to the addresses shown below, certified or registered mail,

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return receipt requested, postage prepaid, and shall be deemed to have been given on the date deposited in the United States mails. Notice shall be addressed as follows:

- To Declarant: SHORES DEVELOPMENT, INC.
To the Registered Agent of the corporation at his/her address as listed with the Secretary of State of North Carolina
- To the Association: To the Registered Agent of the Association at his/her address as listed with the Secretary of State of North Carolina.
- To Owner/Members: To the last known address of Owner/Member as shown on the records of the Association at the time of such mailing, and if there is no such address, then to the Lot, Unit or Boat Slip of such Owner/Member.

Any person shall the right to designate a different address for the receipt of notices other than set forth above, provided the person's new address is contained in a written notice given to the Declarant during the Development Period and to the Association.

41. *Right of Entry.* Violation or breach of any provision herein contained shall give Declarant or the Association, to the extent that any of them may have a right of enforcement thereover, their respective agents, legal representatives, heirs, successors and assigns, in addition to all other remedies, the right (but not the obligation), after five (5) days notice to the Owner of the Lot, to apply to a court of competent jurisdiction for an order granting the Declarant or the Association the right to enter upon the Lot or the land as to which such violation or breach exists, and to abate and remove, at the expense of the Owner thereof, any Structure or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof, and the said parties shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal, except that if any agent of Declarant or the Association shall be responsible for actually committing a trespass by behavior going beyond the intent of the authority conferred by this Section, in such event neither Declarant nor the Association shall be responsible for the unauthorized acts of such agent(s). Nothing herein contained shall be deemed to affect or limit the rights of Owners of the Lots when entitled to do so, to enforce the covenants by appropriate juridical proceedings.

42. *No Reverter or Condition Subsequent.* No provision herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

43. *Remedies.* Damages may not be deemed adequate compensation for any breach or violation for any provision hereof, so that any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction, preliminary or final, as well as any other available relief either at law or in equity.

44. *Headings.* The headings or titles herein are for convenience of reference only and shall not affect the meaning or interpretation of the contents of this Declaration.

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IN WITNESS WHEREOF, the undersigned, being the members of the Declarant herein, have hereunder set their hand and seal, the day and year first above written.

SHORES DEVELOPMENT, INC.

By:

M. Bailey
President

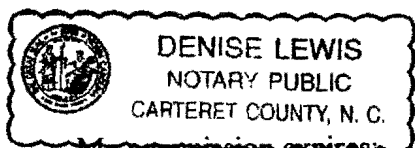
(SEAL)

STATE OF NORTH CAROLINA

COUNTY OF CARTERET

I, a Notary Public of the County and State above, do hereby certify that 24th
April personally came before me this day and
acknowledged that they are Member/Managers of SHORES DEVELOPMENT, INC., a
North Carolina corporation, and that by authority duly given and as the act of said
corporation, the foregoing instrument was signed in its name by its President and as the
act of the corporation.

This the 24th day of April, 2006.



Denise Lewis
Notary Public

~~My commission expires:~~ October 30, 2010

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EXHIBIT A
[Property Description]

BEING all of Lots 1 through 10 and the private street "Lands End Court" as shown on that plat entitled "The Shores at Spooners Creek - Phase I" prepared by Stroud Engineering, P.A. dated April 15, 2006 and recorded in Map 30 Page 972 Carteret County Registry.

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EXHIBIT B
[Additional Property]

BEING Lots 11 through 20~~20~~20A as shown on that Plat entitled "The Shores at Spooners Creek - Master Plan" prepared by Stroud Engineering, P.A. dated April 15, 2006 and recorded in Map Book 30, Page 972, Carteret County Registry.

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EXHIBIT C
[Limited Common Elements]

The bulkhead (including tie-downs) located along the boundary of each Lot shall be a Limited Common Element to each such Lot.

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NORTH CAROLINA, CARTERET COUNTY

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

Melanie Arthur, Register of Deeds

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 RESTRICTIVE COVENANTS FOR
SPOONERS CREEK.

