

Shore Realty of the OBX
Outer Banks Home Sales
Back To Previous Page

3rd Supplemental
Declaration of
Covenants, Conditions
and Restrictions
H-350/864

4th Supplemental
Declaration
441/365 Document
1st Amend
3/3/670

159

BOOK 284 PAGE 288

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BUCK ISLAND

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I.	DEFINITIONS	1
	1. Area of Common Responsibility.....	1
	2. Articles of Incorporation; Articles.....	2
	3. Association; Board of Directors; Board.....	2
	4. By-Laws.....	2
	5. Class "B" Control Period.....	2
	6. Common Area.....	2
	7. Common Assessment.....	2
	8. Common Expenses.....	2
	9. Community-Wide Standard.....	2
	10. Declarant.....	2
	11. Development Plan.....	3
	12. Fractional Ownership Interest.....	3
	13. Home.....	3
	14. Individual Home Assessment.....	3
	15. Member.....	3
	16. Mortgage.....	3
	17. Mortgagee.....	3
	18. Mortgagor.....	3
	19. Neighborhood.....	3
	20. Owner.....	3
	21. Person.....	4
	22. Properties.....	4
	23. Special Assessment.....	4
	24. Supplemental Declaration.....	4
II.	PROPERTY RIGHTS	4
	1. General.....	4
III.	MEMBERSHIP AND VOTING RIGHTS	5
	1. Membership.....	5
	2. Voting.....	5
	3. Neighborhoods.....	6
IV.	MAINTENANCE	7
	1. Association's Responsibility.....	7
	2. Owner's Responsibility.....	7
V.	INSURANCE AND CASUALTY LOSSES	7
	1. Insurance.....	7
	2. Individual Insurance.....	9
	3. Damage and Destruction.....	10
	4. Disbursement of Proceeds.....	10
	5. Repair and Reconstruction.....	11

Unofficial Document

Unofficial Document

	Page
VI. NO PARTITION	11
VII. CONDEMNATION	11
VIII. ANNEXATION AND WITHDRAWAL OF PROPERTY	12
1. Annexation Without Approval of Class "A" Membership.....	12
2. Annexation With Approval of Class "A" Membership.....	12
3. Acquisition of Additional Common Area.....	13
4. Withdrawal of Property.....	13
5. Additional Covenants and Easements.....	13
6. Amendment.....	13
IX. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION	14
1. Common Area.....	14
2. Personal Property and Real Property for Common Use.....	14
3. Rules and Regulations.....	14
4. Implied Rights.....	14
5. Governmental Interests.....	14
X. ASSESSMENTS	14
1. Creation of Assessments.....	14
2. Computation of Common Assessment.....	16
3. Individual Home Assessments.....	17
4. Special Assessments.....	18
5. Lien for Assessments.....	19
6. Reserve Budget and Capital Contribution.....	19
7. Date of Commencement of Assessments.....	19
8. Subordination of the Lien to First Mortgages.....	20
9. Capitalization of Association.....	20
10. Exempt Property.....	20
XI. ARCHITECTURAL STANDARDS	20
1. General.....	20
2. Architectural Review Committee.....	21
3. Guidelines and Procedures.....	22
4. No Waiver of Future Approvals.....	23
5. Variance.....	23
6. Limitation of Liability.....	23
7. Enforcement.....	23
XII. USE RESTRICTIONS	24
1. Signs.....	24
2. Parking and Prohibited Vehicles.....	24
3. Occupants Bound.....	25

4.	Animals and Pets.....	25
5.	Quiet Enjoyment.....	25
6.	Unightly or Unkempt Conditions.....	26
7.	Antennas.....	26
8.	Basketball Equipment, Clotheslines, Garbage Cans, Tanks, Etc.....	26
9.	Subdivision of Homes.....	26
10.	Firearms.....	26
11.	Pools.....	27
12.	Irrigation.....	27
13.	Tents, Trailers and Temporary Structures.....	27
14.	Drainage and Septic Systems.....	27
15.	Tree Removal.....	27
16.	Sight Distance at Intersections.....	28
17.	Utility Lines.....	28
18.	Air Conditioning Units.....	28
19.	Lighting.....	28
20.	Artificial Vegetation, Exterior Sculpture, and Similar Items.....	28
21.	Energy Conservation Equipment.....	28
22.	Wetlands and Water Bodies.....	28
23.	Playground.....	29
24.	Business Use.....	29
25.	On-Site Fuel Storage.....	29
26.	Leasing of Homes.....	29
27.	Laws and Ordinances.....	30
28.	Occupancy.....	30
XIII.	GENERAL PROVISIONS	30
1.	Term.....	30
2.	Amendment.....	31
3.	Indemnification.....	31
4.	Easements of Encroachment.....	32
5.	Easements for Utilities, Etc.....	32
6.	Severability.....	33
7.	Right of Entry.....	33
8.	Perpetuities.....	33
9.	Litigation.....	33
10.	Cumulative Effect: Conflict.....	34
11.	Use of the Words "Buck Island".....	34
12.	Compliance.....	34
13.	Notice of Sale or Transfer of Title.....	34
14.	Security.....	34
XIV.	MORTGAGEE PROVISIONS	35
1.	Notices of Action.....	35
2.	Actions Requiring Approval of Eligible Holders.....	36

Unofficial Document

Unofficial Document

Unofficial Document

Page

3. Additional Requirements.....	37
4. No Priority.....	38
5. Notice to Association.....	38
6. Amendment by Board.....	38
7. Applicability of Article XIV.....	38
8. Failure of Mortgagee to Respond.....	38

XV. DECLARANT'S RIGHTS	39
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- TABLE OF EXHIBITS -

<u>Subject Matter</u>	<u>Exhibit</u>
Land Initially Submitted	"A"
Land Subject to Annexation	"B"
By-Laws of Buck Island Association, Inc.	"C"

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

BUCK ISLAND

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 10th day of April, 19 91, by Buck Island, Inc., a North Carolina corporation (hereinafter referred to as "Declarant").

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Properties, and to maintain high standards for the development of the Properties, to foster a superior, high-quality development, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subjected to this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property which is hereafter subjected to this Declaration by Supplemental Declaration (as defined herein) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property subjected to this Declaration. This Declaration shall be binding on all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof. This Declaration does not and is not intended to create a condominium within the meaning of the North Carolina Condominium Act, Section 47C-1-101, et seq.

Article I
Definitions

Section 1. "Area of Common Responsibility" shall mean the Common Area, together with those areas, if any, which, by the terms of this Declaration or by contract or agreement with any other owners association, become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility. The term also shall include any recreational facility located within the Properties which has been determined in the sole discretion of the Declarant to be available for use.

Section 2. "Articles of Incorporation" or "Articles" shall mean the Articles of Incorporation of Buck Island Association, Inc., as filed with the Secretary of State of North Carolina.

Section 3. "Association" shall mean Buck Island Association, Inc., a non-profit North Carolina corporation, its successors or assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under North Carolina corporate law. The use of the term "association" or "associations" in lower case shall refer to any condominium association or other owners association having jurisdiction over any part of the Properties.

Section 4. "By-Laws" shall mean the By-Laws of Buck Island Association, Inc., attached hereto as Exhibit "C" and incorporated herein by reference, as they may be amended from time to time.

Section 5. "Class "B" Control Period" shall mean the period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors, as provided in Article III, Section 2, of the By-Laws.

Section 6. "Common Area" shall mean all real and personal property which the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners. The term also shall include any recreational facility that is conveyed by Declarant to the Association.

Section 7. "Common Assessment" shall mean assessments levied against all Homes in the Properties to fund Common Expenses.

Section 8. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction or installation of infrastructure, including, without limitation, roads, water and sewer lines, initial site work, original capital improvements, or other original construction costs unless approved by a majority of the total Class "A" vote of the Association.

Section 9. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Committee.

Section 10. "Declarant" shall mean Buck Island, Inc., a North Carolina corporation, or its successors, successors-in-title or assigns who take title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and sale and who are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

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Section 11. "Development Plan" shall mean the plan for the development of the property described on Exhibits "A" and "B", prepared by or on behalf of Declarant and dated _____ May, 1990, as it may be amended from time to time.

Section 12. "Fractional Ownership Interest" means the conveyed fee simple undivided interest in a particular Home with an exclusive right to use and occupy the Home during one or more use periods as more particularly described in the Supplemental Declaration applicable to the Home. Homes which are permitted to be sold as Fractional Ownership Interests shall be included within a designated Fractional Ownership Neighborhood pursuant to Article III, Section 3 herein.

Section 13. "Home" shall mean a portion of the Properties intended for development, use, and occupancy as a detached residence for a single family, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) single-family detached houses on separately platted lots, as herein provided or as provided in any Supplemental Declaration covering all or a part of the Properties. The term shall include all portions of the platted lot, as well as any structure thereon. "Home" shall include any Home sold as a Fractional Ownership Interest if permitted by the Supplemental Declaration applicable to the Home.

Section 14. "Individual Home Assessment" shall mean assessments levied in accordance with Article X, Section 3 of this Declaration.

Section 15. "Member" shall mean a Person entitled to membership in the Association, as provided herein.

Section 16. "Mortgage" shall mean a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

Section 17. "Mortgagee" shall mean a beneficiary or holder of a Mortgage.

Section 18. "Mortgagor" shall mean any Person who gives a Mortgage.

Section 19. "Neighborhood" shall refer to each separately developed residential area comprised of one or more housing types subject to this Declaration, whether or not governed by an additional owners association, in which owners may have common interests other than those common to all Association Members. For example, and by way of illustration and not limitation, the single-family detached housing development and the Fractional Ownership Interest development shall each constitute a separate Neighborhood. In addition, each parcel of land intended for development shall be subject to division into more than one Neighborhood.

Section 20. "Owner" shall mean one (1) or more Persons who hold the record title to any Home, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

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Section 21. "Person" means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

Section 22. "Properties" shall mean the real property described in Exhibit "A" attached hereto, together with such additional property as is hereafter subjected to this Declaration by Supplemental Declaration.

Section 23. "Special Assessment" shall mean assessments levied in accordance with Article X, Section 4 of this Declaration.

Section 24. "Supplemental Declaration" shall mean an amendment or supplement to this Declaration executed by or consented to by Declarant which subjects additional property to this Declaration or imposes, expressly or by inference, additional restrictions and obligations on the land described therein. The term shall also refer to the instrument recorded by the Association pursuant to Article VIII, Section 2, of this Declaration to subject additional property to this Declaration.

**Article II
Property Rights**

Section 1. General. Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

(a) the Declaration as it may be amended from time to time and to any restrictions or limitations contained in any deed conveying such property to the Association;

(b) the right of the Association to limit the number of guests, and to adopt rules regulating the use and enjoyment of the Common Area;

(c) the right of the Board to suspend the right of an Owner to use the Common Area (i) for any period during which any charge against such Owner remains delinquent for more than thirty (30) days unless otherwise provided by a resolution of the Board and (ii) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of, the Declaration, By-Laws, or rules of the Association after notice and a hearing pursuant to the Article III, Section 23 of the By-Laws;

(d) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Article XIII, Section 5, hereof;

(e) the right of the Association to charge reasonable admission or other fees for the use of any facility situated upon the Common Area;

(f) the right of the Board to permit non-Member use of any facility situated within the Area of Common Responsibility upon payment of use fees established by the Board; and

(g) the right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to the approval requirements set forth in Article XIV, Section 3, hereof.

Any Owner may delegate his or her right of use and enjoyment to the member of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Home shall be deemed to have delegated all such rights to the lessee.

Article III
Membership and Voting Rights

Section 1. **Membership.** Every Owner, as defined in Article I, shall be deemed to have a membership in the Association.

No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Home owned; provided, however, in the case of Fractional Ownership Interests there shall be one membership per Fractional Ownership Interest. In the event an Owner is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership may be exercised by a Member or the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of an Owner which is a corporation or partnership shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary, subject to the provisions of this Declaration and the By-Laws.

Section 2. **Voting.** The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) **Class "A".** Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one (1) equal vote for each Home owned; provided, however, Class "A" Members owning Fractional Ownership Interests shall be entitled to a fractional vote for each Fractional Ownership Interest owned, such fractional vote shall be based on the fractional undivided interest in a Home conveyed by the Declarant to such Owner.

(b) **Class "B".** The Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to disapprove actions taken under this Declaration and the By-Laws, are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III, Section 2, of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board of Directors and any committee

as provided in Article III, Section 3, of the By-Laws. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:

(i) two (2) years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or

(ii) when, in its discretion, the Declarant so determines.

Section 3. Neighborhoods. At the date of recording this Declaration, there shall be two Neighborhoods located within the Properties. One Neighborhood shall consist of single family residential lots, the other shall consist of Homes sold as Fractional Ownership Interests; provided, however, Declarant reserves the right to create additional Neighborhoods in its sole discretion.

Every Home shall be located within a Neighborhood. The Homes within a particular Neighborhood may be subject to additional covenants. Each Neighborhood may elect a Neighborhood Committee, as described in Article V, Section 3, of the By-Laws, to represent the interests of Owners of Homes in such Neighborhood.

Each Neighborhood may request that the Association provide a higher level of service or special services for the benefit of Homes in such Neighborhood upon the affirmative vote, written consent, or a combination thereof of a majority of Owners within the Neighborhood. In such event, upon approval of the Board, the Association shall provide the requested services. The cost of such services shall be assessed against the Homes within such Neighborhood.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to a specific Neighborhood by name, which Neighborhood may be then existing or newly created. The Declarant may unilaterally amend this Declaration or any Supplemental Declaration from time to time to redesignate Neighborhood boundaries; provided, two or more Neighborhoods shall not be combined without the consent of Owners of a majority of the Homes in the affected Neighborhoods.

The Owner(s) of a majority of the total number of Homes within any Neighborhood may at any time petition the Board of Directors to divide the property comprising the Neighborhood into two or more Neighborhoods. Such petition shall be in writing and shall include a plat of survey of the entire parcel which indicates the boundaries of the proposed Neighborhood(s) or otherwise identifies the Homes to be included within the proposed Neighborhood(s). Such petition shall be granted upon the filing of all required documents with the Board. Unless the Board of Directors denies such application in writing within thirty days of its receipt thereof. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the areas proposed to be divided into separate Neighborhoods. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

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Article IV
Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, such maintenance to be funded as hereinafter provided. This maintenance shall include, but need not be limited to, all landscaping and other flora, structures, and improvements, including all private streets, well fields, ponds, lakes, ocean access walkways, sunning decks, gazebos situated upon the Common Area and any recreational facilities which become available for use as determined by the Declarant whether or not title to such facilities has been conveyed to the Association, and such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, Supplemental Declaration, or by a contract or agreement for maintenance thereof by the Association.

Except as otherwise specifically provided in Article X, Section 3 or by Supplemental Declaration, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Homes and Fractional Ownership Interests as part of the Common Assessment.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Section 2. Owner's Responsibility. Except as may be provided in a Supplemental Declaration, each Owner shall maintain his or her Home and all structures, parking areas and other improvements comprising the Home in a manner consistent with the Community-Wide Standard and all applicable covenants. In accordance with the procedures established by the Board, an Owner may request the Association to perform some or all of the maintenance responsibilities provided for herein. The Owner shall pay for the requested service through the Individual Home Assessment in accordance with Article X, Section 3, of this Declaration. If any Owner fails properly to perform his or her responsibilities under this Section, the Association may perform such Owner's maintenance responsibilities or take corrective action for such Owner's noncompliance with this Section and assess all costs incurred by the Association against the Home and the Owner thereof in accordance with Article X, Section 4 of this Declaration; provided, however, except when entry is required due to an emergency situation or with prior authorization, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

Article V
Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all

insurable improvements on the Common Area, all Homes which are owned as Fractional Ownership Interests, and any recreational facility that is available for use by all Members and maintained by the Association. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be in an amount specified by the Board, in its sole discretion, but not to exceed an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board also shall obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members or agents, or contractors while acting on behalf of the Association. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar combined single limit.

Premiums for all insurance obtained by the Association shall be Common Expenses of the Association and shall be included in the Common Assessment, as defined in Article I hereof and as more particularly described in Article X, Section 1, hereof. The policies may contain a reasonable deductible and, in the case of property insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the amount specified by the Board. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be in the name of the Association in accordance with North Carolina law and governed by the following provisions:

- (a) All policies shall be written with a company authorized to do business in North Carolina.
- (b) All policies on the Area of Common Responsibility shall be for the benefit of the Association and its Members.
- (c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.
- (e) All property insurance policies shall have an inflation guard endorsement if reasonably available. If the policy contains a co-insurance clause, it also shall have an agreed amount endorsement. The Association shall arrange for an annual review of the insurance policies by one or more qualified persons.

(f) The Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;

(iii) a statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of the conduct of any owner, director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

(iv) a statement that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(v) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association's funds, if reasonably available, and flood insurance, if reasonably necessary and reasonably available. The amount of fidelity coverage shall be determined in the Board's best business judgment. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

Section 2. Individual Insurance. Except for Homes in the Fractional Ownership Neighborhood, each Owner, by virtue of taking title to a Home, covenants and agrees with all other Owners and with the Association that such Owner shall carry personal liability insurance and blanket "all-risk" property insurance on the Home and structures constructed thereon providing full replacement cost coverage (less a reasonable deductible), unless the Association carries such insurance. The Association, however, is not obligated to obtain insurance except for Homes sold as Fractional Ownership Interests. The costs for insurance for Fractional Ownership Interests shall be assessed as an Individual Home Assessment. The Owner shall provide written evidence of the insurance coverage to the Board of Directors within a reasonable time after receipt of the policy.

Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Home, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. Such Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, such Owner may decide not to rebuild or to reconstruct, in which case such Owner shall clear all debris and shall continue to maintain such lot in a neat and attractive condition consistent with the Community-Wide Standard.

Section 3. Damage and Destruction.

(a) Immediately after damage or destruction by fire or other casualty to all or any part of the Properties, structures, or other property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in this paragraph, means repairing or restoring the Properties, structures, or other property to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least eighty (80%) percent of the total Class "A" vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area or a Home shall not be repaired or reconstructed, or shall be only partially repaired or reconstructed, and no alternative improvements are authorized, then and in that event the affected portion of the Properties shall be restored to their natural state and maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

Section 4. Disbursement of Proceeds. If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, or partially repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction

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as authorized and determined by the Board. In the event the damage or destruction is repaired or reconstructed, any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, or only partial repairs or reconstruction is made, the Association shall make such settlement as is necessary and appropriate with the affected Owner or Owners and their Mortgagee(s) as their interests may appear, and any proceeds remaining after such settlement is made shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Home and may be enforced by such Mortgagee.

Section 5. Repair and Reconstruction. If the damage or destruction for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Class "A" Members, levy a special assessment against all Owners on the same basis as provided for Common Assessments; provided, however, if the damage or destruction is to a Home, only the Owners in that Home shall be subject to such special assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Article VI
No Partition

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties or such portion thereof have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Article VII
Condemnation

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least sixty-seven (67%) percent of the total Class "A" vote in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" or "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and at least eighty (80%) percent of the total Class "A" vote of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, or partially repaired or restored, the above provisions in Article V, hereof regarding the disbursement of funds and the repair and reconstruction of property in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

Article VIII
Annexation and Withdrawal of Property

Section 1. Annexation Without Approval of Class "A" Membership.
Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "B," attached hereto, has been subjected to this Declaration or December 31, 2004, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B", attached hereto. Such annexation shall be accomplished by filing in the Office of the Register of Deeds of Currituck County, North Carolina a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of Class "A" Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Section 2. Annexation With Approval of Class "A" Membership.
Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B", and following the expiration of the right in Section 1, any property described on Exhibit "B", to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of a majority

of the Class "A" votes of the Association (other than those held by Declarant) present at a meeting duly called for such purpose and of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject hereto in accordance with Section 1 of this Article.

Annexation shall be accomplished by filing of record in the Office of the Register of Deeds of Currituck County, North Carolina, a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed, and any such annexation shall be effective upon filing unless otherwise provided therein. The relevant provisions of the By-Laws dealing with regular or special meetings, as the case may be, shall apply to determine the time required for and the proper form of notice of any meeting called for the purpose of considering annexation of property pursuant to this Section 2 and to ascertain the presence of a quorum at such meeting.

Section 3. Acquisition of Additional Common Area. Declarant may convey to the Association additional real estate, improved or unimproved, located within the property described in Exhibits "A" or "B" which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

Section 4. Withdrawal of Property. Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to subject additional property to the provisions of this Declaration pursuant to this Article VIII, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform plan of development for the Properties.

Section 5. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

Section 6. Amendment. This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" hereof.

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Article IX
Rights and Obligations of the Association

Section 1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment and common landscaped areas), and shall keep them in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

Section 3. Rules and Regulations. The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any facilities on the Common Area. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county ordinances and to permit Currituck County, North Carolina, to enforce ordinances on the Properties for the benefit of the Association and its Members.

Section 4. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5. Governmental Interests. For so long as the Declarant owns any property described in Exhibits "A" or "B", the Association shall permit the Declarant authority to designate sites within the Properties, which may include Common Area owned by the Association, for fire, police, water and sewer facilities, and other public facilities.

Article X
Assessments

Section 1. Creation of Assessments. There are hereby created assessments for Association expenses as may from time to time specifically be

authorized by the Board of Directors, to be commenced at the time and in the manner set forth in Section 7 of this Article. There shall be three (3) types of assessments: (a) Common Assessments to fund Common Expenses for the benefit of all Members of the Association; (b) Individual Home Assessments as described in Section 3 below; and (c) Special Assessments as described in Section 4 below. Each Owner, by acceptance of a deed for any portion of the Properties, is deemed to covenant and agree to pay these assessments. Assessments shall be levied on all Homes and Fractional Ownership Interests as provided herein.

Common Assessments shall be levied equally on all Homes. Owners of Fractional Ownership Interests shall be obligated to pay a portion of the Common Assessment levied against a Home as provided in the Supplemental Declaration. Individual Home Assessments shall be levied against all Homes benefitting from the services supported by such assessments in accordance with Section 3 below. Special Assessments shall be levied as provided in Section 4 below.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by North Carolina law) as computed from the date the delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Home or Fractional Ownership Interest against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Home or Fractional Ownership Interest at the time the assessment arose, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Home or Fractional Ownership Interest pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Home or Fractional Ownership Interest. Such certificate shall be conclusive evidence of payment to the Association of such assessment therein stated to have been paid. The Association may require the advance payment of a processing fee not to exceed Fifty (\$50.00) Dollars for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the Common Assessment shall be paid in monthly installments by automatic bank draft in the manner directed by the Board. Each Owner, by acceptance of a deed to his or her Home or Fractional Ownership Interest, acknowledges that all Common Assessments levied hereunder are annual assessments due and payable in advance on the first day of the fiscal year; provided, the Board may permit any assessment to be paid in installments. If any Owner is delinquent in

paying any assessments or other charges levied on his Home or Fractional Ownership Interest, the Board may revoke the privilege of paying in installments and require annual assessments to be paid in full immediately.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration and not limitation, by non-use of Common Areas or abandonment of the use of a Home. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Until termination of the Class "B" Control Period, in lieu of paying regular assessments on Homes which it owns and on which assessments have commenced, the Declarant may annually elect either to pay regular assessments on its unsold Homes or to pay the Association the difference between the amount of assessments levied on all Homes subject to assessment and the amount of actual expenditures required to operate the Association during the fiscal year. Unless the Declarant otherwise notifies the Board of Directors in writing at least sixty days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. The Declarant's obligation hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or a combination of these.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services or materials or a combination of services and materials with Declarant or other entities for the payment of some portion of the Common Expenses.

Section 2. Computation of Common Assessments. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared as provided in Section 6 of this Article.

The Common Assessment to be levied against each Home for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves. In determining the amount of the Common Assessment, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Homes and Fractional Ownership Interests subject to assessment under Section 7 hereof on the first day of the fiscal year for which the budget is prepared

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and the number of Homes and Fractional Ownership Interests reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Article VIII hereof, the Declarant may elect, on an annual basis, but shall not be obligated, to reduce the resulting assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 1 above); which may either be a contribution, an advance against future assessments due from Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be conspicuously disclosed as a line item in the income portion of the Common Expense budget and shall be made known to the Owners. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Common Assessment to be levied against each Home or Fractional Ownership Interest for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Members by Members representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Class "A" Members as provided for special meetings in the By-Laws, which petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Section 3. Individual Home Assessments.

The Board of Directors shall have the power specifically to assess Homes and Fractional Ownership Interests as, in its discretion, it shall deem appropriate, as follows:

(a) Expenses of the Association (1) that are incurred upon the request of the Owner for specific items or services, or (2) that are incurred by the Association pursuant to this Declaration, a Supplemental Declaration or the By-Laws for providing specific items or services. Such expenses may benefit less than all of the Homes, and may include, without limitation, repairs and maintenance of any ocean access walkways, sunning decks, and gazebos, serving only one (1) or more, but less than all, Homes, and may be specifically assessed equitably among the Homes which are benefited according to the benefit received.

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(b) Expenses of the Association caused by the act or omission to act of specific Owners, their family, guests, or invitees may be specifically assessed against the Homes whose Owner, family, guests or invitees caused the Association to incur such expenses.

(c) Expenses of the Association which significantly disproportionately benefit all Homes may be assessed equitably among all Homes according to the benefit received.

At the time that the budget for Common Expenses is prepared and distributed in accordance with Section 2 above, the Board shall determine Individual Home Assessments applicable to Homes for that fiscal year. To the extent applicable to each Home, the Individual Home Assessment shall include an amount for insurance expense and a reserve fund to cover the replacement costs of assets for individual Homes. Such assessments may differ among the Homes depending on the type, size, or location of the Home and the cost and extent of services provided to the Home.