This 1st Amendment to Declaration of Restrictive Covenants is executed this the 1st day
of May, 2007 by SHORES DEVELOPMENT, INC., A North Carolina corporation,
(hereinafter designed as "Declarant");

WITNESSETH:

WHEREAS, SHORES DEVELOPMENT, INC. has heretofore executed a Declaration of
Restrictive Covenants for Spooners Creek which appears of record in Deed Book 1168, Page
190, Carteret County Registry (the "Declaration");

WHEREAS, under Article IX of the Declaration, Declarant reserved the right to submit
certain additional properties (described in Exhibit B to the Declaration) to the provisions of the
Declaration identified as Lots 11 through 20 and 20-A as shown on that plat recorded in Map
Book 30, Page 972, Carteret County Registry;

WHEREAS, Declarant has subdivided Lot 20 as depicted on the plat recorded in Map
Book 30, Page 972, Carteret County Registry into two (2) lots, being a reconfigured Lot 20 and a
new Lot 21, both of which are now depicted in Map Book 101, Page 193, Carteret
County Registry.

WHEREAS, Declarant has constructed three (3) condominium buildings containing a
total of thirty-four (34) units along with certain attendant facilities that are all located on Lot 20
(reconfigured) and Lot 20-A, which it now desires to subject to the Declaration;

NOW THEREFORE, pursuant to the authority reserved to it under Article Nine of the
Declaration, Declarant does the following:

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(3)

1. Submission of Lot 20 (reconfigured) and 20-A to Declaration. Declarant hereby submits the below described real property and subjects it to the terms of the Declaration and agrees that the same shall be held, transferred, sold, conveyed and occupied subject to the Declaration and any amendments which may be made thereto:

BEING all of Lot 20 and 20-A as depicted on that certain plat entitled "The Shores at Spooners Creek Marina Condominiums" prepared by Stroud Engineering, P.A., dated May 1, 2007, and recorded in Map Book 101, Pages 193, Carteret County Registry.

2. Various Amendments to Declaration. As part of incorporating Lots 20 and 20A and the respective condominium units located or to be located thereon into the planned development and subject to the Declaration, the following amendments are required to be made to the Declaration:

a. Article One, Paragraph 1(e) is amended to read as follows:

"'Common Elements' shall mean and refer to those areas of land now or hereafter shown as such on any recorded subdivision plat of the Property or hereafter deeded to the Association, in fee or by easement, and intended to be devoted to the common use and enjoyment of the Owners."

b. Article One, Paragraph (l) is amended to read as follows:

"'Owner' shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Unit. It shall not include a person holding the title or interest to a Lot or Unit merely as security for the performance of an obligation."

c. Article One, Paragraph (p) shall be a new provision to read as follows:

"'Unit' shall mean a condominium unit created by the submission of Lots 20 (reconfigured), 20-A and/or 21, or any portions thereof, to the provisions of Chapter 47C of the North Carolina General Statutes and the Declaration as such parcels are depicted on that plat recorded in Map Book 101, Page 193, Carteret County Registry."

e. In Articles Two through Five, Eight, Ten and Twelve of the Declaration, any reference to the term "Lot" shall be deemed amended to read "Lot or Unit".

4. No Waiver. This instrument shall not be deemed as a release or waiver of Declarant's rights to further subject other real property to the Declaration in accordance with Article XIV of the Declaration or any other rights reserved to it under the Declaration.

Executed the day and year aforementioned.

Shores Development, Inc.

By: James H. P. Bailey
President

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STATE OF NORTH CAROLINA

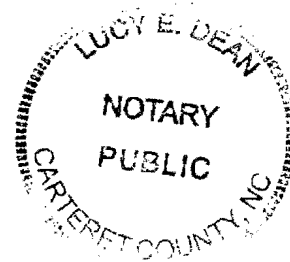
COUNTY OF CARTERET

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 1st day of May, 2007.

Lucy E. Dean
NOTARY PUBLIC

My commission expires: 9/21/08



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