Failure of the Board to exercise its authority hereunder shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority hereunder in the future with respect to any expenses of the Association, including, without limitation, an expense for which the Board has not previously exercised its authority hereunder.

For purposes of this Section, non-use by an Owner of the Common Area, any common facility, or any item which is budgeted as a Common Expense, shall not constitute a significantly disproportionate benefit to all Homes or a benefit to less than all Homes, unless such non-use of the Common Area, common facilities, or budgeted Common Expenses is determined by the Board of Directors to result in an identifiable, calculable reduction in cost to the Association.

Section 4. Special Assessments.

(a) Entire Membership. The Board may levy Special Assessments from time to time without Member approval so long as such Special Assessments in any one fiscal year do not exceed Fifteen (15%) percent of the current year approved budget. Any Special Assessment which causes the cumulative amount of Special Assessments to exceed this limitation in any one fiscal year shall be effective only if approved by the affirmative vote or written consent of a majority of the total Class "A" votes in the Association and the affirmative vote or written consent of the Class "B" Member, if such then exists. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Members. The Association, through the Board, may levy a Special Assessment against any Member individually and against such

Member's Home to reimburse the Association for costs incurred in bringing a Member and his Home into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, or the Association rules, to cover the costs of any special services or supplies, and to cover costs to repair any damage to the Home which are necessitated by any intentional or negligent act or omission to act by such Owner, his or her family, guests, or invitees.

Section 5. Lien for Assessments. Upon recording of a notice of lien on any Home or Fractional Ownership Interest, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Home or Fractional Ownership Interest at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Home or Fractional Ownership Interest is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Home and Fractional Ownership Interest shall be charged, in addition to its usual assessment, its share (as determined under Section 1 above) of the assessment that would have been charged such Home or Fractional Ownership Interest had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid assessments, late charges, interest costs and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 6. Reserve Budget and Capital Contribution. The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Section 2 of this Article.

Section 7. Date of Commencement of Assessments. The obligation to pay the assessments provided for herein shall commence as to a Home or Fractional Ownership Interest on the first day of the first month after the Home is conveyed to a Person other than Declarant. Unless otherwise determined by the Board, assessments shall be paid in monthly installments by automatic bank draft in the manner directed by the Board. The first annual

assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Home.

Section 8. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of North Carolina law), and costs (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Home or Fractional Ownership Interest. The sale or transfer of any Home or Fractional Ownership Interest shall not affect the assessment lien. However, the sale or transfer of any Home Fractional Ownership Interest pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Home or Fractional Ownership Interest from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Home or Fractional Ownership Interest obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Home which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Homes or Fractional Ownership Interests, if applicable, including such acquirer, its successors and assigns.

Section 9. Capitalization of Association. Upon acquisition of record title to a Home or Fractional Ownership Interest by the first purchaser thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6th) of the total amount of the Common and Individual Home Assessment for that Home or Fractional Ownership Interest as determined by the Board. This amount shall be considered an advance payment of a portion of the assessments due. This amount shall be deposited into a purchase and sale escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

Section 10. Exempt Property. Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Common Assessments, Individual Home Assessments, and Special Assessments:

- (a) all Common Area; and
- (b) all property dedicated to and accepted by any governmental authority or public utility.

Article XI Architectural Standards

Section 1. General. No construction (which term shall include within its definition staking, clearing, excavation, grading, and other site

work), no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs (other than as may be permitted in Article XII, Section 15) shall take place except in strict compliance with this Article, until the requirements below have been fully met, and approval of the appropriate committee has been obtained pursuant to Section 2 below. Unless approved in accordance with this Article, no structure, including, but not limited to, fences, porches, patios or decks shall be placed, erected, or installed upon any Home.

Unless otherwise approved by the Architectural Review Committee ("ARC"), all dwellings constructed on any portion of the Properties shall be designed and built in accordance with the plans and specifications of a licensed architect or licensed building designer.

This Article shall not apply to the activities of the Declarant, nor to construction of improvements or modifications to the Common Area by or on behalf of the Association. So long as Declarant is the owner of any recreational facility located within the Properties, this Article also shall not apply to construction of improvements or modifications of any such recreational facility.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

Section 2. Architectural Review Committee. The Board of Directors shall establish the ARC to consist of at least three, but not more than five persons. The Board of Directors shall appoint the members of the ARC, who shall serve and may be removed at the discretion of the Board of Directors.

Responsibility for administration of the Design Guidelines, as defined below, and review of all applications for construction and modifications under this Article shall be handled by the ARC. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board of Directors. The Board of Directors may establish reasonable fees to be charged by the ARC on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

The Board of Directors may establish subcommittees as deemed appropriate by the Board. Members of the subcommittees shall be appointed by, and shall serve at the discretion of, the Board of Directors.

Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Home, or to paint the interior of his Home any color desired unless otherwise prohibited by a Supplemental Declaration. However, modifications or alterations to the interior of screened porches, patios, and similar portions of a Home visible from outside the Home shall be subject to approval.

Section 3. Guidelines and Procedures. The Declarant shall prepare the initial design and development guidelines and applications and review procedures (the "Design Guidelines") which shall be applicable to all construction activities within the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, and intended use.

The ARC, acting on behalf of the Board of Directors, shall adopt such Design Guidelines at its initial organizational meeting and, thereafter shall have sole and full authority to amend them from time to time, without the consent of the Owners.

The ARC shall make the Design Guidelines available to Owners, builders, and developers who seek to engage in development of or construction upon all of any portion of the Properties and all such Persons shall conduct their activities in strict accordance with such Design Guidelines. A written document acknowledging receipt of the Design Guidelines shall be signed by the appropriate builder prior to commencement of any construction activity. In the discretion of the Declarant, such Design Guidelines may be recorded in the Office of the Register of Deeds of Currituck County, North Carolina, in which event the recorded version, as it may unilaterally be amended from time to time by the ARC by recordation of amendments thereto, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time. All Owners, builders, and developers shall conduct their activities strictly in accordance with the Design Guidelines.

Any amendments to the Design Guidelines adopted from time to time by the ARC in accordance with this Section shall apply to construction and modifications commenced after the date of such amendment only, and shall not apply to require modifications to or removal of structures previously approved by the ARC once the approved construction or modification has commenced.

The ARC may promulgate from time to time detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall apply. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of any modification, addition, or alteration, shall be submitted to the ARC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finishing grade elevation. Except for Homes sold as Fractional Ownership Interests, nothing contained herein shall be construed to limit the right of an Owner to remodel or redecorate the interior of structures comprising a Home in any manner desired. However, modifications or alterations to the interior of screened porches, balconies, decks, patios, and similar portions of the Home visible from outside the Home shall be subject to approval.

In the event that the ARC fails to approve or to disapprove any application within forty-five days after submission of all information and materials reasonably requested, the application shall be deemed approved.

However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARC pursuant to Section 5 below.

Section 4. No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters subsequently or additionally submitted for approval or consent.

Section 5. Variance. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to the restrictions set forth in this Declaration; or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 6. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or on modifications to any Home.

Section 7. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board of the Declarant, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Home and collected as a Special Assessment pursuant to Article X, Section 4(b) hereof.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and

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the Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARC.

Article XII
Use Restrictions

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association) consistent with this Declaration and amendments hereto. Any Supplemental Declaration may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners, occupants, invitees and licensees, if any, until and unless overruled, cancelled or modified in a regular or special meeting of the Association by the vote of a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

Section 1. Signs. No sign of any kind shall be erected within the Properties without the written consent of the Board of Directors, except entry signs, directional signs, and signs showing the name of a Home as erected by Declarant. A permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors or Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Notwithstanding the above, no signs, flags, banners or similar items advertising or providing directional information with respect to activities being conducted outside the Properties shall be permitted within the Properties, except such signs as may be erected by Declarant.

Section 2. Parking and Prohibited Vehicles.

(a) **Parking.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Homes or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors may adopt. The

Declarant or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. Owners may park a maximum of four (4) vehicles in the garage or driveway of the Home.

(b) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in areas within the Properties, if any, designated by the Board. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for three (3) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked on the Properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Home or the Common Area. In addition, vehicles and equipment owned or leased by the Declarant, or by others acting on behalf of the Declarant, or by the Association may be parked within the Properties as necessary for carrying out construction within the Properties, servicing a Home or the Common Area, or other purposes as determined by the Declarant or the Board. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article VI, Section 23, of the By-Laws.

Section 3. Occupants Bound. All provisions of the Declaration, By-Laws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of Owners. Each Owner shall cause all occupants of his or her Home to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto. Each Owner shall be responsible for all violations and losses to the Common Area caused by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Section 4. Animals and Pets. No livestock, poultry, or animals of any kind, including, without limitation, usual and common household pets, shall be raised, bred, or kept on any portion of the Properties.

Section 5. Quiet Enjoyment. No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

Section 6. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition within the Home. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties.

Section 7. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Properties, including any Home, without the prior written consent of the Board or its designee. The Declarant and the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna or cable system for the benefit of all or a portion of the Properties, should any such master system or systems be utilized by the Association and require any such exterior apparatus.

Section 8. Basketball Equipment, Clotheslines, Garbage Cans, Tanks, Etc. All basketball hoops and backboards, clotheslines, garbage cans, above-ground storage tanks, mechanical equipment, and other similar items within Homes shall be located or screened so as to be concealed from view of neighboring Homes, streets, and property located adjacent to the Home. No gas grills, charcoal grills, or open fires shall be permitted on any Home or any portion of the Properties. Only the electric grill which Declarant may, but shall not be obligated to, provide as part of the original construction on a Home may be used on the Home. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

Section 9. Subdivision of Homes. No Home shall be physically subdivided or its boundary lines changed, except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to replat any Home or Homes owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 10. Firearms. The discharge of firearms within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, bows and arrows, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

Section 11. Pools. Except for those constructed by the Declarant as part of any recreational facility or as part of the Common Area, no above-ground swimming pools shall be erected, constructed or installed within the Properties without prior written approval of the Board and the consent of the Declarant for so long as the Declarant owns any portion of the Properties.

Section 12. Irrigation. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties unless prior written approval has been received from the appropriate architectural committee. All sprinkler and irrigation systems shall be subject to approval in accordance with Article XI of this Declaration. Private irrigation wells are prohibited on the Properties. This Section shall not apply to the Declarant, and Declarant may install on the Properties such sprinkler and irrigation systems drawing upon water from ponds, lakes, and other water sources within the Properties as it deems necessary. This Section may not be amended without Declarant's written consent so long as Declarant has the right to add property in accordance with Article VIII, Section 1.

Section 13. Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant during initial construction within the Properties, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon any part of the Properties; provided, however, the Declarant or the Board may authorize use of such structures for special events or social activities on the Properties.

Section 14. Drainage and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic tanks are prohibited on the Properties.

Section 15. Tree Removal. Except as may be permitted by Declarant during initial construction on the Properties, no trees shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required by the committee having jurisdiction to replace the removed tree with one (1) or more trees of such size and number, and in such locations, as such committee may determine necessary, in its sole discretion.

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Section 16. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain on any portion of the Properties except as placed as part of the original construction of structures on Homes by Declarant or as approved in accordance with Article XI hereof, nor shall such items be placed or permitted to remain where they would create a traffic or sight problem.

Section 17. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 18. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any Home.

Section 19. Lighting. All exterior lights must be approved in accordance with Article XI of this Declaration; provided, however, this Section shall not apply to exterior lights installed by the Association or the Declarant within the Area of Common Responsibility or to other exterior lights installed by the Declarant within the Properties, including but not limited to, lights used for model homes, for such period as the homes are used in that capacity.

Section 20. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation, exterior sculpture, fountains, and similar items shall be permitted on the exterior of any structure or portion of the Properties. Flags must be approved in accordance with Article XI hereof. This Section shall not apply to the Declarant.

Section 21. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Home unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the appropriate committee pursuant to Article XI hereof.

Section 22. Wetlands and Water Bodies. All wetlands, ponds, and streams within the Properties, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted without the prior written approval of the Board of Directors. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of wetlands, ponds, or streams within the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by the Declarant or the Association.

The Declarant, so long as Declarant owns any property for sale within the Properties, and the Board, thereafter, shall have the sole power to

establish and regulate the recreational use of ponds, lakes, and other bodies of water within the Properties, including, without limitation, bodies of water located within the boundaries of platted lots on which Homes are constructed, and to construct docks, piers, and other structures on and over such bodies of water. There shall be an easement on and over the Properties, including, without limitation, over all ponds, lakes, and other bodies of water within the Properties, as necessary on behalf of the Declarant, the Association, and all permitted users of such bodies of water within the Properties for access to and from, use and enjoyment of, and construction deemed necessary on such bodies of water.

Section 23. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 24. Business Use. No garage sale, moving sale, rummage sale or similar activity, and no trade or business may be conducted in or from any Home. The terms "business" and "trade", as used in this Section, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Home shall not be considered a trade or business within the meaning of this section. This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Properties or its use of any Homes which it owns within the Properties.

Section 25. On-Site Fuel Storage. Except with prior written approval from the Board, no on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Properties. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment and for operation of other equipment located within the Area of Common Responsibility, including but not limited to, gas grills and laundry facilities. In addition, the Declarant shall be permitted to store fuel for operation of model homes or other property originally installed within the Properties by the Declarant.

Section 26. Leasing of Homes.

(a) Definition. "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Home by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.

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(b) Leasing Provisions.

(i) General. All leases shall be in writing in the form approved by the Board. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the rules and regulations of the Association. Copies of the Declaration and By-Laws shall be available for inspection upon request to the Board. The Board may adopt reasonable rules regulating leasing and subleasing.

Homes may be leased only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Homes or assignment of leases unless prior written approval is obtained from the Board of Directors.

(ii) Compliance with Declaration, By-Laws and Rules and Regulations. Each Owner shall cause all occupants of his or her Home to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto. Each Owner shall be responsible for all violations and loss to the Properties caused by such occupants, notwithstanding the fact that such occupants are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

Section 27. Laws and Ordinances. Every Owner and occupant of any Home, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, however, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 28. Occupancy. The maximum aggregate number of occupants in a Home shall be limited to a number equal to the number of bedrooms located within a Home multiplied by two (2). The Board shall have the authority to adopt and to enforce additional rules regarding occupancy of a Home.

The Board or its designee may enforce this provision by requiring the removal of or removing from a Home any person or persons so that this provision is no longer violated, or by fining Owners in accordance with the Declaration and By-Laws.

Article XIII
General Provisions

Section 1. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, 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, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Amendment. Prior to the conveyance of the first Home or any interest therein, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Homes; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Homes and; or (d) necessary to enable any governmental agency or reputable private insurance company to make, purchase or insure mortgage loans on the Homes and; provided, however, any such amendment shall not adversely affect the title to any Home or unless the Owner thereof shall consent thereto in writing. So long as it still owns property described in Exhibits "A" or "B" for development as part of the Properties, the Declarant may unilaterally amend this Declaration for any other purpose so long as the amendment has no material adverse effect upon any right of any Owner.

Hereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven (67%) percent of the total Class "A" votes in the Association, and the consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Article XIV hereof shall be met if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Office of the Register of Deeds of Currituck County, North Carolina.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 3. Indemnification. The Association shall indemnify every officer, director, committee member, and managing agent against any and

all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, committee member, or managing agent in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, committee member, or managing agent. The officers, directors, committee members, and managing agent shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. Officers, directors, and managing agents shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer, director, and managing agent free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, committee member, or managing agent, or former officer, director, committee member, or managing agent may be entitled. The Association shall, as part of the Common Expenses, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 4. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Home and such portion or portions of the Common Area as are adjacent thereto and between adjacent Homes due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary between each Home and the adjacent portion of the Common Area or as between said adjacent Homes, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, occupant, or the Association.

Section 5. Easements for Utilities, Etc. There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B", the Association, and the designees of each (which may include, without limitation, Currituck County, North Carolina, and any utility), blanket easements upon, across, over, and under all of the Properties for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, master television antenna systems, controlled access, and similar systems, roads, walkways, pathways, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas, and electricity; provided, however, the exercise of this easement shall not unreasonably interfere with the use of any Home and, except in an emergency, entry into any Home shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier easements across all Homes and the Common Area for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by a two-thirds (2/3) vote, the power to dedicate portions of the Common Area to Currituck County, North Carolina, or to any other local, state, or federal governmental entity.

Section 6. Severability. Invalidation 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.

Section 7. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Home for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with this Declaration, the By-Laws, and the Association rules, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner then entitled to occupy the Home. This right of entry shall include the right of the Association to enter a Home to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

Section 8. Perpetuities. Any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 9. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the Class "A" Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in

Article X hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 10. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of any condominium association or other owners association, if any, having jurisdiction over any part of the Properties and the Association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any condominium or other owners association shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

Section 11. Use of the Words "Buck Island." No Person shall use the words "Buck Island" or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However Owners may use the terms "Buck Island" in printed or promotional matter where such term is used solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words "Buck Island" in its name.

Section 12. Compliance. Every Owner of any interest in any Home and any occupants thereof shall comply with all lawful provisions of this Declaration, the By-Laws and rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Owner or Owners.

Section 13. Notice of Sale or Transfer of Title. Except as otherwise provided by a Supplemental Declaration, in the event that any Owner desires to sell or otherwise transfer title to his or her Home, such Owner shall give the Board of Directors at least seven days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Home coming due prior to the date upon which such notice is received by the Board of Directors including assessment obligations, notwithstanding the transfer of title to the Home.

Section 14. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. NEITHER

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THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, HOWEVER; AND NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS OF ANY INTEREST IN ANY HOME AND ANY OCCUPANTS THEREOF, TENANTS, GUESTS AND INVITEES OF ANY OWNER, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, DECLARANT, OR ANY SUCCESSOR DECLARANT, AND THE APPROPRIATE ARCHITECTURAL COMMITTEE DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER CONTROLLED ACCESS SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE APPROPRIATE ARCHITECTURAL COMMITTEE MAY NOT BE COMPROMISED OR CIRCUMVENTED THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER CONTROLLED ACCESS SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER CONTROLLED ACCESS SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED.

EACH OWNER OF ANY INTEREST IN ANY HOME AND ANY OCCUPANTS THEREOF, AND EACH TENANT, GUEST AND INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT, AND EACH TENANT, GUEST AND INVITEE OF ANY OWNER ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO HOMES AND TO THE CONTENTS OF HOMES AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER, OCCUPANT, TENANT, GUEST OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND BURGLAR ALARM SYSTEMS OR OTHER CONTROLLED ACCESS SYSTEMS RECOMMENDED OR INSTALLED OR ANY OTHER SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Article XIV
Mortgages Provisions

The following provisions are for the benefit of holders of first Mortgages on Homes in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Home to which its Mortgage relates, thereby becoming an "Eligible Holder") will be entitled to timely written notice of:

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(a) any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Home on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Home subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. Actions Requiring Approval of Eligible Holders. To the extent possible under North Carolina law:

(a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders to which at least fifty-one (51%) percent of the votes of Homes subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of Members representing at least sixty-seven (67%) percent of the total Association vote and the approval of the Eligible Holders to which at least fifty-one (51%) percent of the votes of Homes subject to Mortgages held by such Eligible Holders are allocated.

(c) Any election to terminate the Association under circumstances, other than substantial destruction or a substantial taking in condemnation, shall require the consent of Members representing at least sixty-seven (67%) percent of the total Association vote and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible Holders to which at least sixty-seven (67%) percent of the votes of Homes subject to a Mortgage are allocated.

(d) Any material amendment to the Declaration, By-Laws, or Articles of Incorporation of the Association shall require the consent of Members representing at least sixty-seven (67%) percent of the total Association vote and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders to which at least fifty-one (51%) percent of the votes of Homes subject to a Mortgage held by an Eligible Holder are allocated. An amendment which changes the provisions for any of the following shall be considered material:

- (i) voting rights;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) responsibility for maintenance and repair of the Properties;
- (v) rights to use the Common Area;
- (vi) boundaries of any Home;
- (vii) expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;
- (viii) insurance or fidelity bonds;
- (ix) Leasing of Homes ;
- (x) imposition or modification of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Home;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Declaration, By-Laws, or Articles of Incorporation which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Homes.

Section 3. Additional Requirements. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven (67%) percent of the first Mortgages or Members representing at least sixty-seven (67%) percent of the total Association vote entitled to be cast thereon consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or for other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);
- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration).

(c) by act or omission change, waive, or abandon any system of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Homes and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on property insurance policies or secure new property insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 4. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Home in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 5. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Home.

Section 6. Amendment by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 7. Applicability of Article XIV. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or North Carolina law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

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**Article XV
Declarant's Rights**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the By-Laws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Office of the Register of Deeds of Currituck County, North Carolina. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Homes or Fractional Ownership Interests therein shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Properties such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Homes or interests therein, including, but not limited to, business offices, signs, model homes, and sales offices, and the Declarant shall have an easement for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Homes owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively. In addition, so long as the Declarant shall own or lease any portion of the property described in Exhibits "A" or "B" to this Declaration, Declarant shall have an easement of access, ingress, and egress across and over the Properties, including, without limitation, the roads and other Common Areas and recreational facilities.

So long as Declarant continues to have rights under this Article, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 10th day of April, 1991.

BUCK ISLAND, INC.,
a North Carolina corporation

By: [Signature] [SEAL]
President

Attest: [Signature] [SEAL]
Secretary

STATE OF NORTH CAROLINA

COUNTY OF ~~CURRITUCK~~ PASQUOTANK

Sharon E. Hunt, a Notary Public in and for the aforesaid State and County, do hereby certify that G. Alden Thornton, IV personally came before me this day and acknowledged that he is Secretary of Buck Island, Inc., and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him self as its Secretary.

Witness my hand and notarial seal, this the 10th day of April, 1991.

My commission expires 11/8/95

[Signature] [SEAL]
NOTARY PUBLIC

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EXHIBIT "A"
LAND INITIALLY SUBMITTED

The following property shall be known as the "Vacation Homesite" Neighborhood:

That certain tract or parcel of land lying in Poplar Branch Township, Currituck County, North Carolina, and bounded as follows: On the South by the now or formerly James E. Johnson, Jr. property, "Whalehead Parcel B" as described in deed dated March 6, 1984, recorded in Deed Book 193, Page 901, Currituck County Registry, plat attached thereto, and "Crown Point at Ocean Sands" as shown and delineated on a plat recorded in Plat Cabinet D, Slides 136-138 Currituck County Registry; on the East by the mean high water mark of the Atlantic Ocean; on the North by the southern margin of Albacore Street (60 foot right of way) and the easterly extension of the said Albacore Street to the mean high water mark of the Atlantic Ocean; and on the West by the Eastern margin of N.C. 12 (100 foot right of way), formerly known as Ocean Trail. Said tract of parcel is more particularly described as follows:

BEGINNING AT A POINT marked by a found concrete monument situated on the Eastern margin of N.C. Highway 12 (100 foot right of way) formerly known as Ocean Trail, which beginning point is located at the Northwest corner of the property designated as "Whalehead Parcel B" in that deed from Whalehead properties to James E. Johnson, Jr., dated March 6, 1984 and recorded in Deed Book 193, Page 901, Currituck County Registry, and which beginning point and concrete monument is further located South 16° 56' 01" East a distance of 711.56 feet as measured along the Eastern margin of N.C. 12 from a found iron pipe located at the Southeastern intersection of Albacore Street and N.C. 12; from said point of beginning running thence North 16° 56' 01" West along the Eastern margin of said N.C. 12 a distance of 711.56 feet to a found iron pipe located on the Southern margin of Albacore Street, cornering; running thence North 73° 12' 39" East along the Southern margin of Albacore Street and its easterly extension thereof 2258.75 feet to a found iron pipe, said found iron pipe being located at the mean high water mark of the Atlantic Ocean; running thence along the said mean high water mark of the Atlantic Ocean South 18° 22' 08" East 1478.18 feet to a set iron rod, cornering; running thence North 88° 20' 55" West 1156.87 feet to a found concrete monument, cornering; running thence North 16° 55' 04" West 402.82 feet to a found concrete monument, cornering; running thence South 73° 04' 54" West 1199.34 feet to a found concrete monument located on the eastern margin of N.C. 12, BEING THE POINT AND PLACE OF BEGINNING.

LESS AND EXCEPTING THE FOLLOWING PARCELS OR TRACTS OF LAND:

BEGINNING at a found iron pipe located on the Eastern margin of N.C. 12 (100 foot right of way) formerly Ocean Trail, said found iron pipe being further located at a point where the Eastern margin of N.C. 12 intersects with the Southern margin of Albacore Street (60 foot right of way); from said point of beginning, running thence North 73° 12' 39" East 699.62 feet to a set stake, cornering; running thence South 02° 49' 11" East 480.46 feet to a set stake, cornering; running thence North 86° 20' 40" West 70.82 feet to a set stake; running thence along a curve with a bearing of South 83° 25' 59" West, a radius of 519.00 feet, length equals 185.19 feet and chord equals 184.21 feet, to a set stake; running thence South 73° 12' 39" West 235.43 feet to a

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set stake located on the eastern margin of N.C. 12; running thence along the eastern margin of N.C. 12 North 16° 56' 01" West 409.00 feet to a found iron pipe located on the southern margin of the aforesaid Albacore Street, BEING THE POINT AND PLACE OF BEGINNING.

ALSO LESS AND EXCEPTING THE FOLLOWING LOTS AND PARCELS OF LAND:

Being all of Lot Nos. 41 through 51, inclusive, together with that portion of Galileo Road serving said lots in Buck Island, Windsor Phase, Galileo Section, as shown and delineated on that certain map or plat of the subdivision designated "Buck Island - P.U.D., Windsor Phase, Final Plat", dated May, 1990 and prepared by Bissell Associates, Inc., and recorded in Plat Cabinet D, Slides 245 through 253, inclusive, in the Office of the Register of Deeds of Currituck County, North Carolina.

ALSO LESS AND EXCEPTING THE FOLLOWING LOTS AND PARCELS OF LAND:

Being all of Lot Nos. 59 through 79, inclusive, together with that portion of Voyager Road serving said lots in Buck Island, Windsor Phase, Voyager Section, as shown and delineated on that certain map or plat of the subdivision designated "Buck Island - P.U.D., Windsor Phase, Final Plat", dated May, 1990 and prepared by Bissell Associates, Inc., and recorded in Plat Cabinet D, Slides 245 through 253, inclusive, in the Office of the Register of Deeds of Currituck County, North Carolina.

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EXHIBIT "B"
Land Subject to Annexation

Being that certain property located in Poplar Branch Township, Currituck County, North Carolina, said property being more particularly described as follows:

Being all of Lot Nos. 41 through 51, inclusive, together with that portion of Galileo Road serving said lots in Buck Island, Windsor Phase, Galileo Section, as shown and delineated on that certain map or plat of the subdivision designated "Buck Island - P.U.D., Windsor Phase, Final Plat", dated May, 1990 and prepared by Bissell Associates, Inc., and recorded in Plat Cabinet D, Slides 245 through 253, inclusive, in the Office of the Register of Deeds of Currituck County, North Carolina.

Being all of Lot Nos. 59 through 79, inclusive, together with that portion of Voyager Road serving said lots in Buck Island, Windsor Phase, Voyager Section, as shown and delineated on that certain map or plat of the subdivision designated "Buck Island - P.U.D., Windsor Phase, Final Plat", dated May, 1990 and prepared by Bissell Associates, Inc., and recorded in Plat Cabinet D, Slides 245 through 253, inclusive, in the Office of the Register of Deeds of Currituck County, North Carolina.

Together with any other properties located within Poplar Branch Township, Currituck County, North Carolina.

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EXHIBIT "C"

BY-LAWS
OF
BUCK ISLAND ASSOCIATION, INC.

WYATT & RHOADS, P.C.

Attorneys

2400 Marquis One Tower
Atlanta, Georgia 30303
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- TABLE OF CONTENTS -

	Page
I. NAME, PRINCIPAL OFFICE, AND DEFINITIONS	
1. Name.....	1
2. Principal Office.....	1
Definitions.....	1
II. ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES	
1. Membership.....	1
2. Place of Meetings.....	1
3. Annual Meetings.....	1
4. Special Meetings.....	1
5. Notice of Meetings.....	2
6. Waiver of Notice.....	2
7. Adjournment of Meetings.....	2
8. Voting.....	3
9. Proxies.....	3
10. Majority.....	3
11. Quorum.....	3
12. Conduct of Meetings.....	3
13. Action Without a Meeting.....	3
III. BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS	
A. <u>Composition and Selection.</u>	3
1. Governing Body; Composition.....	3
2. Directors During Class "B" Control Period.....	3
3. Right To Disapprove Actions.....	4
4. Number of Directors.....	5
5. Nomination of Directors.....	5
6. Election and Term of Office.....	5
7. Removal of Directors and Vacancies.....	6
B. <u>Meetings.</u>	
8. Organizational Meetings.....	7
9. Regular Meetings.....	7
10. Special Meetings.....	7
11. Waiver of Notice.....	7
12. Quorum of Board of Directors.....	8
13. Compensation.....	8
14. Conduct of Meetings.....	8
15. Open Meetings.....	8
16. Action Without a Formal Meeting.....	8
17. Telephonic Participation.....	9

C. Powers and Duties.

18. Powers.....	9
19. Management.....	10
20. Accounts and Reports.....	11
21. Borrowing.....	11
22. Rights of the Association.....	12
23. Enforcement.....	12

OFFICERS

1. Officers.....	13
2. Election, Term of Office, and Vacancies.....	13
3. Removal.....	14
4. Powers and Duties.....	14
5. Resignation.....	14
6. Agreements, Contracts, Deeds, Leases, Checks, Etc.....	14

V. COMMITTEES

1. General.....	14
2. Covenants Committee.....	14
3. Neighborhood Committees.....	14

VI. MISCELLANEOUS

1. Fiscal Year.....	15
2. Parliamentary Rules.....	15
3. Conflicts.....	15
4. Books and Records.....	15
5. Notices.....	16
6. Amendment.....	16

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BY-LAWS

OF

BUCK ISLAND ASSOCIATION, INC.

Article I

Name, Principal Office, and Definitions

Section 1. Name. The name of the Association shall be Buck Island Association, Inc. (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of North Carolina shall be located in Currituck County. The Association may have such other offices, either within or outside the development as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Buck Island (said Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

Article II

Association: Membership, Meetings, Quorum, Voting, Proxies

Section 1. Membership. The Association shall have two (2) classes of membership, Class "A", and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

Section 3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board to occur on the first Saturday in November, or at such other time and place as may be set by the Board of Directors.

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Members representing at least ten (10%) percent of the total Class "A" votes of the

Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

Section 7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that Members representing at least twenty-five (25%) percent of the total Class "A" votes of the Association remain in attendance, and provided further that any action taken is approved by at least a majority of the Members required to constitute a quorum.

Section 8. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated herein.

Section 9. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her interest in a Home, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation or upon the expiration of eleven (11) months from the date of the proxy.

Section 10. Majority. As used in these By-Laws, the term "majority" shall mean those votes, owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total number.

Section 11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of the Members representing ten percent (10%) of the total vote of the Association shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 13. Action Without A Meeting. Any action required by law to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members, may be taken without a meeting if written consent setting forth the action so taken is signed by all of the Members entitled to vote with respect to the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Members.

Article III

Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time. In the case of an Owner which is a corporation or partnership, the person designated in writing to the secretary of the Association as the representative of such corporation or partnership shall be eligible to serve as a director.

Section 2. Directors During Class "B" Control Period. Subject to the provisions of Section 6 below, the directors shall be selected by the

Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

(a) when ninety (90%) percent of the Homes and Fractional Ownership Interests, in the aggregate, planned for the property described on Exhibits "A" and "B" of the Declaration have been conveyed to Persons other than the Declarant or builders holding title solely for purposes of development and sale;

(b) December 31, 2000; or

(c) when, in its discretion, the Class "B" Member so determines.

Section 3. Right To Disapprove Actions. This Section 3 may not be amended without the express, written consent of the Class "B" Member as long as the Class "B" membership exists.

So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove actions of the Board and any committee, as is more fully provided in this Section. This right shall be exercisable only by the Class "B" Member, its successors, and assigns who specifically take this power in a recorded instrument. The right to disapprove shall be as follows:

No action authorized by the Board of Directors or any committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) The Class "B" Member shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee thereof by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with Article III, Sections 8, 9, and 10, of these By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, any committee thereof, or the Association. The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the subject committee and the Board. The Class "B" Member shall have and is hereby granted a right to disapprove any such action, policy, or program authorized by the Board of Directors or any committee thereof and to be taken by the Board, such committee, the Association, or any individual member of the Association, if Board, committee, or Association approval is necessary for such action. This right may be exercised by the Class "B" Member, its representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to block proposed actions but shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board of the Association. The Class "B"

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Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

Section 4. Number of Directors. The number of directors in the Association shall be not less than three (3) nor more than seven (7). The initial Board shall consist of three (3) members as identified in the Articles of Incorporation.

Section 5. Nomination of Directors. Except with respect to directors selected by the Class "B" Member, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three (3) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each 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 in no event less than the number of positions to be filled. Nominations for each slate shall also be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Section 6. Election and Term of Office. Notwithstanding any other provision contained herein:

(a) Within thirty (30) days after the time Class "A" Members, other than the Declarant or a builder holding title solely for purposes of development and sale, own thirty (30%) percent of the Homes and Fractional Ownership Interests, in the aggregate, planned for the property described in Exhibits "A" and "B" or whenever the Class "B" Member earlier determines, the Association shall call a special meeting at which Class "A" Members shall elect one (1) of the three (3) directors. The remaining two (2) directors shall be appointees of the Class "B" Member. The director elected by the Class "A" Members shall not be subject to removal by the Class "B" Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) Within thirty (30) days after the time Class "A" Members, other than the Declarant or a builder holding title solely for purposes of development and sale, own sixty (60%) percent of the Homes and Fractional Ownership Interests, in the aggregate, planned for the property described in Exhibits "A" and "B", or whenever the Class "B" Member earlier determines, the Board shall be increased to five (5) directors. The Association shall call a special meeting at which the Class "A" Members shall elect two (2) of the five (5) directors. The remaining three (3) directors shall be appointees of the Class "B" Member. The directors elected by the Class "A" Members shall not be

subject to removal by the Class "B" Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in subsection (c) below, whichever is shorter. If such directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) Within thirty (30) days after termination of the Class "B" Control Period, the Association shall call a special meeting at which the Class "A" Members shall elect three (3) of the five (5) directors. The remaining two (2) directors shall be appointees of the Class "B" Member. The directors elected by the Class "A" Members shall not be subject to removal by the Class "B" Member acting alone and shall serve until the first annual meeting following the termination of the Class "B" Control Period. If such annual meeting occurs within thirty (30) days after termination of the Class "B" Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (d) below.

(d) At the first annual meeting of the membership after the termination of the Class "B" Control Period, the number of directors shall be increased to seven (7). The procedure for electing directors at this annual meeting and at each annual meeting thereafter shall be as follows. Directors shall be elected only by the Class "A" Members. There shall be two (2) directors from each Neighborhood. Separate slates shall be proposed for candidates representing each Neighborhood and only Class "A" Members in that Neighborhood can vote on candidates for that Neighborhood. The two directors from each Neighborhood who receive the most votes shall be elected for a term of two (2) years. The remaining directors shall be elected at large for a term of one (1) year. At the expiration of the initial term of office of each member of the Board of Directors and at each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years.

Each Class "A" Member shall be entitled to cast the vote attributable to his or her Home or Fractional Ownership Interest, as provided in the Declaration or Supplemental Declaration, with respect to each vacancy to be filled on the Board. There shall be no cumulative voting. The candidates receiving the most votes shall be elected. The directors elected shall hold office until their respective successors have been elected and qualified by the Association. Directors may be elected to serve any number of consecutive terms.

Section 7. Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by the vote of Class "A" Members holding a majority of the total vote of the Association. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. A director who was elected at large solely by the votes of Class "A" Members other than the Declarant may be removed from office prior to the expiration of his or her term only by the votes of a majority of Class "A" Members other than the Declarant. Upon removal of a director, a successor shall then and there be elected by the

Class "A" Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment or other charge due the Association for more than thirty (30) days or who contracts to list for sale or actually conveys his last remaining Fractional Ownership Interest or Home may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board to fill the vacancy for the remainder of the term. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board, and it may appoint a successor.

B. Meetings.

Section 8. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President of the Association or by any three (3) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram, charges prepaid. All such notices shall be given at the director's telephone number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice

if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a time not more than thirty (30) days from the date the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Class "A" Members representing a majority of the total Class "A" vote of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 14. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 15. Open Meetings. Subject to the provisions of Section 16 of this Article, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board of Directors and reconvene in executive session, excluding Members, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

Section 16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

Section 17. Telephonic Participation. One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time. Those directors participating by telephone or similar means shall be counted for quorum purposes. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do or cause to be done all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the membership generally.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to establish policies relating to, and shall be responsible for performing or causing to be performed, the following, in way of explanation, but not limitation:

(a) preparation and adoption, in accordance with Article X of the Declaration, of annual budgets in which there shall be established the contribution of each Owner to the Common Expenses;

(b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Owner's share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month for said month by automatic bank draft in the manner directed by the Board;

(c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Area of Common Responsibility, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Area of Common Responsibility in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

(m) making available to any prospective purchaser of a Home, any Owner, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Home or Fractional Ownership Interest, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing the Properties and all other books, records, and financial statements of the Association; and

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties.

Section 19. Management. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision and approval, all of the powers and responsibilities of the Board of Directors under these By-Laws. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

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Section 20. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) cash accounts of the Association shall not be commingled with any other accounts of another entity managed by the managing agent;

(b) no remuneration shall be accepted by the managing agent from vendor, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association;

(c) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(d) commencing at the end of the month in which the first Fractional Ownership Interest is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on a cash or an accrual basis as directed by the Board;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (Any assessment or installment thereof shall be considered to be delinquent on the fifteenth (15th) day following the due date unless otherwise determined by the Board of Directors); and

(g) an annual report consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet and (2) an operating (income) statement. The annual report referred to above shall be prepared by an independent public accountant as determined by the Board.

Section 21. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair or restoration of the Area of Common Responsibility without the approval of the Members of the

Association. The Board shall also have the power to borrow money for other purposes; provided, the Board shall obtain Member approval in the same manner provided in Article X, Section 4, of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed fifteen percent (15%) of the budgeted gross expenses of the Association for that fiscal year. Notwithstanding anything to the contrary contained in the Declaration, these By-Laws, or the Articles of Incorporation, during the Class "B" Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing at least fifty-one (51%) percent of the Members other than the Declarant and the Declarant's nominees.

Section 22. Rights of the Association. With respect to the Area of Common Responsibility, and in accordance with the Articles of Incorporation and the Declaration, the Association shall have the right to contract with any person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners or residents associations, both within and without the Properties. Such agreements shall require the consent of two-thirds (2/3) of all directors of the Association.

Section 23. Enforcement. The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property or interest of the violating Owner, and to suspend an Owner's right to vote or any person's right to use the Common Area or a Home during any Use Period for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations duly adopted hereunder. In the event that any occupant, guest or invitee of an Owner violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the Covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested within the allotted ten (10) day period, the hearing shall be held in executive session affording the alleged violator a reasonable opportunity to be heard. Prior to the

effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board of Directors or the Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(c) Appeal. Following a hearing before the Covenants Committee, if any, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, these By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

Article IV
Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

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Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

Article V Committees

Section 1. General. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. Covenants Committee. In addition to any other committees which may be established by the Board pursuant to Section 1 of this Article, the Board of Directors may appoint a Covenants Committee consisting of at least five (5) and no more than seven (7) members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article III, Section 23, of these By-Laws.

Section 3. Neighborhood Committees. In addition to any other committees appointed as provided above, there may be a Neighborhood Committee for each Neighborhood which has no formal organizational structure. Such Neighborhood Committees shall consist of three (3) members; provided, however, by vote of at least fifty-one (51%) percent of the Owners within the Neighborhood this number may be increased to five (5).

The members of each Neighborhood Committee shall be elected by the vote of Owners of Homes within that Neighborhood. The Owners of Homes within a Neighborhood shall have the number of votes assigned to their Homes in the Declaration or Supplemental Declaration, as applicable. Committee members shall be elected for a term of one (1) year or until their successors are elected. It shall be the responsibility of the Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Neighborhood Committee may advise the Board on any other issue, but shall not have the authority to bind the Board of Directors.

In the conduct of its duties and responsibilities, each Neighborhood Committee shall abide by the procedures and requirements applicable to the Board of Directors set forth in Article III, Sections 8, 9, 10, 11, 12, 13, 14, 15, and 16, of these By-Laws. Each Neighborhood Committee shall elect a chairman from among its members who shall preside at its meetings and who shall be responsible for transmitting any and all communications to the Board of Directors.

Article VI
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors. In the absence of a resolution, the fiscal year shall be the calendar year.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (current edition) shall govern the conduct of Association proceedings when not in conflict with North Carolina law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts between the provisions of North Carolina law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of North Carolina law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules and regulations of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Home or Fractional Ownership Interest, Member of the Association, or by the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Home at the office of the Association or at such other place within the Properties as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Home in which such Member holds an interest; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

Section 6. Amendment. Prior to the conveyance of the first Fractional Ownership Interest, Declarant may unilaterally amend these By-Laws. After such conveyance, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Homes and Fractional Ownership Interests; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Homes and Fractional Ownership Interests; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Homes and Fractional Ownership Interests; provided, however, any such amendment shall not adversely affect the title to any Home or Fractional Ownership Interest, unless the Owner thereof shall consent thereto in writing. So long as it still owns property

described in Exhibits "A" or "B" of the Declaration for development as part of the Properties, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

Thereafter and otherwise, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of sixty-seven (67%) percent of the total Class "A" votes in the Association, and the consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Article XIV of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of Currituck County, North Carolina.

If an Owner consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

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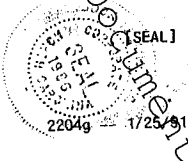
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Buck Island Association, Inc., a North Carolina nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 10th day of April, 1991.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 10th day of April, 1991.



G. Alan Tuttle
Secretary

NORTH CAROLINA, CURRITUCK COUNTY

The foregoing certificate(s) of Sharon E. Hunt, Notary of Currituck County, N.C. is (are) certified to be correct. This instrument was presented for registration at 2:50 o'clock PM on April 12, 19 91, and recorded in Book 284, Page 388.

Charlene G. Dandy
Register of Deeds
By Nancy R. Dunderlin
Deputy Register of Deeds

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